



## ANALYSIS

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## 1996, No. 157

**An Act to amend the Social Security Act 1964 to—**

- (a) Require the provision to the Director-General of information relating to steps taken to obtain overseas pensions, in respect of applicants or beneficiaries or spouses or dependants of applicants and beneficiaries, and relating to the rates of overseas pensions granted; and**
- (b) Provide that the amount of an overseas pension deducted from a New Zealand benefit shall be an amount determined by the Director-General in accordance with regulations made under the Social Security Act 1964; and**
- (c) Make provision for a method of off-setting overseas pensions against New Zealand social security benefits that is an alternative to the method in section 70 (1) of the Social Security Act 1964; and**
- (d) Provide for matters incidental thereto**

[2 September 1996

BE IT ENACTED by the Parliament of New Zealand as follows:

**1. Short Title and commencement**—(1) This Act may be cited as the Social Security Amendment Act (No. 6) 1996, and shall be read together with and deemed part of the Social Security Act 1964 (in this Act referred to as the principal Act).

(2) This Act shall come into force on the day that is 1 month after the day on which this Act receives the Royal assent.

**2. Interpretation**—Section 3(1) of the principal Act is hereby amended by inserting, in their appropriate alphabetical order, the following definitions:

“Government occupational pension”—

“(a) Means a benefit, pension, or periodical allowance paid by or on behalf of the Government of any country to a person by reason of—

“(i) A period of employment, direct or indirect, by that Government of that person or that person’s deceased spouse or that person’s deceased parent; or

“(ii) A period of service to that Government (including, without limitation, service in the armed forces, service in the police, and service as a judicial officer or other person acting judicially) by that person or that person’s deceased spouse or that person’s deceased parent; but

“(b) Does not include any part of that benefit, pension, or periodical allowance that is paid by the Government of that country by reason of anything other than that period of employment or service; and

“(c) Does not include any part of that benefit, pension, or periodical allowance to which the Government of that country contributes by reason of anything other than that period of employment or service:

“Overseas pension”—

“(a) Means a benefit, pension, or periodical allowance of a kind described in section 70(1) of this Act; but

“(b) Does not include a benefit, pension, or periodical allowance of a kind referred to in the proviso to section 70(1) of this Act; and

“(c) Does not include a Government occupational pension:

“Overseas pensioner” means a person to whom an overseas pension has been granted.”.

**3. New sections inserted**—The principal Act is hereby amended by inserting, after section 69F (as inserted by section 15 (1) of the Social Security Amendment Act (No. 3) 1993), the following heading and sections:

*“Overseas Pensions*

**“69G. Reasonable steps to be taken to obtain overseas pension**—(1) Every applicant for a benefit under this Part of this Act or under the Social Welfare (Transitional Provisions) Act 1990 shall provide to the Director-General information establishing, to the satisfaction of the Director-General,—

“(a) That the applicant and the spouse of the applicant have taken all reasonable steps to obtain any overseas pension to which either or both of them may be entitled or that may be granted to either or both of them; and

“(b) That the applicant has taken all reasonable steps to obtain any overseas pension to which any dependant of the applicant may be entitled or that may be granted to any dependant of the applicant.

“(2) The Director-General may give to—

“(a) An applicant for a benefit under this Part of this Act or under the Social Welfare (Transitional Provisions) Act 1990; or

“(b) A beneficiary under this Part of this Act or under the Social Welfare (Transitional Provisions) Act 1990; or

“(c) The spouse of an applicant for a benefit under this Part of this Act or under the Social Welfare (Transitional Provisions) Act 1990; or

“(d) The spouse of a beneficiary under this Part of this Act or under the Social Welfare (Transitional Provisions) Act 1990—

a written notice requiring that person to take all reasonable steps, within a period specified by the Director-General, to obtain any overseas pension to which that person may be entitled or that may be granted to that person.

“(3) The Director-General may give to—

“(a) An applicant for a benefit under this Part of this Act or under the Social Welfare (Transitional Provisions) Act 1990; or

“(b) A beneficiary under this Part of this Act or under the Social Welfare (Transitional Provisions) Act 1990—

a written notice requiring that person to take all reasonable steps, within a period specified by the Director-General, to obtain any overseas pension to which any dependant of that

person may be entitled or that may be granted to any dependant of that person.

“(4) Where a person does not comply with a notice given by the Director-General under subsection (2) or subsection (3) of this section, the Director-General may—

“(a) Refuse to grant the benefit applied for by the applicant:

“(b) Suspend, from such date as the Director-General determines, the benefit granted to the beneficiary until either—

“(i) The beneficiary provides information establishing, to the satisfaction of the Director-General, that the beneficiary and the spouse of the beneficiary have taken all reasonable steps to obtain any overseas pension to which either or both of them may be entitled or that may be granted to either or both of them or, as the case requires, that the beneficiary has taken all reasonable steps to obtain any overseas pension to which any dependant of the beneficiary may be entitled or that may be granted to any dependant of the beneficiary; or

“(ii) The benefit is terminated under subsection (5) of this section,—  
whichever occurs first.

“(5) Where a benefit has been suspended under subsection (4) of this section, the Director-General may, not less than 40 working days after the suspension, terminate the benefit from such date as the Director-General determines.

**“69H. Information on rate of overseas pension to be provided—**(1) Every applicant for a benefit under this Part of this Act or under the Social Welfare (Transitional Provisions) Act 1990 shall provide to the Director-General information establishing, to the satisfaction of the Director-General, the rate of any overseas pension granted to any of the following persons:

“(a) The applicant:

“(b) The applicant’s spouse:

“(c) Any dependant of the applicant.

“(2) Where an applicant does not comply with subsection (1) of this section within 10 working days after applying for the benefit, the Director-General may refuse to grant the benefit applied for.

“(3) Every beneficiary under this Part of this Act or under the Social Welfare (Transitional Provisions) Act 1990 shall

provide to the Director-General, as requested from time to time in a written notice given to that person by the Director-General, information establishing, to the satisfaction of the Director-General, the rate of any overseas pension granted to any of the following persons:

“(a) The beneficiary:

“(b) The beneficiary’s spouse:

“(c) Any dependant of the beneficiary.

“(4) Where a beneficiary does not comply with subsection (3) of this section within 10 working days after the notice has been given, the Director-General may suspend, from such date as the Director-General determines, the benefit granted to the beneficiary until either—

“(a) The beneficiary provides information establishing, to the satisfaction of the Director-General, the rate of any overseas pension granted to the beneficiary or the beneficiary’s spouse or any dependant of the beneficiary; or

“(b) The benefit is terminated under subsection (5) of this section,—

whichever occurs first.

“(5) Where a benefit has been suspended under subsection (4) of this section, the Director-General may, not less than 40 working days after the suspension, terminate the benefit from such date as the Director-General determines.

“(6) In this section, the term ‘rate’, in relation to an overseas pension, means the rate of that pension in the currency of the country paying that pension.

“69I. **Duty of Director-General to assist**—It is the duty of the Director-General to take all reasonable steps to assist any person to comply with any obligation imposed on that person by or under section 69G (1) to (3) or section 69H (1) or (3) of this Act.”

#### **4. Rate of benefits if overseas pension payable—**

(1) Section 70 (1) of the principal Act is hereby amended by omitting the words “the rate of the benefit or benefits that would otherwise be payable under this Part of this Act or under the Social Welfare (Transitional Provisions) Act 1990 shall be reduced by the amount of such overseas benefit, pension, or periodical allowance, or part thereof, as the case may be”, and substituting the words “the rate of the benefit or benefits that would otherwise be payable under this Part of this Act or under the Social Welfare (Transitional Provisions) Act

1990 shall, subject to subsection (3) of this section, be reduced by the amount of such overseas benefit, pension, or periodical allowance, or part thereof, as the case may be, being an amount determined by the Director-General in accordance with regulations made under this Act”.

(2) Section 70 of the principal Act is hereby amended by adding the following subsections:

“(3) In any case where paragraph (a) and paragraph (b) of subsection (1) of this section apply and the proviso to subsection (1) of this section does not apply, the Director-General may—

“(a) Make an arrangement with an overseas pensioner, in accordance with any regulations made under section 132C of this Act, to pay to the overseas pensioner the rate of the benefit or benefits that is payable under this Part of this Act or the Social Welfare (Transitional Provisions) Act 1990 and to receive from the overseas pensioner an amount equivalent to the amount of the overseas pension that the overseas pensioner receives, if—

“(i) The overseas pensioner agrees to make such an arrangement; and

“(ii) The overseas pensioner has not previously made such an arrangement and voluntarily terminated it; and

“(iii) The Director-General has not previously ceased to make payments under paragraph (b) of this subsection because of the overseas pensioner’s failure to comply with such an arrangement; and

“(b) Pay to the overseas pensioner, in accordance with an arrangement made under paragraph (a) of this subsection, the rate of the benefit or benefits that is payable under this Part of this Act or the Social Welfare (Transitional Provisions) Act 1990, if the Director-General receives from the overseas pensioner, in accordance with the arrangement, an amount equivalent to the amount of the overseas pension that the overseas pensioner receives.

“(4) For the purposes of this Act and section CB 5 (1)(a) and (f) and Subpart JB of the Income Tax Act 1994, a payment under subsection (3) (b) of this section shall, in respect of the period to which the payment relates, be deemed to be payment of—

“(a) The benefit or benefits that are payable to that overseas pensioner in that period under this Part of this Act

or the Social Welfare (Transitional Provisions) Act 1990, at the rate at which that benefit or those benefits are so payable but reduced in accordance with subsection (1) of this section; and

“(b) The amount of the overseas pension that that overseas pensioner is entitled to receive or has received in that period.

“(5) Subsections (3) and (4) of this section shall come into force on a date to be appointed by the Governor-General by Order in Council.”

**5. Regulations relating to overseas pensions**—The principal Act is hereby amended by inserting, after section 132B (as inserted by section 33 of the Social Security Amendment Act (No. 3) 1993), the following section:

“132C. Without limiting the general power to make regulations conferred by section 132 of this Act, the Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

“(a) Providing for the determination by the Director-General of the amount of an overseas pension to be deducted from a benefit or benefits pursuant to section 70 (1) of this Act:

“(b) Providing that the currency exchange rate to be used by the Director-General for the purposes of the determination referred to in paragraph (a) of this section shall be one of the following:

“(i) The average of the currency exchange rates (or, as the circumstances require, averages of different currency exchange rates) between the country paying the overseas pension and New Zealand during a period specified in the regulations; or

“(ii) Any one of the currency exchange rates that occurs between the country paying the overseas pension and New Zealand within a period specified in the regulations; or

“(iii) Either the average of the currency exchange rates (or, as the circumstances require, averages of different currency exchange rates) between the country paying the overseas pension and New Zealand during a period specified in the regulations or any one of the currency exchange rates that occurs between the country paying the overseas pension and New Zealand within a period specified

in the regulations, whichever is the more favourable to the overseas pensioner:

- “(c) Prescribing the kinds of currency exchange rates that are to be used for the purposes of paragraph (b) of this section:
- “(d) Providing that the period referred to in paragraph (b) of this section may be a different period from the period to which the payment of the overseas pension relates and a different period from the period to which the payment of the benefit relates:
- “(e) Prescribing, for the purposes of the determination referred to in paragraph (a) of this section, the kinds of bank fees that may be taken into account and the manner in which they may be taken into account:
- “(f) Providing that a determination made under paragraph (a) of this section, and made in accordance with regulations made under paragraphs (b) to (e) of this section, shall be conclusive:
- “(g) Prescribing the categories of overseas pensioners with whom the Director-General may make arrangements under section 70 (3) (a) of this Act:
- “(h) Prescribing conditions to be included in arrangements made under section 70 (3) (a) of this Act:
- “(i) Prescribing methods that may be specified in arrangements made under section 70 (3) (a) of this Act for payment to the Director-General, and receipt by the Director-General, of an amount equivalent to the amount of the overseas pension that the overseas pensioner receives, including (without limitation) direct deduction from the overseas pensioner’s bank account:
- “(j) Providing for the Director-General to terminate an arrangement made under section 70 (3) (a) of this Act if the overseas pensioner fails to comply with any condition prescribed under paragraph (h) of this section.”