

**Reprint  
as at 5 January 2010**



**New Zealand Superannuation and  
Retirement Income Amendment  
Act 2009**

Public Act    2009 No 40  
Date of assent    27 October 2009  
Commencement    see section 2

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**Note**

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

**This Act is administered by the Department of Work and Income and the Treasury.**

10 Saving

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**The Parliament of New Zealand enacts as follows:****1 Title**

This Act is the New Zealand Superannuation and Retirement Income Amendment Act 2009.

**2 Commencement**

This Act comes into force on a date to be appointed by the Governor-General by Order in Council.

Section 2: New Zealand Superannuation and Retirement Income Amendment Act 2009 brought into force, on 5 January 2010, by the New Zealand Superannuation and Retirement Income Amendment Act 2009 Commencement Order 2009 (SR 2009/362).

**3 Principal Act amended**

This Act amends the New Zealand Superannuation and Retirement Income Act 2001.

**4 Effect of absence from New Zealand on New Zealand superannuation**

Section 21 is amended by omitting “29” and substituting “35”.

**5 First 26 weeks of certain temporary absences**

Section 22 is amended by inserting “(other than a person who is receiving New Zealand superannuation overseas under section 26)” after “a person”.

**6 New sections 26 to 26B substituted**

Section 26 is repealed and the following sections are substituted:

**“26 Payment overseas of New Zealand superannuation**

“(1) This subsection—

“(a) applies to a country if it is not a country with whose government New Zealand has a reciprocal agreement or convention, in force under section 19 of the Social

- Welfare (Transitional Provisions) Act 1990, that relates to New Zealand superannuation; and
- “(b) applies to a person if he or she has left New Zealand at a time when he or she was—
- “(i) intending to reside for a period longer than 26 weeks in a country (or any 2 or more countries) to which this subsection applies, but not intending to reside for a period longer than 52 weeks in a specified Pacific country (within the meaning of section 30(1)); or
- “(ii) intending to travel for a period longer than 26 weeks, but not intending to reside in any country other than New Zealand.
- “(2) A person to whom subsection (1) applies is entitled to be paid New Zealand superannuation at the appropriate rate specified in subsection (6)—
- “(a) in the case of a person who has left New Zealand at a time when he or she was intending to reside for a period longer than 26 weeks in a country (or any 2 or more countries) to which subsection (1) applies, but not intending to reside for a period longer than 52 weeks in a specified Pacific country (within the meaning of section 30(1)), until he or she—
- “(i) begins to reside in a country that is not a country to which subsection (1) applies; or
- “(ii) begins to reside in New Zealand again; or
- “(iii) begins to receive New Zealand superannuation otherwise than under this section; and
- “(b) in the case of a person who has left New Zealand at a time when he or she was intending to travel for a period longer than 26 weeks, but not intending to reside in any country other than New Zealand, until he or she—
- “(i) begins to reside in a country that is not a country to which subsection (1) applies; or
- “(ii) returns to New Zealand.
- “(3) For the purposes only of subsection (2)(b)(ii), a person does not return to New Zealand if—
- “(a) he or she—

- “(i) interrupts his or her overseas travel, and travels to and stays briefly in New Zealand, in order to attend an event (for example, a wedding or funeral) or to visit a person (for example, a sick or injured family member); and then
- “(ii) resumes his or her overseas travel; and
- “(b) he or she does not while in New Zealand begin to receive New Zealand superannuation otherwise than under this section.
- “(4) Except to the extent provided by paragraphs (a)(i) and (b)(i) of subsection (2), a person does not cease to be entitled to be paid New Zealand superannuation under that subsection by reason only of changing his or her intentions after leaving New Zealand.
- “(5) Subsection (4) is for the avoidance of doubt.
- “(6) The rates referred to in subsection (2) are,—
  - “(a) for a single person, a rate that is a proportion (calculated under section 26A(1)) of the amount stated in clause 1(b) of Schedule 1:
  - “(b) for a person who is married or in a civil union or in a de facto relationship, a rate that is a proportion (calculated under subsection 26A(1)) of the amount stated in clause 1(c) of that schedule.
- “(7) This section is subject to section 26B.

**“26A Calculation of amount of New Zealand superannuation payable overseas**

- “(1) The proportion referred to in section 26(6) is to be calculated by—
  - “(a) treating each period during which the person concerned has resided in New Zealand while aged 20 or more and less than 65 as whole calendar months and (where applicable) additional days; and
  - “(b) adding the number of additional days (if any), dividing the total by 30, and disregarding any remainder; and
  - “(c) adding the number of calendar months and the quotient calculated under paragraph (b); and
  - “(d) dividing by 540 the total calculated under paragraph (c).

- “(2) In the determination for the purposes of subsection (1) of the periods during which a person has resided in New Zealand, no account is to be taken of—
- “(a) any period of absence from New Zealand of a kind described in section 9(1); or
  - “(b) any period of absence from New Zealand—
    - “(i) while the person was engaged in missionary work as a member of, or on behalf of, any religious body; or
    - “(ii) while the person’s spouse or partner was engaged in missionary work as a member of, or on behalf of, any religious body, and the person was with his or her spouse or partner; or
  - “(c) any period of absence from New Zealand while the person was (by virtue of section 79(1)(a) of the Social Security Act 1964) deemed to have been resident in New Zealand; or
  - “(d) any period of absence from New Zealand while, as the spouse or partner of a person deemed by section 79(1)(a) of the Social Security Act 1964 to have been resident in New Zealand, the person was also (by virtue of section 79(1)(b) of the Social Security Act 1964) deemed to have been resident in New Zealand.
- “(3) Subsection (2) applies to a period of absence only if the chief executive is satisfied that during it the person concerned remained ordinarily resident in New Zealand.
- “(4) Subsection (2)(b) applies to a period of absence only if the chief executive is satisfied that the person concerned either was born in New Zealand or—
- “(a) in the case of a person to whom subsection (2)(b)(i) applies, was ordinarily resident in New Zealand immediately before leaving New Zealand to engage in the missionary work concerned;
  - “(b) in the case of a person to whom subsection (2)(b)(ii) applies, was ordinarily resident in New Zealand immediately before leaving New Zealand to accompany or join his or her spouse or partner.

**“26B Entitlement**

A person is not entitled to be paid New Zealand superannuation under section 26 unless he or she—

- “(a) has made an application for the payment of New Zealand superannuation under that section stating either (as the case may be)—
  - “(i) the country or countries in which he or she intends to reside and the period for which he or she intends to reside there; or
  - “(ii) the country or countries to and in which he or she intends to travel; and
- “(b) is ordinarily resident and present in New Zealand on the day he or she makes the application, and—
  - “(i) is entitled to receive New Zealand superannuation on that day; or
  - “(ii) will become entitled to receive New Zealand superannuation before he or she leaves New Zealand.”

**7 Relationship with other benefit provisions**

- (1) Section 29(1) is repealed.
- (2) Section 29(2) is amended by inserting “living alone payment,” after “receive any”.
- (3) Section 29(4) and (5) are repealed and the following subsection is substituted:
  - “(4A) Except as provided in this section, the Social Security Act 1964 (other than sections 69G to 69I, 70, 74(1)(a), 75, 75A, 76, 77, and 82(7)) applies to New Zealand superannuation being paid under section 26.”

**8 Application of this Act and Social Security Act 1964**

Section 35(1) is amended by omitting “21” and substituting “22”.

**9 Social Security Act 1964 consequentially amended**

Section 70 of the Social Security Act 1964 is consequentially amended by inserting the following subsection after subsection (1):

“(1A) Subsection (1) does not apply to New Zealand superannuation payable overseas under section 26 of the New Zealand Superannuation and Retirement Income Act 2001.”

**10 Saving**

- (1) This subsection applies to a person who, immediately before the commencement of section 6, was entitled to be paid New Zealand superannuation under section 26 of the principal Act, between—
    - (a) that commencement; and
    - (b) the time he or she ceases to be entitled to be paid New Zealand superannuation under that section.
  - (2) While subsection (1) applies to a person, he or she is entitled to be paid New Zealand superannuation at the higher of the following rates:
    - (a) the rate at which he or she was entitled to be paid immediately before the commencement of section 6;
    - (b) the rate at which he or she became entitled to be paid on that commencement.
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**Notes****1 General**

This is a reprint of the New Zealand Superannuation and Retirement Income Amendment Act 2009. The reprint incorporates all the amendments to the Act as at 5 January 2010, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that have yet to come into force or that contain relevant transitional or savings provisions are also included, after the principal enactment, in chronological order.

**2 Status of reprints**

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

**3 How reprints are prepared**

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and

provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

**4 Changes made under section 17C of the Acts and Regulations Publication Act 1989**

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
  - indentation
  - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
  - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
  - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

## **5** *List of amendments incorporated in this reprint (most recent first)*

New Zealand Superannuation and Retirement Income Amendment Act 2009  
Commencement Order 2009 (SR 2009/362)

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