Office of Hon Paula Bennett

MP for Waitakere
Minister for Social Development
Minister of Local Government
Associate Minister of Housing

1 7 MAR 2014

Mr Robert Latimer
fyi-request-1475-eb000f9c@requests.fyi.org.nz

Dear Mr Latimer

Thank you for your email of 18 February 2014 requesting, under the Official Information Act 1982, the following information:

> *Copies of Minister Finley's letter and Minister Bennett's reply on the subject of deduction of Canada Pension Plan benefits from New Zealand Superannuation benefits.*

The treatment of overseas pensions (the direct deduction policy) is determined under section 70 of the Social Security Act 1964. Section 70 requires the amount of any overseas pension to be deducted from the amount of New Zealand benefit or pension also payable where that overseas pension:

- forms part of a programme that pays benefits or pensions for the same types of circumstances that New Zealand benefits or pensions are paid e.g. old age, invalidity
- is a pension payable under a scheme that is administered by or on behalf of the government of the country paying the pension.

This direct deduction policy ensures that all New Zealand residents receive an equitable level of either the full rate of New Zealand Superannuation or an amount that is at least equivalent to that rate.

The previous Government completed a review of this policy in October 2007. You may be interested to know that information on the review can be found on the Ministry of Social Development's website, through the following link: www.msd.govt.nz/about-msd-and-our-work/newsroom/media-releases/2008/pr-2008-06-12.html.

The final Review report noted that the policy is broadly appropriate for New Zealand's circumstances and provides very good protection for most New Zealanders. This Government endorses the findings of the Review.

In response to your request please find enclosed copies of the correspondence between the Hon Diane Finley, Minister of Human Resources and Social Development in Canada and myself.

Private Bag 18041, Parliament Buildings, Wellington 6160, New Zealand. Telephone 64 4 817 6815 Facsimile 64 4 817 6515

I hope you find this information helpful. You have the right to seek an investigation and review of my response by the Ombudsman, whose address for contact purposes is:

The Ombudsman
Office of the Ombudsman
PO Box 10-152
WELLINGTON 6143

Yours sincerely

Hon Paula Bennett
Minister for Social Development

Minister
of Human Resources and
Social Development

Ministre
des Ressources humaines et du
Développement social

Ottawa, Canada K1A 0J9

RECEIVED
18 FEB 2010
... Executive Services

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16 FEB 2010
Minister's Office

The Honourable Paula Bennett, MP
Minister for Social Development and Employment
and Minister of Youth Affairs
Parliament Buildings
Wellington 6160
NEW ZEALAND

Dear ~~Minister~~: Paula

I am writing to you with respect to the Canada-New Zealand Agreement on Social Security and your government's direct deduction policy, which applies to pensioners receiving social security benefits from Canada.

This policy is of great concern to Canadian pensioners residing in New Zealand. Human Resources and Skills Development Canada receives many letters from Old Age Security (OAS) and Canada Pension Plan (CPP) recipients who would like to see the policy revisited.

I understand that the policy stems from New Zealand's social security legislation, the design of your social security system and the policy interpretations of the Chief Executive of your department. I wish to propose that departmental officials from Canada and New Zealand discuss whether our countries might come to an agreement that would minimize the effect of the direct deduction policy on Canadian pensioners residing in New Zealand.

Canada, like New Zealand, has a residence-based pension program, the OAS, which includes the Guaranteed Income Supplement—an income tested benefit. This supplement is reduced, however, by fifty cents on the dollar for additional income received rather than the dollar-for-dollar deduction applied in New Zealand.

The CPP operates independently of all government monies. Unlike the New Zealand KiwiSaver program, for which your government provides an initial top-up of approximately $1000 and a preferential tax-treatment for the contributions, the Canada Pension Plan is funded entirely from an individual's employment income with matching contributions from the individual's employer. All CPP benefits and all the associated administrative costs are covered by the employee and employer contributions. As such, the Canada Pension Plan is much more analogous to private pension plans that would enjoy an exemption from the New Zealand direct deduction policy.

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I am confident that alternate measures or less severe restrictions on the receipt of a Canadian benefit for a person residing in New Zealand. could be identified to the advantage of our mutual pensioners. This is something that Canada has always sought to achieve in concluding over 50 social security agreements with countries whose systems vary greatly in design and guiding principles. I know that our mutual pensioners would appreciate our joint efforts in seeking measures other than the direct deduction policy. I would be very pleased, Minister, if you would consider my request for our officials to meet and determine whether any acceptable alternative exists to address these concerns.

Thank you for your kind consideration of our common pensioners.

Yours sincerely,

Diane Finley

The Hon. Diane Finley, P.C., M.P.

Thanks again for our very interesting meeting!

Office of Hon Paula Bennett

MP for Waitakere
Minister for Social Development and Employment
Minister for Disability Issues
Minister of Youth Affairs

8 APR 2010

The Hon Diane Finley, P.C., M.P.
Minister of Human Resources and Social Development
Ottawa
CANADA K1A OJ9

Dear Diane

I was pleased to able to spend some time with you at the Paris OECD meeting. I too found our discussion very interesting.

Thank you for your recent letter about the Social Security Agreement between our two countries and New Zealand's direct deduction policy. I am happy to agree to your suggestion that officials meet to discuss the Social Security Agreement and the direct deduction policy. However, the meeting would have to take place on the understanding that the New Zealand Government is not in a position to agree to any changes to the direct deduction policy.

You may be aware that the previous Government completed a lengthy review of this policy. The Review found that, on the whole, the current policy operates well. The final Review report noted that the policy is broadly appropriate for New Zealand's circumstances and provides very good protection for most New Zealanders. This Government endorses the findings of the Review.

You have suggested that pensions arising from the Canada Pension are more analogous to private pension plans that are exempt from the direct deduction policy. It may be helpful if I explain the rationale for the direct deduction policy and how the policy is applied.

The rationale behind the policy is to ensure that all New Zealand residents receive an equitable level of retirement income. Our system is based on egalitarian principles. A key aspect of New Zealand Superannuation is its universal provision to those who are eligible, regardless of individual levels of tax paid. New Zealand Superannuation is relatively generous because it is paid in full after 10 years of qualifying New Zealand residence and presence since the age of 20 (five years of which must be after age 50). In most other countries the amount of a retirement pension is based on the numbers of years a person has resided in that country or the level of contributions made to a scheme during their entire working life. This means that a person will often not receive full social security coverage unless they have been covered by a social security scheme for between 40 to 50 years.

Most countries do not pay any pension for periods where contributions have not been made or a person has not been present. The nature of the New Zealand system i.e. full pension entitlement after 10 years, requires the reduction of pension entitlement for periods of absence from New Zealand to be achieved in a different way from the way the adjustment occurs in other systems.

New Zealand legislation requires the deduction of the amount of an overseas pension where:

- that benefit or pension forms part of an overseas social security programme providing benefits and pensions for the any of the contingencies (e.g. illness, old age) for which New Zealand benefits or pensions would be paid, and
- the scheme is administered by or on behalf of the government of the country paying the pension.

If these two conditions are met, an amount equivalent to the overseas pension must be deducted from the New Zealand benefit.

I am aware that Canada has two public pension programmes - the Old Age Security programme which is funded from general taxation and the Canada Pension Plan which is funded from compulsory contributions made by employers and employees. Both schemes form part of Canada's public pension programme and retirement pensions paid out are paid for the same contingencies as New Zealand Superannuation.

The New Zealand government considers that a state social security pension funded by compulsory contributions is essentially the same as a state social security pension funded by taxation. This is also the conclusion reached by the New Zealand Courts. The High Court considered this matter (AP49/02 (Wellington Registry) on 26 August 2002 and France J found:

> *It is not necessary to conduct an enquiry as to how the relevant government collects the funds and 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 a s.70 as a programme administered by the government will not pay them.*

I am aware that Canadians are also able to supplement their retirement income through private schemes known as Registered Retirement Savings Plans (RRSPs) which bear some resemblance to KiwiSaver. KiwiSaver is not a social security pension scheme like the Old Age Security and Canada Pension Plan schemes but, like the RRSP schemes in Canada, is a voluntary savings initiative to help people with long-term saving for retirement. KiwiSaver does not provide an ongoing pension entitlement, but rather allows funds to be withdrawn as a lump sum at age 65. For these reasons, funds from the scheme are treated as private savings and would not meet the terms set out in the legislation applying to overseas social security pensions.

The New Zealand system also results in New Zealand paying the majority of state pensions to persons with foreign pensions resident in New Zealand. For example, looking at the amount of pension paid by each country to Canadian pensioners in New Zealand reveals that Canada pays 32 percent of the total state pensions and benefits paid to Canadian pensioners, while New Zealand pays 68 percent of the total.

If you believe that the meeting should take place despite the New Zealand Government not being in a position to agree to any changes to the direct deduction policy, the Ministry of Social Development would welcome hosting a Canadian delegation at a time that is mutually convenient.

Yours sincerely

Hon Paula Bennett
Minister for Social Development and Employment