

Chair
Cabinet Social Wellbeing Committee

PROPOSED POLICY CHANGES TO THE NEW ZEALAND SUPERANNUATION AND VETERAN'S PENSION LEGISLATION AMENDMENT BILL

Proposal

- 1 This paper seeks the Committee's approval to amend the New Zealand Superannuation and Veteran's Pension Legislation Amendment Bill.

Background

- 2 On 14 October 2019 the New Zealand Superannuation and Veteran's Pension Legislation Amendment Bill (the Bill) was introduced into the House. The Bill proposes to modernise and simplify NZS and VP settings and supports a shift towards assessing entitlements on an individual basis. The Bill passed its first reading on 17 October 2019 and was referred to the Social Services and Community Select Committee. The Select Committee received 49 submissions on the Bill and is due to report to the House of Representatives by 30 March 2020.
- 3 The Bill provides that the non-qualified partner provision (NQP) will close from 1 July 2020. Existing recipients' entitlements will be grand-parented. With the removal of the NQP provision, it is expected that there will be an increase in the number of partners receiving income support payments administered under these separate Acts; the New Zealand Superannuation and Retirement Income Act 2001 (NZSRI Act), the Veteran's Support Act 2014 (VS Act) and the Social Security Act 2018 (SS Act).
- 4 The Bill also provides that the direct deduction of a government-administered overseas pension received by a superannuitant's partner from that superannuitant's rate of NZS or VP (spousal deduction) will cease from 1 July 2020. The Winter Energy Payment will also be exempted from spousal deduction.
- 5 In the process of drafting the legislation and analysing the submissions received in response to the Bill, officials have identified policy changes that need to be made to the Bill to ensure couples' entitlements are clear, and legislation aligns with the policy intent of the modernisation and simplification package agreed to by Cabinet in May 2019 [SWC-19-MIN-0050 refers]. These are to:
 - 5.1 amend legislation so that a community-based partner can receive an increased rate of main benefit, VP or NZS and Special Disability Allowance when their partner is hospitalised and receiving a reduced rate of main benefit or NZS. This will align the treatment of couples who receive payments administered under different Acts with the treatment of couples who receive payments under the same Act
 - 5.2 amend legislation to resolve a difference between the abatement applied to a beneficiary whose partner receives VP and that abatement applied to a beneficiary whose partner receives NZS
 - 5.3 amend legislation to ensure NZS and VP are unaffected by an overseas pension received by or on behalf of a dependant. This exemption should extend to

superannuitants for any Winter Energy Payment they receive, to be consistent with removing spousal deduction.

- 6 The Office of the Clerk of the House of Representatives has confirmed that these issues are within the scope of the Bill.
- 7 I seek the Committee's approval to amend legislation to support couples affected by the removal of the NQP provision and spousal deduction and to include these changes in a supplementary departmental report to be submitted to the Select Committee before they report back to the House of Representatives by 30 March 2020.

From 1 July 2020 a person receiving NZS or VP will not have the option to include their non-qualified partner in their payments

- 8 Currently a non-qualified partner of a NZS or VP recipient may be included in their partner's pension. The NQP provision allows people who have a partner who does not qualify for NZS or VP, to receive a higher rate of benefit than people who do not have a partner. The rate payable to these clients is income tested but involves no work obligations for either the qualifying or non-qualifying partner.
- 9 On 8 May 2019, Cabinet Social Wellbeing Committee agreed to a package of legislative amendments to modernise and simplify NZS and VP [SWC-19-MIN-0050 refers]. The core of the package is a shift toward assessing entitlement to NZS and VP on an individual basis. This involves closing the non-qualified partner provision from 1 July 2020. This will mean that it is no longer possible for a superannuitant to elect to include their partner who does not qualify for NZS or VP in their rate of NZS or VP. Superannuitants who have elected to include their partner before 1 July 2020 will be able to continue to do so.
- 10 Partners who are unable to access the NQP provision will continue to have access to the main benefit system – eg Jobseeker Support, Support Supported Living Payment, or Emergency Benefit.

We will need to support the increased number of couples who will receive payments administered under separate Acts

- 11 With the removal of the NQP provision, I expect there to be an increase in the number of couples receiving payments administered under these separate Acts; the NZSRI Act, the VS Act, and the SS Act. Legislation needs to be clear about entitlements for partners receiving payments administered under separate Acts following the removal of the NQP provision.

In particular, we will need to support couples when one partner is hospitalised for more than 13 weeks

- 12 Some couples are required to live apart when one partner is admitted to hospital for a period longer than 13 weeks, and the other partner remains in the community. Legislation clearly defines how to treat couples in this situation when both partners receive payments under the same Act (NZS/NZS, VP/VP, Main benefit/Main benefit). For couples receiving payments under the same Act, each partner's payments are adjusted to reflect their change in circumstances. However, legislation does not define how to treat couples in this situation when partners receive payments under separate Acts (NZS/Main Benefit, VP/Main benefit, NZS/VP).
- 13 From 1 July 2020 couples who receive payments administered under separate Acts will be disadvantaged compared to those receiving payments administered under the same Act. This

is because the payment adjustments applying to couples receiving payments under the same Act will not be able to be applied to couples receiving payments under separate Acts without a legislation change.

- 14 There should be a consistent approach to the payment of benefit to couples in all scenarios where one partner is hospitalised, and the other partner remains in the community.
- 15 To achieve this, I propose that Cabinet agree to amend legislation so that a community-based partner can receive an increased rate of main benefit or VP or NZS and a Special Disability Allowance when their partner is hospitalised and receiving a reduced rate of main benefit or NZS¹. This will align the treatment of couples who receive payments administered under different Acts with the treatment of couples who receive payments under the same Act.
- 16 Couples in this situation where the partner receiving VP payments is hospitalised will continue to receive the full married rate of payment and are not subject to any payment adjustments at hospitalisation. As there is no reduced rate for the partner in hospital, the community partner's rate of benefit will also not change, and the community partner will continue to not be eligible for Special Disability Allowance in these circumstances.

There is a difference in the abatement applied to a beneficiary whose partner receives VP rather than NZS

- 17 Main beneficiaries who are partnered with a VP recipient are (under the SS Act 2018) subject to the income test for a couple despite receiving a 'half couple' rate of benefit. Main beneficiaries who are partnered with a NZS recipient are subject to the expected 'half couple' income test.

18 The table below shows which income test would apply from 1 April 2020:

Beneficiary receives	Partner receives	Income test applied (planned from 1 April 2020)
Jobseeker Support	NZS	Test 4: 35c per \$1 over \$90/wk
	VP	Test 3: 70c per \$1 over \$90/wk
Supported Living Payment	NZS	Test 2: 15c per \$1 over \$115/wk, then 35c per \$1 over \$215/wk
	VP	Test 1: 30c per \$1 over \$115/wk, then 35c per \$1 over \$215/wk

- 19 If this were applied, it would result in beneficiary partners of VP recipients facing a stricter income test than beneficiary partners of NZS recipients. I understand that MSD systems would actually apply the income test for beneficiary partners of NZS recipients in either instance in practice (while the situation of a beneficiary with a VP recipient partner is extremely rare at present, it will become more common). I do not consider that it is appropriate to apply a stricter income test to the partner of a VP recipient. Generally, VP recipients are treated more favourably than NZS recipients in the few places where there is a difference between the payments and entitlements.
- 20 Consequently, I propose that Cabinet agree to amend Schedule 4 of the Social Security Act 2018 to apply:
 - Income Test 4 to a Jobseeker Support recipient whose partner receives either NZS or VP and;

¹ VP rates are not reduced as a result of hospitalisation

- Income Test 2 to a Supported Living Payment recipient whose partner receives either NZS or VP.

From 1 July 2020 a partnered person receiving NZS or VP will not have their spouse's overseas pension deducted from their entitlement

- 21 Currently, the direct deduction policy requires the deduction of the amount of an overseas government-administered pension received by an individual from the individual's NZS or VP entitlement. In the case of couples, the amount of any overseas pension that is in excess of one partner's NZS or VP entitlement, must be deducted from the other partner's entitlement (spousal deduction).
- 22 As part of the package of legislative amendments to modernise and simplify NZS and VP, spousal deduction will cease from 1 July 2020 [SWC-19-MIN-0050 refers]. This further supports the shift towards assessing entitlements on an individual basis.
- 23 The Winter Energy Payment will also be exempted from spousal deduction to ensure that all people who receive a payment of main benefit, NZS, or VP receive additional income during winter to meet their heating costs [CBC-19-MIN-0044 refers].

A dependant's overseas pension should not be deducted from NZS or VP or the Winter Energy Payment

- 24 One submitter on the Bill recommended that NZS and VP should no longer be subject to deductions based on an overseas pension (or benefit) received by or on behalf of a dependant. I agree that this would be a logical change. This is because NZS and VP do not include any additional provision for children (which is different to main benefits) and, following the removal of spousal deduction and closure of the NQP provision, will be more clearly intended to provide support only for the individual superannuitant.
- 25 There is only one case where such a deduction was applied in the last decade or even longer. As such, this change is not considered to have any financial implications. This is likely because of the rarity of such overseas benefits or pensions being payable in New Zealand. In extraordinary cases where an overseas benefit or pension paid to or on behalf of a dependent could be deducted from NZS or VP, removing the requirement to make this deduction will mitigate the risk of exposing the superannuitant(s) and dependant to poverty.
- 26 I therefore propose that Cabinet agree to amend legislation to ensure that NZS and VP are unaffected by an overseas pension received by or on behalf of a dependant. This exemption should also extend to superannuitants for any Winter Energy Payment they receive to be consistent with the removal of spousal deduction.

Next Steps

- 27 In order to enact the policy decisions above, I propose that:
- 27.1 the Ministry of Social Development will submit a supplementary departmental report reflecting these policy decisions to the Social Services and Community Select Committee before they report back to the House of Representatives by 30 March 2020
- 27.2 a supplementary order paper reflecting these decisions (attached) will also be submitted to the Social Services and Community Select Committee to support its work.

- 28 The changes are scheduled to be implemented alongside the removal of the NQP and spousal deduction provisions from 1 July 2020.

Consultation

- 29 Veterans' Affairs New Zealand and Treasury have been consulted on this paper and support the proposals.

Financial Implications

Partner in hospital for more than 13 weeks

- 30 There are no financial implications associated with this change because from 1 July 2020 the hospital rate adjustments will continue to be administered in the same way for all couples whether they receive payments under the same or different Acts.

Applying abatement for NZS and VP

- 31 There are no financial implications associated with this change because this reflects existing practice, and because the closure of the NQP provision was costed with the assumption that all people who would instead receive a benefit would receive the full rate of that benefit.

Direct deduction of overseas pensions received by a superannuitant in respect of or by a dependant

- 32 There are no financial implications associated with this change because of the rarity of such overseas benefits or pensions being payable in New Zealand. I have identified only one case where such a deduction was applied in the last decade or even longer.

Legislative Implications

- 33 Amendments to the NZSRI Act 2001, SS Act 2018 and VS Act 2014 are required to give effect to the proposals.

Impact Analysis

- 34 The Treasury Regulatory Quality Team has determined that these proposals are exempt from the Regulatory Impact Analysis requirements on the basis that there are no or only minor impacts on business, individuals or not-for-profits.

Human Rights

- 35 This proposal does not raise issues in relation to the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993.

Gender Implications

Partner in hospital for more than 13 weeks

- 36 Women are much more likely to be a NQP than men. Women are therefore more likely to be the partner that remains in the community when their (usually older male) partner is admitted to hospital for more than 13 weeks. Removing 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, by amending the legislation to allow couples receiving payments administered under different Acts to be treated the same as couples receiving payments administered under the same Act, more money will go directly to the (usually female) community-based partner during this challenging time.

Applying abatement for NZS and VP

- 37 As above, women are much more likely to be a NQP than men. Removing the NQP provision will result in future cohorts of women with NZS or VP partners receiving a main benefit such as Jobseeker Support or Supported Living Payment. Women are therefore more likely to be the main-beneficiary partner of a VP recipient that would be negatively affected by the stricter income test if applied from 1 April 2020. Amending legislation to ensure main beneficiary partners of VP or NZS recipients face the 'half couple' income test will result in the equal treatment of (usually female) main beneficiary partners regardless of whether their partner receives VP or NZS.

Direct deduction of overseas pensions received by a superannuitant in respect of or by a dependant

- 38 There are no specific gender implications associated with this proposal.

Disability Perspective

Partner in hospital for more than 13 weeks

- 39 This proposal will directly result in increased financial assistance to the partner of someone suffering from health issues that requires them to be admitted to hospital for a period of 13 weeks or more.

Applying abatement for NZS and VP

- 40 This proposal will directly result in partners who receive Jobseeker or Supported Living Payment on the grounds of a health condition or disability *not* facing the stricter income test proposed from 1 April 2020.

Direct deduction of overseas pensions received by a superannuitant in respect of or by a dependant

- 41 There are no specific disability implications associated with this proposal.

Publicity

- 42 No publicity is proposed.

Proactive Release

- 43 I intend to proactively release this paper within 30 days of decisions being made by Cabinet.

Recommendations

I recommend that the Committee:

- 1 **note** that the New Zealand Superannuation and Veteran's Pension Legislation Amendment Bill provides that the non-qualified partner provision will close from 1 July 2020 and spousal deduction will cease from 1 July 2020

- 2 **note** that through the drafting process and the analysis of submissions on the Bill, officials have identified policy changes that need to be made to the Bill to ensure couples' entitlements are clear, and legislation aligns with the policy intent of the modernisation and simplification package agreed to by Cabinet in May 2019
- 3 **note** that the Office of the Clerk of the House of Representatives has confirmed that these amendments are within the scope of the Bill

Partner in hospital for more than 13 weeks

- 4 **agree** that legislation be amended to allow a community-based partner to receive an increased rate of main benefit or VP or New Zealand Superannuation when their partner is hospitalised and receiving a reduced rate of payment under a different Act

Applying abatement for NZS and VP

- 5 **agree** that Schedule 4 of the Social Security Act 2018 be amended to apply:
- 5.1 Income Test 4 to a Jobseeker Support recipient whose partner receives either New Zealand Superannuation or Veteran's Pension
- 5.2 Income Test 2 to a Supported Living Payment recipient whose partner receives either New Zealand Superannuation or Veteran's Pension

Direct deduction of overseas pensions received by a superannuitant in respect of or by a dependant

- 6 **agree** that legislation be amended to ensure that NZS and VP are unaffected by an overseas pension received by or on behalf of a dependant
- 7 **agree** that this exemption also apply to any Winter Energy Payments received by superannuitants to be consistent with the approach for spousal deduction

Next steps

- 8 **agree** to the submission to the Social Services and Community Select Committee of:
- 8.1 a supplementary departmental report reflecting the policy decisions above
- 8.2 the attached supplementary order paper reflecting the policy decisions above.

Hon Carmel Sepuloni
Minister for Social Development

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