

Chair, Cabinet Social Wellbeing Committee

## New Zealand Superannuation and Veteran's Pension: Modernisation and Simplification

### Proposal

1 I seek Cabinet's agreement to a package of proposals that will modernise and simplify New Zealand Superannuation (NZS) and the Veteran's Pension (VP). The core of this package consists of:

- s 9(2)(f)(iv)
- a shift toward assessing entitlements on an individual basis by closing the non-qualified partner provision to new applicants and removing the direct deduction of government-administered overseas pensions received by a qualifying superannuitant's partner from that superannuitant's entitlement ('spousal deduction').

I attach a summary of the package as **Appendix One**.

2 I propose to implement these proposals from 1 July 2020. A small amount of operational funding will be required in 2019/20, with savings from 2020/21. On this basis, the necessary changes to appropriations and the corresponding impact on the operating balance were presented to Cabinet on 15 April 2019 [CAB-19-SUB-0174 refers]. To give effect to the proposals I seek agreement to issue drafting instructions for a Bill.

### Executive Summary

3 NZS and VP are our main forms of income support for older New Zealanders. They provide income to everyone aged 65 and over who meets the residence requirements, reflecting our commitment to older people and their wellbeing. As such, NZS and VP are significant not only to the more than 779,000 people currently receiving them, but also the younger New Zealanders who expect to receive a pension in the future.

4 As stewards of NZS and VP, we have a responsibility to ensure the system is well managed by maintaining the basic settings while adjusting to the challenges and opportunities presented by changes in families, society, the economy and labour market, and our global context.

5 Through the Superannuation Reform Work Programme agreed by Cabinet Social Wellbeing Committee on 28 March 2018 [SWC-18-MIN-0024 refers], I have developed a package of proposals to modernise and simplify NZS and VP, based on the package noted by Cabinet Business Committee on 8 October 2018 [CBC-18-MIN-0092 refers]. I propose that we advance this package in 2019, for implementation in 2020 and beyond.

6 The core of the package consists of two important shifts:

- s 9(2)(f)(iv)

s 9(2)(f)(iv)

[Redacted text block]

- Shifting toward assessing entitlements on an individual basis by:
  - closing the non-qualified partner provision from 1 July 2020 (with existing recipients' entitlements grandfathered)
  - removing the 'spousal deduction' from 1 July 2020 – the direct deduction of a government-administered overseas pension received by a superannuitant's partner from that superannuitant's rate of NZS or VP.

7 Single superannuitants will still receive higher rates to reflect their higher living costs and more limited resources and the direct deduction of a superannuitant's own overseas pension from their own NZS or VP will continue.

8 I intend to begin work on developing an auto-enrolment initiative, facilitated by the shift toward assessing entitlements on an individual basis.

9 A number of other changes accompany these core shifts:

- Treating people who work overseas for secular charitable organisations more equitably with missionaries when calculating their length of residence.
- Exempting any voluntary component of a government-administered overseas pension from direct deduction.
- Removing inconsistencies with the definition of 'living alone' and moving details into regulations.
- Protecting the current level of wage indexation in legislation.

10 Further minor and technical amendments are proposed to support the clarity and consistency of the legislation governing NZS and VP (see **Appendix Two**).

11 The changes will make NZS and VP simpler, while also achieving some savings:

- Implementing the package is expected to cost the Crown an additional \$1.927m in 2019/20. s 9(2)(f)(iv)

[Redacted text block]

- 12 The necessary changes to appropriations and the corresponding impact on the operating balance for those proposals that fall within the forecast period were presented to Cabinet on 15 April 2019 [CAB-19-SUB-0174 refers].
- 13 In order to facilitate the implementation of these changes from 2020, I seek your agreement that I issue drafting instructions for an omnibus Bill to give effect to them as part of the 2019 Legislation Programme.

## Background

### *NZS and VP are our main forms of income support for older New Zealanders*

- 14 NZS is paid to any New Zealand citizen or resident who applies:
- who is aged 65 and over, and
  - who at the time he or she applies is ordinarily resident in NZ, and
  - who has been resident and present in NZ for 10 years after the age of 20, of which five years must be after the age of 50 (under certain circumstances residence overseas may count towards these requirements).<sup>1</sup>

The eligibility settings for NZS are set out in the New Zealand Superannuation and Retirement Income Act 2001 (the NZSRIA).

- 15 VP is the equivalent to NZS for veterans with qualifying operational service and for their spouses or partners. Qualifying for VP depends on meeting the age and residence criteria in the NZSRIA, and the requirements of the Veterans' Support Act 2014. VP policy settings match those of NZS, but there are additional benefits associated with it, such as a lump sum payment on the death of a VP recipient. Cabinet has invited the Minister for Veterans to report to the Cabinet Social Wellbeing Committee in April 2020 with detailed proposals to improve support for veterans and to reform the Veterans' Support Act 2014 [SWC-19-MIN-0007, CAB-19-MIN-0068 refer].
- 16 NZS and VP have three main rates, which are not income-tested. These are for:
- a married/partnered person
  - a single person sharing accommodation
  - a single person living alone.
- 17 An NZS or VP recipient may choose to include their partner who does not meet the age and/or residence criteria (a non-qualified partner or 'NQP') in their rate. In this case, the couple receive a maximum rate that is around \$31 (net) less each week than the rate they would get if both qualified. This 'NQP couple' rate is subject to an income test on the couple's combined income, but NQPs are not subject to any work test or social obligations.
- 18 NZS and VP rates are adjusted for inflation each year, and must also maintain a relationship with the net average wage.
- 19 Under section 189 of the Social Security Act 2018 (the SSA),<sup>2</sup> any overseas benefit or pension administered by or on behalf of a government ('overseas pension') that a

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<sup>1</sup> Eg where a person was employed outside NZ and had income tax deducted or withheld on their earnings from that employment. This can cover, for example, people working for the NZ government overseas who are paying PAYE tax in NZ on their employment income.

<sup>2</sup> Previously part of section 70 of the Social Security Act 1964.

person receives is deducted from their NZ benefit or pension (usually NZS or VP). The 'direct deduction' policy, as this is known, affects around 90,000 NZS and VP recipients, who have around \$390 million deducted from their NZS or VP each year.

- 20 The direct deduction policy means people with a combination of an overseas pension and a NZ benefit or pension do not receive a combined amount of government-provided retirement income that is more than the amount received by someone who lived in NZ throughout their life. Private pensions and savings plans like KiwiSaver are not included. Nor are pensions resulting from mandatory contributions into private schemes.
- 21 In some cases someone's overseas pension exceeds their entitlement to a NZ benefit or pension (and any supplementary assistance they receive). In these cases they receive no NZ benefit or pension. If they have a partner, the excess is deducted from their partner's NZ benefit or pension. This is known as 'spousal deduction'. If the recipient of an overseas pension is not entitled to a NZ benefit or pension, the entire amount is deducted from their partner's NZ benefit or pension.
- 22 Additional technical information on the current policy settings for NZS and VP is attached as **Appendix Three**.

*As stewards of NZS and VP, we have a responsibility to ensure that they continue to meet the needs of future generations*

- 23 NZS and VP are vital to older New Zealanders' financial wellbeing. Around 95 percent of older people in New Zealand receive NZS, VP, or another main benefit. Government payments – almost entirely NZS and VP – provide 70 percent or more of the income of the three fifths of seniors with the lowest incomes. NZS and VP, and high rates of mortgage-free home ownership, are a crucial reason why older New Zealanders are currently less likely to experience income poverty (after housing costs) and material hardship than younger age groups. This is expected to change as rates of mortgage-free home ownership decline.
- 24 The importance of NZS and VP to older New Zealanders, and to the plans younger New Zealanders have for their futures, mean that great care needs to be taken around any changes to NZS and VP. On the other hand, it also means the Government has a duty to ensure those settings are suitable in the long term as our society, economy, labour market and global context change.
- 25 On 28 March 2018, Cabinet Social Wellbeing Committee noted my intention to establish the Superannuation Reform Work Programme, and agreed its contents [SWC-18-MIN-0024 refers]. Through the Work Programme, I have identified a package of options that will modernise and simplify NZS and VP, based on the package I discussed at Cabinet Business Committee on 8 October 2018 [CBC-18-MIN-0092 refers].
- 26 The aim of the package is to ensure that in years to come we continue to provide an adequate, basic income (together with other supports where necessary) to older people, in the context of:
- an ageing population – by 2038 the number of people aged 65 and over is projected to grow from around 760,000 (15.4 percent of the population) today to around 1,300,000 (22.6 percent of the population), and the net cost of NZS and VP is projected to rise as a proportion of GDP from 4.1 percent to 5.7 percent

• s 9(2)(f)(iv)

- increased labour force participation by women and older people.

s 9(2)(f)(iv) [Redacted]

27 s 9(2)(f)(iv) [Redacted]  
[Redacted]  
[Redacted]

28 s 9(2)(f)(iv) [Redacted]  
[Redacted]  
[Redacted]  
[Redacted]

29 s 9(2)(f)(iv) [Redacted]  
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30 s 9(2)(f)(iv) [Redacted]  
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31 s 9(2)(f)(iv) [Redacted]  
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32 s 9(2)(f)(iv) [Redacted]  
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<sup>3</sup> See **Appendix Three** for additional information.





s 9(2)(f)(iv) [Redacted]

47 s 9(2)(f)(iv) [Redacted]

[Redacted]

[Redacted]

48 s 9(2)(f)(iv) [Redacted]

49 s 9(2)(f)(iv) [Redacted]

50 s 9(2)(f)(iv) [Redacted]

51 s 9(2)(f)(iv) [Redacted]

52 s 9(2)(f)(iv) [Redacted]

53 s 9(2)(f)(iv) [Redacted]

**I propose to shift toward assessing entitlements to NZS or VP on an individual basis by closing the non-qualified partner provision and removing the spousal deduction**

54 Whether someone has a partner can affect their entitlement to NZS and VP in a number of ways. Most prominently, relationship status affects what rate someone receives.<sup>5</sup> Someone's entitlement may also be influenced by their partner's circumstances. That

<sup>5</sup> Superannuitants may receive a married/partnered person rate, a single living alone rate, or a single sharing rate.

may take place through the NQP provision, or the application of spousal deduction to qualifying superannuitants.

55 I do not propose to adopt an approach that is purely about individuals by removing the link between relationship status and rates of NZS and VP. It remains necessary to pay higher rates to single superannuitants to reflect their higher living costs and more limited resources. Rather, I propose to remove the ways in which the circumstances of a partner influence entitlement.

*I propose to close the NQP provision to new applicants*

56 I propose to close the NQP provision to new applicants from 1 July 2020. NQPs who have been included in their partner's rate before 1 July 2020 will be able to be included until they qualify for NZS or VP in their own right, or until they no longer have a qualifying partner who wishes to include them.

57 When the NQP provision was introduced, single earner families predominated. Women's labour force participation rates were much lower – society did not generally expect women to work up until the qualifying age for the retirement pension. In some cases, workers were required to retire by a particular age (this has been illegal in most circumstances since 1999), so could not necessarily support a dependent spouse on their own. Consequently, the principal earner's retirement could reasonably be seen to mark the couple's retirement.

58 Labour force participation is now higher than ever amongst both women and seniors. Most people are expected to work until the age of eligibility for NZS and VP, and this expectation has been an increasing focus of NZ's social security system. Closing the NQP provision to new applicants reflects those societal changes.

59 Around 13,000 people who do not qualify for NZS or VP in their own right are currently included as an NQP.<sup>6</sup> This is a low income group (because the NQP provision is income-tested). However, NQPs are advantaged over other low income people who do not qualify for NZS or VP on the basis of their partner's age in a number of ways.

60 Generally, someone who does not qualify for NZS or VP must rely on their own capacity to provide for themselves, potentially in combination with a main benefit, supplementary assistance, and/or Working for Families. The maximum NQP rate is substantially more generous than maximum benefit rates (and the gap has increased over time because benefit rates are not wage-adjusted). Additionally, there are no work (or social) obligations for NQPs, regardless of their capacity to work. The existence of a relatively generous but income tested benefit for couples including an NQP may act as a disincentive for both NQPs and qualifying partners to seek work.

61 Following the proposed change, the same range of options will be available to people who would otherwise have become an NQP that is available to anyone else who does not qualify for NZS or VP. These include the expectation to work (if they or their partner are able to find suitable employment) and access to the benefit system if needed.

62 Depending on their circumstances, someone who would otherwise have become an NQP may be eligible to receive Jobseeker Support or a Supported Living Payment. They will receive less from these benefits than they would have if they could be included as an NQP.

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<sup>6</sup> Close to 90 percent are women. More than 60 percent are aged 60-64. Around 7 percent are aged 65 or over. Around 1,300 are Māori and around 1,200 are Pacific people.

63 People who do not qualify for NZS or VP but who care for their partner who qualifies will not be able to receive a Supported Living Payment as a carer, as this is not available to people who care for their partner. Additionally, some partners of superannuitants might not be able to meet the Jobseeker Support criteria if they are the principal caregiver for a child. People may be able to receive an Emergency Benefit (EB) if they are in hardship and do not qualify for Jobseeker Support or Supported Living Payment. I intend to amend the Ministerial Direction – Emergency Benefit to ensure that people with a superannuitant spouse are able to receive an EB if they are in hardship but cannot qualify for a main benefit because they need to care for that spouse or because they are the principal caregiver for a child.

64 Closing the NQP provision to new applicants will achieve savings without disrupting the purpose of NZS and VP. It is expected that 1,300 fewer people will be included as NQPs in 2020/21 (460 of whom are assumed to receive a main benefit instead), rising to 16,000 by 2030/31 (with 5,600 assumed to be on a main benefit instead). Net savings of \$13.050m are expected in 2020/21, rising to \$90.867m in 2023/24, and \$237.579m in 2030/31.

65 § 9(2)(f)(iv)

*I propose to remove spousal deduction for qualifying superannuitants*

66 I propose to remove spousal deduction for superannuitants from 1 July 2020 by amending the SSA so that a standard rate of NZS or VP paid to a qualifying partnered person is not reduced based on the overseas pension received by their partner. At present, around 370 couples will benefit from this change.

67 Direct deduction of overseas pensions will continue to apply across a couple for the following payments that are income-tested on a couple basis:

- the NQP rate of NZS and VP (for those couples still able to receive it because the NQP was included prior to 1 July 2020)
- main benefits under the SSA
- supplementary assistance.

68 The spousal deduction policy ensures that couples who have a combination of an overseas pension and NZS or VP receive the same amount of government-administered pension as 'lifelong NZ couples' – couples who have lived in NZ for their entire lives (see columns A and C in Table 2). However, it achieves this by reducing the entitlements of some people who may never have lived overseas.

69 In some cases, couples can be worse off than a lifelong NZ couple. This occurs where both partners are aged 65 or over, but only one partner of a couple qualifies for NZS or VP, and the overseas pension amount of the other partner is deducted in full from the qualifying partner's NZS. In these instances, the couple receives less than the amount of NZS that other couples receive (see column B in Table 2). Currently there are fewer than 30 couples in that situation § 9(2)(f)(iv). The proposed change will remove this anomaly.

	<b>A) Both partners qualify for NZS, one has large overseas pension</b>		<b>B) One partner qualifies for NZS, other only has overseas pension</b>		<b>C) Both partners qualify for NZS, no overseas pension</b>	
	Partner 1	Partner 2	Partner 1	Partner 2	Partner 1	Partner 2
NZS entitlement	\$360.42	\$360.42	\$0.00	\$360.42	\$360.42	\$360.42
Overseas pension	\$400.00	\$0.00	\$400.00	\$0.00	\$0.00	\$0.00
Deduction	-\$360.42	-\$39.58 ("excess")	\$0.00	-\$360.42 ("excess")	\$0.00	\$0.00
Final NZS entitlement	\$0.00	\$320.84	\$0.00	\$0.00	\$360.42	\$360.42
Total income from pensions (couple)	\$720.84		\$400.00		\$720.84	

70 While the effect of the spousal deduction may usually be equitable, it feels unfair to many people who it affects, or who are aware of it. The Retirement Commissioner described it as a “recognised inequity” in her 2016 Review of Retirement Income Policies. I do not feel it is appropriate to reduce the NZS or VP entitlement of someone on the basis that their partner qualifies for a pension through their connection to another country.

71 By acting to close off the NQP provision at the same time, we will be making this change to move to assessing entitlement based on the individual, in which the best comparison is between individuals rather than couples. The rationale for removing the spousal deduction is weaker without the change to the NQP provision.

	<b>A) Both partners qualify for NZS, one has large overseas pension</b>		<b>B) One partner qualifies for NZS, other only has overseas pension</b>		<b>C) Both partners qualify for NZS, no overseas pension</b>	
	Partner 1	Partner 2	Partner 1	Partner 2	Partner 1	Partner 2
NZS entitlement	\$360.42	\$360.42	\$0.00	\$360.42	\$360.42	\$360.42
Overseas pension	\$400.00	\$0.00	\$400.00	\$0.00	\$0.00	\$0.00
Deduction – individual only	-\$360.42	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Final NZS entitlement	\$0.00	\$360.42	\$0.00	\$360.42	\$360.42	\$360.42
Total income from pensions (couple)	\$760.42		\$760.42		\$720.84	

72 Stopping the spousal deduction is expected to have a net cost of \$1.820m in 2020/21, rising to \$2.040m in 2023/24. Trends in migration and relationship formation, overseas governments’ pension policies, and variations in exchange rates can all influence the costs and number of people affected.

73 I do not propose to remove direct deduction more generally. At present, direct deduction affects around 90,000 people. The value of the deducted overseas pensions is around \$390 million per year. MSD considered options for replacing the direct deduction in the course of the Work Programme, including with a proportional rate of payment. MSD concluded that those options would either increase NZS and VP costs considerably, or compromise the ability of NZS and VP to provide an adequate income (as not all migrants or returning New Zealanders bring a significant overseas pension with them to NZ).

*This shift would facilitate the future introduction of auto-enrolment*

74 Making the circumstances of someone’s partner irrelevant to their personal entitlement would facilitate the introduction of auto-enrolment of people turning 65 for NZS or VP. If

Cabinet agrees to these changes, I intend to begin work on developing an auto-enrolment initiative, with provision for people to opt out if they do not want to receive NZS or VP. This will require MSD, Inland Revenue, and Veterans' Affairs to collaborate.

### **I also propose a number of other changes**

*I propose to treat people who work overseas for secular charitable organisations more equitably with missionaries when calculating their length of residence*

- 75 Time spent overseas as a missionary can count towards the residence requirements for NZS and VP. Applicants who were born in NZ or were ordinarily resident in NZ immediately before leaving to engage in missionary work<sup>7</sup> as a member of or on behalf of a religious body (or to join a partner who is a missionary) do not have these absences as a missionary considered when determining the period an applicant has been present in NZ. That is, these absences count as time the applicant was present in NZ.
- 76 The missionary provision in section 10 of the NZSRIA reflects the contribution of NZ missionaries to the world, potentially on behalf of NZ. It is reasonable to recognise that missionary work is a vocation that necessarily requires people to be absent from NZ for extended periods. However, it is notable that the provision is significantly more generous than any provision offered to people undertaking charitable work overseas that is not missionary work.<sup>8</sup> It is also not necessary for the religious body to have any connection to NZ, and the provision advantages people born in NZ.
- 77 When the Social Services Committee considered the Social Assistance (Payment of New Zealand Superannuation and Veteran's Pension Overseas) Amendment Bill in 2009, it noted that it might be valuable for the Government to consider a wider provision for recognising charitable works overseas.
- 78 I propose to amend the current missionary provision so that a period of absence in which a person was engaged in missionary work may count as time in which they were resident and present in NZ only if they were:
- engaged in missionary work on behalf of a religious body that is (or is affiliated to) a charitable organisation registered in NZ under the Charities Act 2005 (for example, the New Zealand Church Missionary Society Trust Board is registered)
  - ordinarily resident in NZ immediately before leaving to engage in missionary work.

Equivalent conditions would apply for missionaries' partners.

This new provision would apply only to absences that commence on or after 1 July 2020. The current provision would apply to absences that commenced prior to 1 July 2020.

- 79 This change will restrict the types of absence for missionary work begun on or after 1 July 2020 in two ways compared to the status quo. Firstly, missionaries will need to have been ordinarily resident in NZ immediately before leaving (rather than simply born in NZ). Secondly, their service will need to have a connection to NZ through a charitable organisation.

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<sup>7</sup> Defined as "the advancement of religion or education and the maintenance, care, or relief, of orphans, or the aged, infirm, sick, or needy".

<sup>8</sup> Although a period of absence while serving as a volunteer for Volunteer Service Abroad can be recognised as long as the volunteer remains ordinarily resident in NZ.

80 I also propose to allow a person to count a period of absence as time in which they were resident and present in NZ if:

- during that absence they were engaged in humanitarian work overseas on a full-time voluntary basis (or for token payment) on behalf of a charitable organisation, that has as its principal function, the giving of aid and assistance to less advantaged communities, and that is (or is affiliated to) a charitable organisation registered in NZ under the Charities Act 2005
- MSD is satisfied that during the absence when the applicant was doing humanitarian work they remained ordinarily resident in NZ.

81 We would achieve this by amending section 9 of the NZSRIA, which sets out a range of circumstances in which a period of absence may count as time in which someone was resident and present in NZ.

82 This change would mean that people who have spent significant periods volunteering overseas for a secular charity other than Volunteer Service Abroad (eg as a volunteer working for the NZ Red Cross) while ordinarily resident in NZ could count these periods toward the residence requirement for NZS and VP for the first time.

83 The number of people who currently qualify based on the missionary provision is not recorded but is believed to be small. MSD is unable to state how many missionaries would not be able to qualify in future, or how many people would qualify based on periods of secular charitable work, but considers that the effects are unlikely to be significant for either group because:

- the treatment of missionary service that people have already begun or completed is preserved
- people need to be absent from NZ for many years in order for the treatment of the time they spent overseas doing charitable work (whether religious or not) to become significant to their qualification for NZS or VP **s 9(2)(f)(iv)**
- the proposed provision for missionaries remains generous, as they would not need to remain ordinarily resident in NZ throughout their service.

84 MSD's current understanding is that missionaries typically have different patterns of absence from people who work overseas voluntarily or for token payment for secular charitable organisations. In particular, missionaries are more likely than volunteers for charitable organisations to be absent for extended periods during which they would not be considered ordinarily resident in NZ.

85 As MSD has limited information about missionaries, and has not had an opportunity to consult with missionary organisations about the changes, it will be important to engage these organisations through the select committee process.

*I propose to exempt any voluntary component of a government-administered overseas pension from 'direct deduction'*

86 Some countries allow people to make extra payments, known as voluntary contributions, to their mandatory government-administered overseas pension schemes. Based on the current wording of section 187 of the SSA, MSD should deduct the entire overseas pension amount, rather than only the portion that is based on mandatory contributions (there is an exception under our social security agreement with the Netherlands). That is inconsistent with the overall purpose of the direct deduction policy (to equalise the

amount of government-administered pension that people with an overseas pension and lifelong New Zealanders receive).

- 87 MSD currently defers the deduction of the portion of a government-administered overseas pension that is based on voluntary contributions. There are currently around 90 people (other than from the Netherlands) whose voluntary overseas pension component is known and who have this portion of their pension deferred from direct deduction, with a current annual value of \$0.602 million.
- 88 I propose to formalise this practice and ensure it is lawful by amending the SSA so that any portion of a government-administered overseas pension that is based on voluntary contributions is not deducted. That will treat voluntary overseas pensions equally under the law, and provide greater clarity for the public about what kinds of pension are deducted. Government-administered overseas pensions based on compulsory contributions will continue to be deducted.
- 89 As the change provides legislative support for current practice, it will not increase NZS and VP costs. However, greater awareness of the policy that payments resulting from voluntary contributions to overseas pensions are not deductible could lead to an increase in people seeking such exclusions.

*I propose to remove inconsistencies with the definition of 'living alone', and to move details into regulations*

- 90 The Living Alone Rate (LAR) is paid to single superannuitants who live alone in one of a list of places of residence (broadly on the basis that they will face higher living costs). A single superannuitant who does not qualify for the LAR receives the lower single sharing rate. The list of residences includes a house or flat, room in a boarding house, a hotel or motel room, a unit of accommodation in a caravan park, or a boat. The 'Ministerial Direction – Single Living Alone Rates' defines the meaning of 'house or flat'.
- 91 There is currently no explicit reference in the list of residences to somebody living alone in a self-contained, land-based mobile home (eg a house truck) unless it is in a caravan park, despite this being the case for some older people. I understand that in practice the LAR has been paid to some people living alone in mobile homes outside caravan parks on the basis that they are self-contained in the same way that a house or flat must be.
- 92 I propose to amend section 4A of the NZSRIA and section 159 of the Veterans' Support Act 2014 to replace the list of residences in each section (and the Ministerial Direction) with a power to make regulations setting out the principal places of residence in which somebody living alone can receive the LAR.
- 93 This will allow future amendments to accommodate evolution in living arrangements to occur without changing primary legislation. Older people's living arrangements are likely to change given lower rates of mortgage-free home ownership in upcoming cohorts.
- 94 Shifting what are largely technical details into regulations is consistent with modern approaches to legislative drafting as exercised in the rewrite of social security legislation, providing that the principle that a LAR is paid to somebody living alone in a place of residence is retained in primary legislation.
- 95 Once the power is in force – which I propose to be within six months of the enactment of legislation – I propose to make regulations setting out a list of places of residence that includes:
- the current list in legislation

- the current definition of ‘house or flat’ in the Ministerial Direction, but allowing for situations where someone’s supply of potable water for cooking comes from somewhere other than their kitchen (the Ministerial Direction currently requires the kitchen of a house or flat to have a sink with a tap connected to an adequate supply for potable water)
- a self-contained land-based, mobile home.

96 Including self-contained land-based mobile homes will make MSD’s practice of paying the LAR to single people living alone in them lawful. This is particularly important because – while this will be some people’s preferred housing option – others will be living in self-contained mobile housing due to a precarious financial situation. People sharing a self-contained mobile home will still receive a single sharing rate. I do not propose extending the LAR to people living in mobile homes that are not self-contained, as this must by necessity involve some sharing of living costs.

97 Including residences where a supply of potable water is available for cooking from somewhere other than the kitchen in the definition of ‘house or flat’ will eliminate a needless barrier to providing appropriate support to people in unusual circumstances.

98 The fiscal impacts are minimal. MSD administrative data indicates that there are three single people living in mobile homes outside caravan parks who receive the single sharing rate. If all moved to the LAR, and this number grew steadily, the cost would be approximately \$0.009m in 2020/21, rising to around \$0.015m by 2023/2024. MSD is unable to determine how many people would be affected by the change to the definition of house or flat but anticipates that it would be similarly negligible.

99 The current process of reform of the Residential Tenancies Act 1986 (RTA) includes consideration of the definition of “boarding house”. The NZSRIA and Veterans’ Support Act 2014 currently rely on the RTA definition. Shifting the list of residences to regulations will make it easier to reconsider whether it is appropriate to rely on the RTA definition should it change.

*I propose to protect the current level of wage indexation in legislation*

100 Successive governments have chosen to set the net rate of NZS and VP for a couple (based on which other NZS and VP rates are set) at no less than 66 percent of the net average ordinary time weekly wage per full-time equivalent employee (‘net average wage’), rather than 65 percent as specified in legislation. The net rate for a couple cannot be set higher than 72.5 percent of the net average wage. As net average wage levels typically rise faster than inflation, the lower wage level is the most significant component of the indexation of NZS and VP.

101 I propose to amend the NZSRIA and the Veterans’ Support Act 2014 to specify that the net rate of NZS and VP (for a couple who both qualify in their own right) as at 1 April each year is not less than 66 percent or more than 72.5 percent of the net average wage. That will embed what has been current practice since the 2005 Confidence and Supply Agreement between Labour and New Zealand First [CAB Min (09) 13/8 (56) established that this should take place on an ongoing basis].

102 This will ensure that the adjustment mechanism for NZS and VP cannot be weakened without further legislative change, providing an opportunity for scrutiny and debate. It will provide greater security for:

- older people – especially the two lowest income quintiles who are almost entirely reliant on their pensions and cannot easily increase their other income

- people planning for retirement, who need to know how much they will need to save to achieve their retirement income goals.

103 I acknowledge that leaving the legislated ‘wage floor’ at 65 percent would allow a future government to move quickly to adjust the wage indexation settings without having to amend legislation with Parliamentary approval – for example, in response to fiscal constraints and the growing cost of NZS. However, the fiscal sustainability of the retirement income system is a long-term consideration of which the level of the wage floor is only one component.

104 As this change simply reinforces current policy settings, it will have no fiscal impact.

### **I also seek Cabinet agreement to a range of minor and technical amendments**

105 I also propose to make a number of minor and technical amendments to the legislation governing NZS and VP. These have no financial implications. Detailed in **Appendix Two**, these are:

- clarifying the circumstances in which a Special Disability Allowance is paid
- ensuring that non-standard payments of NZS and VP such as backdated payments are taxed in an appropriate way for superannuitants
- clarifying that the “10 years after age 20” **s 9(2)(f)(iv)** and “five years after age 50” requirements can be met concurrently if necessary
- clarifying the meaning of sections 9 and 10 of the NZSRIA with regard to ‘resident and present’
- removing a grandparented NQP rate that will shortly be obsolete.

### **Consultation**

#### *Departmental consultation*

106 The Ministry of Business, Innovation, and Employment, the Department of the Prime Minister and Cabinet, the Department of Internal Affairs, the Ministry of Foreign Affairs and Trade, the Ministry of Health, Inland Revenue, the Ministry of Justice, the Ministry for Pacific Peoples, the Ministry for Women, the Ministry of Housing and Urban Development, Veterans’ Affairs, Te Puni Kōkiri, and The Treasury have been consulted on the paper.

107 The Commission for Financial Capability has also been consulted. The Acting Retirement Commissioner has noted that the “proposed changes address some long standing areas of inequity within the current system and are a step towards ensuring the future strength and sustainability of NZ Super”.

#### *Cross-party consultation*

108 Section 73 of the NZSRIA requires the Minister of Finance (on introducing a Government Bill proposing an amendment to the NZSRIA to the House of Representatives) to bring to the attention of the House the consultation process followed in the formulation of the amendment. This statement must include (without limitation) whether the parties in



s 9(2)(f)(iv)					

113

s 9(2)(f)(iv)

### Assessing entitlements on an individual basis

#### *Closing the NQP provision to new applicants*

114 Closing the NQP provision to new applicants from 1 July 2020 will realise some savings in the short-term, but due to the grandparenting of existing NQPs, these savings will not be fully realised for some time. The table below shows the short and long-term savings. They include the expected offsetting increase in take up of main benefits.

Vote Social Development	\$ million – increase/(decrease)							
	2019/20	2020/21	2021/22	2022/23	2023/24	2025/26	2030/31	2035/36
Operating balance impact	-	(13.050)	(42.233)	(67.499)	(90.867)	(134.127)	(237.579)	(338.692)
No impact (tax on NZS/VP and other benefits)	-	(1.796)	(5.889)	(9.406)	(12.652)	(18.647)	(32.919)	(46.790)
<b>Total</b>	-	<b>(14.846)</b>	<b>(48.122)</b>	<b>(76.905)</b>	<b>(103.519)</b>	<b>(152.774)</b>	<b>(270.498)</b>	<b>(385.482)</b>

#### *Removing the spousal deduction*

115 No longer deducting any government-administered overseas pension that one member of a couple is entitled to receive from a qualifying rate of NZS or VP received by their partner will increase NZS and VP costs. The degree to which it does so is likely to be highly variable over time as it depends on a wide range of factors such as migration and relationship formation, overseas governments' pension policies, and variations in exchange rates. The following table shows the expected costs:

Vote Social Development	\$ million – increase/(decrease)				
	2019/20	2020/21	2021/22	2022/23	2023/24 and outyears
Operating balance impact	-	1.820	1.890	1.960	2.040
No impact (tax on NZS)	-	0.260	0.270	0.290	0.300
<b>Total</b>	-	<b>2.080</b>	<b>2.160</b>	<b>2.250</b>	<b>2.340</b>

Other policy changes

*Treating people who work overseas for secular charitable organisations more equitably with missionaries when calculating their length of residence*

116 The proposed amendment to the missionary provision will restrict the number of people who can use it to qualify for NZS or VP, while the inclusion of an equivalent provision for other humanitarian workers will increase this number. As such, it is not possible to estimate the financial impact, but it is unlikely to be large, as most people will not need to rely on a period of absence from NZ in order to qualify for NZS or VP.

*Exempting any voluntary component of a government-administered overseas pension from 'direct deduction'*

117 Exempting any portion of a government-administered overseas pension that derives from voluntary contributions from direct deduction is current practice. This means the change should not have a financial impact. Reversing the current practice would result in savings (the current annual value of exempted part-pensions is around \$0.602m).

*Removing inconsistencies with the definition of 'living alone'*

118 Allowing single people who live alone in a self-contained land-based mobile home located other than in a caravan park to receive a living alone rate is expected to have minor costs as shown in the table below. These costs are low because most of the small group of people in this situation already receive a living alone rate. No information is available to model the impact of allowing people who live in a house or flat where their water for cooking comes from somewhere other than the kitchen, but that impact is expected to be similarly negligible.

Vote Social Development	\$ million – increase/(decrease)				
	2019/20	2020/21	2021/22	2022/23	2023/24 and outyears
Operating balance impact	-	0.009	0.011	0.013	0.015
No impact (tax on NZS)	-	0.002	0.002	0.003	0.003
<b>Total</b>	-	<b>0.010</b>	<b>0.013</b>	<b>0.015</b>	<b>0.018</b>

*Protecting the current level of wage indexation in legislation*

119 Protecting the current level of wage indexation will have no financial impact as it simply reflects existing practice.

Operational impacts

120 A number of proposals will require changes to MSD IT systems. The estimated cost of the changes required in the 2019/20 year in preparation for those proposals that take effect from 1 July 2020 is \$0.434m.

121 MSD will also need to make changes to business processes, operational guidance for staff, training, and public facing information and forms. These changes have an estimated cost of \$1.138m in 2019/20.

122 **s 9(2)(f)(iv)**

Vote Social Development	\$ million – increase/(decrease)				
	2019/20	2020/21	2021/22	2022/23	2023/24
IT changes	0.434	-	-	-	-
Other operational changes	1.138	-	-	-	-
<b>Total</b>	<b>1.572</b>	-	-	-	-

## Human Rights

- 123 Draft legislation will be assessed comprehensively for compliance with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.
- 124 Amending legislation to ensure that qualifying NZS and VP recipients only have their own overseas pension deducted from their NZS or VP could be seen to create a financial disadvantage for working age couples. These couples would still be subject to 'spousal deduction' against a main benefit under the SSA (as would a couple including an NQP, or any couple receiving supplementary assistance). This means the policy may be considered to result in discrimination based on age and employment status. However, that may be justified on the basis that the principles of the SSA require working age people seeking assistance to look to their own resources first, and the income of both partners is taken into account when determining rates. NZS and VP are *generally* not income tested, and eligibility is *generally* assessed on an individual basis.
- 125 The changes to the provisions for missionaries and workers for secular charities also require careful consideration. These changes would reduce the relative advantage provided to missionaries over workers for secular charities and remove an advantage specifically for people born in NZ. However, they would retain the exclusive ability for missionaries to count periods of service overseas during which they were not ordinary resident in NZ (but before which they had been) toward the residence requirements.

## Legislative Implications

- 126 An omnibus bill amending the NZSRIA, Veterans' Support Act 2014, and SSA is required to implement the proposals. Consequential amendments to other legislation may be required to give effect to the proposals in some instances. I propose that this is an omnibus bill as NZS and VP are administered under the SSA as well as their parent Acts. Regulations are required to replace the existing list of places of residence where single people living alone can receive a LAR.
- 127 This bill, provisionally titled the New Zealand Superannuation and Veteran's Pension Legislation Amendment Bill, has a priority of 3 (to be passed if possible in 2019) in the 2019 Legislation Programme [CAB-19-MIN-0049 refers]. I intend to bring this bill to Cabinet Legislation Committee for approval for introduction in September 2019, for passage prior to July 2020.
- 128 I propose that Cabinet invite me as Minister for Social Development to prepare drafting instructions for Parliamentary Counsel Office for the New Zealand Superannuation and Veteran's Pension Legislation Amendment Bill and associated regulations to give effect to the policy decisions above and to the further minor and technical amendments described in Appendix 2.

129 I further propose that Cabinet authorise me as Minister for Social Development, in consultation with the Minister of Finance and the Minister for Veterans where necessary, to make decisions on issues of a minor nature that may arise during the drafting of the legislation.

130 s 9(2)(f)(iv) [Redacted]

131 The amendment legislation will bind the Crown, as the principal Acts it will amend bind the Crown, and the amendments are not so significant to merit reconsideration of the binding nature of those principal Acts [cf CO (02) 4, paragraphs 13-14].

### Regulatory Impact Analysis

132 The Impact Analysis attached to this paper has been reviewed by a Ministry of Social Development Principal Analyst who was not involved in the development of the Cabinet paper or the Impact Analysis and considers it meets the quality assurance criteria.

### Gender Implications

133 Overall, the package will provide a more modern model of NZS and VP and contribute to their sustainability. That is significant for the financial wellbeing of all current and future superannuitants, but is particularly important to women. This is because women's longer life expectancy means they are likely to be reliant on NZS or VP for longer than men, and because the cumulative impact of wage inequality and time spent out of the workforce mean that women typically have lower savings than men when they retire. Women who are single for much or all of their life may experience that impact most strongly.

134 However, the individual components of the package may have some gender implications:

- s 9(2)(f)(iv) [Redacted]
- Women are much more likely to be an NQP than men – though correspondingly they are much less likely to have a non-qualified partner included in their benefit. Changing the NQP provision can be seen as reducing the government support provided to the couple as a whole rather than necessarily to the (usually female) NQP. However, less money will go directly to women, which may disadvantage them if their partner does not share their income. In some cases women who do not have the opportunity to be included as an NQP may be in a better position in the long-term if they are able to find suitable employment that both benefits them while they are working and supports them to grow their savings.

### Disability Perspective

135 The overall impact of the package on disabled people can be seen as similar to its impact on women. People who are disabled during 'working life' are likely to be more reliant on NZS or VP after age 65 than other people, so a well-managed model of NZS and VP can be particularly important to them. People who become disabled later in life

may have significant personal savings – but will also have more difficulty working to supplement their NZS or VP.

- 136 The closure of the NQP provision to new applicants may affect disabled people in two ways. Disabled people who are unable to work, or unable to work full time, due to a disability will no longer be able to be included in their partner's NZS or VP. While they may be eligible for SLP or JS based on their disability, this will provide less income than inclusion as an NQP. Disabled seniors who rely on a younger partner (or a partner who does not meet the residence requirements) for care will no longer have the option of including that partner in their NZS or VP, so will have a reduction in income.

## Publicity

- 137 I have informed the public that MSD has been considering a number of aspects of NZS and VP policy. My office is working with MSD to develop an appropriate communications plan for the announcement of decisions, highlighting the opportunity for New Zealanders to participate in the select committee process once legislation is drafted. s 9(2)(f)(iv)

- 138 Continuing publicity will be necessary as we introduce the changes to ensure that New Zealanders s 9(2)(f)(iv) understand how the changes could affect them.

## Proactive Release

- 139 I intend to proactively release this paper and its appendices, as well as previous Cabinet material associated with the Work Programme, following Budget announcements.

## Recommendations

The Minister for Social Development recommends that the Committee:

s 9(2)(f)(iv)

1 s 9(2)(f)

1.1 s 9(2)(f)(iv)

s

1.2 s 9(2)(f)(iv)

2 s 9(2)(f)(iv)



## Assessing entitlements on an individual basis

### *Closing the non-qualified partner provision*

6 **agree** to amend legislation to:

- 6.1 remove, with effect from 1 July 2020, the option for a qualifying recipient of NZS or VP to include their non-qualified partner in their rate of NZS or VP, and
- 6.2 provide that non-qualified partners who have been included in their qualifying partner's rate of NZS or VP prior to 1 July 2020 may be included in that rate until they qualify for NZS or VP in their own right or they no longer have a qualifying partner who wishes to include them

7 **note** the financial impacts if recommendation 6 is agreed to:

Vote Social Development	\$ million – increase/(decrease)				
	2019/20	2020/21	2021/22	2022/23	2023/24 and outyears
Operating balance impact	-	(13.050)	(42.233)	(67.499)	(90.867)
No impact (tax on NZS/VP and other benefits)	-	(1.796)	(5.889)	(9.406)	(12.652)
<b>Total</b>	-	<b>(14.846)</b>	<b>(48.122)</b>	<b>(76.905)</b>	<b>(103.519)</b>

8 **note** that the Minister for Social Development intends to amend the Direction in relation to Emergency Benefit and Benefits on Ground of Hardship to ensure that an Emergency Benefit is available to the non-qualified partner of a superannuitant, where that non-qualified partner:

- 8.1 cannot qualify for Jobseeker Support due to their caring responsibility for that superannuitant, or because they are the principal caregiver for a child,
- 8.2 does not qualify for another main benefit, and
- 8.3 is in hardship (as required for Emergency Benefit)

### *Removing the spousal deduction of government-administered overseas pensions*

9 **agree** to amend legislation, with effect from 1 July 2020, so that:

- 9.1 no portion of a government-administered overseas pension received by or entitled to be received by one person is deducted from the NZS or VP received by their spouse or partner who qualifies in their own right
- 9.2 direct deduction of government-administered overseas pensions continues to apply across both partners in respect of rates of NZS and VP for a couple including a non-qualified partner, main benefits under the Social Security Act 2018, and supplementary assistance, regardless of which partner is entitled to the government-administered overseas pension

- 10 **note** that the recipient of a government-administered overseas pension will continue to have the value of that pension deducted from any New Zealand benefit or pension to which they are entitled
- 11 **note** the financial impacts if recommendation 9 is agreed to:

Vote Social Development	\$ million – increase/(decrease)				
	2019/20	2020/21	2021/22	2022/23	2023/24 and outyears
Operating balance impact	-	1.820	1.890	1.960	2.040
No impact (tax on NZS/VP)	-	0.260	0.270	0.290	0.300
<b>Total</b>	-	<b>2.080</b>	<b>2.160</b>	<b>2.250</b>	<b>2.340</b>

Additional policy proposals

*More equitable treatment of overseas charitable workers*

- 12 **agree** to amend legislation with effect from 1 July 2020:
- 12.1 so that a period of absence from New Zealand, commencing on or after 1 July 2020, and during which an applicant was either a missionary or the partner of a missionary is treated as a period in which they were resident and present in New Zealand, provided that:
- 12.1.1 the applicant or the applicant's partner was engaged in missionary work on behalf of a religious body that is (or is affiliated to) a charitable organisation registered in New Zealand under the Charities Act 2005 during that absence, and
- 12.1.2 the applicant was ordinarily resident in New Zealand immediately before leaving New Zealand to engage in the missionary work, or (as the case may be) to accompany or join their partner
- 12.2 so that the existing version of section 10 of the New Zealand Superannuation and Retirement Income Act 2001 continues to apply in respect of absences that began prior to 1 July 2020
- 12.3 so that a period of absence from New Zealand is treated as a period in which an applicant was resident and present in New Zealand, if:
- 12.3.1 during that absence the applicant was engaged in humanitarian work overseas on a full-time voluntary basis (or for token payment) on behalf of a charitable organisation, that has as its principal function, the giving of aid and assistance to less advantaged communities, and that is (or is affiliated to) a charitable organisation registered in New Zealand under the Charities Act 2005, and
- 12.3.2 the Ministry of Social Development is satisfied that during the absence when the applicant was engaged in humanitarian work they remained ordinarily resident in New Zealand.

- 13 **note** that the financial impacts of recommendation 12 are unknown but expected to be minor as applicants for New Zealand Superannuation or Veteran’s Pension generally have well in excess of the minimum levels of residence

*Exempting any voluntary component of a government-administered overseas pension from ‘direct deduction’*

- 14 **agree** to amend legislation to clarify that any portion of a government-administered overseas pension that derives from voluntary contributions is not deducted from a New Zealand benefit or pension (but may be included in income assessments for social assistance)
- 15 **note** that recommendation 14 will not have financial implications as it provides for current practice, but that the annual value of the portions of government-administered overseas pensions that derive from voluntary contributions is currently \$0.602 million

*Extending the LAR to people living in self-contained mobile homes outside a caravan park*

- 16 **agree** to replace, within six months of the enactment of legislation, the lists in the New Zealand Superannuation and Retirement Income Act 2001 and the Veterans’ Support Act 2014 of places of residence in which a single person living alone can receive a living alone rate of NZS or VP, and the Ministerial Direction – Single Living Alone Rates, with a power to make regulations setting out a list of such places of residence
- 17 **agree** that the regulations setting out a list of places of residence in which a single person living alone can receive a living alone rate should include:
- 17.1 the current list
  - 17.2 self-contained mobile homes outside a caravan park
  - 17.3 the current definition of house or flat, but inclusive of residences with a supply of potable water that is not in the kitchen
- 18 **note** the financial impacts if recommendation 17.2 is agreed to, and that the financial impact of recommendation 17.3 is unknown but expected to be negligible:

Vote Social Development	\$ million – increase/(decrease)				
	2019/20	2020/21	2021/22	2022/23	2023/24 and outyears
Operating balance impact	-	0.009	0.011	0.013	0.015
No impact (tax on NZS/VP)	-	0.002	0.002	0.003	0.003
<b>Total</b>	-	<b>0.010</b>	<b>0.013</b>	<b>0.015</b>	<b>0.018</b>

*Protecting the current level of wage indexation in legislation*

- 19 **agree** to amend the New Zealand Superannuation and Retirement Income Act 2001 and the Veterans’ Support Act 2014 to specify that when rates of NZS and VP are adjusted, the net weekly rate of NZS or VP for a couple who both qualify must be set at no less than 66 percent (or more than 72.5 percent) of the net average ordinary time weekly wage per full-time equivalent employee

*Minor and technical amendments*

- 20 **agree** to make the minor and technical amendments to legislation proposed in **Appendix Two**

Operational costs and funding

- 21 **note** that implementing the policy decisions above will incur implementation costs as illustrated between 2019/20 and 2023/24:

Vote Social Development	\$ million – increase/(decrease)				
	2019/20	2020/21	2021/22	2022/23	2023/24 and outyears
IT changes	0.434	-	-	-	-
Other operational changes	1.138	-	-	-	-
<b>Total</b>	<b>1.572</b>	-	-	-	-

- 22 **note** that Cabinet considered the fiscal implications as a result of recommendations 6, 9, 12, 17 and 21, with the corresponding impact on the operating balance, on 15 April 2019 [CAB-19-SUB-0174 refers] **s 9(2)(f)(iv)**

Initiative	\$ million – increase/(decrease) – net impacts on the operating balance				
	2018/19	2019/20	2020/21	2021/22	2022/23
Removing the NQP provision	-	-	(13.050)	(42.233)	(67.499)
Removing the spousal deduction	-	-	1.820	1.890	1.960
Extending the LAR to all people living in self-contained mobile homes	-	-	0.009	0.011	0.013
Operational costs	-	1.572	-	-	-
<b>Total</b>	-	<b>1.572</b>	<b>(11.221)</b>	<b>(30.332)</b>	<b>(65.526)</b>

- 23 **s 9(2)(f)(iv)**

Consultation with political parties

- 24 **agree** that the Minister of Finance write to the leaders of the parties in agreement with part 1 of the New Zealand Superannuation and Retirement Income Act 2001 seeking their support for the policy decisions above

Legislative vehicle

- 25 **agree** that the policy decisions above for amendments to the New Zealand Superannuation and Retirement Income Act 2001, Veterans' Support Act 2014, and the

Social Security Act 2018 are included in the New Zealand Superannuation and Veteran's Pension Legislation Amendment Bill

- 26 **agree** that the New Zealand Superannuation and Veteran's Pension Legislation Amendment Bill include any consequential amendments to other legislation necessary to give effect to the policy decisions above
- 27 **agree** to the development of new regulations containing the technical details required to determine access to the single living alone rate of NZS and VP
- 28 **note** that the New Zealand Superannuation and Veteran's Pension Legislation Amendment Bill has a priority of 3 (to be passed if possible in the year) on the 2019 Legislative Programme [CAB-19-MIN-0049 refers]
- 29 **note** that I intend to seek agreement from the Cabinet Legislation Committee to introduce the New Zealand Superannuation and Veteran's Pension Legislation Amendment Bill in September 2019
- 30 **invite** the Minister for Social Development, in consultation with the Minister for Veterans, to issue drafting instructions to the Parliamentary Counsel Office to draft the New Zealand Superannuation and Veteran's Pension Legislation Amendment Bill and associated regulations, giving effect to the policy decisions above and to the minor and technical amendments proposed in **Appendix Two**
- 31 **authorise** the Minister for Social Development, in consultation where necessary with the Minister of Finance and the Minister for Veterans, to take decisions on issues of a minor nature that may arise during the drafting of the legislation and regulations
- 32 **s 9(2)(f)(iv)**  
[Redacted text]
- 33 **agree** that the New Zealand Superannuation and Veteran's Pension Legislation Amendment Bill bind the Crown.

Authorised for lodgement

Hon Carmel Sepuloni

Minister for Social Development