



19 November 2025

Tēnā koe

Official Information Act request

Thank you for your email of 16 October 2025, requesting further information for the date of creation and last revision of the United Kingdom (UK) Direct Deduction Testing document and the author of Map content.

I have considered your request under the Official Information Act 1982 (the Act). Please find my decision on each part of your request set out separately below.

1. Internal Legal Advice or Memos

Has the Ministry sought or received legal advice—internal or external—regarding the interpretation of sections 187–189 in the context of UK pensions? If so, please confirm whether such documents exist and, if withheld, the grounds under which they are being withheld.

All legal advice provided to the Ministry of Social Development (the Ministry) is subject to section 9(2)(h) of the Act to maintain legal professional privilege. The greater public interest is in ensuring that government agencies can continue to obtain confidential legal advice.

Sections 187–189 of the Social Security Act 2018 (the 2018 Act), in the context of UK pensions, have been considered in publicly available High Court and Social Security Appeal Authority (SSAA) decisions. In a recent SSAA case (2023), the Authority determined that the appellant's UK pension is deductible under section 70 of the Social Security Act 1964. The decision noted that section 70 of the Social Security Act 1964 was replaced by sections 188–189 of the 2018 Act. Section 9(3) of the 2018 Act confirms that its provisions are the rewritten form of the 1964 Act and are intended to have the same effect as the corresponding provisions in the 1964 Act. That case can be found here:

- www.justice.govt.nz/assets/Documents/Decisions/2023-NZSSAA-8-15-May-2023.pdf

Furthermore, *Malster v Chief Executive of the Ministry of Social Development* [2014] NZHC 1368 is the most recent High Court decision on this matter, and can be found here:

- www.justice.govt.nz/jdo_documents/workspace_SpacesStore_48f5317c_fb4f_440b_8444_7e39bd105e9f.pdf

2. Decision-Making Correspondence

Are there any internal communications (emails, meeting notes, directives) that discuss how staff should apply sections 187–189 to UK pensions, particularly in light of the reciprocal agreement?

There are no directives or meeting notes that discuss how staff should apply sections 187–189 of the Social Security Act 2018 for UK pensions, including in relation to the reciprocal agreement. Staff are expected to follow guidance that is available in Map, and links to this advice have been provided in a previous response to you (dated 16 October 2025).

Emails discussing how to handle UK pensions are case-specific and relate to individual clients. These are refused under section 18(f) of the Act, as substantial manual collation would be required to collate this information. If held, this information would only be contained within individual client files, which would each require manual review to respond to your request. The greater public interest is in the effective and efficient administration of the public service.

I have considered whether the Ministry would be able to respond to your request given extra time, or the ability to charge for the information requested. I have concluded that, in either case, the Ministry's ability to undertake its work would still be prejudiced.

I will address the reciprocal agreement matter in my response to your Question 8.

3. Appendix One Clarification

Please confirm the date of creation and last revision of the United Kingdom Direct Deduction Testing document, and whether it reflects current policy or legacy practice.

My response dated 16 October 2025 attached an appendix with the Testing Criteria used to determine state pension eligibility criteria. The document states, in top right-hand corner, that it was updated on 24 July 2025. The document includes notes Ministry staff refer to when assessing eligibility. I have reattached the Appendix for your ease of reference.

- Appendix One – Testing Criteria.

Your request for the date of creation of the Testing Criteria is refused under section 18(e) of the Act as this document does not exist or, despite reasonable efforts to locate it, cannot be found. We have not been able to find the creation date of the original testing document.

4. MAP Content Origin

Who authors and approves MAP content relating to overseas pension deductions? Is this content subject to legal review or ministerial oversight?

Map contains operational policy guidelines that help Ministry staff to administer the welfare system in line with legislation and policy decisions. These guidelines

translate policy design and legislative settings into practical guidance. This page on our website provides an explanation of Map:

- www.workandincome.govt.nz/map/about/index.html.

The operational policy team drafts the operational policy guidelines, which then undergo a rigorous review and sign-off process to ensure accuracy and alignment with the relevant policy and legislation. This applies to both new content and updates to existing content.

As operational policy guidelines are an internal operational matter, ministerial oversight is not required.

5. *Claim for Refund and Damages*

I also wish to draw your attention to my formal claim for a refund of the deducted amount from my New Zealand pension, including interest and damages incurred. That claim, which you have received, was drafted with legal precision and reflects the seriousness of the matter. It is my expectation that MSD will acknowledge the validity of my assertions and act accordingly.

I understand you are seeking a Review of Decision of this matter and am unable to comment further while this process is underway. Advice on the process is available here:

- Ministry website: Reviews and Appeals:
www.workandincome.govt.nz/map/income-support/core-policy/reviews-and-appeals/reviews-and-appeals.html
- Ministry website, Reviews and Appeals – contents:
www.workandincome.govt.nz/map/income-support/core-policy/reviews-and-appeals/index.html.

6. *Systemic Concerns and Public Commentary*

I must express my deep disappointment and frustration with how this long-running dispute has been managed. The Ministry's strategy has been persistently aggressive and evasive, despite widespread belief that the deductions are essentially unlawful. Numerous public comments—including those on YouTube—allege that false information was presented in court and official hearings by Ministerial staff. The Ministry has yet to refute these claims.

My response to Question 8 outlines the law that the Ministry administers.

7. *Personal Experience and Transparency Failures*

I have repeatedly encountered reluctance from MSD personnel to fully answer the questions raised in my correspondence. These questions concern the validity, interpretation, and application of relevant legislation, as well as the documentation used to justify deductions. This pattern undermines public trust and raises serious concerns about transparency and accountability.

My response to Question 1 outlines how we interpret the relevant legislation. My response to Question 8 outlines the law that the Ministry administers.

8. Act 456 and Concealment of Liability

The Ministry's effort to obscure the repeal of the reciprocity regime via Act 456, as referenced in my email dated 30 September, appears to be a deliberate attempt to avoid liability. This liability has been estimated at \$10.4 billion, including deductions, interest, and damages owed to over 120,000 affected pensioners. While I acknowledge the scale of this figure, it reflects the cumulative impact of a policy that many believe to be unlawful. The Government's resistance to accepting this liability raises a fundamental question: does it even have the funds to meet its obligations?

We interpret this as a reference to section 456 of the Social Security Act 2018, which repealed the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990: www.legislation.govt.nz/act/public/2018/0032/latest/DLM6784034.html.

Reciprocal agreements remain in force

The Social Security Act 2018 repealed and replaced the Social Security Act 1964 and the Social Welfare (Reciprocity, and New Zealand Artificial Limb Service) Act 1990. The Social Security Act 2018 re-enacts the existing provisions of the 1964 Act and some provisions of the 1990 Act, which include the provision to enable the adoption of reciprocal agreements. Section 380 of the Social Security Act 2018 provides for reciprocal agreements to be adopted by Order in Council. Therefore, New Zealand's reciprocal agreements, including with the UK, remain legally valid under the Social Security Act 2018: www.legislation.govt.nz/act/public/2018/0032/latest/whole.html.

Additionally, Article 2 section 2 in New Zealand's 1990 reciprocal agreement with the UK provided that the agreement also applies to any legislation which replaces the legislation specified in the agreement. This means that any legislation that replaced, amended, supplemented or consolidated the Social Security Act 1964, which was specified in the 1990 UK agreement, will continue to apply to the agreement.

Definition of 'benefit' includes New Zealand Superannuation

Article 15 in New Zealand's 1990 reciprocal agreement with the UK is a provision with the same effect as sections 187-189 in the Social Security Act 2018. It provides that the benefit which a person receives under the UK legislation will be deducted from their benefit payable under the New Zealand social security legislation. Schedule 2 of the Social Security Act 2018 defines the term "benefit" which includes New Zealand Superannuation (including, without limitation, New Zealand Superannuation payable under a reciprocity agreement).

Therefore, as the reciprocal agreement between the New Zealand and United Kingdom governments remains in force, there is no "liability" on the Ministry.

9. Misleading Use of a UK Document

Your response references an 8-page UK document titled Overseas Agency Contact, which includes a banner listing the United Kingdom as a reciprocal country. This is misleading. The legal basis for reciprocity was repealed under Act 456, and the UK is no longer recognised as a reciprocal country under current New Zealand law. MSD's continued reliance on this document to justify deductions implies a legal framework that no longer exists — and further undermines the legitimacy of the deduction policy.

See my answer to Question 8.

10. UK State Pension and National Insurance Fund

The UK State Pension is not portable; it cannot be paid to UK pensioners living abroad. It is primarily funded (60%) by the National Insurance Fund (NIF), which receives contributions from employees and employers, as well as investment income. These contributors could be considered "policyholders." Additional funds are generated from interest on loans to the UK Government and other investments. The NIF portion of the UK State Pension is the amount deducted from the NZ State Pension. The NIF is a separate entity from the UK Government, as detailed in the NI Annual Report. The National Insurance is a self funded insurance scheme

Payments to overseas pensioners are made directly from the NIF and reflect the individual's contribution history. UK-based pensioners receive top-ups from the Department for Work and Pensions; pensioners residing in New Zealand do not receive any "top-ups". The pension payment claimed by the NZ Government does not include funds from UK taxation. This likely aligns with the principle that deductions should apply only to pensions funded by taxes — excluding private schemes such as contracted-out NI endowment policies.

UK courts have determined that employee/employer contributions to the NIF form part of the employee's personal assets and are not owned by the UK Government. This further challenges the legitimacy of MSD's deduction policy.

The voluntary portion of overseas pensions is considered non-deductible from New Zealand Superannuation (NZS) but is treated as income for any income tested assistances. Further advice is available here:

- www.workandincome.govt.nz/map/to-or-from-overseas/payments-from-overseas/voluntary-portion-of-overseas-pension.html

The Department for Work and Pensions (DWP) in the UK advises the Ministry directly as to what portion of a client's UK pension is made of voluntary contributions. If you wish to dispute this amount, you should contact the DWP.

I understand the Minister of Social Development and Employment wrote to you on 28 October 2025 and stated the Government's position on the direct deduction policy:

New Zealand Superannuation (NZS) is a universal benefit for people aged 65 years of age and over. The only eligibility requirements people must meet are age and residency status in New Zealand. NZS is not income or asset tested, unlike other benefits paid by the Ministry of Social Development (the Ministry).

For anyone who has an entitlement to an overseas pension as well as NZS, their NZS payments may be affected. For every one dollar a person receives from an overseas pension that meets certain criteria outlined in the Social Security Act 2018, their New Zealand payment is reduced by one dollar. The direct deduction policy has been part of New Zealand law since 1938.

The principle behind the direct deduction policy is that all qualifying New Zealand residents should receive an equitable level of social security coverage. "Equitable" here means having due regard for the interests of both pensioners and taxpayers. This ensures that people who have resided

overseas, and may have entitlement to overseas state pensions, are not advantaged over New Zealanders who have resided in New Zealand throughout their working lives. People who have resided overseas are able to receive the equivalent of the full rate of a New Zealand benefit or pension even if they have not resided in New Zealand all their lives.

There are no plans to change the direct deduction policy.

11. Reciprocity Repeal and Asymmetry

Why was the reciprocity agreement repealed? Is it true that the UK neither established nor implemented a pension deduction scheme comparable to New Zealand's for pensioners eligible for a New Zealand pension? If not, what were the reasons for this? The absence of reciprocal treatment raises serious questions about fairness and legal symmetry.

My response to Question 8 confirms the reciprocal agreement between the New Zealand and United Kingdom governments remains in place.

12. Fairness and Discretionary Trusts

Before moving to New Zealand, I worked at a UK legal firm specialising in probate and trusts. As a former Manager of New Zealand's largest Trustee and Agency Company, I oversaw the creation of many Family Discretionary Trusts with endowment policies as their main assets. These structures met UK requirements as contracted-out options under the National Insurance scheme. They operate similarly to pensions but are not subject to deduction under NZ law because of their discretionary nature. If functionally similar retirement income is treated differently depending on its legal form, the policy becomes discriminatory and unfair.

13. Additional Unfairness's

The pension deduction policy suffers from multiple inequities, including:

- *Lack of transparency and refusal to release internal legal interpretations*
- *Retroactive application to pensions earned under prior regimes*
- *Inconsistent treatment of similar overseas schemes*
- *Failure to notify pensioners of deduction mechanisms*
- *Absence of opt-out or restructuring options.*

I interpret Questions 12 and 13 as requests for the Ministry to form an opinion. For the Official Information Act to apply, the information requested must already be held by the agency concerned. Except for providing a response to a request for a statement of reasons about a decision that has affected the requestor, there is no obligation on an agency to form an opinion or create information to answer a request.

14. I prefer not to pursue an Ombudsman review

The process is usually lengthy, taking months to organise and even longer to resolve, with MSD possibly appealing decisions and referring the matter to the High Court. Instead, I am requesting a formal explanation for the withholding of internal discussion documents and legal advice. I believe MSD's hesitation to

release these materials could reveal the potential illegality of its actions under Sections 187-189 of the Social Security Act and may uncover additional evidence of departmental misconduct.

My previous response to you dated 9 October 2025, included links to all the information on our website to answer your requests. This information is the advice we rely on when considering direct deductions of UK benefits and pensions. My response to Question 1 addresses your request for the legal advice we rely on, with links to the publicly available 2014 High Court and the most recent SSAA decisions.

15. Demand for Immediate Payment

In light of the clear and irrefutable justification provided in my email dated 30 September 2025 and in prior correspondence, I now formally demand payment of my account. There is no valid reason for MSD to delay settlement. The legal basis for refunding the deducted amount, with interest and damages, has been demonstrated beyond dispute.

As stated in my response to your Question 5, I understand you are currently seeking a Review of Decision of this matter.

I will be publishing this decision letter, with your personal details deleted, on the Ministry's website in due course.

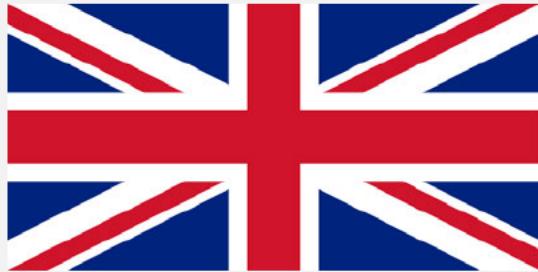
If you wish to discuss this response with us, please feel free to contact OIA Requests@msd.govt.nz.

If you are not satisfied with my decision on your request, you have the right to seek an investigation and review by the Ombudsman. Information about how to make a complaint is available at www.ombudsman.parliament.nz or 0800 802 602.

Ngā mihi nui

pp. *Anna Graham*

Anna Graham
General Manager
Ministerial and Executive Services



United Kingdom

Reciprocal country

Agreement made:
01/04/1990

Page last updated: 24
July 2025

Overseas Agency Contact

Department for Work & Pensions (DWP)

The Pension Service
Post Handling Site A
Wolverhampton
WV98 1AF
United Kingdom

Email: tvp.internationalqueries@dwp.gov.uk

Testing Criteria

On 6 April 2016, the United Kingdom (the UK) changed its state pension eligibility criteria. Those who were of qualifying age prior to 6 April 2016 are to be assessed for eligibility under the prior qualifying criteria while those who qualified from that date are to be assessed for eligibility under the changed qualifying criteria.

STATE PENSION (New – post 06/04/2016, new UK pack)

The client must meet the following criteria to qualify for the New State Pension:

- For men: be at least 65 years of age, born on or after 6 April 1951
- For women: be at least 60 years of age (age is gradually increasing to 65), born on or after 6 April 1953
- Have a minimum of 10 qualifying years of National Insurance contributions from the age of 16

If there is no clear evidence on our records of client having a combined residence in the United Kingdom of **10** years or more, then **DO NOT TEST**.

State Pension age calculator: <https://www.gov.uk/state-pension-age>

State Pension age timetables:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/310231/spa-timetable.pdf

Note: The State Pension age is gradually increasing from 65 to 66 for both women and men from December 2018. This is reflected in the timetables.

STATE PENSION (Basic – pre 06/04/2016, old UK pack with manual T2 letter)

- a man born before 6 April 1951; or
- a woman born before 6 April 1953; and
- have a minimum of **12 months** of paid National Insurance contributions from the age of 16

Note: National Insurance credits may have been paid to people unable to work (eg. ill, unemployed, or a parent, or those caring for someone). Before 6 April 2010, this was under a scheme known as Home Responsibilities Protection. National Insurance contributions can also have been paid voluntarily from those working abroad.

Note: A spouse or civil union partner who is not entitled to a State Pension in their own right, or is only entitled to a partial State Pension; may qualify for a pension or an increased rate of pension based on their partner's National Insurance entitlement. Both partners need to have reached State Pension age. A person does not need to live with their spouse or partner to get the increase and they can apply for the increase even if their partner has not applied for the State Pension. This includes deceased partners and previous relationships.

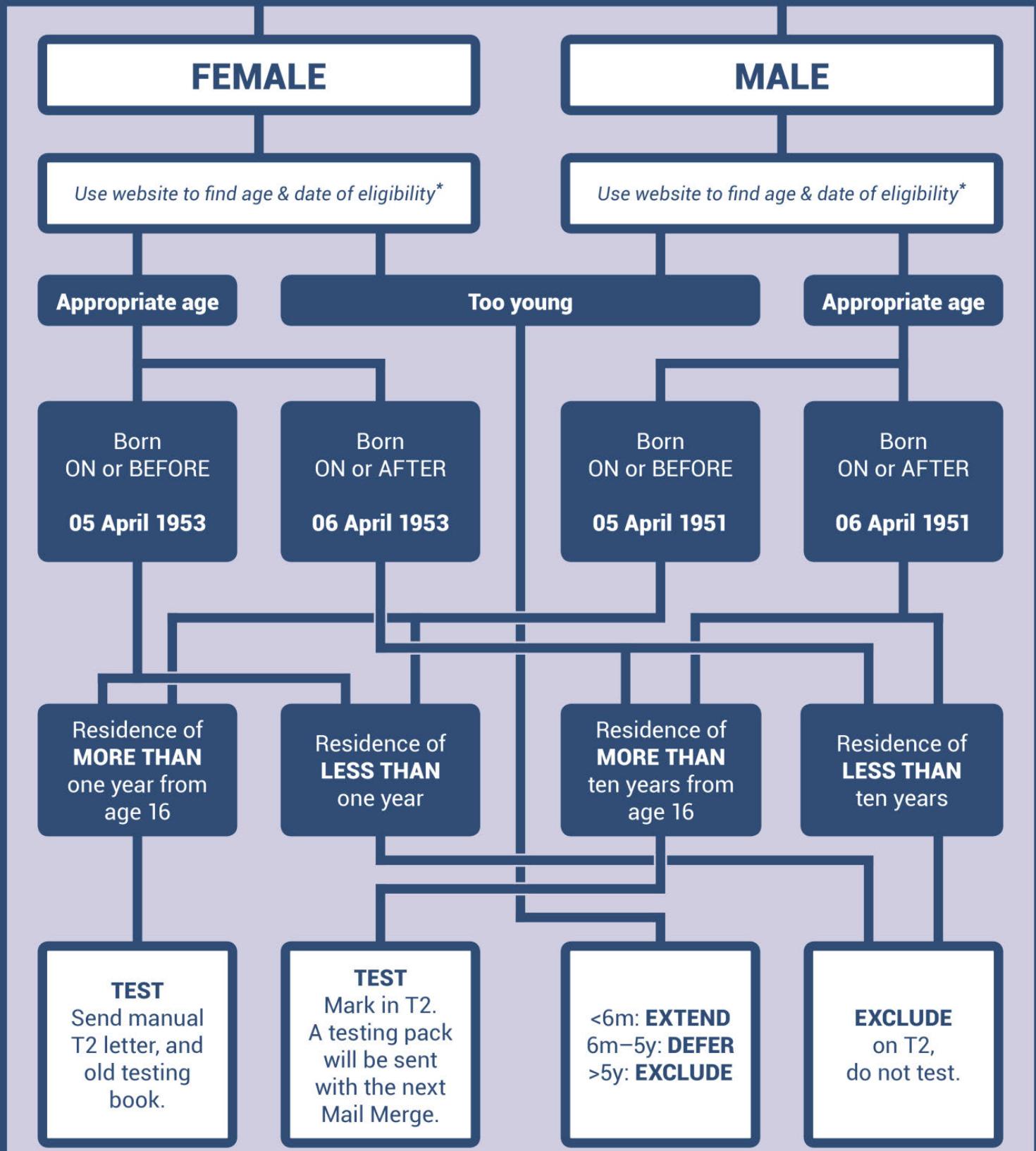
Note: Between December 2018 and October 2020 the state pension age will increase for women and men from 65 years to 66 years. Between 2026 and 2028 the state pension age will increase to 67 years, with a further increase between 2044 and 2046 to 68 years.

Any woman born before 6 April 1950 will reach pension age at age 60. For women born on or after 6th April 1950 the date that they will reach pension age can be found in the tables, or by using the State Pension Age Calculator, linked above.

Any man born before 6 December 1953 will reach pension age at age 65. For men born on or after 6 December 1953, the date that they will reach pension age can be found in the tables, or by using the [State Pension Age Calculator](#).

UNITED KINGDOM

TESTING FLOWCHART



Other Pensions – as applicable

STATE SECOND PENSION (S2P)

S2P is an earnings-related scheme paid on top of the State Pension. It replaces the State Earnings Related pension scheme (SERPS), and Graduated Pensions.

Entitlement to the S2P is calculated by the Pension Service when people apply for the State Pension.

Note: Since 1988 everyone has the option of “contracting out” whilst working, and National Insurance contributions are put into a private scheme instead. In such cases, the “contracted out” pension is considered a private pension and is not deductible as it is not paid by or on behalf of the government. Only pensions paid by the Department of Work and Pensions are deductible.

Note: a widow, widower or surviving civil union partner can only inherit a maximum of 50 per cent of their spouses or civil union partner’s S2P.

LOCAL GOVERNMENT PENSION SCHEMES (LGPS)

The LGPSs are a type of “contracted out” scheme available to people through their employer. They are not considered as a private scheme as they are administered by local government authorities which are part of central government.

Entitlement to a LGPS is through occupation, but it is not compulsory for all local government employees to join the LGPS. Instead, they may opt for a private “contracted out” scheme instead.

BEREAVEMENT ALLOWANCE (including Widow’s Benefit)

The client must meet the following criteria to qualify for the Bereavement Allowance in New Zealand:

- Their husband, wife or civil partner died before 6 April 2017; and
- They are aged 45 or over when their husband, wife, or civil partner died; and
- They are under State Pension age; and
- Their late husband, wife or civil partner paid National Insurance contributions, or they died as a result of an industrial accident or disease (in the United Kingdom)

Note: Clients cannot claim a Bereavement Allowance if:

- They are raising children; or
- They have remarried or formed a new civil partnership; or

- Their civil union partnership was dissolved at the time of their civil union partner's death; or
- They are living with another person in a marriage type relationship; or
- They are in prison

Note: The Bereavement Allowance is payable for up to 52 weeks from the date of death of the client's wife, husband or civil union partner.

Note: The Bereavement Allowance was introduced in 2001 to replace the Widow's Benefit.

BEREAVEMENT PAYMENT / BEREAVEMENT SUPPORT PAYMENT

The client must meet the following criteria to qualify for the Bereavement Allowance in New Zealand:

- Their husband, wife or civil partner died before 6 April 2017; and

When their husband, wife or civil partner died, they were:

- Under State Pension age
- Over State Pension age, while their husband, wife or civil partner wasn't entitled to a State Pension based on their own National Insurance contributions

Note: clients cannot claim a Bereavement Payment if:

- They were divorced from their husband, wife or civil partner; or
- They are living with another person in a marriage type relationship; or
- They are in prison

ADULT DEPENDENCY INCREASE

Clients can no longer apply for this payment from 6 April 2010. Clients already receiving this payment will continue to receive it until they no longer qualify or until 5 April 2020 whichever date comes first.

FINANCIAL ASSISTANCE SCHEME (FAS)

The Financial Assistance Scheme was first announced on 14 May 2004.

To be eligible for an FAS payment clients must:

- Belong, or have belonged to a qualifying pension scheme, and been a member of that scheme immediately prior to the scheme commencing wind-up

Payments to scheme members are made from the latter of the scheme retirement age (with a lower age limit of 60 and an upper age limit of 65) and the FAS announcement date.

WIDOWED PARENT'S ALLOWANCE (WPA)

The client must meet the following criteria to qualify for the Widowed Parent's Allowance in New Zealand:

- Their husband, wife or civil partner died before 6 April 2017; and
- They are under State Pension age; and
- They are entitled to claim Child Benefit, that is, responsible for one or more children under 16, or under 20 if currently enrolled in some type of education or training
- Their husband, wife or civil partner paid National Insurance contributions, or they died as a result of an industrial accident or disease (in the United Kingdom)

Note: clients cannot claim Widowed Parent's Allowance if:

- They were divorced from their husband, wife or civil partner; or
- They are living with another person in a marriage type relationship; or
- They are in prison

Directly Deductible under NZ Law

Yes	No
<ul style="list-style-type: none"> • State pension (new) • State pension (basic) • State Pension (Basic) increase due to Home Responsibility Protection • State Second Pension (S2P) • Bereavement Allowance (including Widow's Benefit) • Bereavement Payment (pre 6 April 2017) • Bereavement Support Payment (post 6 April 2017) • Dependent's Increase • Financial Assistance Scheme (Pension Protection Fund) • Widowed Parent's Allowance (<i>formerly Widowed Mother's Allowance</i>) 	<ul style="list-style-type: none"> • Local Government Pension Schemes (LGPS) (statutorily non-deductible from April 2016) • Armed Forces Pension Scheme • ABB Pension Plan • Atos Origin and Atos Sema Pension Scheme • British Airways Pension Scheme (APS) • British Telecom (BT) Pension Scheme • Capita • Child Benefit • Crown Agents Staff Pension • DIAGEO Pension Scheme • Department of Finance and Personnel Pensions

	<ul style="list-style-type: none"> • Electricity Supply Pension Scheme (Magnox administered by RPMI EPAL) • Employment and Support Allowance • Ernst & Young Pension • Guardians Allowance • Harott & Co. Ltd Retirement Benefits Scheme (administered by Friends Life Services Ltd) • Hille Ergonom Pension Scheme (administered by First Actuarial) • Industrial Disablement Pension (treat as ACC Payment) • Incapacity Benefit (replaced with Employment and Support Allowance from 27/10/2008) (not paid outside UK) • Income Support (replaced with Employment and Support Allowance from 27/10/2008) (NO – not paid outside UK) • Innospec Pension Plan • Invensys Pension Scheme • IOSP Pension Plan • Job Seekers Allowance • John Lewis Pension • Kingfisher Pension • Lancashire Fire and Rescue Pension • Legal And General Assurance Society Pension • Merchant Navy Pension • National Health Service (NHS) Pension Scheme (includes Northern Ireland HSC Pension) • Oscar Faber Pension Fund • Principal Civil Service Pension • Printpak Pension • Prudential Pension • Railways Pension Scheme • Rexel UK Pension Scheme (administered by Punter Southall) • Royal Mail Pension Plan • Serco Plas IAL Pension (administered by Mercer)
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	<ul style="list-style-type: none">• ShipBuilding Industries Pension Scheme• Standard Life Pension• • T&N Retirement Pension Scheme• Teachers' Pension• TRW Pension Scheme• Transport for London Pension Fund• UK Cancer Research Pension Scheme• Universities Superannuation Scheme Ltd• Vodafone UK Defined Contribution Pension Plan• Volvo Truck and Bus Group Pension Scheme• W H Smith Pensions• W S Dependents' Annuity Fund• Xerox Pensions• War Disablement Pension and Related Allowances (administered by Service Personnel and Veterans Agency of the United Kingdom)• War Widow's Supplementary Pension (administered by Service Personnel and Veterans Agency of the United Kingdom)• War Widow's Age Allowance (administered by Service Personnel and Veterans Agency of the United Kingdom)• Combined Atomic Energy Authority Pension Scheme administered by the United Kingdom Atomic Energy Authority• Mineworkers' Pension Scheme• Joint Superannuation Service (JSS) pension administered by the Principal Civil Service Pension Scheme (PCSPS)• Lifetime Allowance administered by Canada Life LTD.• NatWest Group Pension• Civil Aviation Authority Pension (CAAPS)
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External Links

[Social Security throughout the world - United Kingdom](#)

[Department of Work & Pensions](#)

[International Pension Centre contact details](#)

[New State Pension](#)