

# Departmental Disclosure Statement

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| Social Assistance (Residency Qualification) Legislation Bill |
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The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by the Ministry of Social Development.

The Ministry of Social Development certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

13 March 2018

## Contents

|  |   |
|--|---|
| Contents.....  | 2 |
| Part One: General Policy Statement.....                    | 3 |
| Part Two: Background Material and Policy Information ..... | 4 |
| Part Three: Testing of Legislative Content.....            | 6 |
| Part Four: Significant Legislative Features .....          | 8 |

## Part One: General Policy Statement

*This Social Assistance (Residency Qualification) Legislation Bill is an omnibus Bill introduced under Standing Order 263(a). That Standing Order states that an omnibus Bill to amend more than 1 Act may be introduced if the amendments deal with an interrelated topic that can be regarded as implementing a single broad policy.*

*Eligible New Zealanders can currently receive their New Zealand Superannuation and Veteran's Pension in the Cook Islands, Niue and Tokelau under the Special Portability Arrangement (the Arrangement). An amendment to the Arrangement, introduced in 2015, allows people in the Cook Islands, Niue or Tokelau to apply for New Zealand Superannuation or Veteran's Pension from the islands rather than needing to be ordinarily resident in New Zealand at the time of their application, provided they are 65 or over, and met the other residence requirements (ten years in New Zealand since age 20, and five years since age 50) before they left New Zealand to live in the Cook Islands, Niue or Tokelau.*

*The purpose of the Bill is to alter the residential qualifications for New Zealand Superannuation and the Veteran's Pension to allow the requirement that a person have 5 years residence and presence in New Zealand over the age of 50 years to be met instead with residence and presence in any of New Zealand, the Cook Islands, Niue, or Tokelau, or any combination of those countries and that territory.*

*The changes take into account New Zealand's close constitutional relationships with the Cook Islands, Niue and Tokelau. As people born in the Cook Islands, Niue and Tokelau are New Zealand citizens, the Bill reflects the constitutional responsibility that New Zealand has for its citizens living in those Pacific countries and territory, and the relationship those citizens have with New Zealand.*

## Part Two: Background Material and Policy Information

### Published reviews or evaluations

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| <b>2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?</b> | <b>NO</b> |
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### Relevant international treaties

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| <b>2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?</b> | <b>NO</b> |
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| <b>2.2.1. If so, was a National Interest Analysis report prepared to inform a Parliamentary examination of the proposed New Zealand action in relation to the treaty?</b> | <b>NO</b> |
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### Regulatory impact analysis

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| <b>2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?</b>   | <b>YES</b> |
| Impact Summary: Improving the portability of superannuation to the Cook Islands, Niue and Tokelau, Ministry of Social Development, 31 January 2018. The Impact Summary can be accessed at:<br><a href="http://www.treasury.govt.nz/publications/informationreleases/ris">http://www.treasury.govt.nz/publications/informationreleases/ris</a><br><a href="http://www.msd.govt.nz/about-msd-and-our-work/publications-resources/regulatory-impact-statements/index.html">http://www.msd.govt.nz/about-msd-and-our-work/publications-resources/regulatory-impact-statements/index.html</a> |            |

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| <b>2.3.1. If so, did the RIA Team in the Treasury provide an independent opinion on the quality of any of these regulatory impact statements?</b>   | <b>NO</b> |
| The Impact Summary has been reviewed by an MSD Principal Policy Analyst not involved in the development of the policy proposal who has concluded that the impact analysis meets the Quality Assurance criteria. The RIS did not meet the threshold for RIA Team assessment. |           |

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| <b>2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?</b> | <b>NO</b> |
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### Extent of impact analysis available

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| <b>2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?</b> | <b>NO</b> |
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| <b>2.5. For the policy to be given effect by this Bill, is there analysis available on:</b>                     |  |            |         |         |         |
| <b>(a) the size of the potential costs and benefits?</b>  |  | <b>YES</b> |         |         |         |
| <b>(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?</b> |  | <b>NO</b>  |         |         |         |
| <b><i>Fiscal costs by year</i></b>  |  |            |         |         |         |
| Initiative  | \$ million – increase/(decrease) – net impacts |            |         |         |         |
|   | 2018/19  | 2019/20    | 2020/21 | 2021/22 | 2022/23 |
| Portability   | 1.649  | 3.546      | 3.784   | 4.050   | 4.334   |

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| <b>2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:</b> |  |           |
| <b>(a) the level of effective compliance or non-compliance with applicable obligations or standards?</b>                  |  | <b>NO</b> |
| <b>(b) the nature and level of regulator effort put into encouraging or securing compliance?</b>                          |  | <b>NO</b> |

## Part Three: Testing of Legislative Content

### Consistency with New Zealand's international obligations

**3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?**

There are no relevant international obligations that are engaged by this Bill.

### Consistency with the government's Treaty of Waitangi obligations

**3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?**

There are no Treaty of Waitangi issues arising from this Bill.

### Consistency with the New Zealand Bill of Rights Act 1990

**3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?**

**YES**

Advice provided to the Attorney-General by the Ministry of Justice is generally expected to be available on the Ministry of Justice's website upon introduction of a Bill. Such advice will be accessible on the Ministry's website at

<https://www.justice.govt.nz/justice-sector-policy/constitutional-issues-and-human-rights/bill-of-rights-compliance-reports/>

### Offences, penalties and court jurisdictions

**3.4. Does this Bill create, amend, or remove:**

**(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?**

**NO**

**(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?**

**NO**

### Privacy issues

**3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?**

**NO**

## External consultation

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| <b>3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?</b> | <b>NO</b> |
| There was no public consultation due to the confidential budget 2018 process.   |           |

## Other testing of proposals

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| <b>3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?</b>   | <b>YES</b> |
| MSD service delivery has assessed the Bill's provisions, and has developed an implementation plan. A January 2019 date for implementation means that there is sufficient time to embed changes. The operational impacts are thought to be immaterial and can be managed within existing baseline. |            |

## Part Four: Significant Legislative Features

### Compulsory acquisition of private property

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| 4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property? | NO |
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### Charges in the nature of a tax

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| 4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax? | NO |
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### Retrospective effect

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| 4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively? | NO |
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### Strict liability or reversal of the usual burden of proof for offences

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| 4.4. Does this Bill:  |    |
| (a) create or amend a strict or absolute liability offence?   | NO |
| (b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding? | NO |

### Civil or criminal immunity

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| 4.5. Does this Bill create or amend a civil or criminal immunity for any person? | NO |
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### Significant decision-making powers

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| 4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests? | NO |
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### Powers to make delegated legislation

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| 4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation? | NO |
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| 4.8. Does this Bill create or amend any other powers to make delegated legislation? | NO |
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### Any other unusual provisions or features

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| 4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment? | YES |
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| <p>The Bill has retrospective effect so as to count residence and presence in any of the countries or territory before it comes into force as satisfying the five years over age 50 residency requirement.</p> |  |
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