



# MINISTRY OF SOCIAL DEVELOPMENT

*Te Manatū Whakahiato Ora*

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25 AUG 2014

Mr Robert Latimer  
[fyi-request-1844-3f4bdebc@requests.fyi.org.nz](mailto:fyi-request-1844-3f4bdebc@requests.fyi.org.nz)

Dear Mr Latimer

Thank you for your emails of 28 July 2014 requesting, under the Official Information Act 1982, the following information:

- *During a benefits review Committee hearing in Orewa on 25 July 2014, Margaret Denton of your International Services Division stated that the Chief Executive of the Ministry had made a decision to "defer" that portion of the Dutch State Pension that was attributable to voluntary contributions made after the person in question left the Netherlands. The information that I have indicates that the decision was actually to "exclude" that portion of the Dutch State Pension from the deduction from the New Zealand Superannuation benefit.*
- *Please provide the documentation that supports Ms Denton's assertion.*
- *Please provide the documentation in the form of the policy document that describes how the Danish State Pension is treated in respect of deduction from New Zealand Superannuation benefits, especially the portion of the pension attributable to voluntary contributions.*

## Dutch pensions

I can confirm that your information concerning Dutch voluntary pension payments being excluded from the deduction of the New Zealand Superannuation benefit is correct. Article 13 of the Social Welfare (Reciprocity with the Netherlands) Order 2003, allows any part of a Netherlands benefit based on periods of voluntary insurance, to be exempted from deduction.

Article 13, *Treatment of Netherlands Voluntary Insurance* states, 'Netherlands benefits based on periods of voluntary insurance under the social security laws of the Netherlands shall not be directly deductible from New Zealand benefits under the social security laws of New Zealand'.

The Netherlands is the only country that has a clause that specifically exempts voluntary pension contributions from deductions of New Zealand Superannuation payments.

## Danish pensions

With regard to your second request concerning Danish pensions, the Ministry does not have a specific policy document that outlines the treatment of Danish pension deductions from New Zealand Superannuation payments. These deductions are made

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under section 70 of the Social Security Act 1964. Therefore, this request for information is refused under section 18(e) of Official Information Act as this information does not exist.

### **Authority to deduct**

As you are aware, the Social Security Appeal Authority holds that section 70 of the Social Security Act 1964 requires the Ministry to deduct the whole amount of an overseas pension from New Zealand entitlements. However, there have been several instances where the Appeal Authority used a discretion contained in section 70(2) of the Social Security Act 1964 to set two separate dates for the commencement of the deduction of the pension from compulsory and voluntary contributions.

This means that the Ministry is required to distinguish those portions of an overseas pension based on voluntary contributions from those based on compulsory contributions to ensure that the Authority's interpretation is complied with.

The Authority set the deduction of the voluntary contribution component for ten years in the future (this deferment has continued to be rolled over in ten year periods by successive Chief Executives of the Ministry of Social Development), while leaving the deduction of the compulsory contribution component from the date that the Ministry had assessed it should be deductible. Because the Appeal Authority interpreted the provision in this way, unless this interpretation is modified or overruled by a higher authority (for example, The High Court) or by the Appeal Authority itself, it is the policy of the Ministry to apply this interpretation to other similar cases of overseas voluntary contributions to pensions.

The Social Security Appeal Authority decisions can be accessed here:

[www.nzlii.org/nz/cases/NZSSAA/2005/29](http://www.nzlii.org/nz/cases/NZSSAA/2005/29)

[www.nzlii.org/nz/cases/NZSSAA/2005/32](http://www.nzlii.org/nz/cases/NZSSAA/2005/32)

[www.nzlii.org/nz/cases/NZSSAA/2005/53](http://www.nzlii.org/nz/cases/NZSSAA/2005/53)

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



Sacha O'Dea  
**General Manager – Ageing, Disability and International**