MINISTRY OF SOCIAL DEVELOPMENT
TE MANATŪ WHAKAHIATO ORA

31 January 2025

Tēnā koe

Official Information Act request

Thank you for your email of 31 December 2024, requesting the evidence the Ministry of Social Development (the Ministry) relied on when determining the status of China's Urban Employees' Pension (the UEP). Your request follows the Ministry's response to your query on this issue dated 19 December 2024.

I have considered your request under the Official Information Act 1982 (the Act). Please find my decision on your request set out below.

Evidence relied on by the Ministry.

The Ministry has relied on a wide range of evidence over many years when making the determination that the UEP does not contain a voluntary contribution.

There are a range of international bodies that confirm the UEP is a mandatory pension scheme administered by the State, including:

- The International Organisation of Pension Supervisors you refer to in your email.
- The Organisation for Economic Co-operation and Development, which has a dedicated page for China www.oecd.org/en/countries/china-people-s-republic-of.html.
- The International Social Security Association (ISSA) International Social Security Review | International Social Security Association (ISSA), which has a range of information on China's pension system, such as Volume 74 of the ISSA's International Social Security Review, available free to read here: https://onlinelibrary.wiley.com/doi/epdf/10.1111/issr.12256, which contains an overview the UEP on pages 7 to 9.

I am also providing you with the following, fulsome explanation on this issue.

Mandatory and Voluntary Contributions.

There is a common misconception that by participating in a social security scheme, an individual's contribution is voluntary. While this is the case for some systems, in most instances participation is mandatory. It is not possible for a

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singular contribution to be both voluntary and compulsory. However, some systems allow the option to contribute a voluntary 'top-up'.

People can choose to pay into private voluntary, employment-based pension schemes or savings schemes. Pensions arising from such schemes, or voluntary contributions, do not fit the criteria for directly deductible overseas pensions outlined in section 187 of the Social Security Act 2018. In circumstances where someone's overseas pension is made up of both compulsory and voluntary contributions, the Ministry works with the individual to ensure the voluntary component is not factored into the direct deduction calculation.

New Zealand Superannuation and the direct deduction policy.

It may be helpful to provide further information on New Zealand's Superannuation (NZS) and the direct deduction policy. New Zealand has a relatively simple and universal pension scheme, NZS, which is funded entirely through the New Zealand Government's tax take. By comparison, other countries have adopted systems where their pension scheme is funded through compulsory contributions made by the working population.

Additionally, some countries operate pension schemes that are funded by both compulsory contributions and taxpayer funding. As noted above, compulsory contributions made by individuals cannot be considered voluntary, even if these contributions have been deducted from an individual's wages or salary. Because of this, these contributions are captured by the direct deduction policy.

This has been thoroughly examined over the years, with the High Court endorsing this interpretation of the legislation in Hogan v Chief Executive of the Department of Work and Income New Zealand where France J stated in relation to section 70 (now reflected in section 187 of the Social Security Act 2018):

> "*it is not necessary in terms of s70 to conduct an inquiry as to how the relevant Government collects the funds and particularly whether they are from taxation or from another type of compulsory acquisition from a person's income which the Government chooses not to call taxation. True private savings schemes will not be caught by s70 as a programme administered by the Government will not pay them.*"

China's Urban Employee Pension.

The Ministry has monitored the development of how China's pension system has evolved over time, including its first-tier basic old-age insurance system. As a part of these changes, China introduced a first-tier basic old-age insurance system comprised of two separate programmes, the UEP and the Basic Old-Age Insurance Programme for Urban and Rural Residents. The former is compulsory, is administered by the State, and is considered an overseas pension for the purposes of New Zealand's direct deduction policy. The latter arises from voluntary contributions and is not considered to be an overseas pension.

You consider the UEP is voluntary and should therefore not be captured by the direct deduction policy. However, the information you provided to support your claim clearly states that the scheme is "mandatory". There is no evidence to suggest a voluntary component exists for this pension.

I trust the above helps to clarifies this matter for you.

I will be publishing this decision letter, with your personal details deleted, on the Ministry's website in due course.

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 my decision on your request, 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.

Ngā mihi nui

pp.

Anna Graham
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