

Reference No. HRRT 041/2016

UNDER THE HUMAN RIGHTS ACT 1993

BETWEEN JANETTE KATHERINE MCKEOGH

First Plaintiff

AND DONNA ANNE LA FAUCI

Second Plaintiff

AND MALCOLM LEON LARSEN

Third Plaintiff

AND ATTORNEY-GENERAL OF NEW ZEALAND IN RESPECT OF THE MINISTRY OF SOCIAL DEVELOPMENT

Defendant

AT WELLINGTON

BEFORE:

Mr RPG Haines ONZM QC, Chairperson
Ms GJ Goodwin, Member
Ms ST Scott QSM, Member

REPRESENTATION:

Mr R Kee, Director of Human Rights Proceedings and Mr G Robins for plaintiffs
Mr PT Rishworth QC, Ms D Harris and Ms M Nicholson for defendant

DATE OF HEARING: 5, 6, 7, 8, 9, 13 and 14 March 2018

DATE OF DECISION: 15 October 2020

DATE OF SUPPLEMENTARY DECISION: 19 October 2020

SUPPLEMENTARY DECISION OF TRIBUNAL¹

¹ [This decision is to be cited as *McKeogh v Attorney-General (Supplementary Decision)* [2020] NZHRRT 41.]

[1] Following publication of the decision of the Tribunal in *McKeogh v Attorney-General* [2020] NZHRRT 39 (15 October 2020) the Tribunal received advice from counsel that legislation currently awaiting the Royal assent will amend the Social Security Act 2018, s 189(2) by removing the spousal deduction. The joint memorandum was in the following terms:

1. The parties are grateful for the Tribunal's recent decision in this matter.
2. This memorandum brings to the Tribunal's attention an upcoming legislative development which may require the decision to be recalled and reissued, should the Tribunal see fit.
3. At paragraph [9] of the decision the Tribunal refers to the plaintiffs' memorandum of 20 June 2019. The memorandum mentioned a nascent proposal to remove the spousal deduction rule.
4. That proposal has now been enacted but is not yet in force.
5. The New Zealand Superannuation and Veteran's Pension Legislation Amendment Act 2020 received royal assent on 24 July 2020. Among other matters, the effect of s 39 of that Act will be to amend s 189(2) of the Social Security Act 2018 and thereby remove spousal deduction.
6. However, the amending legislation does not come into force until 9 November 2020: s 2.
7. It does not appear that this development otherwise affects the Tribunal's decision.

[2] It is a matter of regret this information was not provided to the Tribunal at an earlier date.

[3] Be that as it may, as counsel correctly note the amendment will not affect the Tribunal's decision given on 15 October 2020.

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Mr RPG Haines ONZM QC
Chairperson

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Ms GJ Goodwin
Member

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Ms ST Scott QSM
Member