

# **How well is the Veterans' Support Act 2014 working?**

A chance to have your say

**July 2017**

## **Disclaimer**

This independent discussion document does not represent Government policy or the views of any organisation. It has been prepared by Professor Ron Paterson, an independent reviewer, who is responsible for any inaccuracies. You should not rely on this document as legal advice.

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# Foreword

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I am pleased to release this discussion document, which supports the consultation process for reviewing how the Veterans' Support Act 2014 is working.

## A document to help you have your say

This document is just the start of investigating what's working well in the Act and what could change. The points I've raised are based on my early conversations with a few stakeholders, and from background reading about the Act. They are not the only issues to discuss, and I'm sure you'll have other things you'd like to raise. I need you to tell me how well the Act works from your perspective, the issues you see or have personally experienced, and your possible solutions.



I encourage you to read this document, discuss it with others, make a submission, and – if possible – come to one of the consultation meetings I'll be hosting around the country.

## A rare opportunity to influence the law that affects you

When the Act came into effect, over two years ago, it was the result of seven years of careful input and consideration by the Law Commission, veterans and their families, representative and interest groups, government agencies and political representatives.

The Act recognises the essential role New Zealand's veterans have played in serving our country, and the impact of that service on them and their families. The Act replaces the outdated War Pensions Act 1954, and promotes a more contemporary approach to rehabilitation and support.

We are fortunate to have this opportunity, so soon after the Act came into effect, to independently review how well it's working.

Many thanks for your time and input.

A handwritten signature in black ink that reads "Ron Paterson". The signature is written in a cursive, flowing style.

Professor Ron Paterson  
**Independent Reviewer**

# What this document is about

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This document sets out some early thoughts and questions about how well the Veterans' Support Act 2014 is working. I hope this document will be a starting point for discussion and encourage you to make a submission on this subject. I want to hear your views on what's working well and what could be improved or changed.

I'm asking for your ideas now because the Chief of Defence Force must review how the Act is working, consider whether any changes are needed, and report to the Minister of Veteran's Affairs. This review is a legal requirement under section 282 of the Act. I've been commissioned to undertake the review by the Chief of Defence Force, and as an independent reviewer I'll make sure the review is fair and neutral.

As noted by the Law Commission in its 2010 report, *A New Support Scheme for Veterans* (p47):

“Good legislation requires not only focused and careful consideration at its genesis, but ongoing review.”

This review provides an opportunity for a full review of how the new legislation is working. Your input is essential to make the review useful. When I write my final report, I'll take into account the points you mention in your submission.

# What the review of the Act is about

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The review of how the Act is working is an opportunity to consider a wide range of issues. The review will look at what works well and what can be improved. Areas for discussion include:

- any parts of the Act that need to be clarified
- how to make sure the Act caters for the changing nature of the veteran population and their experiences
- whether the Act provides sufficient flexibility for Veterans' Affairs to deliver fair and reasonable entitlements to eligible veterans and their families
- any technical barriers to be removed, or errors and omissions to be corrected
- how to ensure consistency throughout the Act
- other matters raised by veterans and other stakeholders.

The review is also likely to consider how the Act has been put into practice through regulations, policies, and procedures. The review won't cover any issues the Government has already made clear decisions about.

You can find the full terms of reference for the review at:  
[www.nzdf.mil.nz/corporate-documents/vsa](http://www.nzdf.mil.nz/corporate-documents/vsa)

# How to have your say on the Act

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I've asked a number of questions throughout this document. Feel free to answer some or all of them, and please raise any other ideas or issues that I haven't covered. You can fill out the accompanying question sheet, or you can send me a letter or an email that sets out your thoughts.

## When to send your submission by

Submissions are due by **5pm, Friday 15 September 2017**.

## Where to send your submission

You can send your submission by email or post.

[review.vsa@nzdf.mil.nz](mailto:review.vsa@nzdf.mil.nz)

Independent review of the Veterans' Support Act 2014  
c/o New Zealand Defence Force  
Private Bag 39997  
Wellington Mail Centre  
Wellington 5045

## Where to find more information

### You can find this document online

You can get a copy of this document and the separate submission form on the New Zealand Defence Force website:

[www.nzdf.mil.nz/corporate-documents/vsa](http://www.nzdf.mil.nz/corporate-documents/vsa)

### You can come to a consultation meeting

Consultation meetings will be held in August and September in Whāngārei, Auckland, Tauranga, Gisborne, Napier, Palmerston North, Wellington, Christchurch, Dunedin, and Invercargill. A flyer is enclosed with the dates and venue details, and you can also find them at [www.nzdf.mil.nz/corporate-documents/vsa](http://www.nzdf.mil.nz/corporate-documents/vsa)

### You can find the Act online

You can see the Veterans' Support Act 2014 and Veterans' Support Regulations 2014 at [www.legislation.govt.nz](http://www.legislation.govt.nz)

## **Your submission may be published**

Your submission may be published on the New Zealand Defence Force website. If you don't want your submission published, please say so in your submission.

If you're submitting as an individual, your personal details and any information that identifies you will be removed unless you indicate otherwise.

## **What will happen after you make your submission**

Once I've received all submissions and completed all consultation meetings, I'll prepare a final report. The report should be complete by the end of 2017. This report will be tabled in Parliament by the Minister of Veterans' Affairs. The Government will consider the report and decide whether to make any changes to the Act as a result.

# Some early thoughts about what's working and what could improve

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This section gives you a broad overview of some of the things in the Act that seem to be working well, and some that might need to improve or change. You'll have your own opinion on these matters, as well as ideas about points not covered here.

## What seems to be working well in the Act?

The Act offers a number of improvements over the War Pensions Act 1954. Positive aspects of the Act include:

- Acknowledgement that the risks faced by deployed forces are psychological and environmental as well as physical.
- A focus on rehabilitation and treatment, including supporting veterans to return to work.
- The establishment of two schemes to cater for the needs of the older and younger generations of veterans.
- More support for veterans than they would otherwise be entitled to. For example:
  - greater income support for veterans who are unable to work
  - increased eligibility for support services (such as lawn mowing and home help), so veterans can live independently in their homes.
- More of an evidence-based approach for deciding which injuries, illnesses or deaths are service related.
- The requirement to review the Act, so the Government can improve it.

Your experience of how the changes have worked in practice may vary. Aspects of the Act have only been in place for under two years, and a small number of people are currently receiving support under that scheme. This may make it difficult to judge how well the Act is working for some people.

## What areas may need improvement?

The Act appears to have a number of issues. The main issues raised so far fall into four broad areas:

- ❖ Access to and eligibility for entitlements and support.
- ❖ Services and support available to veterans and their families.
- ❖ Wording and organisation of the Act.
- ❖ Effectiveness and efficiency of processes around the Act.

The following sections of this document examine these four areas.

These issues have become apparent through discussions I've had with various people. I've also spent time looking at the Act itself, the regulations, Veterans' Affairs operational policies, the Law Commission's review, the Government's decisions, and advice to the Minister of Veterans' Affairs from the Veterans' Advisory Board.

You may have other ideas and issues that you'd like to raise. I encourage you to do that in your submission.

## **What changes was the Veterans' Support Act 2014 supposed to achieve?**

The Act was enacted in late 2014 to establish a new support regime for rehabilitating and supporting veterans who are ill or injured as a result of being placed in harm's way in the service of New Zealand. The Act also provides support to the families of veterans who have died or who have severe impairments. The new legislation was drafted following a comprehensive review of the old War Pensions Act 1954 by the Law Commission.

The Law Commission's review found that the War Pensions Act 1954 had become very outdated and was unlikely to meet the needs of contemporary veterans. Today's veterans' community has a wide range of demographics and service histories.

The Act reflects a shift (yet to be fully realised) in the nature and needs of contemporary veterans. It recognises that the risks faced by deployed forces are psychological and environmental as well as physical. The Act takes into account modern disability principles by emphasising treatment and rehabilitation. It also aligns better with the Accident Compensation scheme.

The Act aims to ensure that veterans get the recognition, support, services and entitlements available to them, to help them lead a healthy and productive life. The Act also aims to provide support, services, and entitlements to families of deceased veterans.

The Act has two Schemes:

- **Scheme One** – covers all veterans who served before 1 April 1974, including in Viet Nam. This scheme was introduced on 7 December 2014.
- **Scheme Two** – covers veterans with qualifying operational service on and after 1 April 1974. This scheme was introduced on 7 December 2015.

See the Appendix for an outline of the entitlements provided under Schemes One and Two, as well as entitlements common to both schemes.

# Three important questions to answer

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The following three questions cover what the review of the Act is all about. If you want to have your say on how the Act is working, but you don't have time to read or respond to this whole document, you can just answer these three main questions.

1. **What do you think works well in the Act?**
2. **What doesn't work well, or could be improved or clarified?**
3. **Would you like to see any specific changes? If so, what are they, and why is change needed?**

# Access to and eligibility for entitlements and support

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This section sets out some early thoughts and questions about getting access to and being eligible for the entitlements and support provided under the Act. You may have other ideas and issues that you'd like to raise about this topic.

## Is it easy enough to enter the system?

There appear to be a number of barriers to entering the system. They include:

- the stigma some veterans perceive in needing to seek help under the Act
- a lack of knowledge about the support available under the Act and how to access it
- difficulty navigating the system, particularly between the Accident Compensation Corporation (ACC) and Veterans' Affairs.

I'm interested to hear what barriers you've encountered, and how you think they could be addressed.

4. **Do you have any views on how to eliminate barriers to seeking and accessing assistance under the Act?**

## Are the principles in the Act clear enough?

The Act sets out a number of principles that govern how people must exercise functions and powers under the Act (for example, a benevolent approach, equal treatment of equal claims, fair entitlements). I'm aware of some ongoing debate about what principles like 'benevolence' mean in practice. I'm interested in whether the way the Act is working upholds those principles, or whether your experiences over the past two years are inconsistent with the principles.

5. **Do you have concerns about how the principles in the Act have been put into practice over the past two years?**
6. **Do you think any changes are needed to the principles? What changes would you like, and why?**

## Should the Act specify responsibilities for people receiving support?

The Act places some responsibilities on veterans and other claimants (such as family members). For example, a veteran who receives an entitlement under the Act

must co-operate with Veterans' Affairs in developing and implementing an individual rehabilitation plan (Your Plan). I'm interested in your views about whether the Act should place responsibilities on people benefitting from the Act.

- 7. Do you think the Act should place responsibilities on the people receiving entitlements and support under the Act? If so, what should they be?**

## **Is it easy enough to access entitlements, rehabilitation, and support?**

A number of veterans have raised concerns about the entry and eligibility requirements for entitlements, rehabilitation, and support under the Act. Not all aspects of this matter may be within the scope of the review, but I consider it an important issue to hear your views about.

## **Is the threshold for “significant risk of harm” too high?**

If the Minister of Veterans' Affairs considers that a deployment poses a significant risk of harm to the people deployed, the Minister must declare the deployment “qualifying operational service”. The risk assessment includes operational and environmental threats. A number of people have raised concerns that the threshold for “significant risk of harm” is too high. They wonder whether these threat categories adequately take into account impacts on individuals – for example, psychological and moral impacts.

- 8. Do you think the current threshold of “significant risk of harm”, for the Minister to declare “qualifying operational service”, is too high? Do you think factors other than operational and environmental threats should be taken into account? If so, what are they, and why are they relevant?**

## **Does the definition of “veteran” need expanding?**

Some people consider that all New Zealand Defence Force personnel who have undertaken service – whether operational or not – should be covered by the Act. This would include, for example, training and routine trade activities within New Zealand and overseas.

The current definition of veteran includes a person who has been seconded to the New Zealand Defence Force with the permission of the Chief of Defence Force, and who takes part in qualifying operational service at the direction of the Government. However, other groups who are not formally seconded (for example, interpreters) should perhaps be covered.

I would be interested in whether you think the definition of “veteran” should be changed in any way.

9. Do you agree with the definition of “veteran” used in the Act? If not, what would you change?

## Does the Act need to state how to manage multiple entitlements?

Because of the way Schemes One and Two are set up under the Act, some veterans may be eligible for two or three types of impairment compensation. This may occur if a veteran:

- has qualifying service before 1 April 1974 and qualifying operational service after 1 April 1974
- has qualifying operational service both before and after 1 April 2002.

Multiple entitlements may also arise if a veteran’s existing service-related injury, illness or condition is aggravated by further service. While these situations are likely to be rare, the Act does not make clear how they should be managed. Usually, the Government does not allow people to access multiple entitlements for the same thing.

10. Do you think the Act should make clear how to manage multiple entitlements? If so, how do you think multiple entitlements should be managed?

## Should the Veterans’ Pension be automatically available?

The Veterans’ Pension is paid at the same rate as New Zealand Superannuation. It has some additional advantages. For example, a person receiving the Veterans’ Pension automatically receives a Community Services Card.

Some people have suggested the Veterans’ Pension should automatically be available to veterans. If a veteran wanted to receive New Zealand Superannuation instead, they would need to opt out of the Veterans’ Pension. A register of eligible veterans would be needed to manage an automatic entitlement to the Veterans’ Pension.

11. Do you think eligible veterans should automatically receive a Veterans’ Pension instead of New Zealand Superannuation? Do you have anything else you’d like to raise about the Veterans’ Pension?

## Do the rights of a deceased veteran's estate or family to access entitlements need to be clarified?

Some issues have been raised about what happens to entitlements (including the terminal lump sum) when a veteran dies, and whether they should be paid to estates or family members. I'm interested in your views on this.

The Veterans' Advisory Board is preparing a paper for the Minister of Veterans' Affairs on the ability of deceased veterans' estates to access entitlements. I will take the Board's recommendations into account in preparing my final report.

12. Do you think the estate of a deceased veteran or claimant should be able to access a lump sum or other entitlements? If so, why, and under what circumstances?
13. Do you think family members, not just veterans' estates, should be able to access lump sums or other entitlements?

Under Scheme One, the War Disablement Pension or the Disablement Pension continues to be paid for 28 days after a veteran's death. This provides some transitional support in a time of need. Similar arrangements do not exist for Scheme Two entitlements (for example, the Independence Allowance).

14. Do you think all entitlements should continue to be paid for 28 days after the death of a veteran?

## Does eligibility for the Surviving Spouse or Partner Pension need simplifying?

Under Scheme One, the Surviving Spouse or Partner Pension (SSPP) is paid to spouses or partners of deceased veterans:

- whose death is service-related, or
- who were significantly impaired and were, or could have been, receiving a War Disablement Pension or Disablement Pension.<sup>1</sup>

As at 30 April 2017, 4,564 people were on the SSPP. The average age of recipients is 85 years old.

The current tests for eligibility for the SSPP are complex and time consuming for

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<sup>1</sup> A veteran must have been receiving either:

- a War Disablement Pension for 70% disablement or more, or
- a Permanent Disablement Pension for 52% whole-of-person impairment or more.

both the surviving spouse or partner and Veterans' Affairs. A simpler approach may be possible.

**15. Do you think the current eligibility criteria could be simplified so that all spouses or partners of deceased veterans with qualifying operational service are eligible for a Surviving Spouse or Partner Pension? If so, why?**

If the spouse or partner enters into a new relationship, the SSPP entitlement ends, but the spouse or partner is entitled to a lump sum equivalent to two years of payment or two years of periodic payments. The SSPP can be reinstated if the new relationship ends within five years, but not if the new relationship ends after more than five years.

The Act does not outline how often the SSPP can be reinstated after the spouse or partner enters and then leaves a new relationship within the five-year limit. I would be interested in your views on these matters.

**16. Do you think the Surviving Spouse or Partner Pension should be able to be reinstated after the spouse or partner enters then leaves a new relationship? Should the Act state how many times this can happen?**

## **Does the definition of “child” need expanding?**

A number of veterans have expressed concern about the narrowness of the definition of “child”<sup>2</sup> in the Act. They think the definition does not adequately reflect the contemporary family unit, or the financial dependence of a child on the veteran. Children who do not meet the definition of “child” will often still be eligible for support under the Act as a “dependant”.

The aim of the Act is to provide fair entitlements, so a new definition may be needed to reflect changing family dynamics present in modern New Zealand. This could include recognising whāngai children under customary Māori arrangements, where a child is raised by family members who are not the child’s birth parents.

**17. Do you think the current definition of “child” is adequate? If not, how would you change it? Do you think the definition should reflect the financial dependence of the child on the veteran?**

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<sup>2</sup> Child 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.

# Services and support available to veterans and their families

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This section sets out some early thoughts and questions about the range of entitlements and support available to veterans and their families. You may have other ideas and issues that you'd like to raise about this topic.

## Is the range of services and support available to veterans and their families sufficient?

The Act promotes a more contemporary approach to treatment and rehabilitation (medical, psychosocial and vocational). I'm interested in your views on the range and type of services provided under the Act, and whether they meet your needs. One example raised with me is that career support – such as career planning and interview support – could be provided as part of vocational rehabilitation.

**18. Does the range and type of services provided under the Act meet your needs? If not, why not? Should any other services or support be included?**

In many cases, families play a significant role in supporting veterans. A number of people have told me that a holistic approach that includes the family's needs is critical to a veteran achieving their maximum level of rehabilitation.

Spouses or partners of veterans who are severely impaired and unable to work – or who die from a service-related cause – are eligible for vocational support. But the Act could possibly be improved to better include veterans' families. For example, Australia and Canada provide family support plans, which include vocational support and counselling.

**19. Can you suggest how to better include families in a veteran's rehabilitation and treatment?**

**20. What other services would be helpful for families as part of a veteran's rehabilitation and treatment?**

## Should the Children's Bursary be available to a wider range of students?

A small group of veterans' children under Scheme One are eligible for study support through a Children's Bursary. To be eligible for a Children's Bursary, a child must be either in full-time secondary study, full-time tertiary study, or part-time tertiary study, within New Zealand. This appears to exclude children in other forms of unpaid study or training, such as vocational training.

**21. Do you think children in any type of unpaid full-time or part-time study or training should be eligible for the Children's Bursary?**

## Should the Act allow for more private treatment of injury or illness?

The Act allows Veterans' Affairs to pay or contribute to the cost of treatment for a veteran's service-related injury or illness. Exceptions to this are:

- if the veteran is a member of the armed forces and the New Zealand Defence Force is already paying or contributing to the cost
- if ACC is paying or contributing to the cost
- if treatment is available under the public health system.

Some people think that the exception for publicly-available services provides limited benefit to veterans, and is not consistent with the principle of benevolence.

In practice, Veterans' Affairs will pay for private treatment in a range of circumstances. These include:

- to help the veteran return to work
- if the veteran's illness or injury is severe
- if there is the potential for harm due to unreasonable delay
- if the treatment is not available under the public system.

I would be interested in your views on this issue.

**22. Should the Act allow Veterans' Affairs to pay for private treatment of injury or illness? If so, when and why?**

## Should the Act recognise a wider range of treatment providers?

The Act's definition of "treatment provider" includes specific registered health practitioners (for example, chiropractor, dentist, medical practitioner, optometrist, physiotherapist, nurse, nurse practitioner, podiatrist). The Act allows the regulations

to add other types of treatment provider that Veterans' Affairs thinks will be providing treatment and rehabilitation services to veterans. The regulations also set out the necessary professional regulatory membership, qualifications, training, and experience that the treatment provider requires.

I would be interested in your view on whether you think any other "treatment providers" should be added to the regulations. One example raised with me is exercise physiologists.

**23. Are there any treatment providers not currently recognised under the Act that you think should be added to the regulations? Who, and why?**

### **Does access to services while overseas need improving?**

I have become aware of a general issue about what government support veterans and their families should be able to access while overseas – whether they're resident in another country, or just visiting.

The Act clearly specifies that some income-related entitlements are available to veterans living overseas (for example, the Disablement Pension, Weekly Compensation).

Otherwise, the Act is silent on what veterans and their families can expect when out of New Zealand. I understand that Veterans' Affairs' operational policy allows payment for treatment, rehabilitation and other supports when a veteran lives in another country. It does not, however, allow for these costs to be paid when temporarily travelling to other countries. This is likely to be a barrier for some veterans who wish to travel internationally, particularly as they sometimes won't be able to get travel insurance for service-related conditions.

From an administrative point of view, it can be difficult to make short-term arrangements for treatment overseas. Quality, safety and cost can be an issue. I'm interested in your thoughts about what veterans and their families should be eligible for while overseas.

**24. What support should veterans and their families be eligible for while overseas? What considerations should be taken into account? Should it matter whether veterans and their families are living in another country or just visiting temporarily?**

### **Could the Veterans' Independence Programme better cater for the families of deceased veterans?**

The Act currently allows the spouse or partner of a deceased veteran to receive the same services and support under the Veterans' Independence Programme that the veteran was entitled to – for 12 months after the veteran's death. This support is

based on the level and type of cover the veteran was receiving, rather than the individual needs of the spouse or partner.

The Veterans' Advisory Board recommends that support under the Veterans' Independence Programme should be based on the individual needs of the family (including children and dependants) living with the veteran at the time of his or her death. An alternative approach might be for the veteran's family to receive the monetary value of the veteran's previous support under the Veterans' Independence Programme, but to choose how to spend the money on support that best meets their needs.

The Board's recommendations, if adopted, would have implications for the types of services provided under the Veterans' Independence Programme and its purpose.

**25. Should the support given to a deceased veteran's spouse, partner and other family members under the Veterans' Independence Programme be based on the family's needs, rather than the services and support the veteran was receiving? How would this change the nature of services provided?**

The Board has also recommended that the 12 months of support for the family under the Veterans' Independence Programme should begin, if the family chooses, when the veteran moves into permanent care.

**26. Should families have the choice to access their 12 months of support under the Veterans' Independence Programme when a veteran moves into permanent care?**

**27. Would you like to raise any other matters about the services provided under the Veterans' Independence Programme?**

## **Is the entitlement for funeral expenses sufficient?**

The Act allows Veterans' Affairs to pay or contribute to the expenses of a veteran's funeral, if a veteran's death is due to qualifying service. The current payment for funeral expenses is \$2,482.43 (as at 1 April 2017).

If the veteran is not eligible due to qualifying service, but has been receiving certain income support entitlements, they may also be entitled to a grant for funeral expenses.

Two issues have been raised with me about funeral expenses and how benevolent the approach is. The first is whether the families of all veterans should be able to seek some support for funeral expenses under the Act.

**28. Should the families of all veterans be entitled to support for a veteran's funeral (not just families of veterans whose death is due to qualifying service, or who are receiving income support entitlements). Why? Or what would you propose instead?**

The second issue is the difference between the actual cost of a funeral and Veterans' Affairs' contribution. I would be interested in your view about the scope of this support.

**29. Is Veterans' Affairs' current contribution to funeral costs sufficient? If not, what level of support would you propose instead?**

## **Should funding for plaques and headstones extend to Commonwealth veterans?**

Veterans' Affairs is responsible for funding memorial plaques and headstones for veterans and their spouses and partners. Before the Act came into force, custom and practice was for Veterans' Affairs to provide or subsidise plaques and headstones for both New Zealand and Commonwealth veterans. Veterans' Affairs also funded changes to those plaques when the veteran's spouse was buried. The definition of "veteran" under the new Act, however, does not provide for benefits for Commonwealth veterans.<sup>3</sup>

For applications received before 1 July 2016, Veterans' Affairs is funding changes to existing Commonwealth plaques when a spouse dies if, at the time the veteran or spouse died, an assurance was given that funding would be available to change the plaque on the death of the spouse.

**30. Should the families of all veterans, including Commonwealth veterans, be entitled to assistance for the cost of plaques and headstones? Why?**

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<sup>3</sup> The Burial and Cremation Act 1964 allows local authorities to make burial arrangements for members of 'Her Majesty's Forces' and their partners. This group is broader than the group currently eligible for funding of plaques and headstones.

# Wording and organisation of the Act

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This section sets out some early thoughts and questions about how the Act is worded and organised, including whether anything is missing, and whether the wording is consistent with the Government's intended meaning. You may have other ideas and issues that you'd like to raise about this topic.

## Is the balance between the Act, regulations, and policies okay?

In your view, has the division of content between the Act, regulations, and operational policies struck a good balance? Is there enough certainty about decisions on entitlements, while retaining enough flexibility to meet individuals' needs?

31. Has the right balance been struck between what is in the Act, regulations and operational policies? If not, what would you change?

## Could the wording of the Act better reflect the Government's intended meaning?

The last two years have disclosed several areas in the Act where the wording does not appear to accurately reflect the Government's intent and actual practice. In particular, the wording of the Act is not always consistent with the Government's decision to limit certain entitlements.

I'm interested in any inconsistencies you may have identified between the Government's intent, the legislation, and operational practice.

32. Where could the Act be clarified or made more consistent? What would you change?

## Could the provisions of the Act be grouped more logically?

The way provisions are grouped in the Act could be improved. Some people find the Act disjointed and confusing. For example, provisions relating to Scheme One and Scheme Two could be located in one place in the Act, and not split across different parts and schedules. They would then be easier to follow.

33. What common provisions in the Act should be grouped in the same place?

## Does the Act need more definitions or any changes to terminology?

Some people using the Act say the lack of particular definitions makes the Act difficult to interpret (for example, definitions of ‘spouse’ or ‘completed application’). The Act also uses some outdated terminology (for example, ‘disablement’).

34. What words or phrases in the Act would benefit from a definition or change of terminology?

## Should the Act allow decisions to be reconsidered in light of new information?

Section 205 of the Act allows Veterans’ Affairs to reconsider a decision, at any time, if it thinks it may have made an error. Some people have suggested allowing Veterans’ Affairs to consider new information, not just errors. Also, the Act is not clear whether or not decisions under the War Pensions Act 1954 can be reconsidered.

35. Should the Act allow Veterans’ Affairs to reconsider any decision under the War Pensions Act 1954 or the Veterans’ Support Act 2014, if it thinks there may have been an error or if there’s new information?

## Do the common elements of treatment and rehabilitation need combining in the Act?

The Act does not make it obvious to the reader that treatment and rehabilitation are part of a continuum of support. Combining the common elements of the treatment and rehabilitation provisions into common provisions could improve the readability of the Act.

The Act also has different provisions for treatment and rehabilitation in different places. One example is the difference between treatment and rehabilitation in high-risk situations. While Veterans’ Affairs has the discretion to fund both treatment and rehabilitation for veterans in high-risk situations without first completing its usual acceptance processes, the degree of proof required is different.

The Act should have a consistent approach to treatment and rehabilitation in high-risk situations.

36. Does it make sense to combine the common elements of treatment and rehabilitation into common provisions in the Act? If not, why not?

# Effectiveness and efficiency of processes around the Act

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This section sets out some early thoughts and questions about whether processes under the Act are effective and efficient. You may have other ideas and issues that you'd like to raise about this topic.

## Is the 30-day timeframe for making decisions about entitlements too restrictive?

The Act currently requires Veterans' Affairs to make decisions about entitlements within 30 working days of receiving a claim.<sup>4</sup> Veterans need to be kept informed about progress with decisions, and to have decisions made as quickly as possible. However, in practice, making complex decisions within 30 days may be difficult.

The current 30-day timeframe could be replaced in the Act with something less restrictive. The Canadian legislation provides a potential model. It requires that decisions must be made as expeditiously as the circumstances and considerations of fairness permit.

If the Act was changed, Veterans' Affairs would need to be transparent about, and accountable for, its timeframes, and to make decisions as quickly as possible. For example, it could be required to publish expected and actual timeframes on its website and in its annual report.

**37. Is the 30-day timeframe for making decisions about entitlements too restrictive? Should the Act be changed to require Veterans' Affairs to deal with decisions promptly, taking into account the particular circumstances and considerations of fairness? If not, why not? What would you propose instead?**

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<sup>4</sup> The 30-day period excludes any time needed to obtain additional information to support a decision on the claim.

## Could agencies providing care for veterans and their families work together better?

A number of different agencies are involved in making sure veterans receive support and services throughout their lives. They include Veterans' Affairs, ACC, the Ministry of Social Development, and the Ministry of Health. I'm interested in your views about whether agencies such as these, or the sectors they represent, could work together better.

**38. Could agencies and sectors work together better when delivering support to veterans? If so, how?**

## Do the roles or processes of advisory and decision-making bodies need improving?

The Act provides for the following advisory and decision-making bodies:

- The Veterans' Advisory Board, which provides advice to the Minister of Veterans' Affairs on veterans' matters, including policies to be applied to veterans' entitlements.
- The Veterans' Health Advisory Panel, which provides advice and guidelines to the Minister of Veterans' Affairs on veterans' health matters, including:
  - the relationship between qualifying operational service and impairment for assessing eligibility to entitlements
  - the assessment and determination of claims by Veterans' Affairs and medical assessors, and
  - how the Veterans' Medical Research Trust Fund is to be applied to the impacts of service on veterans' health.
- The Veterans' Entitlements Appeals Board, which considers appeals about decisions for entitlements under the Act (with the exception of the Veterans' Pension, which falls under the responsibility of the Social Security Appeal Authority).

In discussions to date, some questions have been raised about the role and functions of these bodies. I would be interested in your views on whether you think any changes are needed.

**39. Are any changes needed to the role and operation of the advisory or decision-making bodies under the Act? If so, what and why?**

## Do we need to change our approach to adopting and using Statements of Principles?

Another matter that merits consideration is the role the Veterans' Health Advisory Panel plays in reviewing the Australian Statements of Principles, and whether the process for doing this could be streamlined.

The Statements of Principles specify the service factors linked to particular conditions and support decisions about entitlements. These factors are based on international scientific and medical evidence.

The Veterans' Health Advisory Panel reviews new Statements of Principles and any amendments to existing Statements of Principles, and provides advice to the Minister on their adoption. Regulations are made under the Act to adopt the selected Statements of Principles.

New Zealand's process for reviewing and adopting the Statements of Principles is administratively cumbersome. To date, New Zealand has adopted all the Australian Statements of Principles. Revisions to the Statements of Principles tend to be routine, and based upon sound medical and scientific advice.

Some people have raised questions with me about both the nature of the Statements of Principles and the process for adopting them.

**40. Do you have an opinion on how the Australian Statements of Principles are used to determine entitlements? Would you suggest a different approach? What, and why?**

**41. Is there an easier way to adopt the Statements of Principles? If so, what would you recommend, and why?**

## Could some entitlements be organised more efficiently?

Some entitlements under the Act could be combined. An example is the Travel Allowance and the Travel Concession. The Travel Allowance, paid under the Veterans' Independence Programme, helps veterans do things to remain independent in their home (for example, grocery shopping, attending social activities). The allowance is not needs-assessed but is based on disability type and paid at a weekly rate of \$25.41 (as at 1 April 2017).

The Travel Concession reimburses veterans for personal and recreational travel over 80 kilometres. Eligibility is based upon having certain levels of impairment. The Travel Concession has no annual expenditure cap and some veterans submit high annual levels of reimbursements. Claims range from less than \$100 to \$15,000 per year. The average cost of reimbursement per claimant is about \$835 per year. The reimbursement process is administratively burdensome and can result in payment delays and inconvenience to veterans.

At present, only about half of veterans who are entitled to claim for the full travel concession actually do. This raises questions about whether the incentives to claim for travel are right, and how well the current approach supports the actual travel needs of veterans. A better approach might be to have a capped annual grant to cover all travel, and to make the grant needs-assessed.

**42. Should any entitlements be combined to increase efficiency and effectiveness? If so, what are they, and why?**

## Other issues to do with the Act

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This section sets out some early thoughts and questions about other possible issues to do with the Act. You may have other ideas and issues that you'd like to raise.

### Will the Act work well in the future?

I'm interested in hearing whether you think the Act will work well into the future for veterans and their families. In particular, I'd like to know if the treatment, rehabilitation and support available to current veterans and their families will align with likely future demands and expectations.

43. Do you have any ideas about how to make sure the Act supports veterans and their families into the future?

### Is a further review of the Act needed?

It is quite early to undertake a review to see if the Act meets the needs of veterans. Scheme Two is still in its infancy. This raises the question whether there needs to be a further review.

44. Do you think a further review of the Act is needed? If so, when, and what do you think should be covered?

### Would you like to raise any other matters?

The matters raised in this discussion document are by no means comprehensive. They are just a starting point for further reflection and discussion. I'm interested in any other matters you would like to raise.

45. Do you have any other matters you'd like to raise?

# Appendix: Schemes One and Two

This section summarises the entitlements available to veterans and their families under Scheme One and Scheme Two of the Act, as well as entitlements common to both schemes.<sup>5</sup>

## Scheme One

Assistance provided	Description
<b>Impairment compensation</b>	
<b>Disablement Pension</b> An ongoing payment for service-related impairment.	A veteran who has an impairment as a result of a service-related illness or injury is eligible for the Disablement Pension. The pension is exempt from income tax and is not included in eligibility tests for other forms of social assistance provided by the New Zealand Government.
<b>War Disablement Pension</b> A transitional arrangement for ongoing payment for service-related disablement.	A grandparented entitlement that continues for those who received it under the War Pensions Act 1954. The pension is exempt from income tax and is not included in eligibility tests for other forms of social assistance provided by the New Zealand Government.
<b>Terminal Illness Lump Sum</b> A lump sum payment of 12 months' worth of War Disablement Pension or Disablement Pension payments paid at the maximum rate.	A veteran must be eligible for a War Disablement Pension or a Disablement Pension and be diagnosed with a terminal medical condition that arises from a service-related illness or injury.  The lump sum is equivalent to 12 months' worth of payments of the War Disablement Pension or Disablement Pension paid at the maximum rate.  The lump sum payment is exempt from income tax.
<b>Income compensation</b>	
<b>Weekly Income Compensation</b> An ongoing payment paid at a rate equivalent to 80% of the average wage.	A veteran must be under the New Zealand Superannuation qualifying age, currently 65, be unable to work full-time, be participating in a rehabilitation plan where able, and not receiving any benefit paid under the Social Security Act 1964. The compensation payment is subject to income tax.
<b>Family entitlements</b>	
<b>Surviving Spouse or Partner Pension</b> An ongoing payment for the surviving spouse or partner of deceased veterans.	The veteran's death must be service-related, or the veteran must have been receiving: <ul style="list-style-type: none"> <li>• a permanent War Disablement Pension of 70% or more, or</li> <li>• a permanent Disablement Pension of 52% or more, or</li> <li>• could have been receiving either had the veteran not died.</li> </ul>

<sup>5</sup> Some other smaller entitlements, support, and grants available under the Act are not included in these tables.

Assistance provided	Description
	<p>The pension is exempt from income tax and is not included in eligibility tests for other forms of social assistance provided by the New Zealand Government.</p> <p>The payment is paid for a lifetime unless the spouse or partner enters into a new relationship.</p>
<p><b>Children’s Pension</b> An ongoing payment for a child of a severely impaired or deceased veteran.</p>	<p>The veteran’s death must be service-related, or the veteran must have been receiving:</p> <ul style="list-style-type: none"> <li>• a permanent War Disablement Pension of 70% or more, or</li> <li>• a permanent Disablement Pension of 52% or more, or</li> <li>• could have been receiving either had the veteran not died.</li> </ul> <p>The pension is paid until the child turns 18, or 23 if the child continues in full-time study. The pension also continues if the child suffers from “physical or mental infirmity”.</p> <p>The pension is exempt from being treated as income for the purposes of Student Allowance eligibility and other forms of social assistance provided by the New Zealand Government.</p>
<p><b>Dependant’s Pension</b> An ongoing payment for the dependant of a severely impaired or deceased veteran.</p>	<p>The veteran’s death must be service-related, or the veteran must have been receiving:</p> <ul style="list-style-type: none"> <li>• a permanent War Disablement Pension of 70% or more, or</li> <li>• a permanent Disablement Pension of 52% or more, or</li> <li>• could have been receiving either had the veteran not died.</li> </ul> <p>Three types of dependant are defined in section 7 of the Act, and the criteria for one of these types must be met. Criteria primarily relate to:</p> <ul style="list-style-type: none"> <li>• age</li> <li>• financial dependency</li> <li>• being in the care of the veteran</li> <li>• ordinarily residing with the veteran, or</li> <li>• physical or mental disability.</li> </ul> <p>The pension is subject to an economic test. The period it may be paid for relies on the circumstances under which the dependant became eligible.</p>

## Scheme Two

Assistance provided	Description
<b>Impairment compensation</b>	
<p><b>Independence Allowance</b> An ongoing payment for permanent impairment arising from qualifying operational service that occurred between 1 April 1974 and 31 March 2002.</p>	<p>A veteran is eligible for the Independence Allowance if he or she has qualifying operational service on or after 1 April 1974 and before 1 April 2002 and suffers permanent service-related impairment of 5% or more. The Independence Allowance can be paid as a 12-month lump sum payment. The allowance is exempt from income tax.</p>
<p><b>Permanent impairment lump sum</b> A lump-sum payment for impairment arising from qualifying operational service that occurs on or after 1 April 2002.</p>	<p>A veteran is eligible for a lump-sum payment if he or she has qualifying operational service on or after 1 April 2002, suffers permanent service-related impairment of 5% or more, and survives their service-related impairment for a period of more than 28 days.</p>
<b>Income compensation</b>	
<p><b>Weekly Compensation</b> An ongoing payment for a severely impaired veteran.</p>	<p>A veteran must have qualifying operational service after 1 April 1974, be under the New Zealand Superannuation qualifying age, currently 65, and be unable to work full-time due to a service-related condition. A veteran will be required to participate in a rehabilitation plan.</p> <p>Weekly Compensation is subject to income tax and is paid at the rate equivalent to 100% of the veteran's pre-injury or pre-illness earnings for the first year and then 85% for the second and any subsequent year of entitlement.</p>
<b>Family entitlements</b>	
<p><b>Weekly Compensation for Surviving Spouse or Partner</b> An ongoing payment for the surviving spouse or partner of a deceased veteran.</p>	<p>The veteran must have qualifying operational service and have suffered a service-related death.</p> <p>The payment is paid at the rate of 60% of the weekly compensation the veteran would have received if they had not died. It is paid for:</p> <ul style="list-style-type: none"> <li>• a minimum of 5 years, or</li> <li>• where there are children, until the youngest child turns 18, or</li> <li>• where there are dependants, for the period for which a dependant of the deceased veteran continues to be cared for by the surviving spouse or partner.</li> </ul> <p>The payment may be made as a lump sum payment. The payment is subject to income tax.</p>
<p><b>Vocational Assistance Surviving Spouse or Partner</b> The provision of vocational assistance to a spouse or partner of a severely impaired or deceased veteran.</p>	<p>The veteran must have qualifying operational service and:</p> <ul style="list-style-type: none"> <li>• a service-related condition resulting from that service that makes them unable to work or unable to undertake vocational rehabilitation; or</li> <li>• suffered a service-related death.</li> </ul>

Assistance provided	Description
	<p>An assessment will identify the spouse or partner's vocational assistance needs and types of work that may be appropriate for the spouse or partner. Certain rules apply to when and how long vocational support will be provided.</p>
<p><b>Children's Weekly Compensation</b> An ongoing payment for a child of a deceased veteran.</p>	<p>The veteran must have qualifying operational service and have suffered a service-related death.</p> <p>The payment is paid at the rate of 20% of the weekly compensation the veteran would have received if they had not died. It is paid until the child turns 18 or, if they undertake full-time study, until they turn 23.</p> <p>If there is more than one child, the 20% is to be shared evenly between the children. The payment is subject to income tax.</p>
<p><b>Dependant's Weekly Compensation</b> An ongoing payment for the dependant of a deceased veteran.</p>	<p>The veteran must have qualifying operational service and have suffered a service-related death.</p> <p>The payment is paid at the rate of 20% of the weekly compensation the veteran would have received if they had not died. It is paid until the dependant earns more than the minimum rate of weekly compensation or until they turn 65, whichever comes first. The payment is subject to income tax.</p>
<p><b>Survivor's Grant</b> A one-time payment paid to the surviving spouse or partner of a deceased veteran, each child of a deceased veteran and any other dependant of the deceased veteran.</p>	<p>The veteran must have qualifying operational service and have suffered a service-related death.</p> <p>Where an entitlement from ACC is payable, Veterans' Affairs will pay any difference. Where there is more than one spouse or partner, the payment will be divided evenly. The payment is exempt from income tax.</p>
<p><b>Childcare payments</b> Payment of a certain amount towards the care of dependent children of a deceased veteran.</p>	<p>The veteran must have qualifying operational service and have suffered a service-related death.</p> <p>The child must have been dependent on the veteran when they died. An exception is a child of the veteran born within 12 months of their death.</p> <p>Payment is for a maximum of 5 years or until a child turns 14 years of age, whichever comes first. Payment will be made to the caregiver or financially responsible person of each eligible child.</p> <p>Where an entitlement from ACC is payable, Veterans' Affairs will pay any difference. The payment is exempt from income tax.</p>

## Entitlements and services common to both schemes

Assistance provided	Description
<b>Income support</b>	
<p><b>Veteran's Pension</b> An ongoing payment equivalent to, and paid as an alternative to, New Zealand Superannuation.</p>	<p>A veteran must have reached the qualification age of New Zealand Superannuation, currently 65, and have qualifying operational service.</p>
<b>Income compensation</b>	
<p><b>Retirement Lump Sum</b> A one-time lump sum payment payable on reaching the qualifying age for New Zealand Superannuation.</p>	<p>The veteran must be receiving Weekly Income Compensation or Weekly Compensation from Veterans' Affairs and have been receiving such income compensation for a period of 10 years or more on the date the veteran qualifies for New Zealand Superannuation.</p> <p>Payment is subject to an asset assessment and is treated as income for the purpose of applying for assistance under the Social Security Act 1964.</p> <p>Income compensation includes the Veteran's Pension under 65, War Veteran's Allowance, War Service Pension and the Economic Pension previously paid under the War Pensions Act.</p>
<b>Treatment</b>	
<p><b>Treatment Costs</b> Reimbursement of, or contribution to, treatment costs associated with accepted service-related conditions. Includes necessary ancillary costs and associated travel costs.</p>	<p>A veteran must have an accepted service-related condition for which they are receiving approved treatment.</p>
<b>Rehabilitation</b>	
<p><b>Social Rehabilitation</b> Assisting the rehabilitation of a veteran by providing services and support aimed at them regaining as much independence as possible.</p>	<p>The veteran must have a service-related injury or illness and require social rehabilitation. The veteran will be assigned a case manager who will work with the veteran on their rehabilitation plan.</p>
<p><b>Vocational Rehabilitation</b> Assisting a veteran back to work. It can help a veteran find or maintain a job, or regain or achieve vocational independence.</p>	<p>The veteran must have a service-related injury or illness and Weekly Income Compensation or Weekly Compensation and require vocational rehabilitation. The veteran will be assigned a case manager who will work with the veteran on their rehabilitation plan.</p>

Assistance provided	Description
<b>Independence assistance (veteran)</b>	
<p><b>Veterans' Independence Programme</b> Providing certain services and support for veterans who are unable to undertake activities necessary for them to remain independent in their home.</p>	<p>The provision of services and support is determined based on assessment of the individual veteran's need.</p>
<b>Independence assistance (surviving spouse or partner)</b>	
<p><b>Veterans' Independence Programme</b> Providing services and support for the surviving spouse or partner of a deceased veteran.</p>	<p>The provision of services and support is determined based on assessment of what the veteran was receiving or would have been eligible for had they not died.</p> <p>Services and support may be provided for up to a year after the death of the veteran.</p>
<b>Funeral Costs</b>	
<p><b>Funeral expenses</b> Payment or contribution to the cost of a veteran's funeral costs.</p>	<p>The veteran's death must be service-related, or the veteran must have been receiving:</p> <ul style="list-style-type: none"> <li>• Weekly Income Compensation or Weekly Compensation, or</li> <li>• a Veteran's Pension or New Zealand Superannuation, or</li> <li>• a supported living payment under the Social Security Act 1964.</li> </ul> <p>If the veteran's death was not service-related, the veteran must have left a spouse or partner, or a child or a dependant who is eligible for a Surviving Spouse or Partner Pension, a Children's Pension, a Dependant's Pension, or a Survivor's Grant.</p> <p>Further assistance for transporting the body may be provided in certain circumstances if the veteran's death is service-related.</p>
<p><b>Plaques and headstones</b> Payment or contribution to a plaque or headstone.</p>	<p>A New Zealand veteran who is eligible for burial in a services cemetery is eligible for a plaque or headstone for themselves and their spouse or partner. Where an eligible veteran chooses to be buried in a public cemetery a contribution will be made towards the purchase of a memorial.</p>
<b>Financial advice</b>	
<p><b>Financial advice</b> Payment towards financial advice</p>	<p>Where certain lump sum payments of \$NZ15,000 or more have been paid, a contribution of up to \$NZ1,500 will be paid towards professional financial advice.</p>