



- 9 DEC 2015

Mr Robert Latimer
Fyi-request-3376-0ad2d13b@requests.fyi.org.nz

Dear Mr Latimer

On 17 November 2015 you emailed the Ministry requesting, under the Official Information Act 1982, clarification around the Ministry's position in relation to Chinese pensions, and documented proof that the Canadian Government has given permission for Canadian Old Age Security and Canada Pension Plan payments to be deducted from NZ Superannuation.

An overseas pension is defined in section 3 of the Social Security Act 1964 as follows:

Overseas pension –

- a) means a benefit, pension, or periodical allowance of a kind described in section 70(1); but
- b) does not include a benefit, pension, or periodical allowance of a kind referred to in the proviso to section 70(1); and
- c) does not include a Government occupational pension.

Section 70 of the Social Security Act 1964 requires that the amount of any overseas pension must reduce the amount of any New Zealand benefit or pension where:

- that overseas pension forms part of a programme of benefits and pensions paid for any of the contingencies for which New Zealand benefits and pensions would be paid; and
- the pension scheme is administered by or on behalf of the Government of the country from which the pension originates.

Both of these criteria must be met for an overseas pension to be covered by the scope of section 70 of the Social Security Act 1964.

The Chinese pensions that are currently paid to New Zealand residents are "enterprise" pensions paid to former employees of large private Chinese businesses or state-owned enterprises. Enterprise pension schemes are either administered by individual employers, in which case the pension is treated as a private pension, or, where the organisation is a state-owned enterprise, by the Government in its capacity as an employer, in which the pension is regarded as a civil service or

Government occupational pension. The Government occupational pension is defined under section 3(1) of the Social Security Act 1964.

As enterprise pension schemes are not administered by or on behalf of the Chinese Government, except in the capacity of the Government as an employer in which case they are government occupational pension schemes, they do not meet the second criteria specified in section 70 and are therefore not deducted from New Zealand benefits and pensions.

There is no document providing proof that the Canadian Government has given permission for Canadian Old Age Security and Canada Pension Plan payments to be deducted from New Zealand Superannuation. Canadian pensions paid by or on behalf of the Canadian Government are deducted under New Zealand domestic legislation (section 70 of the Social Security Act 1964). The New Zealand Government does not require permission from the Canadian Government, or the Chinese Government, to administer its own legislation.

As such, your request for this information is refused under section 18(e) of the Act as this information does not exist.

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 Policy