[In Confidence]

Office of the Minister for Social Development and Employment

Cabinet

CHANGES TO THE FAIR RESIDENCY BILL

Proposal

- I seek agreement to delay by two years the phased increase to the residence requirements for New Zealand Superannuation (NZS) and Veteran's Pension (VP) as currently proposed by the New Zealand Superannuation and Retirement Income (Fair Residency) Amendment Bill (Fair Residency Bill), and to associated changes to appropriations.
- 2 I also seek authorisation for a Government Supplementary Order Paper (SOP) to amend the Fair Residency Bill.

Relation to government priorities

3 This proposal is not specifically related to the government's priorities or manifesto commitments.

Executive Summary

- 4 The Fair Residency Bill is a Member's bill that amends the New Zealand Superannuation and Retirement Income Act 2001. It would raise the minimum residency qualification for NZS and VP from 10 to 20 years after age 20.
- 5 The Ministry of Social Development (MSD) identified issues with the Fair Residency Bill, and I recommended that Cabinet agree to amendments to the Bill to address these issues. These amendments included introducing a transitional approach so that for every two complete years someone was born after 1 July 1955, that person must have met one additional year of residence and presence in New Zealand after age 20. Cabinet agreed to these amendments and MSD advised Select Committee to make the recommended changes to the Bill.
- 6 The amended Bill is now at the Committee of the whole House stage.
- 7 Following recommendations made by the Retirement Commissioner, the Member responsible for the Bill submitted a SOP on 30 June 2021 to delay the start of the phasing of the Fair Residency Bill by two years.
- 8 I seek agreement to support this delay. Delaying the start of the phased increase in residence requirements by two years will mean fewer people face delays to their NZS and VP entitlement in the near term, and reduce the delays faced by people in the medium term. This also gives New Zealanders confidence in the continuity of NZS and VP policy.
- 9 Delaying the start of the phasing of the Fair Residency Bill by two years will not change the overall approach of the phased increase to a 20 year residence requirement, but will decrease the additional residence requirement for NZS/VP for people born between 1 July 1957 and 30 June 1977 by one year.

10 I also recommend Cabinet make the necessary changes to appropriations and authorise me to submit a Government SOP.

Cabinet agreed to an approach to increase the residency requirements for New Zealand Superannuation via the Fair Residency Bill

- 11 The Fair Residency Bill is a Member's bill that amends the New Zealand Superannuation and Retirement Income Act 2001 ('the NZSRI Act'). It would raise the minimum residency qualification for NZS and VP from 10 to 20 years after age 20.
- 12 MSD identified issues with the Fair Residency Bill following its introduction to the House. These issues included that it lacked a transitional process for the increase in residence requirements. I recommended that Cabinet agree to amendments to the Bill to address these issues [CAB-21-MIN-0060 refers]. This included introducing a transitional approach so that for every two complete years someone was born after 1 July 1955, that person must have met one additional year of residence and presence in New Zealand after age 20. Anybody whose date of birth is on or before 30 June 1957 remains subject to the existing 10 year requirement. The following table shows the new requirement that people would have to meet under this transitional process:

Birth date	Age as at 30 June 2021	Residence requirement (after age 20)
On or before 30 June 1957	64 and over	10 years
Between 1 July 1957 and 30 June 1959 (inclusive)	62-63	11 years
Between 1 July 1959 and 30 June 1961 (inclusive)	60-61	12 years
Between 1 July 1961 and 30 June 1963 (inclusive)	58-59	13 years
Between 1 July 1963 and 30 June 1965 (inclusive)	56-57	14 years
Between 1 July 1965 and 30 June 1967 (inclusive)	54-55	15 years
Between 1 July 1967 and 30 June 1969 (inclusive)	52-53	16 years
Between 1 July 1969 and 30 June 1971 (inclusive)	50-51	17 years
Between 1 July 1971 and 30 June 1973 (inclusive)	48-49	18 years
Between 1 July 1973 and 30 June 1975 (inclusive)	46-47	19 years
On or after 1 July 1975	45 and under	20 years

- 13 I also recommended that Cabinet agree to two accommodations to this approach one for refugees (and protected persons) and one for the Realm of New Zealand.
- 14 The accommodation for the Realm of New Zealand means that residence and presence (after age 20) in the Cook Islands, Niue or Tokelau would count toward the increase in the residence requirement. This would mean that once the 20 year requirement is fully introduced, it would consist of:
 - 10 years residence and presence since age 20 in New Zealand; and
 - a further 10 years residence and presence since age 20 in one or more of New Zealand, the Cook Islands, Niue and/or Tokelau.
- 15 The accommodation for refugees means that the existing 10 year residence and presence requirement would be retained for a refugee who first becomes resident and present in New Zealand at age 55 or higher. The total residence and presence requirement for a refugee who first becomes resident and present in New Zealand

while aged 45-54 would be no more than the difference between the date that person was granted that status, and the date on which that person turns 65.

16 On 10 March 2021, Cabinet Social Wellbeing Committee (SWC) agreed to these recommendations [SWC-21-MIN-0008 refers]. Cabinet confirmed SWC's decision on 15 March 2021 [CAB-21-MIN-0060 refers].

The approach Cabinet agreed to has since been incorporated in the Bill via the Select Committee process

17 Following Cabinet agreement, MSD advised Select Committee to make the recommended changes to the Bill as outlined above. Select Committee adopted these changes in its report back to the House on 4 May 2021. The Bill passed its Second Reading on 9 June 2021 and is now at the Committee of the whole House stage.

The Member recently released a SOP to delay the changes made by the Bill by two years following a recommendation by the Retirement Commissioner

- 18 On 11 May 2021, the Retirement Commissioner issued a press release supporting a 10 year delay in the changes made by the Fair Residency Bill.¹
- 19 On 30 June 2021, the Member responsible for the Bill, Andrew Bayly MP, released a SOP to delay the current phasing of the Fair Residency Bill by two years. The SOP refers to the Retirement Commissioner's recommendation of delaying the Bill.
- 20 The delayed start of the phasing of the Bill will mean that for every two complete years someone was born after 1 July 1957 (rather than 1 July 1955), that person must have met one additional year of residence and presence in New Zealand after age 20. Anybody whose date of birth is on or before 30 June 1959 remains subject to the existing 10 year requirement. This means the first increase in residence requirements for NZS and VP will occur in 2024.
- 21 For example, someone aged 58 (born 1 January 1962) would need to have 13 years of New Zealand residency as the Bill is currently drafted. If the start of the transitional approach proposed by the Bill is delayed by two years, that person will now have one year less of residency (12 years) to be eligible for NZS, as the residence requirement increases by one year per every two years of age.

¹ the https://retirement.govt.nz/news/latest-news/retirement-commissioner-urges-caution-on-super-residency-bill/

Birth date	Age as at	Residence requ	uirement
	30 June	Current	Delayed
	2021	phasing	phasing
On or before 30 June 1957	64 and	10 years	10 years
	over		
Between 1 July 1957 and 30 June 1959 (inclusive)	62-63	11 years	10 years
Between 1 July 1959 and 30 June 1961 (inclusive)	60-61	12 years	11 years
Between 1 July 1961 and 30 June 1963 (inclusive)	58-59	13 years	12 years
Between 1 July 1963 and 30 June 1965 (inclusive)	56-57	14 years	13 years
Between 1 July 1965 and 30 June 1967 (inclusive)	54-55	15 years	14 years
Between 1 July 1967 and 30 June 1969 (inclusive)	52-53	16 years	15 years
Between 1 July 1969 and 30 June 1971 (inclusive)	50-51	17 years	16 years
Between 1 July 1971 and 30 June 1973 (inclusive)	48-49	18 years	17 years
Between 1 July 1973 and 30 June 1975 (inclusive)	46-47	19 years	18 years
Between 1 July 1975 and 30 June 1977 (inclusive)	44-45	20 years	19 years
On or after 1 July 1977	43 and	20 years	20 years
	under		

22 The following table shows the new requirement that people would have to meet under the delayed phasing, compared to the current phasing:

I seek Cabinet's agreement to support this delay and submit a Government SOP

- 23 Delaying the start of the phased increase in residence requirement by two years will mean fewer people face delays to their NZS and VP entitlement in the near term, and reduce the delays faced by people in the medium term. This will further mitigate the potential impact of the Fair Residency Bill on hardship amongst older New Zealanders. In particular, it will provide greater security for our older migrants. This can also give all New Zealanders greater confidence that NZS and VP policy will not change suddenly.
- 24 This delay will not change the overall approach of the phased increase to a 20 year residence requirement, but will decrease the residence requirement for NZS/VP for people born between 1 July 1957 and 30 June 1977 by one year. This is as the phased increase approach, previously agreed to by Cabinet, means the residence requirement increases by one year per every two years of age.
- 25 Delaying the phased increase to the residence requirement will incur costs (discussed in detail in paragraphs 28-33 below) as it will lead to more people qualifying for NZS or VP over the next two years and until the full implementation of the 20 year residence requirement for NZS/VP. Savings from the increases to the residence requirement have already been included in appropriations.
- 26 The Member has agreed to withdraw their SOP and for the Government to submit a Government SOP to amend the Fair Residency Bill to delay the start of the phased increase in residence requirement. I therefore recommend that Cabinet:
 - agrees that the phased increase to the residence requirement for NZS and VP be delayed by two years, with the effective implementation date for the Fair Residency Bill being 1 July 2024 – (as this is when a higher residence requirement will first begin to apply to people)
 - makes the necessary changes to appropriations

- authorises me to give effect to the delayed phasing by²:
 - issuing drafting instructions to Parliamentary Counsel Office (PCO) for a Government SOP
 - introducing a Government SOP.

Implementation

27 MSD will make the necessary changes to IT systems, business processes, operational policy, and internal and external communications to give effect to the changes made by the Fair Residency Bill. Subject to the two year delay, the effective implementation date for the Bill will be 1 July 2024 – as this is when a higher residence requirement will first begin to apply to people. However, changes to websites and publications will be needed earlier so people know when they will qualify.

Financial Implications

- 28 Delaying the phased increase to the residence requirement will incur costs. That is because:
 - compared to the original phasing proposal, more people will qualify for NZS or VP each year until 2042/43
 - at the time that Cabinet agreed the original phasing proposal, it also approved changes to appropriations to reflect this proposal reducing forecast NZS and VP expenditure, while increasing forecast Supported Living Payment, Jobseeker Support and Emergency Benefit expenditure, and allocating money for the implementation [SWC-21-MIN-0008.12 refers].
- 29 The financial implications of the current phasing proposal are shown in Table 1. Some outyears not shown in the original paper are included.

Table 1: Financial implications of current phasing proposal											
Vote Social	\$ million – increase/(decrease)										
Development	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28			
Operating balance impact NZS/VP and other benefits			(0.498)	(1.030)	(2.215)	(3.536)	(5.689)	(8.046)			
IT costs Other implementation	-	1.340	-	-	-	-	-	-			
<i>costs</i> No impact (tax	-	1.208	-	-	-	-	-	-			
on benefits)	-	-	(0.111)	(0.232)	(0.502)	(0.798)	(1.284)	(1.816)			
Total	-	2.548	(0.609)	(1.262)	(2.717)	(4.334)	(6.973)	(9.862)			

² The Member's SOP as released will delay the phased increase to the residence requirements as intended. However, it would also mean that the Fair Residency Bill does not commence until 1 July 2023. I would prefer that the Bill commence immediately after Royal Assent so that anyone who reads the New Zealand Superannuation and Retirement Income Act 2001 between the date of Royal Assent and 1 July 2023 can easily see how they will be affected.

30 The cost of delaying the phased increase is shown in Table 2. The cost is the difference between the savings achieved by the current phasing proposal (already incorporated into appropriations), and those that would be achieved by the delayed proposal. This also includes transferring the \$2.548 million allocated for implementation from 2021/22 to 2023/24. While MSD will need to change its website and some other materials following the passage of the Bill to communicate the change to New Zealanders approaching eligibility for NZS or VP, the costs of this can be absorbed, and the most substantial implementation costs will now arise in the 2023/24 financial year.

	Table 2: Financial implications of delaying the phasing											
Vote Social	\$ million – increase/(decrease)											
Development	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28				
Operating balance impact NZS/VP and other benefits IT costs Other implementation costs	- -	- (1.340) (1.208)	0.498 - -	1.030 1.340 1.208	1.658 - -	2.368 - -	3.179 - -	4.057 - -				
No impact (tax on benefits)	-	-	0.111	0.232	0.376	0.535	0.717	0.917				
Total	-	(2.548)	0.609	3.810	2.034	2.903	3.896	4.974				

31 Overall the Bill will result in savings to the Crown, even incorporating the delayed phasing proposal. This is as the Bill will reduce overall benefit costs from the 2024/25 financial year onwards. In the long term, savings are expected to reach \$168 million per year by the 2043/44 financial year. The initial savings are outlined in the table below.

Table 3	Table 3: Financial implications of the Bill incorporating the delayed phasing proposal											
Vote Social	\$ million – increase/(decrease)											
Development	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28				
Operating balance impact												
NZS/VP and other benefits	-	-	-	-	(0.557)	(1.168)	(2.510)	(3.989)				
IT costs	-	-	-	1.340	-	-	-	-				
Other implementation costs	-	-	-	1.208	-	-	-	-				
No impact (tax on benefits)	-	-	-	-	(0.126)	(0.263)	(0.567)	(0.899)				
Total	-	-	-	2.548	(0.683)	(1.431)	(3.077)	(4.888)				

- 32 Cabinet agreed that the financial implications of the current phasing proposal would be managed outside of allowances, on the basis that they would be at least fiscally neutral across the forecast period [SWC-21-MIN-0008.13 refers].
- 33 The fiscal impacts of the delayed phasing proposal could continue to be managed outside allowances, in which case they would impact directly on the operating balance and net debt. While the delayed phasing proposal is unlikely to be fiscally neutral across the forecast period, it is expected to be at least fiscally neutral (compared to not increasing the residence requirements) by the end of the 2026/27 financial year when the savings exceed the implementation costs. The alternative is for the fiscal impacts to be charged against the Between Budget Contingency established at Budget 2021.

Legislative Implications

34 Subject to Cabinet's agreement to the delayed phasing proposal, I seek authorisation to issue drafting instructions to PCO for a Government SOP to amend the Fair Residency Bill, and to introduce that SOP to Parliament. This SOP will give effect to the delayed phasing, and provide New Zealanders with clarity over their entitlements.

Impact Analysis

35 Treasury's Regulatory Impact Analysis team has determined that the proposal to delay for two years the phased implementation of increased residency requirements for New Zealand Superannuation is exempt from the requirement to provide a Regulatory Impact Statement on the grounds that it has been addressed by existing impact analysis³ [CAB-21-MIN-0060 refers].

Population Implications

- 36 I previously noted that increasing the residence requirement to 20 years was expected to affect different groups in significantly different ways [SWC-21-MIN-0008 refers].
- 37 Delaying the phased increase to the residence requirements will be particularly beneficial for migrants from countries that have less developed pension systems and do not have social security agreements with New Zealand (prominent examples are China, India, South Africa and Fiji).⁴
- 38 Migrants from these countries are most likely to be affected by increasing the residence requirements. They are less likely to have a significant government pension to fall back on, or to be able to use residence in a social security agreement partner country to meet the residence requirements for NZS or VP.
- 39 The delay will reduce the number of migrants (and other New Zealanders who have spent considerable time overseas) who need to wait for a longer period of time to build their length of residence in New Zealand to be eligible for NZS or VP. For those who still face a delay, it will in most cases reduce the length of that delay.
- 40 The delay will also reduce the likelihood that people will be dependent on alternative assistance through the benefit system. That is because people may qualify for NZS or

³ https://www.treasury.govt.nz/publications/risa/regulatory-impact-statement-fair-residency-bill

⁴ In the year to the end of August 2020, around 740 people born in China, 470 people born in India, 400 people born in South Africa, 300 people born in Fiji, 130 people born in the Philippines, 120 people born in Samoa and 120 people born in Malaysia who were granted NZS in the year to the end of August 2020 had 10-19 years New Zealand residence recorded.

VP earlier than under the current phasing proposal, and can more feasibly provide for themselves.

Human Rights

41 The Ministry of Justice assessed the Fair Residency Bill for consistency with the rights and freedoms affirmed in the Bill of Rights Act 1990 in 2018. This assessment found that the Bill was compliant.

Consultation

42 The Treasury was consulted. Veterans' Affairs and the Department of the Prime Minister and Cabinet was informed.

Communications

43 Following Royal Assent of the Bill, MSD will post advice on its website and advice externally that changes to the residence requirements are planned.

Proactive Release

44 I intend to proactively release this Cabinet paper within standard timeframes.

Recommendations

I recommend that the Committee:

- 1 **note** that the Fair Residency Bill is scheduled to be considered at the Committee of the whole House on 4 August 2021;
- 2 **note** that on 10 March 2021 Cabinet Social Wellbeing Committee agreed that the main residence requirement for New Zealand Superannuation (and Veteran's Pension) be increased from 10 years after age 20 to 20 years after age 20, as proposed by the Fair Residency Bill [SWC-21-Min-0008 refers];
- 3 **note** that Cabinet Social Wellbeing Committee also agreed that the Fair Residency Bill be amended so that:
 - 3.1 for every two complete years someone was born after 1 July 1955, that person must have met one additional year of residence and presence in New Zealand after age 20;
 - 3.2 anybody whose date of birth is on or before 30 June 1957 remains subject to the existing 10-year requirement [SWC-21-Min-0008 refers];
- 4 **agree** to delay the start of the phased increase to the residence requirements for New Zealand Superannuation and Veteran's Pension, as currently proposed by the Fair Residency Bill, by two years, so that:
 - 4.1 for every two complete years someone was born after 1 July 1957, that person must have met one additional year of residence and presence in New Zealand after age 20;
 - 4.2 anybody whose date of birth is on or before 30 June 1959 remains subject to the existing 10-year requirement;

- 5 **note** the delay of the start of the phased increase will not change the overall approach agreed to by Cabinet referred to in recommendation 3, but will decrease the additional residence requirement for New Zealand Superannuation and Veteran's Pension for people born between 1 July 1957 and 30 June 1977 by one year;
- 6 **authorise** the Minister for Social Development and Employment to give effect to the policy at recommendation 4 and to provide New Zealanders the greatest clarity practicable regarding their New Zealand Superannuation or Veteran's pension entitlements by:
 - 6.1 issuing drafting instructions to Parliamentary Counsel Office for a Government Supplementary Order Paper to amend the Fair Residency Bill
 - 6.2 submitting that Government Supplementary Order Paper to Parliament;
- 7 **authorise** the Minister for Social Development and Employment to further clarify and develop policy matters relating to the proposals in this Cabinet paper in a manner not inconsistent with the policy recommendations contained in the paper;
- 8 **note** that the Government Supplementary Order Paper will be circulated prior to the Fair Residency Bill's consideration by the Committee of the whole House on 4 August 2021;

Financial implications

9 note that on 10 March 2021 Cabinet Social Wellbeing Committee approved the following changes to appropriations to give effect to the phased approach to increasing the residence requirements for New Zealand Superannuation and Veteran's Pension agreed on that date [SWC-21-Min-0008 refers];

Vista Sacial Devalanment	\$ million – increase/(decrease)								
Vote Social Development	2020/21	2021/22	2022/23	2023/24	2024/25 &				
					outyears				
Minister for Social Development and Employment									
Departmental Output Expenses:									
Income Support and Assistance to Seniors	-	2.548	-	-	-				
(funded by Revenue Crown)									
Benefits or Related Expenses:									
New Zealand Superannuation	-	-	(0.954)	(1.972)	(4.231)				
Supported Living Payment	-	-	0.194	0.399	0.850				
Jobseeker Support and Emergency Benefit	-	-	0.157	0.322	0.686				
Minister for Veterans									
Veterans' Pension	-	-	(0.006)	(0.011)	(0.022)				
Total Operating	-	2.548	(0.609)	(1.262)	(2.717)				

10 agree to increase spending to provide for costs associated with delaying the phasing of the Fair Residency Bill by two years agreed in recommendation 4

	\$ million – increase/(decrease)								
Vote Social Development	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28 & outyears		
Operating balance impact	(2.548)	0.498	3.578	1.658	2.368	3.179	4.057		
Crown Debt Impact	-	-	-	-	-	-	-		
Operating Balance Only Impact	-	-	-	-	-	-	-		
Net Core Crown Debt Only Impact	-	-	-	-	-	-	-		
No impact (tax on benefits)	-	0.111	0.232	0.376	0.535	0.717	0.917		
Total	(2.548)	0.609	3.810	2.034	2.903	3.896	4.974		

above, with the following impacts on the operating balance and/or net core Crown Debt:

11 **note** that once the delayed phasing proposal at recommendation 4 is incorporated:

11.1 the Fair Residency Bill will reduce overall benefit costs from the 2024/25 financial year onwards;

11.2 the fiscal impacts are likely to be at least neutral by the end of the 2026/27 financial year and positive thereafter, as shown in the following table;

Vote Social		\$ million – increase/(decrease)										
Development	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28 & outyears				
Operating balance impact												
NZS/VP and other benefits	-	-	-	-	(0.557)	(1.168)	(2.510)	(3.989)				
IT costs	-	-	-	1.340	-	-	-	-				
Other implementation costs	-	-	-	1.208	-	-	-	-				
No impact (tax on benefits)	-	-	-	-	(0.126)	(0.263)	(0.567)	(0.899)				
Total	-	-	-	2.548	(0.683)	(1.431)	(3.077)	(4.888)				

12 **note** that as the fiscal impact at recommendation 9 above was included in the Budget Economic Fiscal Update 2021 fiscal forecasts, the difference between the fiscal impact at recommendation 11 and the fiscal impact at recommendation 9, as referenced at recommendation 10, will either need to be charged against the Between Budget Contingency or, if managed outside allowances, impact directly on the operating balance and net debt;

	\$ million – increase/(decrease)									
Vote Social Development	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28 & outyears			
Minister for Social Development and Employment										
Departmental Output Expenses:										
Income Support and Assistance to Seniors	(2.548)	-	2.548	-	-	-	-			
(funded by Revenue Crown)										
Benefits or Related Expenses:										
New Zealand Superannuation	-	0.954	1.972	3.167	4.493	6.033	7.706			
Supported Living Payment	-	(0.194)	(0.399)	(0.636)	(0.892)	(1.197)	(1.529)			
Jobseeker Support and Emergency Benefit	-	(0.157)	(0.322)	(0.514)	(0.719)	(0.965)	(1.232)			
Minister for Veterans										
Veterans' Pension	-	0.006	0.011	0.017	0.021	0.025	0.029			
Total Operating	(2.548)	0.609	3.810	2.034	2.903	3.896	4.974			

13 **approve** the following changes to appropriations to give effect to the policy decision in recommendation 4 above:

14 **agree** that the fiscal impacts in recommendation 10 and the appropriation changes in recommendation 13 be:

EITHER:

14.1 charged against the Between Budget Contingency established at Budget 2021;

OR

14.2 managed outside of allowances, on the basis that the overall impact of the Fair Residency Bill is likely to be at least financially neutral by the end of the 2026/27 financial year;

15 **agree** that the proposed change to appropriations for 2021/22 above be included in the 2021/22 Supplementary Estimates.

Authorised for lodgement

Hon Carmel Sepuloni

Minister for Social Development and Employment