

Impact Summary: Improving the portability of superannuation to the Cook Islands, Niue and Tokelau

Section 1: General information

Purpose

The Ministry of Social Development is solely responsible for the analysis and advice set out in this Regulatory Impact Statement, except as otherwise explicitly indicated. This analysis and advice has been produced for the purpose of informing key (or in-principle) policy decisions to be taken by Cabinet.

Key Limitations or Constraints on Analysis

A key limitation on analysis is the considerable uncertainty around the potential increase in numbers taking up New Zealand Superannuation and Veterans Pension (NZS) in the Cook Islands, Niue and Tokelau. Consequently, the cost estimate is indicative only.

Responsible Manager (signature and date):

Justine Cornwall 31 January 2018

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Ministry of Social Development

Section 2: Problem definition and objectives

2.1 What is the policy problem or opportunity?

In 2015, an amendment was made to the Special Portability Arrangement (SPA) which allows residents of the Cook Islands, Niue and Tokelau who were otherwise eligible for NZS to apply for NZS from their home country. The intent was to remove a disincentive for people to return to the Cook Islands, Niue and Tokelau to live. The changes have had a smaller impact than expected. This has resulted in requests from the Cook Islands and Niue governments for New Zealand to make further changes.

The current situation

NZS is paid to any New Zealand citizen or resident aged 65 and over who at the time he or she applies is ordinarily resident in New Zealand, and has been resident and present in New Zealand for ten years after the age of 20, and five years after the age of 50.

There are three ways that someone can receive NZS if they move overseas:

- *Reciprocal social security agreement* - Generally speaking, this allows somebody from New Zealand who has moved to an agreement partner country (or vice versa) to receive a pension made up of contributions from New Zealand and the partner nation.
- *Special portability* - Somebody who moves to one of 22 Pacific nations can take a proportion of their NZS with them. They can receive 50 percent if they have had ten years' complete residence in New Zealand since age 20, rising by 5 percent for each additional complete year of residence, up to 100 percent at twenty years' residence.
- *General portability* - Somebody who moves to any country not covered by a social security agreement or the SPA may take a proportion of their NZS with them. The proportion of the relevant rate they receive is based on their length of residence in New Zealand between ages 20 and 65.

The amendment to the SPA introduced in 2015 facilitates easier access to NZS for people living in the Cook Islands, Niue and Tokelau. People can apply for NZS while ordinarily resident in one of these countries, provided they are 65 or over, and meet the other residence requirements. This allows people to return to and contribute to these countries before age 65 without jeopardising their NZS entitlements.

Despite the changes made in 2015, the NZS residence requirement of five years residence over the age of 50 (the "five over 50 rule") is deterring skilled people from returning to and contributing to the Cook Islands, Niue and Tokelau.

In the absence of the proposed initiative we estimate that around 200 people may delay their departure to the Cook Islands, Niue and Tokelau until they reach the age of 65, or return to New Zealand after the age of 50 to ensure they meet the five over 50 residence requirement. This means less pension funds flow into the Cook Islands, Niue and Tokelau, and valuable skills are lost when people return to New Zealand in order to qualify for NZS.

There is some urgency to address the issue because the Prime Minister and the Minister of Foreign Affairs met with the Cook Islands government on 15 January 2018 and clearly indicated to the Cook Islands Prime Minister that New Zealand would be proactive in

considering options to better address pension portability criteria for the Cook Islands, Niue and Tokelau. Not funding the initiative could therefore have some negative consequences for the bilateral relationship with the Cook Islands (and Niue and Tokelau).

There is a reasonable level of confidence in the evidence for the problem definition. The impact of the changes made to the SPA in 2015 were much less than expected. The cost of the changes was expected to be about \$5 million per year, but in fact was only about \$1 million per year. In a letter to the Minister for Social Development in April 2017 the Minister of Foreign Affairs stated that, based on advice he had received from his own officials, and the reports he had during his own visits to the Cook Islands, Niue and Tokelau, the current settings are not working as intended and this is due to the five over 50 rule.

2.2 Who is affected and how?

We seek to change the behaviour of people who have a connection to the Cook Islands, Niue and Tokelau. They will become more willing to move from New Zealand to one of these countries once they have 10 years residence in New Zealand after the age of 20 because they will know that they can use residence in the Cook Islands, Niue and Tokelau to meet the five years over 50.

Improving access to NZS in the Cook Islands, Niue and Tokelau is an important reflection of New Zealand's special relationship with these countries, whose citizens are also New Zealand citizens. It has been a key point of contention in New Zealand's relationships with these countries. It will support the economic development and mitigate the depopulation of these countries by reducing the incentive for people who are often highly skilled from returning to New Zealand to ensure they qualify for NZS.

The governments of the Cook Islands, Niue and Tokelau want this change to happen, as do many people with connections to these countries. We are not aware of any parties who do not want the change to happen.

2.3 Are there any constraints on the scope for decision making?

There are no constraints on the scope.

Further changes to NZS settings could occur as part of a welfare reform project, which may commence in the first half of 2018.

Section 3: Options identification

3.1 What options have been considered?

Two options were considered:

- Option 1 - Applicants who move or return to the Cook Islands, Niue and Tokelau after at least 10 years residence in New Zealand can be eligible for NZS after completing five years residence over the age of 50, either in New Zealand or in the Cook Islands, Niue and Tokelau, or a combination of any of them.
- Option 2 - Applicants would need 10 years residence in New Zealand over the age of 20, if applying from the Cook Islands, Niue and Tokelau. In this instance the 'five years over 50' rule would not apply to residents in the Cook Islands, Niue and Tokelau, and 10 years in New Zealand would be all that is required.

These options were assessed against the following criteria:

- Fairness for people who have contributed to New Zealand
- Whether they improve the economic and social viability of the Cook Islands, Niue and Tokelau
- Whether they remove a disincentive for migrants from the Cook Islands, Niue and Tokelau to return to those countries before they reach the age of 55
- Whether they retain the NZS rules of 10 years residence in New Zealand, with five years over age of 50
- Whether they retain the existing SPA payment formula (50 percent of NZS after 10 years residence in New Zealand, rising to 100 percent after 20 years)
- Fiscal sustainability
- Administrative feasibility

The first option would remove a disincentive for people to return to the Cook Islands, Niue and Tokelau. It has the advantage of retaining the principles of the NZS residence rules, with a concession that allows the five years over 50 requirement to be counted in the Cook Islands, Niue and Tokelau.

The second option would also remove a disincentive for people to return to the Cook Islands, Niue and Tokelau. However, the principles of the NZS residence rules would be compromised, because this option would mean that a person does not have to meet the five years over 50 residence requirement (while all other New Zealanders do).¹ This would allow someone who had spent 10 years in New Zealand and the rest of their working life in another country to return to the Cook Islands, Niue or Tokelau at age 65 and be immediately eligible for NZS.

Another key disadvantage is that a person moving back to New Zealand, who qualified for NZS due to their residence over the age of 50 in the Cook Islands, Niue and Tokelau, would

¹ Under Social Security Agreements a person can use residence over the age of 50 in an agreement partner country to meet the five over 50 requirement.

not qualify for entitlement, as they would not meet the eligibility requirements for NZS which apply to people living in New Zealand.

3.2 Which of these options is the proposed approach?

Option 1 is considered the best option because it is fair, affordable, and reflects the contribution of people who have a connection to New Zealand and the Cook Islands, Niue and Tokelau. The core residence rules for NZS would not be compromised.

It will address the problem by making it easier for people to receive NZS in the Cook Islands, Niue and Tokelau. A person who has accumulated 10 years residence in New Zealand after the age of 20 will be able to live in the Cook Islands, Niue and Tokelau and will be able to use residence after the age of 50 in the Cook Islands, Niue and Tokelau to allow them to qualify for NZS when they reach the age of 65.

Section 4: Impact Analysis (Proposed approach)

4.1 Summary table of costs and benefits

Affected parties (identify)	Comment: nature of cost or benefit (eg ongoing, one-off), evidence and assumption (eg compliance rates), risks	Impact \$m present value, for monetised impacts; high, medium or low for non-monetised impacts
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Additional costs of proposed approach, compared to taking no action

Regulated parties					
Regulators	Ongoing fiscal cost	\$17.363m over five years ² (refer to table below)			
Fiscal costs by year:					
Initiative	\$ million – increase/(decrease) – net impacts				
	2018/19 ³	2019/20	2020/21	2021/22	2022/23 & outyears
Portability	1.649	3.546	3.784	4.050	4.334
Wider government					
Other parties					
Total Monetised Cost					\$17.363m over five years
Non-monetised costs	There will be no non-monetised costs				Low

Expected benefits of proposed approach, compared to taking no action

Regulated parties	Additional NZS payments to residents of Realm countries.	\$1.649m in 2018/19 rising to \$4.334m in 2022/23 and outyears
Regulators		
Wider government		
Other parties		
Total Monetised Benefit		\$17.363m
Non-monetised benefits		Low

² There is considerable uncertainty around the potential increase in numbers taking up NZS in the Cook Islands, Niue and Tokelau. Therefore we assumed a percentage increase in expenditure (40 percent) on top of what we expect to pay into the Cook Islands, Niue and Tokelau under current rules). This results in an additional 174 people benefiting from the change in the first complete fiscal year of operation (2019/20), rising to 204 people in 2022/23.

³ Costs in the 2018/19 year reflect an implementation date of January 2019.

4.2 What other impacts is this approach likely to have?

The portability initiative will support the economic development and mitigate the depopulation of the Cook Islands, Niue and Tokelau by allowing people – who have been returning to New Zealand to ensure they qualify for NZS – to continue contributing to their home or adoptive country. However, the likely take up of additional pensions in the Cook Islands, Niue and Tokelau is very unclear.

The following potential risks have been identified:

Risk Description	Impact or Consequences	Likelihood	Severity	Overall Risk	Mitigation / Controls
Other countries covered by the special portability arrangement will seek compromise to the five over 50 requirement	Significant increase in fiscal costs				Emphasise the special constitutional relationship with the Cook Islands, Niue and Tokelau and that they are NZ citizens
MFAT will not be able to cope with increased applications in the Cook Islands, Niue and Tokelau	Delays in processing applications and the start of payments				MSD has limited control. MFAT confident they can deal with increase in applications.

Section 5: Stakeholder views

5.1 What do stakeholders think about the problem and the proposed solution?

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, Statistics New Zealand, Veterans' Affairs, Te Puni Kōkiri, and The Treasury were consulted.

The Treasury recommended that the consideration of the proposals be deferred until they can be considered alongside other spending priorities as part of the Budget process.

No other stakeholders were consulted.

Section 6: Implementation and operation

6.1 How will the new arrangements be given effect?

The new arrangements will be given effect through a bill. A bill is required because the policy to be amended is in primary legislation (the New Zealand Superannuation and Retirement Income Act 2001 and the Veterans Support Act 2014).

Once implemented MSD will be responsible for ongoing operation and enforcement of the new arrangements. MSD will require assistance from the Ministry of Foreign Affairs and Trade to receive applications in the Cook Islands, Niue and Tokelau.

MSD will make changes to client information (forms, radio, TV and community engagement, fact sheets and application guides).

The new arrangements are scheduled to come into effect in January 2019. This will allow prospective applicants sufficient time to prepare their applications so that they can be ready to apply as soon as possible, or to consider their residency choices.

Implementation risks are minimal. The changes will use existing administrative structures and will not require any new service design.

Section 7: Monitoring, evaluation and review

7.1 How will the impact of the new arrangements be monitored?

The number of NZS payments made to residents of the Cook Islands, Niue and Tokelau will be monitored to assess whether the initiative has been successful. The information will be drawn from MSD's administrative system. This data is already collected.

7.2 When and how will the new arrangements be reviewed?

There are no fixed plans for the arrangements to be reviewed. However, should monitoring indicate that the portability initiative is not having the expected impacts in terms of take up of NZS in the Cook Islands, Niue and Tokelau a further review of the policy may be undertaken.