

Children's Pension

Version 6.0

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Introduction

1. Purpose

- 1.1 This document sets out policy and procedures for administering the Children's Pension under the Veterans' Support Act 2014.

2. Legislative Reference

- 2.1 The relevant legislation is the **Veterans' Support Act 2014** (the Act), sections 38, 39, 72 to 75, 208 and 209, schedule 1 clause 9, and the **Veterans' Support Regulations 2014** (the Regulations) regulation 19.

3. The Children's Pension

- 3.1 The Children's Pension is an entitlement granted by Veterans' Affairs to provide children with financial support if their parent is severely disabled or has died as a result of qualifying service in the New Zealand Armed Forces.
- 3.2 The Children's Pension is a Scheme One entitlement. It applies to children of veterans with qualifying service performed
- a. before 1 April 1974; or
 - b. before 31 March 1975, in connection with the civilian surgical team based at Qui Nhon Provincial State Hospital, Binh Dinh province, Viet Nam; or
 - c. before 21 April 1975, in connection with 41 Squadron RNZAF in Viet Nam.

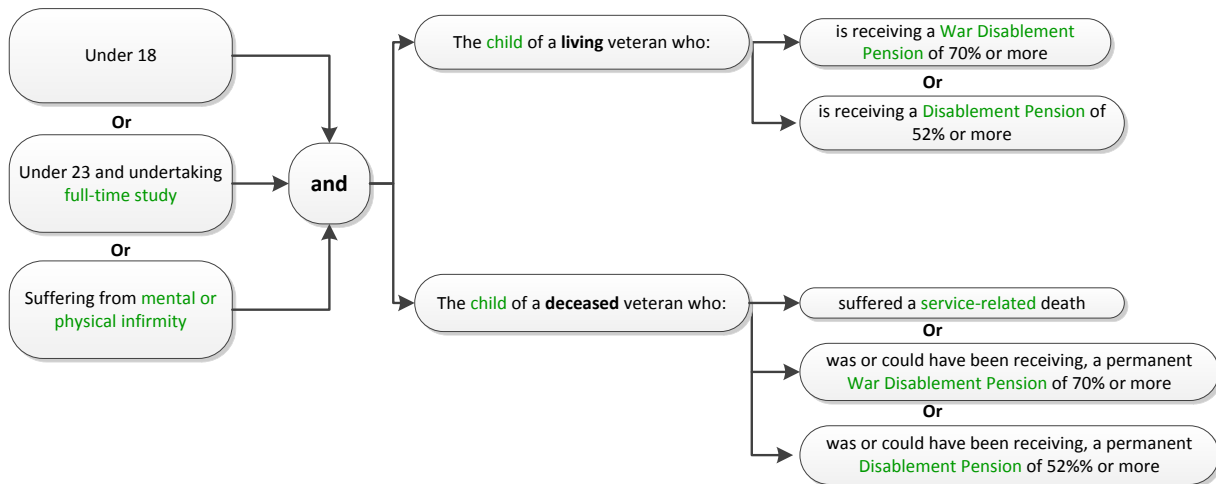
Section 38 of the Veterans' Support Act 2014

- 3.3 The Children's Pension also applies to children who claimed the Children's Pension before the commencement of Scheme Two of the Act and whose veteran parent had qualifying operational service performed in the period beginning on 1 April 1974 and ending on 6 December 2014.

Section 39 of the Veterans' Support Act 2014

4. Eligibility for Children's Pension

4.1 To be eligible for the Children's Pension a person must be:



Section 72 of the Veterans' Support Act 2014

Child

4.2 A **child** of the veteran includes:

- a. A natural child of the veteran; or
- b. An adopted child of the veteran; or
- c. Any other child who would ordinarily be regarded as a child of the veteran because the veteran:
 - Is or was the spouse or **partner** of one of the child's parents; and
 - Acted as a parent of the child.

Section 7 of the Veterans' Support Act 2014

Under 18

4.3 Unless they suffer from mental or physical infirmity or are undertaking full time study a child must be under 18 years of age to receive the Children's Pension.

Section 72 (1) of the Veteran's Support Act 2014

Suffering from mental or physical infirmity

4.4 If a child suffers from mental or physical infirmity Veterans' Affairs will provide the Children's Pension beyond 18 years of age.

4.5 If the child over 18 no longer suffers from the mental or physical infirmity entitlement to the Children's Pension ceases.

Section 72 (3) of the Veterans' Support Act 2014

Mental or physical infirmity

4.6 A child of a veteran will be considered to be mentally or physically infirm if they:

- a. Have a physical or mental disability;
 - b. Because of that disability need constant care and attention; and
 - c. Are likely to need such care and attention permanently or for a period exceeding 12 months.
- 4.7 In determining whether a child is suffering from mental or physical infirmity the decision maker may consider whether the child requires:
- a. Frequent attention in connection with their bodily functions; or
 - b. Attention and supervision substantially in excess of that normally required by a child of the same age and sex; or
 - c. Regular supervision from another person in order to avoid substantial danger to themselves or others.
- 4.8 Decision Officers will accept medical certificates from a **medical practitioner** as confirmation of mental or physical infirmity.
- 4.9 If the applicant suffers from a non-permanent infirmity the continuation of the impairment must be confirmed by Veterans' Affairs annually at least.
- 4.10 The carer or nominated person must be advised they have a duty to inform Veterans' Affairs if medical circumstances relating to the recipient's incapacity change.

Undertaking full time study

- 4.11 If a child of a veteran undertakes full time study Veterans' Affairs will provide the Children's Pension until the recipient turns 23.
- 4.12 Applicants aged between 18 and 23 are eligible for the Children's Pension if they are studying full time, even if they have not received the entitlement before they turned 18.
- 4.13 If the recipient between 18 or and 23 completes, suspends, or withdraws from full time study their entitlement will cease.
- 4.14 A recipient who withdraws from full time study can have their entitlement re-instated at a future date, provided they are a child of a veteran with qualifying service as described in paragraph 3.2 and meet the eligibility criteria for the entitlement.
- 4.15 A child of a veteran with qualifying operational service on or after 1 April 1974 who obtained the Children's Pension under Scheme One as per paragraph 3.3 of this policy is not be able to have their entitlement re-instated after it stops.

Full time study

- 4.16 A child of a veteran must be undertaking **full time study** at a secondary school or tertiary institute.
- 4.17 A **secondary school** includes a school established under section 146 of the **Education Act 1989**. It also includes equivalent institutions outside of New Zealand.

- 4.18 A **tertiary institute** includes:
- a. A university
 - b. A polytechnic
 - c. A college of education
 - d. A wananga
 - e. A private establishment continued by the Education Act 1989, or
 - f. Any other education provider approved by the Chief Executive of the Ministry of Education for the purpose.
- 4.19 A tertiary institute also includes equivalent institutes outside of New Zealand.

Section 72 (4) of the Veterans' Support Act 2014

Verification of full time study

- 4.20 Applicants and recipients must confirm they are studying full-time by notifying Veterans' Affairs in writing when they enrol or update their course details (see **Evidence required for an applicant over 18 and undertaking full time study**).
- 4.21 For the purposes of this policy, "full-time study" means a course of study recognised and confirmed as full-time by the place of education that administers the course.
- 4.22 A New Zealand course is considered full-time if it meets the equivalent full-time study (EFTS) rating.
- a. Full time study for a year must be at least 0.8 EFTS.
 - b. For courses less than a year, the full-time EFTS rating will depend on the length of the course. See **Appendix 2: EFTS for tertiary courses less than a year**.
- 4.23 More information on EFTS is available on the **Studylink website**.
- 4.24 An overseas course is considered to be full-time if the education provider confirms it meets the equivalent full-time study rating in the place of education that administers the course.

Child of a living veteran

- 4.25 A child of a living veteran can receive a Children's Pension if:
- a. The veteran is receiving **War Disablement Pension** for disablement that Veterans' Affairs has assessed as being 70% or more, or

Section 72 (2) and Schedule 1 clause 9 of the Veterans' Support Act 2014

- b. The veteran is receiving **Disablement Pension** in relation to disablement Veterans' Affairs has assessed at 52% or more.

Section 72 (2) of the Veterans' Support Act 2014

Child of a deceased veteran

- 4.26 A child of a deceased veteran can receive a Children's Pension if:
- a. The veteran's death was **service related**, or
 - b. The veteran was receiving a permanent War Disablement Pension assessed as being 70% or more, or
 - c. The veteran was receiving permanent Disablement Pension assessed at 52% or more, or
 - d. The veteran would have been receiving a War Disablement Pension assessed at 70% or more had they applied for it immediately before their death, or
 - e. The veteran would have been receiving a Disablement Pension assessed at 52% or more had they applied for it immediately before their death.

Section 72 (2) of the Veterans' Support Act 2014

Children of veterans with service in the New Zealand Police

- 4.27 Children of former police officers with service in the New Zealand Police between 1958 and 1972 receiving a War Disablement Pension or Disablement Pension can apply for this entitlement.

Section 42 of the Police Act 1958, section 110 of the Policing Act 2008 and section 7 and Schedule 1 clause 6 of the Veterans' Support Act 2014

Suspension of Children's Pension

- 4.28 An eligible child's entitlement to a Children's Pension is contingent on the living veteran parent receiving a War Disablement Pension of 70% or more, or a Disablement Pension of 52% or more. If the veteran parent becomes disentitled to receive a War Disablement Pension or a Disablement Pension, the child will also become disentitled to receive a Children's Pension for the corresponding period.

For example, the veteran parent was receiving a temporary Disablement Pension of 55%. The veteran's accepted disability improved and after re-assessment their rate was adjusted to 49%. Because the veteran is no longer receiving a Disablement Pension of 52% or more, the child is no longer entitled to receive a Children's Pension. The payment of the Children's Pension will be suspended and will resume if the veteran's rate is increased to 52% or more following reassessment.

If at the next assessment the veteran's disability worsens and their rate is increased back to 55%, the child will once again be entitled to receive a Children's Pension (provided eligibility criteria are met) and payment will resume.

Sections 28 and 29 and 72 (2) of the Veterans' Support Act 2014

5. Application for Children's Pension

Form

- 5.1 A child is entitled to a Children's Pension when:
- They have completed and provided an **application form** supplied by Veterans' Affairs
 - They have provided the supporting evidence required by Veterans' Affairs
 - Veterans' Affairs has accepted the application.
- 5.2 An application can be made by the child or a representative.

Section 73 of the Veterans' Support Act 2014

Providing accurate information

- 5.3 An applicant must provide accurate information to Veterans' Affairs.
- 5.4 A recipient of the Children's Pension is required to inform Veterans' Affairs of any change in their circumstances that may impact their entitlement, including:
- Withdrawal from study commitments
 - Reduction in study commitments
 - Changes in their medical diagnosis that affect their assessment of mental or physical infirmity.
- 5.5 A recipient who is found to have actively misled Veterans' Affairs about their entitlement commits an offence and is liable to a fine up to \$5,000 or 3 months imprisonment.

Section 270 (1) of the Veterans' Support Act 2014

Rate of entitlement

- 5.6 The current rate of the Children's Pension is **available here**.

Regulation 19 of the Veterans' Support Regulations 2014

- 5.7 The Children's Pension is adjusted annually to match changes to the New Zealand Consumers Price Index.

Section 31(1) of the Veterans' Support Act 2014

Start of entitlement

If the veteran is living

- 5.8 If an application is accepted by Veterans' Affairs for a child of a living veteran the entitlement is treated as beginning on the day the application was received.

If the veteran is deceased

- 5.9 If the application is received within 6 months of the veterans' death an accepted application is treated as beginning on the day after the veteran's death.

- 5.10 If the application is received after 6 months of the veterans' death an accepted application is treated as beginning on the day the application was received.

Section 72 to 74 of the Veterans' Support Act 2014

Payment of entitlement

- 5.11 The Children's Pension is paid on a fortnightly basis if paid into a New Zealand bank account.
- 5.12 Payment to an overseas bank account is made on a four-weekly basis.

End of entitlement

- 5.13 Entitlement to the Children's Pension ends if:
- a. The child is:
 - over 18, and
 - not mentally or physically infirm, and
 - not studying full time and under 23 years of age, or
 - b. The veteran's War Disablement Pension assessment is found to be less than 52%, or their Disablement Pension is assessed as less than 70%.
- 5.14 The pension ends 28 days after the death of the recipient.

Section 72 of the Veterans' Support Act 2014

End of entitlement for recipients over 18 who are studying full time

- 5.15 Recipients studying full time will receive the Children's Pension until 31st December, unless the recipient has informed Veterans' Affairs in writing that they intend to undertake full time study in the following year.
- 5.16 Recipients studying full time cease to receive the Children's Pension on the date they turn 23, regardless of whether they have completed their study.

Recipient of entitlement

- 5.17 The child of the veteran is the recipient of the Children's Pension entitlement.
- 5.18 The veteran who the child's entitlement is based on does not need to be aware the pension is being paid. The release of any personal information about the child should occur only in accordance with the **Privacy Act 1993**.

Recipients under 16

- 5.19 If a recipient of the Children's Pension is under 16 Veterans' Affairs will make the payment to a person who is caring for the claimant.
- 5.20 If Veteran's Affairs considers that it would not be appropriate to make the payment to the claimant's carer they can pay another person or trustees they consider will apply the payment for the maintenance, education, advancement or benefit of the recipient.

Section 209 of the Veterans' Support Act 2014

Application of money paid to a nominated person for recipients under 16

5.21 After a nominated person has been accepted, Veterans' Affairs is not obliged to confirm how the pension payments are being applied.

Section 209 of the Veterans' Support Act 2014

Recipient over 16

5.22 When a recipient of the Children's Pension reaches 16 the Children's Pension payment is made directly to them.

Sections 208 and 209 of the Veterans' Support Act 2014

Recipients over 16 and mentally or physically infirm

5.23 Once a recipient who is mentally or physically infirm turns 16 Veterans' Affairs can pay the Children's Pension to a guardian or third party if they supply evidence of their legal entitlement to act on behalf of the recipient.

Evidence required

For an applicant under 16

5.24 An application made by a person on behalf of a child under 16 must provide:

a. Certified evidence that they are responsible for the child, including:

- Birth certificates
- Court custody documents
- Adoption papers
- Declarations from spouse or partner
- Declarations from an independent third party, e.g. GP

b. Certified evidence of the child's relationship to the veteran and age:

- A full birth certificate, or
- A adoptive birth certificate

c. A bank account number.

5.25 When a recipient turns 18 they must notify Veterans' Affairs in writing if they intend to continue in full time study, and confirm their bank account number.

For an applicant over 16

5.26 An applicant over 16 must provide:

a. Certified evidence of their relationship to the veteran and age:

- A full birth certificate, or
- An adoptive birth certificate

b. A bank account number.

c. An applicant who is a stepchild must provide a statutory declaration that the veteran acted as a parent of the child and was, or is, the spouse or partner of the child's mother or father.

For an applicant who is mentally or physically infirm

- 5.27 An applicant who is mentally or physically infirm must provide:
- a. Medical evidence of mental or physical infirmity
 - b. Certified evidence of the applicant's relationship to the veteran and age:
 - A full birth certificate, or
 - A adoptive birth certificate
 - c. A bank account number.
- 5.28 For recipients who are mentally or physically infirm who are over 16 Veterans' Affairs can pay the Children's Pension to a guardian or third party if they supply evidence of their legal entitlement to act on behalf of the recipient, such as:
- a. personal or property order issued under the **Protection of Personal and Property Rights Act 1988**
 - b. welfare guardian order, or
 - c. power of attorney.

For an applicant over 18 undertaking full time study

- 5.29 Applicants must declare their course of study in writing to Veterans' Affairs and confirm the course is **full time**.

Application process

- 5.30 Veterans' Affairs will make a decision on claims within 30 working days of receipt of the application.
- 5.31 This does not include any period while Veterans' Affairs is waiting for further information that it requires to determine whether to accept the claim.

Overseas applicants

- 5.32 A child living overseas is entitled to apply for the Children's Pension.

Overpayments

- 5.33 Veteran Affairs can recover debt from Children's Pension recipients if:
- a. An amount paid to a person exceeds the amount they are entitled to
 - b. An amount was paid to a person with no entitlement to it.
- 5.34 Veterans' Affairs can recover the debt:
- a. By way of proceedings
 - b. By deducting the debt incrementally from future Children's Pension payments to that person.

Section 206 of the Veterans' Support Act 2014

6. Relationship with other entitlements

Provided under the Veterans' Support Act

Children's Bursary

- 6.1 Recipients of the Children's Pension may also be entitled to the **Children's Bursary**. The bursary provides annual payments to assist with study at New Zealand secondary schools or tertiary institutions.

Dependant's Pension

- 6.2 It is possible in some circumstances for a person to be considered both a child and a dependant. An applicant who is receiving a Children's Pension beyond the age of 18 is not entitled to receive the **Dependant's Pension**.

Section 79 of the Veterans' Support Act 2014

Other

- 6.3 A child of a veteran may be able to claim other entitlements, such as **travel cost** to visit the veteran in long term hospital care.

Provided under the Social Security Act

- 6.4 Recipients of the Children's Pension may also be entitled to the **Child Disability Allowance** under the **Social Security Act 1964**.

Sections 39A - D of the Social Security Act 1964

- 6.5 The Children's Pension may be considered income for the purposes of assessing the rate of other entitlements, such as the **Disability Allowance**.

Section 69C of the Social Security Act 1964

- 6.6 A recipient should **contact the Ministry of Social Development** for more details on the impact of their Children's Pension on other entitlements.

7. The Children's Pension and tax

- 7.1 The Children's Pension is a tax free payment; however it is still treated as income by Inland Revenue for some purposes.

- 7.2 An applicant with questions relating to this pension and their tax obligations should **contact IRD**.

Overseas recipients

- 7.3 Overseas recipients of the Children's Pension may need to declare the payments for tax purposes.

- 7.4 Recipients, or their nominated person, should contact the Government Tax Agency of their country of residence for more information.

8. Related documents

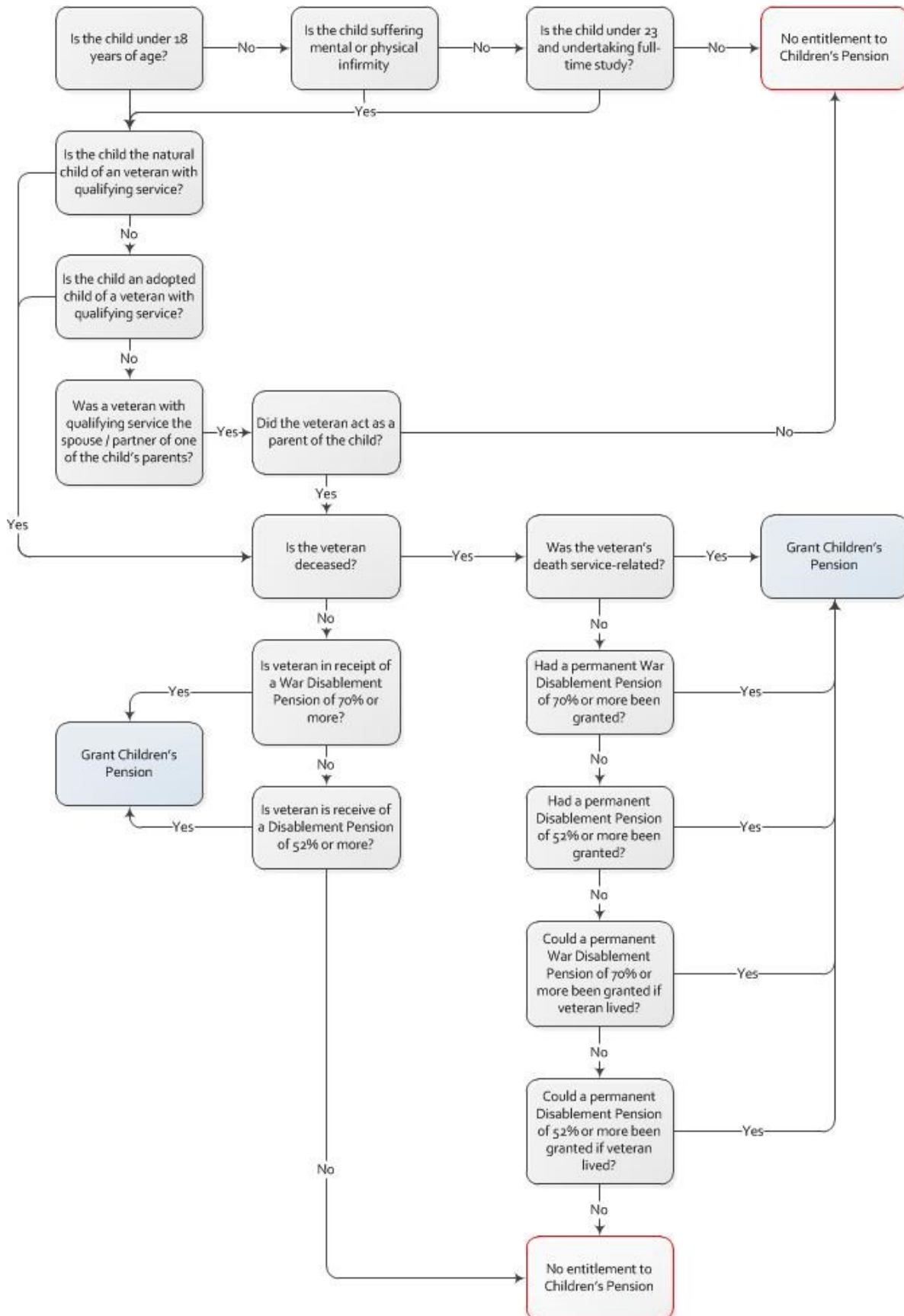
- 8.1 Other documents relating to this entitlement are the:

- a. **Children's Pension factsheet**
- b. **Children's Pension application form**

9. Reviews, Appeals and Complaints

- 9.1 If a claimant disagrees about a decision concerning eligibility for an entitlement or service **go to separate policies on Reviews and Appeals**. If a claimant is concerned about Veterans' Affairs' administration of an entitlement or service **go to separate policy on Complaints**.

Appendix 1: Entitlement Pathway for the Children's Pension



Appendix 2: Full year EFTS for tertiary courses less than a year

Number of weeks	EFTS
Less than 12	0.25
12	0.3
13	0.3
14	0.3
15	0.3
16	0.4
17	0.4
18	0.4
19	0.4
20	0.5
21	0.525
22	0.55
23	0.575
24	0.6
25	0.625
26	0.65
27	0.675
28	0.7
29	0.725
30	0.75
31	0.775
32-52	0.8
53 or more	1.0

Glossary

accepted disability [policy definition]

Means an injury, illness or condition that Veterans' Affairs accepts as being service-related.

Advisory Board [section 7]

Means the Veterans' Advisory Board established under Part 8 of the Veterans' Support Act 2014.

Advisory Panel [section 7]

Means the Veterans' Health Advisory Panel established under Part 8 of the Veterans' Support Act 2014.

Appeal Board [section 7]

Means the Veterans' Entitlements Appeal Board established under Part 7 of the Veterans' Support Act 2014.

Armed Forces [section 2(1) of the Defence Act 1990]

Armed Forces means the Navy, the Army, and the Air Force collectively; and includes any branch, corps, command, formation, unit, or other part of the Armed Forces; but does not include any part of the cadet forces

child [section 7]

In relation to a veteran:

- (a) means a natural child of the veteran; and
- (b) includes an adopted child of the veteran; and
- (c) includes any other child who would ordinarily be regarded as a child of the veteran because the veteran:
 - (i) is or was the spouse or partner of one of the child's parents; and
 - (ii) acted as a parent of the child.

child [clause 7 Schedule 2]

- (a) means a child under 14 years; and
- (b) includes any other child, if the child needs child care because of his or her physical or mental condition.

health practitioner [section 7]

Has the same meaning as in section 5(1) of the Health Practitioners Competence Assurance Act 2003.

impairment [section 7]

Means a loss or abnormality of psychological, physiological, or anatomical function or structure.

medical practitioner [section 7]

Has the same meaning as in section 5(1) of the Health Practitioners Competence Assurance Act 2003.

partner [section 7]

Means a civil union partner or a de facto partner.

qualifying service [section 8]

Means:

- (a) qualifying operational service; and
- (b) qualifying routine service.

qualifying operational service [section 8]

Means:

- (a) service on any deployment treated as a war or emergency for the purposes of the War Pensions Act 1954; and
- (b) service on any deployment declared to be operational service under section 9 of the Veterans' Support Act 2014.

qualifying routine service [section 8]

Means service in the armed forces before 1 April 1974 that is not qualifying operational service.

review decision [section 7]

Means a decision made by a Review Officer, a Review Panel, or the General Manager under subpart 2 of Part 7 of the Veterans' Support Act 2014.

Review Officer [section 7]

Means a member or a contractor of the Defence Force appointed by the general manager (or by the Chief of Defence Force if section 219(2)(b) applies) to conduct reviews under subpart 2 of Part 7 of the Veterans' Support Act 2014.

Review Panel [section 7]

Means a Veterans' Service Review Panel established under section 223 of the Veterans' Support Act 2014.

secondary school [section 81(5)]

In New Zealand, has the same meaning as in the Education Act 1989. Secondary school is defined in section 145 to mean:

A school established under section 146 as a secondary school.

It also includes equivalent institutions outside of New Zealand.

service-related [section 7]

In relation to an injury, an illness, a condition, or a whole-person impairment, means an injury, an illness, or a whole-person impairment caused by, contributed to by, or aggravated by qualifying service.

service-related death [section 7]

Means death attributable to qualifying service.

statement of principles [section 14]

Means a statement of principles that, under section 22(6) and regulations made under section 265, applies for the purposes of the Veterans' Support Act 2014.

***tertiary institution** [section 81(5)]

In New Zealand has the same meaning as in the Education Act 1989. Tertiary institutions are bodies corporate established under Part 14 of the Education Act 1989, that:

- (a) are an institution as defined in s159(1) of the Education Act 1989 and characterised in s162(4)(b)(i) or (ii) or (iii) or (iv) of the Education Act 1989; and
- (b) for universities, have all of the characteristics set out in s162(4)(a) of the Education Act 1989; or
- (c) for all other institutions, have one or more of the characteristics set out in s162(4)(a) of the Education Act 1989.

Section 159(1) of the Education Act 1989 defines the term institution as:

institution means:

- (a) a college of education; or
- (b) a polytechnic; or
- (ba) specialist college; or
- (c) a university; or
- (d) a wananga

*A list of Tertiary Education Institutions and their subsidiaries compiled by the Office of the Auditor-General can be found at <http://www.oag.govt.nz/2012/education-2011-audits/appendix1.htm>. This list is current as at 1 December 2012 and should be used as a starting point only.

It also includes equivalent institutions outside of New Zealand.

treatment provider [section 7]

- (a) means a chiropractor, dentist, medical laboratory technologist, nurse, nurse practitioner, occupational therapist, optometrist, osteopath, physiotherapist, podiatrist, or medical practitioner; and
- (b) includes a member of any occupational group as added for the purposes of this definition by regulations made under section 265 and subject to any criteria specified in those regulations, including (but not limited to) whether and, if so, the extent to which members of an occupational group are recognised by the Accident Compensation Corporation as treatment providers for the purposes of the Accident Compensation Act 2001.

Veterans' Affairs [section 7]

Means Veterans' Affairs New Zealand (VANZ) established under section 198 of the Veterans' Support Act 2014.

veteran [section 7]

Means:

- (a) a member of the armed forces who took part in qualifying operational service at the direction of the New Zealand Government; or
- (b) a person:
 - (i) who has been:
 - (A) appointed as an employee of the Defence Force under section 61A of the Defence Act 1990; or
 - (B) seconded to the Defence Force with the permission of the Chief of Defence Force; and

- (ii) who took part in qualifying operational service at the direction of the New Zealand Government; or
- (c) a person who, immediately before the commencement of Part 3 of this Act, is eligible for a pension under the following provisions of the War Pensions Act 1954:
 - (i) section 19 (but only if the person was a member of the forces):
 - (ii) section 55 or 56:
 - (iii) Parts 4 and 5