



Colin Bosley
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25 MAR 2020

Dear Colin Bosley

On 16 March 2020, you emailed the Ministry of Social Development (the Ministry) requesting, under the Official Information Act 1982, information regarding the New Zealand Superannuation.

Your questions and comments (in italics) are addressed in turn.

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of New Zealand established a reciprocity Agreement on Social Security dated 19 June 1969.

The agreement extended and modified the scope of an agreement: what was the agreement on which the changes were made in the reciprocity Agreement and what was the requirement that gave rise to the changes?

New Zealand and the United Kingdom originally entered into reciprocal social security Agreement which was signed on 20 December 1955 and took effect on 1 April 1956. You can view a copy of this Agreement through the link below:
www.nzlii.org/nz/legis/hist_act/sswtuka19561956n4562/

The 1956 Agreement was replaced by the 1969 Agreement. You can view a copy of this Agreement through the link below:
www.nzlii.org/nz/legis/hist_act/sswtuka19691969n59562/

The 1969 Agreement was then replaced by the 1983 Agreement. You can view a copy of this Agreement through the link below:
www.nzlii.org/nz/legis/hist_act/sswtuka19831983n37562/

Social Security Agreements are amended from time to time as provisions in those agreements become outdated. These amendments are designed to take into account any legislative changes in either or both countries that may have occurred in the intervening period since the Agreement was last amended. Amendments may also be made to reduce or increase the scope of the benefits covered by the Agreement.

The reciprocity agreement does not mention the UK National Insurance Fund (NIF); it does mention "State Pension and Benefits". The NIF is a separate entity with its own employees and offices, board of management and bank account from which the employee and employer superannuation contributions are deposited, and superannuation payments are made.

The NIF is not owned or managed by or on behalf of the UK Government, the UK Government has no fiscal responsibility other than for guarantees on the formation of

the NIF. The NIF is self-owned and managed by its own independent Board of Management on behalf of the contributing members.

The Great Britain National Insurance Fund Account 2018-2019 can be accessed at the following link:

[assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/839411/Great Britain National Insurance Fund Account - 2018 to 2019.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/839411/Great_Britain_National_Insurance_Fund_Account_-_2018_to_2019.pdf)

While the NIF is not mentioned in the Agreement, the NIF funds the United Kingdom social security benefits which are specified in the Agreement. According to page 4 of the Fund Account 2018-19, the NIF holds the National Insurance Contributions (NICs) paid by employees, employers and the self-employed. Receipts paid into the NIF are kept separate from all other revenue raised by national taxes and are used to pay social security benefits such as the State Pension and other contributory benefits (these include unemployment benefits, employment support benefits and other benefits where individuals meet the qualifying and contributory criteria). NICs also help finance the National Health Service.

You advise that the NIF is not owned or managed by the United Kingdom Government. However, the NIF is administered by two government agencies, Her Majesty's Revenue and Customs (the United Kingdom Tax Authority) and the Department for Work and Pensions, on behalf of the United Kingdom Government. The amounts received into, and paid out of, the NIF and the resulting balance of the Fund depend on United Kingdom legislation, which is the responsibility of Her Majesty's Treasury Ministers and the Secretary of State for Work and Pensions.

Her Majesty's Revenue and Customs is responsible for collecting NICs and recording them against individuals' contribution records which determine entitlement to social security benefits payable from the NIF.

The Department for Work and Pensions has overall responsibility for the award and payment of most benefits payable from the NIF, including those relating to retirement, bereavement, contribution-based Jobseeker's Allowance and contributory Employment and Support Allowance.

In addition, the Comptroller and Auditor General is required, under Section 161(2) of the Social Security Administration Act 1992, to examine and certify the NIF Account and to lay copies of it, together with his report, before Parliament.

The UK Government does not make financial contributions to the NIF other than as an employer and under any guarantees that the UK Government made on the formation of the NIF. The NIF superannuation payment is not a State Pension or other benefit.

The National Insurance Fund is financed on a pay as you go basis with contribution rates set at a level broadly necessary to meet the expected benefit expenditure in that year. The United Kingdom Government guarantees that the balance of money in the Fund is sufficient to meet the required social security benefit expenditure in any given year. The Social Security Act 1993 allows for money provided by Parliament to be paid into the NIF via a Treasury Grant, if Her Majesty's Treasury considers it expedient to do so.

Where under the New Zealand Social Security Act 1964 Sec 70 is the authority and understanding to deduct the NIF superannuation payment from UK expatriates living in New Zealand, entitled to and receiving a New Zealand State Pension?

Section 189 of the Social Security Act 1964, formerly section 70 of the Social Security Act 1964, specifies that "the rate of the benefit or benefits that would otherwise be payable under the NZ benefits legislation to a person affected by the receipt of an overseas pension must be reduced by the amount of the overseas pension as determined by MSD under regulations made under section 434".

The term "overseas pension" is defined in section 187 of the Social Security Act 2018 as being a benefit, pension, or periodical allowance, or any part of it, that—

- is granted elsewhere than in New Zealand; and
- is determined by MSD to be a payment that is part of a programme that—
 - provides benefits, pensions, or periodical allowances for any of the contingencies for which benefits, pensions, or allowances may be paid under NZ benefits legislation; and
 - is administered by or on behalf of the Government of the country from which the benefit, pension, or periodical allowance is received.

The United Kingdom State Pension, which is funded from the NIF, meets all of the criteria specified above. It is a pension that:

- is not granted in New Zealand; and
- is paid to provide people with income in retirement which is the same reason (or contingency) for which New Zealand Superannuation is paid; and
- is administered by the Department for Work and Pensions on behalf of the UK Government.

The principles and purposes of the Official Information Act 1982 under which you made your request are:

- to create greater openness and transparency about the plans, work and activities of the Government,
- to increase the ability of the public to participate in the making and administration of our laws and policies and
- to lead to greater accountability in the conduct of public affairs.

This Ministry fully supports those principles and purposes. The Ministry therefore intends to make the information contained in this letter and any attached documents available to the wider public. The Ministry will do this by publishing this letter on the Ministry of Social Development's website. Your personal details will be deleted, and the Ministry will not publish any information that would identify you as the person who requested the information.

If you wish to discuss this response with us, please feel free to contact OIA_Requests@msd.govt.nz.

If you are not satisfied with this response regarding New Zealand Superannuation, you have the right to seek an investigation and review by the Ombudsman. Information about how to make a complaint is available at www.ombudsman.parliament.nz or 0800 802 602.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Julia Bergman', with a long horizontal stroke extending to the right.

Julia Bergman
General Manager
Disability, Seniors and International Policy