



Subject: EMAIL INFORMATION – Age Pension entitlement under the New Zealand Agreement

Email Information:

Australia and New Zealand both have residence-based social security systems. This means a person must generally be residing in Australia to claim an Australian pension or in New Zealand to claim a New Zealand pension.

However, Australia and New Zealand have a Social Security Agreement, which is designed to enable both countries to share responsibility for paying pensions to people who have moved between Australia and New Zealand. The Agreement enables people to receive pensions that they might not otherwise be able to receive.

Under the Agreement, a person who has lived in both Australia and New Zealand will generally be paid a pension from both countries, where eligible, irrespective of which country they are living in at the time of claim. If the person is living in Australia, their rate of Australian pension is reduced on a dollar for dollar basis by the amount of New Zealand pension they receive. If the person is living in New Zealand, their rate of New Zealand pension is similarly reduced dollar for dollar by the amount of Australian pension they receive.

These arrangements ensures that pensioners paid under the Agreement receive the same amount, but not more in total, as a person who has lived only in one country. When Australia and New Zealand negotiated the Agreement, the governments of both countries agreed this is the fairest and most effective way for the two countries to share the costs of providing social security support to people who have moved between Australia and New Zealand.

These rules are set out in the Agreement and neither the Minister nor the department has any discretion to vary these rules in individual cases. Similarly, the Australian Government is not able to unilaterally change the rules in the Agreement. Any changes to the Agreement can only be made in negotiation with the New Zealand Government. There are no plans to change current arrangements.

In relation to the frequency of payments, both Australia and New Zealand process payments to people in the other country in the same manner. Individuals residing in Australia receive their Australian pension every 2 weeks and any New Zealand pension monthly. Individuals residing in New Zealand receive their New Zealand pension every 2 weeks and any Australian pension monthly.

s 22



Senator the Hon Anne Ruston

**Minister for Families and Social Services
Minister for Women's Safety
Senator for South Australia
Manager of Government Business in the Senate**

Ref: MC21-010326

The Hon David Coleman MP
Assistant Minister to the Prime Minister for Mental Health and Suicide Prevention
Member for Banks
PO Box 564
REVESBY NSW 2212


Dear Assistant Minister

Thank you for your letter dated 18 November 2021, on behalf of your constituent,
s 22 concerning the Age Pension and foreign pensions.

The Australian social security system is based on the concepts of residence and need. Payments are made from general revenue to support eligible Australian residents and targeted to those most in need through income and assets tests.

Social security law is designed to encourage people to support themselves in full or in part where possible, whether through paid employment or by accessing other sources of income available to them. For this reason, under social security law, a person claiming or receiving the Age Pension who may be entitled to a foreign pension is required to take reasonable action to obtain that payment. This helps individuals to maximise their personal income and ensures the system remains sustainable.

Australia has a number of international social security agreements that help people who have spent part of their working life in an agreement country, such as New Zealand, to access their entitlements from that country.

Under the agreement with New Zealand, a person will generally receive two pensions, one from Australia and one from New Zealand. For people residing in Australia, their Age Pension will be reduced on a dollar for dollar basis by the amount of New Zealand pension received. This mirrors New Zealand's treatment of the Age Pension received by residents of New Zealand, and ensures these pensioners receive the same amount, in total, as a person who spent their entire working life in only one country.

The rules outlined above are set in legislation and there is no discretion to vary them in individual cases.

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Thank you again for raising this matter with me.

Yours sincerely

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✓ Anne Ruston

16/12/2021



Subject: EMAIL INFORMATION – Age Pension

Email Information:

The Australian social security system is a non-contributory, residence-based system. Payments are subject to income and assets tests to ensure the system is targeted to those most in need.

The income test for Australian pensions assesses the income of both members of a couple, even if one of the partners does not receive a pension. This is based on the principle that couples are able to pool their resources for their mutual benefit.

Social security law is designed to encourage people to support themselves where possible, including by accessing other sources of income available to them, whether in Australia or overseas. Under social security law, if a person is claiming or receiving an Australian pension and they and/or their partner may be entitled to a foreign pension, they are required to take reasonable action to obtain that foreign pension. This helps individuals to maximise their personal income and ensures the Australian system remains sustainable. Failure to take reasonable action to claim a foreign pension may result in a recipient's Australian pension being cancelled or suspended or an applicant's claim for an Australian pension being rejected.

Australia has a number of international social security agreements that help people who have spent part of their working life in an agreement country, such as New Zealand, to access their entitlements from both countries. The income test rules that apply to Australian pensions paid under an agreement may be different to those in Australian domestic legislation. This reflects the terms of the agreement between the two countries.

Under the Social Security Agreement between Australia and New Zealand, eligible people will generally receive two pensions: one from Australia and one from New Zealand. If a person is residing in Australia, their rate of Australian pension is reduced on a dollar for dollar basis by the amount of New Zealand pension they receive. Any other income the person has is assessed under the normal income test rules for Australian payments. Similarly, if a person is residing in New Zealand, the rate of New Zealand pension is reduced dollar for dollar by the amount of their Australian pension. These rules ensure pensioners paid under the Agreement receive the same amount in total as, but not more than, a person who has spent their entire life in one country.

In concluding the Agreement, the Governments of both countries agreed this is the most effective way of sharing the cost and responsibility of providing pensions under the Agreement and ensuring equitable treatment with other pensioners.

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Australian Government
Department of Social Services

Ref: MC22-013910

s 22

Dear s 22

Thank you for your email of 27 November 2022 to the Minister for Home Affairs and Cyber Security, the Hon Clare O'Neil MP, regarding the interaction between the New Zealand and Australian social security systems. Your email was referred to the Minister for Social Services, the Hon Amanda Rishworth MP, as this matter falls within her portfolio responsibilities. The department has been asked to reply.

Both Australia and New Zealand have residency-based social security systems. This means access to payments from each country is generally limited to people who are a citizen or permanent resident of that country and are residing in that country. For example, in the case of the Australian Age Pension, a person must generally be an Australian citizen or permanent visa holder, be residing in Australia at the time of claim, and have resided in Australia for 10 years prior to claiming, with at least five of these years being continuous.

However, Australia and New Zealand have a social security agreement that provides some exceptions to the normal residency rules for each country and enables both countries to share the cost and responsibility of supporting citizens and permanent residents who have moved between Australia and New Zealand. The agreement allows eligible people to claim a pension from both countries irrespective of which country they are residing in at the time of claim, and also allows periods of residence in Australia and New Zealand to be combined in order to meet the minimum qualifying residence periods for a pension from either country.

The agreement specifies that, in order to qualify for a pension from either country under the agreement, the person must meet the qualifying age for New Zealand Superannuation or the qualifying age for the Australian Age Pension, whichever is the higher age at the relevant time. The qualifying age for the Australian Age Pension is higher than the qualifying age for New Zealand Superannuation. This means a person must wait until they reach the qualifying age for the Australian Age Pension before they can access either the Australian Age Pension or New Zealand Superannuation under the agreement.

People who do qualify under the agreement will generally receive two pensions: one from Australia and one from New Zealand. If a person is residing in Australia, their rate of Australian Age Pension is reduced on a dollar for dollar basis by the amount of New Zealand Superannuation they receive. Similarly, if a person is residing in New Zealand, the rate of New Zealand Superannuation is reduced dollar for dollar by the amount of their Australian Age Pension. These rules ensure pensioners granted under the agreement receive the same amount in total as, but not more than, a person who has spent their entire life in one country.

In concluding the agreement, the Governments of both countries agreed that the terms outlined above are the most effective way of sharing the cost and responsibility of providing pensions under the agreement and ensuring equitable treatment with other pensioners. The agreement is a bilateral treaty under international law and its terms cannot be varied unilaterally by either country.

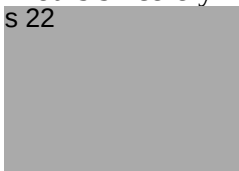
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Thank you again for writing.

Yours sincerely

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Kate Yuille
A/g Branch Manager
Department of Social Services

4 January 2023



Australian Government
Department of Social Services

Ref: MC23-005110

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Dear s 22

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Australia has a non-contributory, residence-based system that is designed primarily to support Australian citizens and permanent visa holders. As such, New Zealand citizens living in Australia on the temporary Special Category Visa (SCV) are generally ineligible for most Australian social security payments.

However, Australia and New Zealand have a Social Security Agreement that allows people who have moved between the two countries to claim a pension from both countries, irrespective of which country they currently live in, provided they are otherwise eligible.

To be eligible for the Australian Age Pension and New Zealand Superannuation under the Agreement, the person must have reached whichever pension age is higher at the time they claim. This is currently the Australian pension age, which from 1 July 2023 will be 67 years for people born on or after 1 January 1957.

If a person is residing in Australia, their rate of Australian Age Pension is reduced on a dollar for dollar basis by the amount of New Zealand Superannuation they receive. Similarly, if a person is residing in New Zealand, the rate of New Zealand Superannuation is reduced dollar for dollar by the amount of their Australian pension. This ensures the two pensions combined are the same amount as, but not more than, the amount a person who spent their entire life in one country would receive through a single pension.

In concluding the Agreement, the Governments of both countries agreed the above rules are the most effective way of sharing the cost and responsibility of providing pensions to people who move between Australia and New Zealand and ensuring equitable treatment with other pensioners.

These rules are specified in the Agreement, which is a bilateral treaty under international law, and there is no discretionary power to vary these rules in individual cases. Changes to the terms of the Agreement can only be made if there is mutual interest from both countries, taking into account the objectives of the Agreement and potential cost impacts. The Australian Government has not announced any plans to pursue changes to the Agreement.

The Australian Government has recently announced changes that will give New Zealand citizens living in Australia on an SCV a direct pathway to apply for Australian citizenship. If granted citizenship, they will have access to a broader range of social security payments and other benefits not normally available to temporary SCV holders. However, the Agreement will still apply to them in relation to the Australian Age Pension and New Zealand Superannuation.

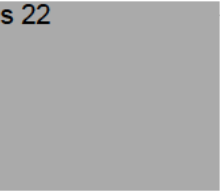
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Thank you again for writing.

Yours sincerely

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International Payments and Compliance Branch

2 June 2023



The Hon Amanda Rishworth MP

Minister for Social Services

Ref: MC23-010954

Ms Alison Byrnes MP
Member for Cunningham
74 Crown Street
WOLLONGONG NSW 2500

Dear Ms Byrnes

Thank you for your letter dated 15 September 2023, on behalf of your constituent, **s 22** concerning the reduction in her rate of Age Pension.

Australia's social security system is a non-contributory, residence-based system designed primarily to support Australian citizens and permanent visa holders residing in Australia. Payments, including the Age Pension, are targeted to those most in need through income and assets tests.

There are many reasons why an Age Pension recipient's rate of payment may change, depending on their individual circumstances. For example, if **s 22** has experienced any recent change to the amount of income she receives or the value of her assets, her payment rate may have been adjusted under the income or assets test to account for this change.

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s 22 Australia has a Social Security Agreement with New Zealand that allows eligible people who have moved between the 2 countries to claim retirement pensions from both countries. **s 22**

There are special rules in the Agreement that govern how a person's Age Pension is calculated if they are also receiving a New Zealand pension. If the person is living in Australia, their rate of Age Pension will be reduced dollar for dollar by the amount of pension received from New Zealand. This mirrors New Zealand's treatment of the Age Pension received by residents of New Zealand. These rules help Australia and New Zealand to share the costs of supporting people who have lived in both countries and ensure pensioners granted pensions from both countries under the Agreement receive the same amount in total as, but not more than, a person who has spent their entire life in one country. Further information about the Agreement between Australia and New Zealand is available at www.servicesaustralia.gov.au/international-social-security-agreement-between-australia-and-new-zealand.

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I appreciate you bringing this matter to my attention. I trust the information provided will be of assistance to Ms Hughes.

Yours sincerely,
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Amanda Rishworth MP

31 / 10 / 2023

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Australian Government
Department of Social Services

External - Email Information**MC25-008298**

Subject: EMAIL INFORMATION - New Zealand Superannuation

Email Information:

Both Australia and New Zealand have residence-based social security systems, which means a person must generally be residing in Australia to receive an Australian payment or residing in New Zealand to receive a New Zealand payment.

However, the Social Security Agreement between Australia and New Zealand (the Agreement) assists people who have moved between Australia and New Zealand to access payments from both countries, regardless of which country they are residing in when they claim. This enables the two countries to share the cost and responsibility of supporting a person, according to the person's connection to each country.

Under the Agreement, eligible people will generally be entitled to two pensions: one from Australia and one from New Zealand. If a person is residing in Australia, their rate of Australian Age Pension will be reduced dollar for dollar by the amount of New Zealand Superannuation they receive. Similarly, if a person is residing in New Zealand, their rate of New Zealand Superannuation will be reduced dollar for dollar by the amount of Australian Age Pension they receive.

These rules are different to the normal rules of each country because the Agreement enables people to access payments they would not otherwise be able to get. These rules are designed to ensure people granted payments under the Agreement receive the same amount in total as, but not more than, a person who has spent their entire life in Australia or New Zealand.

In concluding the Agreement, the Governments of both countries agreed this would be the most appropriate and effective way of sharing the cost and responsibility of providing support under the Agreement.

Changes to the terms of the Agreement can only be made if there is mutual interest from both countries, taking into account the objectives of the Agreement and potential cost impacts. Neither the Australian Government nor the New Zealand Government has announced any plans to pursue changes to the Agreement.

Contact Officer: s 22

Clearing Officer: Andrew Seebach

Branch/Group: International Payments and Compliance Branch

Position: Branch Manager

Mobile/Phone: s 22

MC25-008298

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Australian Government
Department of Social Services

Ref: MC24-003381

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Dear s 22

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Regarding the receipt of pensions from other nations, social security law is designed to encourage people to support themselves in full or in part where possible by accessing other sources of income available to them. For this reason, a person claiming or receiving the Australian Age Pension who may be entitled to a foreign pension is required to take reasonable action to obtain that foreign pension. This helps individuals to maximise their personal income and ensures the social security system remains sustainable.

Australia and New Zealand both have residence-based social security systems. This means access to Australian pensions is normally restricted to eligible individuals residing in Australia and access to New Zealand pensions is normally restricted to eligible individuals residing in New Zealand. However, Australia and New Zealand have a social security agreement that help people who have lived in both Australia and New Zealand to access entitlements from both countries, regardless of which country they are residing in when they claim.

Under the agreement, where a person is residing in Australia, their rate of Australian Age Pension is reduced on a dollar for dollar basis by the amount of New Zealand pension received. Similar rules apply to a person residing in New Zealand, whereby the rate of their New Zealand pension is reduced dollar for dollar by the amount of Australian Age Pension received. These rules ensure people granted a pension under the agreement, that they may not otherwise be able to access, receive the same amount in total as, but not more than, a person who has spent their entire life in one country and only receives one pension.

Where a person's New Zealand pension is backdated and they are entitled to payment of arrears, the amount of Australian Age Pension they received over the period covered by the arrears will be recalculated using the dollar for dollar reduction and any resulting overpayment will become a debt. Under the agreement with New Zealand, Australia can ask New Zealand to withhold the amount of this debt from the arrears payment and transfer the amount directly to Australia instead of the person. This process is called 'embargoing the arrears'. A debt can also be raised against the person. This generally only applies when the arrears payment is not sufficient to fully cover the debt or when the arrears payment has already been paid directly to the person before the debt is calculated.

These rules are specified in the agreement, which is a bilateral treaty under international law. In concluding the agreement, the governments of Australia and New Zealand agreed these rules are the most effective way of sharing the cost and responsibility of providing pensions under the agreement and ensuring equitable treatment with other pensioners.

Input from individuals is an important part of the policy review process and I appreciate the suggestions you have put forward.

Thank you again for writing. I trust this information is of assistance.

Yours sincerely

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Director
Age Pension and Payment Rates Policy Section
Payment Structures and Seniors Branch

6 May 2024



Australian Government
Department of Social Services

Ref: EC24-002585

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Dear s 22

Thank you for your letters of s 22
 s 22 to the Department of Social Services concerning your Age Pension.

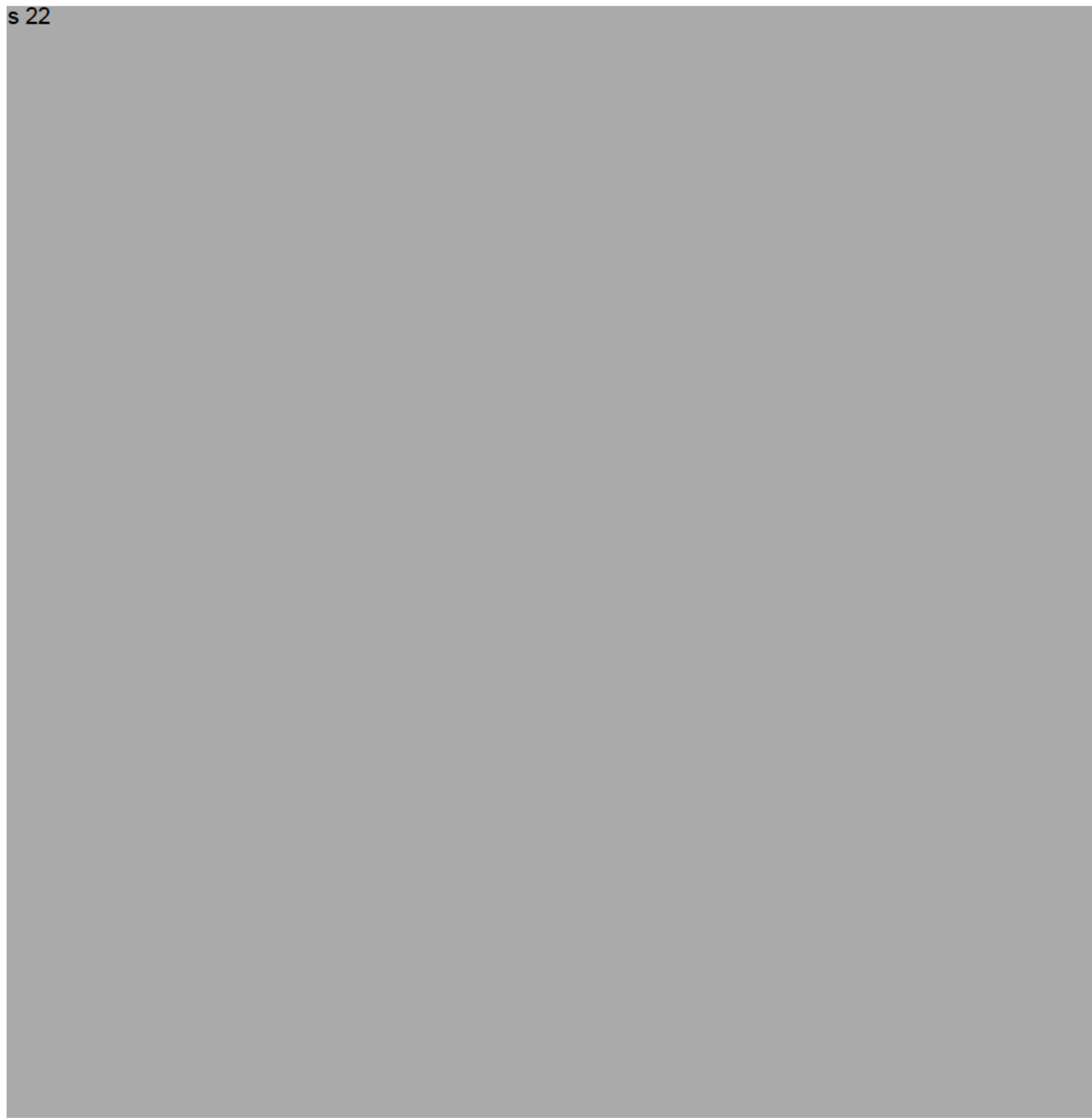
Australia and New Zealand both have residence-based social security systems. This means that people can generally only claim an Australian pension if they are residing in Australia and a New Zealand pension if they are residing in New Zealand. However, Australia and New Zealand have a social security agreement that allows eligible people who would otherwise be eligible for pensions from both countries to claim those pensions, regardless of whether they are residing in Australia or New Zealand at the time of claim.

Under the agreement, if the person is residing in Australia, their rate of Australian pension is reduced on a dollar for dollar basis by the amount of New Zealand pension they receive. Similarly, if the person is residing in New Zealand, the rate of New Zealand pension is reduced dollar for dollar by the amount of their Australian pension. These rules ensure people granted pensions under the agreement receive the same amount in total as, but not more than, a person who has spent their entire life in one country. In concluding the agreement, the governments of both countries agreed this is the most effective way of sharing the cost and responsibility of providing pensions under the agreement and ensuring equitable treatment with other pensioners.

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Thank you again for writing. I trust this information is of assistance.

Yours sincerely

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Director
Age Pension and Payment Rates Policy Section
Payment Structures and Seniors Branch

18 October 2024

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Background Briefing – Potential issue with the Social Security Agreement between Australia and New Zealand

Note: The department does not recommend raising the potential issue with New Zealand at this time. It would be preferable to wait until further legal advice is received, as the nature of the issue and any potential solutions may change depending on this advice.

Key issues

- Under the *Social Security Act 1991* (the SS Act), a person must be an 'Australian resident' to qualify for the Disability Support Pension (DSP). This is defined as an Australian citizen, permanent visa holder or protected Special Category Visa (SCV) holder¹ residing in Australia.
- The Social Security Agreement between Australia and New Zealand (the NZ Agreement) has an expanded definition of 'Australian resident', which includes New Zealand citizens residing lawfully in Australia on a non-protected SCV.
- It is longstanding policy and administrative practice since 2002 that the NZ Agreement allows this expanded definition to be applied to references to 'Australian resident' in the SS Act. This enables non-protected SCV holders to qualify for DSP (subject to meeting all other qualification requirements).
- However, in 2020, in the case of *Secretary, Department of Social Services and Mack [2020] AATA 4204*, the AAT2 considered the expanded definition of 'Australian resident' in the NZ Agreement only applies to references within the NZ Agreement.

- The AAT2's interpretation was inconsistent with the longstanding policy and raised potential broader implications for the NZ Agreement and non-protected SCV holders' access to DSP.

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¹ New Zealand citizens are granted an SCV on arrival in Australia – this is a temporary visa. 'Protected' SCV holders are generally those who were already in Australia on 26 February 2001, when payment access for New Zealanders changed. Protected SCV holders retained full access to payments where eligible, the same as permanent visa holders. Non-protected SCV (generally those who arrived after 26 February 2001) have limited payment access.

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Background

- Social security agreements are bilateral treaties under international law that modify domestic legislation to provide increased coverage for people who have moved between countries.
- The current NZ Agreement commenced on 1 July 2017, replacing the previous Agreement, which had been in place since 2002.
- The NZ Agreement is intended to assist Australians and New Zealanders to access certain pensions from both countries that they may not otherwise be able to get.
- The NZ Agreement covers the Age Pension, DSP (if severely disabled) and Carer Payment (if the partner of a DSP recipient), as well as the equivalent New Zealand payments.
- Under the NZ Agreement:
 - Australians and New Zealanders can lodge a claim for both an Australian pension and a New Zealand pension, irrespective of whether they are in Australia or New Zealand;
 - Normally, a person must be both an Australian resident and in Australia to claim an Australian pension or both a New Zealand resident and in New Zealand to claim a New Zealand pension. A person who is able to lodge a claim must still meet all qualification requirements that apply to the payment.
 - New Zealanders in Australia on a non-protected SCV can satisfy the residential qualification requirements for Australian pensions (other qualification requirements still apply);
 - Normally, only Australian citizens, permanent residents and protected SCV holders can satisfy the residential qualification requirements for Australian payments (note, an equivalent provision for Australians in New Zealand is not required, as Australians living in New Zealand are considered residentially qualified under New Zealand law, regardless of the NZ Agreement.
 - Australians and New Zealanders can combine eligible periods of residence in both countries to meet the minimum 10-year qualifying residence period.
 - Normally, only periods of Australian residence count towards the qualifying residence period for Australian pensions and only periods of residence in New Zealand count towards the equivalent period for New Zealand pensions.
- Pensioners paid under the NZ Agreement will generally receive both an Australian pension and the equivalent New Zealand pension.
 - If the person is living in Australia, their Australian pension is reduced dollar for dollar by the amount of their New Zealand pension. This mirrors New Zealand's treatment of Australian pensions received by people living in New Zealand.
 - This allows the two countries to share the cost of supporting pensioners who moved between Australia and New Zealand during their working life. The arrangements ensure these pensioners do not receive more, in total, than a pensioner who spent their entire working life in either country and is only eligible for one pension.
- Australia's current policy and administrative practice reflect the above. The department understands New Zealand has the same understanding of the operation of the NZ Agreement.
- As at October 2021, there are around 32,700 Age Pensioners, 2,800 DSP recipients and 380 Carer Payment recipients being paid under the NZ Agreement.

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