



MINISTRY OF SOCIAL DEVELOPMENT  
*Te Manatū Whakahiato Ora*

**Living Alone Payment  
Regulatory Impact Statement**

**August 2010**

**This Regulatory Impact Statement provides background information in support of the proposal to:**

- **replace the supplementary benefit known as the Living Alone Payment (LAP) and current two rates of New Zealand Superannuation and Veteran's Pension (NZS/VP) with a Single Sharing Accommodation rate and a Single Living Alone rate of NZS/VP**
- **align the definition of "dependent child" in the New Zealand Superannuation and Retirement Income Act 2001 and Part 6 of the War Pensions Act 1954, with the definition in the Social Security Act 1964.**

## Agency Disclosure Statement

- 1 This Regulatory Impact Statement (RIS) has been prepared by the Ministry of Social Development.
- 2 It provides an analysis of options to improve access to full and correct entitlement of New Zealand Superannuation and Veteran's Pension for superannuitants<sup>1</sup> who are living alone.
- 3 The analysis contained in this RIS is based on the following assumptions:
  - that government intends that all New Zealanders will receive their full and correct entitlement to NZS/VP and other social assistance, and that people are treated consistently
  - that NZS/VP service delivery needs to be efficient to respond to increasing numbers of older New Zealanders due to population ageing
  - that current operational performance provides a reliable basis to estimate the fiscal impact of the proposal.
- 4 The proposed changes include process, IT and legislative changes which will provide a positive benefit to current and future superannuitants whose circumstances change over time leading them to live alone. The proposed changes will ensure that they receive access to the correct rate of NZS/VP in a timely manner.
- 5 The proposed changes will affect a relatively small percentage of NZS/VP clients. The changes will not impose any additional costs on businesses, impair property rights, market competition or the incentives on businesses to innovate and invest, nor override fundamental common law principles.

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Ministry of Social Development

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<sup>1</sup> "Superannuitants" is used in this paper to describe recipients of either New Zealand Superannuation or a Veteran's Pension.

## Objectives

- 6 The main goal of this proposal is to consider options that will improve access for eligible superannuitants to the higher rate of payment that recognises the additional costs of living alone.
- 7 The secondary goal is to ensure consistency in the definition of a dependent child for the purpose of determining eligibility to social assistance (social security benefits and NZS/VP).
- 8 Subject to the enactment of the amending legislation, the proposal will take effect from 1 April 2011. This will deliver cost and implementation efficiencies through alignment with the annual general adjustment to rates of NZS/VP.

## Status quo

- 9 The New Zealand Superannuation and Retirement Income Act 2001 (NZSRIA) sets out entitlements to New Zealand Superannuation (NZS). Part 6 of the War Pensions Act 1954 (WPA) sets out entitlements to a Veteran's Pension (VP).
- 10 The three rates of NZS/VP currently payable are dependent on living arrangements. These depend on whether or not the superannuitant has been granted the LAP (ie lives alone), shares accommodation with others, or is married or in a civil union or in a de facto relationship.

NZS/VP recipients as at 31 March 2010	NZS		VP		Total
	Female	Male	Female	Male	
Married, civil union, de facto couples, both qualify	135,616	177,152	2,227	2,789	<b>317,784</b>
Single not receiving LAP	49,671	22,823	941	467	<b>73,902</b>
Single receiving LAP	103,867	43,370	2,912	1,033	<b>151,182</b>
Non-qualified partner	11,122	1,364	263	0	<b>12,749</b>
<b>TOTAL</b>	<b>300,276</b>	<b>244,709</b>	<b>6,343</b>	<b>4,289</b>	<b>555,617</b>

- 11 There are currently two rates of NZS/VP payable to single people. One rate is for a single person who has been granted the LAP, and the other rate is for a single person who has not been granted the LAP. Legislative provision for the LAP is contained in sections 13, 14 and Schedule 1 of the NZSRIA and sections 74U, 74V and Schedule 11 of the WPA.
- 12 The circumstances that constitute living alone for the purpose of determining eligibility to the LAP are set out in section 13 of the NZSRIA and section 74U of the WPA. Under the provisions of Section 5 of the Social Security Act 1964 (SSA), the Ministerial Direction: Living Alone Payments also provides guidance as to the circumstances that constitute living alone.
- 13 The table below outlines the weekly rates of NZS/VP applicable from 1 April 2010, based on the tax code "M". From 1 April 2010 the difference between the single not receiving the LAP and single receiving the LAP gross NZS/VP rates is \$30.98 per week. The after tax difference is \$24.47 per week using the "M" tax code.

<b>NZS/VP Rates from 1 April 2010</b>	Net Rate (on tax code "M")	Gross Rate
Married, civil union, de facto couples, (rate paid to each partner where both qualify)	\$244.71	\$280.62
Single not receiving the LAP	\$293.65	\$342.58
Single receiving the LAP	\$318.12	\$373.56

- 14 Under the current legislation, the LAP can only be included in the rate of NZS/VP paid to eligible superannuitants if they have completed a separate application form for it.

## **Problem definition**

### *LAP as a supplementary benefit*

- 15 The present structure of the LAP results in some older New Zealanders not receiving their full and correct entitlement to NZS/VP. The following issues have been identified.
- Where a superannuitant's spouse or partner dies, their rate of NZS/VP is increased to the rate paid to a single person who has not been granted LAP. Anecdotal evidence suggests that letters inviting application for an additional benefit (the LAP) can be ignored, as people may think the maximum allowable increase to their rate of NZS/VP has already been actioned.
  - The requirement to complete an application form for the LAP relates to its legal status as a separate benefit. The application process increases compliance costs for the client and can lead to older people (often recently widowed) experiencing unnecessary financial hardship if they do not apply at the time of eligibility.
  - Where eligibility arises as the result of death of a spouse or partner, payment of the LAP can only be backdated to a maximum of 28 days before the date of application (to the date when the person commenced living alone and became entitled to receive it).

### *Definition of a dependent child*

- 16 For the purpose of determining eligibility to social security benefits, section 63A of the Social Security Act 1964 (SSA) sets out the circumstances in which a child aged 18 years or over is considered to be a dependent child. Our analysis has identified issues with the consistency of this definition across social security legislation.
- A recent decision by the Social Security Appeal Authority (SSAA Decision No. 38/09) has highlighted an inconsistency between the definitions of a dependent child as it applies to a child aged 18 years or over. This decision found that an adult child (ie over 18 years) who is maintained as a member of a superannuitant's family, and is not financially independent, may be categorised as a dependent child for the purposes of eligibility for the LAP.
  - This decision does not align with the original policy intent, which was that the treatment of a dependent child under NZSRIA should be consistent with section 63A of the SSA. Under section 63A, where a child is aged 18 or over and not financially independent and attending a school or tertiary educational establishment, the Chief Executive has the discretion to continue paying a benefit at a rate which includes them as a dependent child until the pay day immediately after 31 December in the year that the child reaches the age of 18 years.
  - Known cases of superannuitants living with a dependent adult child and receiving LAP are limited to the specific case in SSAA Decision No. 38/09.

- Following the SSAA decision in June 2009, the Ministry of Social Development (the Ministry) put in place processes to implement the decision should any similar cases arise. As at June 2010, no further cases had been identified where a financially dependent adult child living with a superannuitant has affected eligibility for the LAP. The Ministry is of the view that it is very unlikely many other cases will arise, as the situation applies only to superannuitants living with a student with no income other than a Student Loan (but not a Student Allowance). It will not affect a superannuitant who lives with an adult child in receipt of other forms of social assistance.<sup>2</sup>

### Relevant decisions already taken in respect to the proposed changes

- 17 In October 2009, the Minister for Social Development and Employment approved the development of the LAP policy change. The Minister directed officials to:
- prepare a Cabinet paper to seek approval for legislative change to replace the LAP and current two rates of NZS/VP with a with Single Sharing Accommodation rate and Single Living Alone rate of NZS/VP
  - include in this paper the provision that more detail on eligibility for the new single living alone rate be placed into the existing ministerial direction
  - include in the proposed legislative changes a realignment of the definition of a “dependent child” in NZSRIA and the WPA with the definition in the SSA.
- 18 The Ministry has prepared estimates for IT system changes that would arise from the proposed changes. These system changes are estimated to cost \$152,511 (GST exclusive) in the 2010/2011 financial year. On the expectation of improved service delivery for present and future superannuitants, the Ministry will fund the work from within existing baselines.

### Options Analysis

- 19 This section outlines four options which cover proposed regulatory and non-regulatory solutions to the identified problems. The options identified were:

Option	Description
1	status quo
2	make process changes only
3	legislative and process changes but no change to IT systems
4	legislative change, process change and IT systems change

- 20 The analysis of the four options considered three possible solutions. These are:
- improving the way the Ministry interacts with surviving spouses where they experience a change in living circumstances
  - changes to the Ministry’s IT systems to simplify the processing of a change in living circumstances
  - changes to the legislation to replace the LAP with a new Single Living Alone rate and Single Sharing Accommodation rate and remove the need for a separate application for the LAP.

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<sup>2</sup> Social assistance could include an Invalid’s Benefit, Sickness Benefit, Unemployment Benefit, Student Allowance, or earnings-related compensation from ACC.

- 21 The Ministry modelled possible benefits, costs and risks of these solutions in the following combinations:

Option	Process	IT system	Legislation
1	X	X	X
2	√	X	X
3	√	X	√
4	√	√	√

- 22 The benefits, costs and risks of each option are summarised in the tables below.

**Option 1 - Status quo (no change to process, IT system or legislation)**

BENEFITS	No change for superannuitants or staff
COSTS	Relies on a superannuitant completing, signing and returning an application form Relies on a superannuitant providing identification Superannuitants who overlook responding to the application request miss out on entitlements if applications are made late, due to the 28-day backdating limitations Application procedure for front line staff is unnecessarily time consuming Contact Centre staff are not able to complete application process
RISKS	Identified problems are not addressed If the application is not returned the LAP is not granted Eligible superannuitants may not receive full entitlements The 28 day time limit and inflexibility on backdating remains

**Option 2 - Process change, no IT system change, no legislative change**

BENEFITS	Improved reporting procedures could ensure the LAP potential candidates are more actively followed up Superannuitants would benefit from more proactive follow up Contact Centre staff could undertake outbound calls Would build on proactive contact centre/case management process
COSTS	Relies on a superannuitant completing, signing and returning an application form Relies on a superannuitant providing identification Superannuitants who overlook responding to the application request miss out on entitlements if applications are made late, due to the 28 day backdating limitations Front-line staff application procedure is unnecessarily time consuming Contact Centre Staff are not able to complete application process Proactive case management process still requires significant follow-up action to ensure that all potential superannuitants have their eligibility for the LAP determined

<b>RISKS</b>	<p>Identified problems are not addressed</p> <p>If a superannuitant does not return the application, the LAP is not granted</p> <p>Eligible superannuitants may continue not to receive full entitlements</p> <p>The 28 day time limit and inflexibility on backdating remains</p>
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### **Option 3 - Legislation change, process change, no IT system change**

<b>BENEFITS</b>	<p>Superannuitants are more likely to receive the right rate of payment from the right date</p> <p>Superannuitants no longer need to complete, sign and return an application form with identification</p> <p>Superannuitants can complete determination of eligibility for the Single Living Alone Rate when they advise a change in circumstances over the phone to Contact Centre or visit their local Service Centre</p> <p>Contact Centre staff undertake outbound follow-up calls</p> <p>Single Living Alone Rate can be paid from the date they became entitled to it regardless of time elapsed since the change of circumstances occurred</p> <p>No cost for IT system change</p>
<b>COSTS</b>	<p>LAP will remain as a separate benefit in the IT system, despite now being a Single Living Alone rate</p> <p>The case manager will need to complete a “work-around” process within the existing IT system in order to pay LAP to the superannuitant from the correct date of entitlement</p> <p>Work around will take extra staff processing time</p> <p>Optimum gains from legislative change would not be realised</p> <p>Additional backdating allowed by legislative change may require an IT “work-around”</p> <p>Minor additional expenditure on NZS/VP resulting from additional backdating</p>
<b>RISKS</b>	<p>Manual “work-around” with existing IT screens increases possibility for staff processing error</p>

### **Option 4 - Legislation change, process change, IT system change**

<b>BENEFITS</b>	<p>Superannuitants are more likely to receive the right rate of payment from the right date</p> <p>Superannuitants no longer need to complete, sign and return an application form with identification</p> <p>Superannuitants can complete determination of eligibility for LAP when they advise a change in circumstances over the phone to Contact Centre or visit their local Service Centre</p> <p>Processing time when moving from one rate to another is quicker and more accurate</p> <p>Contact Centre staff undertake outbound follow up calls</p> <p>Living status determination via a centralised process rather than front line staff</p>
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	<p>would reduce staff costs</p> <p>Single Living Alone Rate can be paid from the date they became entitled to it regardless of time elapsed since the change of circumstances occurred</p> <p>Optimum process and client service gains achieved from legislative and IT systems change, as no work-around required</p> <p>Processing errors minimised</p> <p>Fewer errors means less re-work</p> <p>Full suite of changes will best cope with increasing numbers of superannuitants due to population ageing</p>
COSTS	<p>One-off costs for operational / IT system changes</p> <p>Additional expenditure on NZS/VP resulting from potential to backdate commencement of payments (est. \$93,000 gross per annum)</p>
RISKS	<p>No risks identified</p>

## Preferred Option

- 23 From this analysis, Option 4 was the Ministry's preferred option.
- 24 The total amount of NZS/VP to which a single person living alone is entitled will not change as a result of the proposal to replace the LAP with a Single Living Alone rate and a Single Sharing Accommodation rate.
- 25 There are minor fiscal implications arising from Option 4 relating to the potential to backdate commencement of payments where the Ministry becomes aware later than 28 days following a change in a client's circumstances. This impact has been modelled based on an expected 60 per cent of the 7,579 superannuitants annually whose spouse or partner dies,<sup>3</sup> becoming eligible for the living alone rate. Recent Ministry data has been reviewed and provides the following indications of time taken for living status determination:
- 94 per cent will have eligibility determined for the Single Living Alone Rate within 28 days (as provided for in current LAP legislation)
  - 4.5 per cent will have eligibility determined between 29 and 60 days (an additional provision arising from legislation change)
  - 0.8 per cent will be determined between 61 and 90 days, with the remaining 0.7 per cent (approximately 50 clients) over 90 days (an additional provision arising from legislation change).
- 26 Based on current operational performance, the legislative change proposed in Option 4 is expected to result in additional expenditure on NZS/VP of approximately 77,000 per annum.
- 27 While current operational performance ensures that around 94 per cent of newly single superannuitants have their eligibility for the LAP determined within 28 days of the death of their spouse or partner, initial investigation by the Ministry has identified historical cases where a superannuitant has survived their spouse or partner, remains at the

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<sup>3</sup> This estimate is based on Ministry operational data for the 12 months to 31 May 2010.



same address but has not responded to the letter inviting application for the LAP. It is likely that a significant proportion of this historical group is currently eligible for the LAP, but not receiving it. Ensuring full and correct entitlement for this group will result in additional expenditure and have an impact on forecasts. The legislative change however, will not be retrospective and the legislative change itself will not result in any additional cost in ensuring full and correct entitlement for single people living alone who are currently eligible, but not receiving the LAP. Further investigation is currently being undertaken to determine the size of the group and the additional expenditure associated with full and correct entitlement to the LAP.

## Conclusions and recommendations

- 28 Option 4 will achieve the most improvements in service for the superannuitant and achieves operational efficiency gains. It will enable more flexibility and allow the Ministry to review the rate of NZS/VP a person receives from such date as the Ministry determines. It will also better enable the Ministry to respond to increasing numbers of superannuitants over time.
- 29 The Ministry will absorb operational costs for IT system changes. These system changes are estimated to cost \$152,511 (GST exclusive) in the 2010/2011 financial year. The estimated fiscal cost of \$77,000 per annum will be sought from the *Between Budget Contingency*.
- 30 These options have been considered with reference to the desired government outcomes to ensure that all eligible people receive their full and correct entitlements, and that no one group is disadvantaged by policies.
- 31 Cabinet has approved the legislative bid as a category three, to be passed if possible in 2010 in the 2010 Legislation Programme.

## Consultation

- 32 Consultation during the development of this proposal has been undertaken with the Office for Senior Citizens, Veterans' Affairs New Zealand, and the Treasury. Their feedback has been included.
- 33 Consultation with older people's stakeholder groups has not been undertaken as the substantive change to the LAP will benefit older people.

## Implementation

- 34 Superannuitants who become eligible for the LAP (which will become the new Single Living Alone rate) on, or after the date of enactment of the proposed legislation, may be eligible to have entitlement backdated under Section 81 of the SSA, to the day after the date that their circumstances changed (that is, they commenced living alone). Backdating will not apply to any period prior to the enactment of the proposed legislation.
- 35 In respect of the definition of a dependent child, an eligible superannuitant who is in receipt of, or has applied for LAP prior to enactment of the proposed legislation will continue to receive payment until such time as the superannuitant no longer meets the criteria for eligibility.
- 36 This Bill will amend the NZSRIA and the WPA which currently provide for the LAP. Consequential amendments will also need to be made to SSA, Income Tax Act 2007, and the Accident Compensation Act 2001.

- 37 Changes will also be made to the existing Ministerial Direction: Living Alone Payment, made under section 5 of SSA, to provide guidance to the circumstances that constitute living alone.
- 38 Subject to the enactment of the amending legislation, the changes will come into force on 1 April 2011. This date coincides with the annual general adjustment to the rates of NZS/VP and other social security benefits. Implementing the proposed changes in conjunction with the annual general adjustment will reduce implementation costs.

### **Monitoring, evaluation and review**

- 39 The Ministry will continue to monitor changes in take-up of the Single Living Alone rate of NZS/VP. Data on changes in superannuitants' circumstances following the death of a spouse or partner will enable monitoring of the new policy over time.