

Sections 69G - 70, Social Security Act 1964

Overseas Pensions

[69G Reasonable steps to be taken to obtain overseas pension

(1) Every applicant for a benefit under [this Act] or under the Social Welfare (Transitional Provisions) Act 1990 [or under the New Zealand Superannuation Act 2001] shall provide to the [[chief executive]] information establishing, to the satisfaction of the [[chief executive]],—

(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 [[chief executive]] may give to—

(a) an applicant for a benefit under [this Act] or under the Social Welfare (Transitional Provisions) Act 1990 [or under the New Zealand Superannuation Act 2001]; or

(b) a beneficiary under [this Act] or under the Social Welfare (Transitional Provisions) Act 1990 [or under the New Zealand Superannuation Act 2001]; or

(c) the spouse of an applicant for a benefit under [this Act] or under the Social Welfare (Transitional Provisions) Act 1990 [or under the New Zealand Superannuation Act 2001]; or

(d) the spouse of a beneficiary under [this Act] or under the Social Welfare (Transitional Provisions) Act 1990 [or under the New Zealand Superannuation Act 2001]—

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

(3) The [[chief executive]] may give to—

(a) an applicant for a benefit under [this Act] or under the Social Welfare (Transitional Provisions) Act 1990 [or under the New Zealand Superannuation Act 2001]; or

(b) a beneficiary under [this Act] or under the Social Welfare (Transitional Provisions) Act 1990 [or under the New Zealand Superannuation Act 2001]—

a written notice requiring that person to take all reasonable steps, within a period specified by the [[chief executive]], 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 [[chief executive]] under subsection (2) or subsection (3) of this section, the [[chief executive]] may—

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

(b) suspend, from such date as the [[chief executive]] determines, the benefit granted to the beneficiary until either—

(i) the beneficiary provides information establishing, to the satisfaction of the [[chief executive]], 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 [[chief executive]] may, not less than 40 working days after the suspension, terminate the benefit from such date as the [[chief executive]] determines.]

This section and the heading above it were inserted by s.3 of the Social Security Amendment Act (No 6) 1996.

In subss. (1), (2) and (3) the words “this Act” were substituted for the words “this Part of this Act” by s.2(3) of the Social Security Amendment Act 1998.

In subss. (1), (2), (3), (4) and (5) the words “chief executive” were substituted for the words “Director-General” by s.11 and the Schedule of the Employment Services and Income Support (Integrated Administration) Act 1998.

In subss. (1), (2)(a) to (d), and (3)(a) and (b), the words “or under the New Zealand Superannuation Act 2001” were inserted by s.77 and Schedule 5 of the New Zealand Superannuation Act 2001.

[69H Information on rate of overseas pension to be provided

(1) Every applicant for a benefit under [this Act] or under the Social Welfare (Transitional Provisions) Act 1990 [or under the New Zealand Superannuation Act 2001] shall provide to the [[chief executive]] information establishing, to the satisfaction of the [[chief executive]], 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 [[chief executive]] may refuse to grant the benefit applied for.

(3) Every beneficiary under [this Act] or under the Social Welfare (Transitional Provisions) Act 1990 [or under the New Zealand Superannuation Act 2001] shall provide to the [[chief executive]], as requested from time to time in a written notice given to that person by the [[chief executive]], information establishing, to the satisfaction of the [[chief executive]], 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 [[chief executive]] may suspend, from such date as the [[chief executive]] determines, the benefit granted to the beneficiary until either—

- (a) the beneficiary provides information establishing, to the satisfaction of the [[chief executive]], 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 [[chief executive]] may, not less than 40 working days after the suspension, terminate the benefit from such date as the [[chief executive]] 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.]

This section was inserted by s.3 of the Social Security Amendment Act (No 6) 1996.

In subss. (1) and (3) the words “this Act” were substituted for the words “this Part of this Act” by s.2(3) of the Social Security Amendment Act 1998, and the words “or under the New Zealand Superannuation Act 2001” inserted by s.77 and Schedule 5 of the New Zealand Superannuation Act 2001.

In subss. (1), (2), (3), (4) and (5) the words “chief executive” were substituted for the words “Director-General” by s.11 and the Schedule of the Employment Services and Income Support (Integrated Administration) Act 1998.

[69I Duty of chief executive to assist

It is the duty of the [[chief executive]] 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.]

This section was inserted by s.3 of the Social Security Amendment Act (No 6) 1996.

The words “chief executive” were substituted for the words “Director-General” by s.11 and the Schedule of the Employment Services and Income Support (Integrated Administration) Act 1998.

[70 Rate of benefits if overseas pension payable

(1) For the purposes of this Act, if—

[[(a) Any person qualified to receive a benefit under [this Act] [or under the Social Welfare (Transitional Provisions) Act 1990] [or under the New Zealand Superannuation Act 2001] is entitled to receive or receives, in respect of that person or of that person’s spouse or of that person’s dependants, or if that person’s spouse or any of that person’s dependants is entitled to receive or receives, a benefit, pension, or periodical allowance granted elsewhere than in New Zealand; and]]

(b) the benefit, pension, or periodical allowance, or any part of it, is in the nature of a payment which, in the opinion of the [[chief executive]], forms part of a programme providing benefits, pensions, or periodical allowances for any of the contingencies for which benefits,

pensions, or allowances may be paid under [this Act] [[or under the Social Welfare (Transitional Provisions) Act 1990]] [or under the New Zealand Superannuation Act 2001] or under the War Pensions Act 1954 which is administered by or on behalf of the Government of the country from which the benefit, pension, or periodical allowance is received—

[[the rate of the benefit or benefits that would otherwise be payable under [this Act] or under the Social Welfare (Transitional Provisions) Act 1990 [or under the New Zealand Superannuation Act 2001] 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 [[chief executive]] in accordance with regulations made under this Act]]:

[[Provided that if the [[chief executive]] determines that the overseas benefit, pension, or periodical allowance, or any part of it, is in the nature of, and is paid for similar purposes as,—

[[a) compensation for injury or death for which payment could be made under the [Injury Prevention, Rehabilitation, and Compensation Act 2001] if the injury or death had occurred in New Zealand after the commencement of that Act; or]]

b) a war pension or allowance granted under the War Pensions Act 1954 of a type which would not affect any recipient's entitlement to a benefit in accordance with section 72 of this Act; or

c) a disability allowance granted under [this Act]—

such overseas benefit, pension, or periodical allowance, or part of it, as the case may be, shall be treated as if it were in fact such compensation, war pension or allowance, or disability allowance.]]

(2) Nothing in subsection (1) of this section shall preclude the [[chief executive]] from deciding the date on which [[the [[chief executive]]'s determination]] under paragraph (b) of, or the proviso to, the said subsection (1) shall take effect, which date may be a date before, on, or after the date of such determination.]

[[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 [[chief executive]] 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 Act] or the Social Welfare (Transitional Provisions) Act 1990 [or under the New Zealand Superannuation Act 2001] 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 [[chief executive]] 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 Act] or the Social Welfare (Transitional Provisions) Act 1990 [or under the New Zealand Superannuation Act 2001], if the [[chief executive]] 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.

[(3A) The [[chief executive]] may from time to time, on behalf of the Crown, enter into contracts with 1 or more registered banks for the purpose of implementing arrangements under subsection (3)(a).]

[(3B) No money in a bank account maintained, in accordance with regulations made under section 132C, to implement an arrangement under subsection (3)(a) can—

- (a) be attached or taken in execution under any order or process of any court:
- (b) be made the subject of any set-off, charge, or assignment:
- (c) be claimed or deducted under any notice or other instrument issued under any enactment (other than under regulations made under section 132C).]

[(3C) If the benefit referred to in an arrangement made under subsection (3)(a) is New Zealand superannuation, the chief executive must pay any amount received from the overseas pensioner under the arrangement into the New Zealand Superannuation Fund established under the New Zealand Superannuation Act 2001, in accordance with arrangements made from time to time by the chief executive with the Guardians of New Zealand Superannuation.]

(4) For the purposes of this Act and section CB5(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 Act] or the Social Welfare (Transitional Provisions) Act 1990 [or under the New Zealand Superannuation Act 2001], 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.]

This section was substituted for the former s.70 by s.13(1) of the Social Security Amendment Act 1975.

In subs. (1), para. (a) was substituted for the former para. (a) by s.16(1) of the Social Security Amendment Act (No 2) 1985.

In subss. (1), (3) and (4) the words “this Act” were substituted for the words “this Part of this Act” by s.2(3) of the Social Security Amendment Act 1998.

In subs. (1)(a) the words in single square brackets were inserted by s.5 of the Social Welfare (Transitional Provisions) Amendment Act (No 2) 1993.

In subs. (1), para. (a) of the proviso was substituted for the former para. (a) of the proviso by s.415(1) and Part 1 of Schedule 7 of the Accident Insurance Act 1998, and the words in single square brackets were substituted on 1 April 2002 for the words “Accident Insurance Act 1998” by s.337 and Schedule 6 of the Injury Prevention, Rehabilitation, and Compensation Act 2001.

In subs. (1)(b) the words “or under the Social Welfare (Transitional Provisions) Act 1990” were inserted by s.5 of the Social Welfare (Transitional Provisions) Amendment Act (No 2) 1993.

The formula used to determine the benefit deduction required by subs. (1), is contained in the Social Security (Overseas Pension Deduction) Regulations 1996 (SR 1996/259).

In subs. (1) the words in double square brackets immediately preceding the proviso were substituted for the former words by s.4(1) of the Social Security Amendment Act (No 6) 1996 and the proviso was substituted for the former proviso by s.16(2) of the Social Security Amendment Act (No 2) 1985.

In subss. (1), (2), (3) and (3A) the words “chief executive” were substituted for the words “Director-General” by s.11 and the Schedule of the Employment Services and Income Support (Integrated Administration) Act 1998, and in subs. (2) the words “the chief executive’s determination” were substituted for the former words pursuant to s.2(4) of the Social Security Amendment Act 1987.

In subss. (1), (1)(a) and (b), (3)(a) and (b), and (4)(a), the words “or under the New Zealand Superannuation Act 2001” were inserted by s.77 and Schedule 5 of the New Zealand Superannuation Act 2001.

Subss. (3), (4) and (5) were inserted by s.4(2) of the Social Security Amendment Act (No 6) 1996. Subss. (3) and (4) were brought into force on 7 November 1996 by the Social Security (Alternative Arrangement for Overseas Pensions) Commencement Order (SR 1996/316). For regulations providing an alternative arrangement for the payment of pensions from the United Kingdom and Northern Ireland, see the Social Security (Alternative Arrangement for Overseas Pensions) Regulations 1996 (SR 1996/317).

Subs. (3A) was inserted by s.2(1) of the Social Security (Overseas Pensions) Amendment Act 1998.

Subs. (3B) was inserted by s.2(2) of the Social Security (Overseas Pensions) Amendment Act 1998.

Subs. (3C) was inserted by s.77 and Schedule 5 of the New Zealand Superannuation Act 2001.

Note that a Ministerial direction has been given under s.5 of this Act , in respect of overseas pensions under s.70(1). That direction has been superseded by the Social Security (Overseas Pension Deduction) Regulations 1996 (SR 1996/259).