

Submission to Commission for Financial Capability re NZ Superannuation Scheme

Introduction: The New Zealand Superannuation scheme, as it is administered, now includes many anomalies, such as the Reciprocal Agreement with Australia of 2002, that make it comparatively unfair to some older individuals resident in New Zealand. This is despite the fact that most residents are completely unaware of any anomalies and still believe it to be a “universal” superannuation – a payment received without obligations, taxable along with any other income, and usually a recognition of a lifetime of contribution to the community.

Those who do know there are anomalies may be under the impression few people are affected. But my understanding is that many thousands of superannuitants are subject to unfair anomalies at this stage and that the number is growing and projected to grow further.

I am particularly submitting that the fairest and simplest solution to the problems caused by the anomalies would be to:

- A. raise the required years of residency to obtain eligibility to receive New Zealand Superannuation – to a level where the scheme will be affordable for New Zealand in coming years.**
- B. do away with the anomalies and inequalities created by the two practices of**
 - a. seeking pension money from overseas countries via some superannuitants, who may have already contributed to the NZ community as adults over very many years - despite living in another country for a period of time at some stage**
 - b. giving full superannuation (with no obligations in return) to others who have only been here for 10 years and who may have arrived at or after retirement age**

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1 *In general the NZ Superannuation scheme is the same for the majority of people living here*

The general rule is that all who have participated in New Zealand society for an agreed number of adult years, and who have reached the age of eligibility for payments, are paid the same amount of money – differing only by whether or not they are married or single. There is no means-test for NZ Superannuation. There is therefore no differentiation between people according to their level of personal wealth. The simplicity of this concept has meant in the past that administration would be uncomplicated and low cost and the scheme would be seen as fair.

2 *Anomalies and unfairness introduced - higher administration and enforcement costs for NZ*

Unfortunately, there are a range of problems with the fairness of the universal NZ Superannuation scheme, as it is now being administered. I believe these largely arise from anomalies created due to the way the cost of adults migrating from other countries to New Zealand has been addressed, in relation to the NZ Superannuation scheme.

The New Zealand Government in recent times has begun to access money from offshore governments and pension schemes to offset New Zealand superannuation. To achieve this, reciprocal agreements have been signed with some countries. But anomalies and unfairness arise because each country's scheme is different - no other superannuation scheme precisely mirrors the New Zealand system.

WINZ is now asking all people reaching superannuation age in New Zealand – including both relatively recent migrants and people who were born and brought up here and who lived here most of their lives - to apply for payments from age pension/superannuation schemes in other countries where they lived at any time for more than a continuous 12 months as adults.

There is possible financial loss from this due to private savings contributions made in other countries, but this is not the only very serious consequence of this policy that is occurring to superannuitants. Some are made to feel at significant risk and put through serious inconvenience and on-going stress when they are asset-tested – i.e. asked to hand over sensitive and private financial information records and account for valuable items they hold at home – and then to report on any changes to this for the rest of their lives, despite contributing to New Zealand society for most of their adult lives.

Compare this with the fact that, although reciprocal money is not available from some countries, migrants from those countries can be paid full New Zealand superannuation anyway, unencumbered by any personal inconvenience such as asset-testing, after 10 years of residence here as adults. These 10 years can be accumulated entirely after the age of 65 – after working age and taxpaying years have been contributed entirely overseas. An October 2016 article in the *Dominion Post*, written by Tracy Watkins, even suggested that within 5 years, 42% of migrants arriving in the parent category were being paid emergency benefits while they waited out the 10 years for New Zealand Superannuation to begin. In other words, these migrants are being better treated than residents who have lived all or

most of their adult lives in New Zealand and who are, even so, being forced to apply to other countries for pensions.

The many different individual circumstances that have been created as anomalies has caused the need for WINZ to put on a number of staff to enforce the new rules, and the presumably high and growing costs of that.

3 The Australian scheme – different from New Zealand’s “universal” superannuation scheme

The Australian Age Pension scheme is totally unlike the New Zealand Superannuation scheme. The Australian scheme was never expected to produce a payment every retiree in the country would be entitled to after contributing their working life years to the country – either as tax payers or in enabling roles in the community. It was designed and operates as a safety net only, is shrinking, and is harshly means tested – even more so than are the personal hardship benefits payable in New Zealand. For some of its history the Australian Age Pension was income tested – but from 1985 it has also been asset tested – right down to the detailed level of assessing the value of items in applicants’ homes.

The Australian Government is progressively cutting the number of its residents who are eligible for payment of Age Pension by making their means-test tougher as of 1 January 2017. Around 326,000 people in Australia will lose all or part of their Age Pension from that date.

Source:

http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/BudgetReview201516/Pensions

Australia has been able to do this because their scheme always was understood to operate as a safety net rather than as a “universal” payment like New Zealand’s, and the Australian Government has long encouraged higher employer contributions to private retirement plans and offered tax advantages for people nearing retirement. Consequently, many people in Australia are retiring with very good private savings available to them, are not eligible for the Australian Age Pension because of the means-test, and are termed “self-funded retirees”. Australians are well aware of where they stand with regard to their own country’s rules, well in advance of retirement. They are given clear information on the Australian Human Services Department website which they can decide to use to apply or not for an Australian Age Pension, or part of one. It is their choice.

Over the same years, the New Zealand Government has not introduced any arrangements in New Zealand which would place adults working in New Zealand in a similarly advantaged financial position at their retirement. Nor is there clear information published by Government agencies about how the New Zealand Superannuation is now being administered differently for the last several years, for those individuals who may have lived in Australia at some time of their adult lives.

4 Reciprocal agreement with Australia of 2002 has led to gross unfairness to some New Zealand residents

Earlier New Zealand/Australia agreements to do with pensions, from 1938, included chiefly the principle that any time of residence in New Zealand or Australia was to be treated as years spent in either of those countries. For the purposes of paying age pension this meant that, depending on whether someone retired in Australia or New Zealand, they could apply in the country of their retirement and be paid the going rate of an age pension/superannuation of that country, according to the rules of that country.

Then in 2002 a major change was agreed between the two governments, but not well publicised. A reciprocal agreement between Australia and New Zealand provided that anyone who spent more than 12 continuous months in either Australia or New Zealand between the ages of 20 and 65 could apply to be paid a portion of an Age Pension/Superannuation in the country where they live in retirement – by the other government. The portion would represent the number of months between the ages of 20 and 65 that they had lived in each country.

On paper this all probably looked like a tidy solution to the bureaucrats who reached this agreement on New Zealand's behalf. However, it is very inequitable in the way it affects some older individuals resident in New Zealand, who spent some time early on in Australia, compared with other people. This is likely to be a growing number of people.

How the New Zealand government social services agencies are administering policy around this is that they are compelling anyone who lived in Australia for over 12 months between the ages of 20 and 65 to apply for a part pension from Australia regardless of how long they have lived here in New Zealand as adults and how long ago they spent more than 12 continuous months in Australia.

Any such part pension money coming into New Zealand from the Australian Government is generally direct-credited to individual bank accounts set up in the name of individual superannuitants – but operated by WINZ. The idea is that, after banking, administration and enforcement costs are taken into account, this would offset some of the New Zealand superannuation payable to those qualifying in New Zealand for New Zealand Superannuation.

Any applicant is subject to the rules of each government for any pension/superannuation portion they are seeking. New Zealand does not means test. Australia does. So someone living in New Zealand and applying to be paid a portion of the Australian Age Pension will be subject to their means test. Australians applying for any New Zealand Superannuation are not means-tested, and can obtain a part or whole superannuation from New Zealand even where they cannot obtain any Age Pension from Australia.

WINZ insists that it is not means-testing New Zealand residents and takes no responsibility for the harsh effects of asking New Zealand residents to apply for part Australian Age Pensions and the means-tests applied in doing that. But when forcing some New Zealand residents to undertake applications to Australia, WINZ is the only entity responsible for causing this inconvenience and stress to New Zealand residents. Whereas their Australian counterpart agency makes applying for all or any Australian Age Pension “opt in”, WINZ is coercing individuals who are 65+ and living here to apply to Australia for a part Age Pension with the threat that it will otherwise stop their entire payments of New Zealand Superannuation.

This policy is a major retrospective move that was not publicised as would normally be with a major policy change. It is being brought to the notice of individuals one by one, as they apply for their New Zealand superannuation. E.g. At the time anyone went over from New Zealand to live in Australia on overseas experience in the 1970s' there was no such reciprocal agreement in place, no asset test in Australia for Age Pension, and absolutely no expectation or warning that anything of this nature might happen in the future that might have persuaded them not to stay on in Australia for more than a brief holiday. It appears there has still not been any publicity even now.

However, the current rules are much more beneficial to Australians who come here to retire later in life. In fact, if they are wealthy, they will be denied any Australian Age Pension by means-testing and yet be eligible to receive a full New Zealand superannuation in retirement, because they are then able to count years lived in Australia as years lived in New Zealand for eligibility purposes.

5 *What does the “Overseas pension entitlement Australian application” involve, in practice?*

Any New Zealand resident who lived for more than 12 months in Australia as an adult will be compelled to go through the extremely stressful process of applying to Australia for a part Age Pension, including income testing and exhaustive asset testing, unless they have a reasonably high level of personal wealth.

New Zealand Superannuation is not simply a safety net and is not means-tested. So most people applying for Superannuation in New Zealand are not means-tested as a prerequisite for receiving superannuation. Affected superannuitants – compelled to apply to Australia for part Age Pensions and rigorously means-tested - are therefore being treated very poorly compared with other superannuitants in New Zealand. The onerous complexity of the process, its unclear paperwork and the complete removal of privacy of the whole process is very inequitable. Most people could not complete the process without professional help, which they would need to pay for.

An exhaustive pack of forms “*Overseas pension entitlement Australian application*” is sent from WINZ to affected New Zealand residents to be filled out. It includes:

AUS-1 - 33 pages in length and 10 pages of explanatory notes. This is the actual application form for a part Australian Age pension and includes the means-test questions, along with many questions about personal circumstances at the time of any residence in Australia and now.

AUS-2 – Choosing a payment option for your Australian Age Pension application – 6 pages plus 4 pages of notes

AUS-3 – Payment Option 1 – Special Banking Option forms – 1 page plus 4 pages of notes (contains technicalities that need to be understood)

AUS-4 – Direct Payment Method – 1 page plus 1 page of notes

AUS-5 - Authorisation of Email Address form - 1 page plus 1 page of notes

AUS-6 – Checklist – Have you completed everything? 3 pages

6 *Having above average personal wealth is a clear advantage can avoid the process*

A very strange and inequitable feature (as it appears to be in the New Zealand setting) is that the forms pack will arrive with a letter explaining that if a superannuitant has wealth above the current top Australian asset threshold for Age Pension payments, they can produce (at their own cost) a lawyer’s letter to that effect and not be compelled to fill out the forms or apply to Australia for a part Age Pension at that time – though they may be asked to repeat this letter every two years for the rest of their lives, in case their assets diminish. (Unless they are very wealthy, some of this group will find, post-salary earnings years, that they will reach a stage where their assets have dwindled to the point that they too will be in the group that is coerced into the asset-testing process).

The fact that New Zealand residents with a much higher level of wealth than average are not forced to go through this testing process, whether they are New Zealand citizens or Australian citizens, but others with less wealth are forced into it, is something that does not sit well with the ethos of the New Zealand welfare environment – where government benefit arrangements are not normally organised in a way that advantages people with more money than average in the community.

At present the upper Australian asset threshold stands for a home owner couple (or one of a couple) at approximately A\$1,178,500 million, in addition to the family home – but this threshold will be lowered to A\$816,000 as of 1 January 2017, making fewer people eligible for any Age Pension. There are different threshold levels for those who do not own a home or are single.

(Source: <https://www.humanservices.gov.au/customer/enablers/assets>)

7 *Superannuitants with less than the top Australian asset threshold are forced to provide detailed financial information*

For those New Zealand residents who have no proof they have assets above the upper Australian asset threshold applicable, their assets are demanded to be fully reported via WINZ – who sends the information to their Australian counterpart. The information requested in AUS-1 includes:

Bank accounts and numbers, share portfolios - including identifier CSN numbers, Kiwisaver or other superannuation funds of any kind, life insurance policies, loans to family members or others, etc.

Business assets

Interests in private companies or family trusts

Vehicles, boats, trailers

Property (except for the family home) but including equity in a holiday home or rental property/ies

Any assets given away or sold for less than their market value within the last 5 years

Applicants are also asked about the value of articles they own at home – including soft furnishings, furniture, antiques, works of art, electrical appliances, jewellery and hobby collections (such as stamps). This is a real worry for older people who are comparatively vulnerable at a time of increasing burglaries.

Handing over full details about bank accounts and other assets, along with previously supplied data such as birth date, address, former names and other very personal identifiers, is not recommended for anyone these days as it can enable phishing and/or identity theft or other fraud. WINZ will then have in its systems, and be passing to Australia, all the private personal and financial details some people set out to rob letter boxes to obtain for criminal purposes. This feels like very threatening harassment to those New Zealand residents affected. It is especially dangerous for older people who can be less able to distinguish when they are targeted by scams. It is also a fact that despite determined assurances of privacy for information held, here and in Australia, there are regular inadvertent outages of information from government information systems, and insider fraud issues reported in the media from time to time. Unlike younger people, if any older person were to suffer loss through misuse of the information provided, they would have no chance of making losses up. They might not even understand how it had happened or even if it had happened.

This process places older individuals in a position where they are likely to feel (and may well be) personally at risk from having lost control over the financial information that they alone have held to that date. They are also likely to feel less safe at home – having disclosed information about the contents of their home. This is because they will be compelled to hand over details of all their (and

their partner's) assets and valuable belongings, and precisely what they are and where they are held (regardless of if the partner ever lived in Australia or is even applying for superannuation).

It does also appear to be an organisational risk for WINZ to hold detailed information of New Zealanders' assets – far more information than Inland Revenue holds or has access to. PricewaterhouseCoopers has recently issued a “*Global State of Information Security Survey 2017*” report on cyber security practices, including those of New Zealand organisations, and pointed out that they are in many cases at risk, particularly from internal security breaches.

8 *Other difficult to provide information is requested*

No matter how long ago they lived temporarily in Australia after their 20th birthday, anyone filling out AUS-1 is asked about their port of entry, the names, addresses and telephone numbers of three people (not relatives) living in Australia can now verify this, and a number of other items of information they may have long since forgotten or no longer know. Places people may have worked many years ago may no longer exist, and otherwise different people will be there now and unable to verify any details from long ago. It can be quite hard to prove one was in Australia many years ago as passports were not stamped as people travelled between New Zealand and Australia.

9 *Other complexities may mean more forms are required to be filled out*

If an affected individual has a Family Trust then they will probably need to complete another very complex form “*Private Trust*” – Mod(PT).1403. This is a form of 23 pages with 6 pages of explanatory notes which they will likely need professional assistance to complete – because the terminology and rules for gifting to Private Trusts are different in Australia. They will also be asked to produce a copy of the Trust deed and all gifting certificates to date (quite a bit of paper).

Australia does not have an ACC. New Zealand does, and we contribute to it through our taxation system. Nevertheless, if an affected individual has received any regular compensation insurance payments or a lump sum settlement of compensation for injury and personal accident in recent years they will need to fill out a form “*Compensation and damages*” - (ModC1403). The lack of overlap with the New Zealand system makes this difficult for New Zealand residents to fill out accurately, or presumably for the actual purpose intended.

There may be other forms required for other points of individual circumstance picked up via screening questions in AUS-1.

10 *Lifetime undertaking to the Australian Government involving continuous income and assets reporting*

Perhaps the worst aspect of all this is that updating of the means-testing then continues on for life on a very regular basis. The AUS-1 explains any changes in portfolio must be reported to the Australian government agency. On page 8 of the explanatory notes the applicant is told they **must** undertake to contact the Australian agency “**within 28 days** if any of these things happen or may happen”.

A long list of possible events to be reported is set out on page 8 of the notes to AUS-1. The detail expected is clear – simply from the **requirement to report any increase in the investment portfolio**

of more than A\$1000.00. Yet anyone of even moderate means will have this happen very frequently. Individuals are also required to **report any receipt of Bonus shares, report if they buy or sell any shares, report if they open a new bank account, report if they give any asset away or sell assets for less than their value.**

In other words, for the rest of their lives, these individuals are indeed expected to have no privacy at all regarding their assets and the conduct of their investments. Older people do not improve in wellness as they get older. Harassment will get harder and more stressful to cope with as an older person ages and finds this requirement more and more difficult.

I enquired of WINZ what would happen regarding this reporting if and when such older people were no longer able to manage their own affairs, and I was told by a one official that such a person could get their lawyer to do this work and then by a more senior official that they could have their Power of Attorney person pass the information to the Australian government agency.

All this seems an incredibly unjust onus to be putting on this particular group of aging people, simply because they have lived in Australia for a time at some stage in the past, when at that time it made no legal difference at all to do so with regard to New Zealand superannuation. It is also showing absolutely no appreciation of the many years individuals may have lived and contributed to the fabric of New Zealand society. The policy seems to have a complexity to it that shows no understanding of what is being asked of people involved and no empathy for the people who will be affected by it.

11 Attrition rate and questionable cost effectiveness

Besides the upper asset threshold, Australia also has a lower threshold, currently A\$296,500.00, above which there is attrition of any payable Age Pension by \$1.50 for every A\$1000 of assets. (This threshold will change as of 1 January 2017 and the attrition rate will be \$3.00 per A\$1000 held.) Therefore, it is very possible to be below the upper asset threshold (where WINZ allows people not to make an application and have to hand over information) and yet bring in nothing or virtually nothing, after all the worrying hoops have been jumped through and a regime of reporting continuously begun. On the other hand, the administration and enforcement costs associated with running the anomalies within the New Zealand Superannuation scheme today must be considerable and growing.

12 Consequences for non-compliance with the demand to apply for the Australian Part Pension

If any individuals affected find this process too onerous to comply, there is provision in the Social Security Act, at this time, to completely remove their entire New Zealand superannuation from them – regardless of how many adult years they have lived in New Zealand – and regardless of the contribution they have made to New Zealand society – via employment or social contributions, during what may be over 40 years of adult residence here.

WINZ correspondence to superannuitants maintains Section 69G(1)(a) gives them the authority to force people to apply for Australian part Age Pensions if they have ever lived more than 12 continuous months in Australia at any time of their adult lives.

69G Reasonable steps to be taken to obtain overseas pension

(1)

Every applicant for a benefit under this Act or under Part 6 of the Veterans' Support Act 2014 or under the [New Zealand Superannuation and Retirement Income Act 2001](#) shall provide to the chief executive information establishing, to the satisfaction of the chief executive,—

(a)

that the applicant and the spouse or partner 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;

According to the Act, NZ Superannuation is now interpreted as a "benefit" and WINZ appears to interpret "reasonable steps" as meaning an individual superannuitant may, by following the steps to apply for the Australian scheme, then have a chance of extracting at least a dollar from that scheme, however onerous and harsh the process may be or the consequences to the individual, or the costs to New Zealand taxpayers of running the process.

However, individuals might not agree, given the degree of comparative disadvantage to themselves, including how onerous such an application and its future consequences and longevity for them might be in their circumstances. Those who lived temporarily in Australia many years ago might also feel that the degree of retrospectivity in their being targeted in this way, well before the date any Australian Government payments into New Zealand were envisaged, is extremely unfair and unreasonable.

One particularly unfair example is when these individuals have lived in New Zealand as adults in excess of 35 - 40 years in total at the time of applying for superannuation at 65. They may have been young New Zealanders going to Australia for a time on overseas work experience or to study, or Australians who came here as young adults to live permanently. These people have made real and very long term contributions to New Zealand society over very many more years than the required 10 years of adult residence for New Zealand Superannuation eligibility. A number of them may have brought valuable additional qualifications and work experience to New Zealand from Australia and then worked or lived here subsequently for the rest of their adult years, very possibly for close to 40 years. To now make them subject to draconian means testing for the rest of their lives is extremely harsh, unfair and discriminatory.

The current system and so-called "reciprocal agreement" of 2002 (New Zealand with Australia) does not work well in creating a fair and equitable arrangement regarding Age Pension/Superannuation.

It never can, because the two countries have entirely different approaches and rules for payments to older people. Australian Age Pension and NZ Superannuation have entirely different intentions and operate with entirely different purposes with regard to supporting older people.

New Zealand has put its own residents at a severe disadvantage in signing up to the 2002 agreement and needs to renegotiate something very different that uses statistical methodology and information technology available today to calculate a true reciprocal method that will be fair, both to the countries and to all the individuals involved. At present both New Zealand and affected New Zealand residents appear to be missing out.

It may also be time to reconsider the arrangement that time spent in either country as an adult counts as time spent in the other country, to avoid wealthy Australians with excellent personal retirement funds moving to retire here for over 26 weeks of each year and claiming full New Zealand Superannuation, as they will not be eligible for Australian Age Pension.

15 My full suggestions to simplify the administration and make it fairer

- A. raise the required years of residency to obtain eligibility to receive New Zealand Superannuation – to a level where the scheme will be affordable for New Zealand in coming years.**
- B. do away with the anomalies and inequalities created by the two practices of**
 - a. seeking pension money from overseas countries via some superannuitants, who may have already contributed to the NZ community as adults over very many years - despite living in another country for a period of time at some stage**

(The anomalies arising from our government agencies seeking overseas money via superannuitants are very complex and hard to understand and have led to very unfair treatment of affected individuals – who are threatened with losing their total NZ Superannuation payments if they do not comply with WINZ demands to apply for overseas pensions.)
 - b. giving full superannuation (with no obligations in return) to others who have only been here for 10 years and who may have arrived at or after retirement age**
- C. changes to New Zealand Superannuation should be made only after extensive open consultation with the public**
- D. if means-testing were ever to be introduced, it should be income-based only – as that is relatively simple and cheap to comply with via Inland Revenue certificates. Asset-testing is extremely onerous to comply with and would be very expensive to administer. (see the Australian asset test forms)**
- E. any changes should be followed up by a clear public education campaign so that individuals are not finding themselves taken aback and disadvantaged at the time they apply for NZ Superannuation.**