



Te Tira Ahu Ika A Whiro

**VETERANS'
AFFAIRS**

New Zealand

Policy

Statements of Principles

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Contents

Policy	3
1. Purpose.....	3
2. Legislative Reference	3
3. What are Statements of Principles?	3
4. When SOPs are not used to determine claims	4
5. Which version of the SOP should be applied	4
6. Applying the Statements of Principles (the Deledio steps).....	4
7. Checking the veteran’s condition against the SOP definition	5
8. Applying the SOP Factors.....	5
9. Applying SOP Factors to determine aggravation	5
10. When a factor is another condition	6
11. Final steps in SOP factor process (Stage 4 of the Deledio steps)	6
12. Applications when there is no applicable SOP.....	6
13. Veterans Living Overseas.....	7
14. Reviews, Appeals and Complaints	7
15. Reconsideration.....	7
16. Transitional Arrangements.....	7
Appendix I: Pathway for Statements of Principles Decisions.....	8
Appendix II: Scenario for applying SOP for aggravation condition that involves minimum cumulative amount (Kattenberg Principle)	9
Glossary	10

Policy

1. Purpose

- 1.1 This Policy provides guidance on applying the Statements of Principles described in Schedule 1 of the Veterans' Support Regulations 2014 (the Regulations) in order to determine whether a veteran's injury, illness or death was caused or aggravated by their service.

2. Legislative Reference

- 2.1 The relevant legislation is the:
- Veterans' Support Act 2014 (the Act), sections 14 to 16
 - the Regulations, regulation 14 and Schedule 1.

3. What are Statements of Principles?

- 3.1 Statements of Principles (SOPs) provide definitions of the disease or injury and specify what factors must exist for the **condition** to be causally connected to a veteran's **qualifying service**. SOPs are legal instruments, based on medical-scientific evidence. The factors capture:

- the causation and aggravation (clinical worsening) of the relevant condition
- the disease, activity, event, exposure or treatment which cause or aggravate a particular condition
- time, quantity and other "dosage" requirements.

A condition itself may be a factor which can further worsen the condition under consideration (**Go to section 10 for when a factor is another condition**).

- 3.2 There are two classes of SOPs, each using a different standard of proof:

(1) Reasonable Hypothesis SOPs:

- For a factor to be included in a Reasonable Hypothesis SOP, a reasonable hypothesis of a causal association between the factor and disease must be pointed to or indicated. It must be proved beyond reasonable doubt that injury, disease or death is not related to service (i.e. the scientific and medical evidence in the factor must point to, and not leave open, the condition being caused by service. It cannot be excluded that the cause of the condition is linked to service).

(2) Balance of Probabilities SOPs:

- For a factor to be included in a Balance of Probabilities SOP, it must be more probable than not that the factor is causally related to the disease (i.e. it is more likely than not, there is a greater chance that, the cause of the injury, disease or death is related to service).

4. When SOPs are not used to determine claims

4.1 The SOPs test will not be applied if:

- the veteran or surviving dependents has provided evidence (service and service medical records) that conclusively links the occurrence or aggravation of the injury, illness or death to **qualifying operational service** as per section 19 of the Veterans' Support Act, or
- the veteran's injury, illness or death was related to his/her qualifying operational service in the events or deployments listed in Regulations 11 to 14 of the Veterans' Support Regulations and is included in the associated lists of conditions conclusively presumed to be service related.

4.2 **See section 7 for process to follow when there is no SOP for the condition being claimed for.**

5. Which version of the SOP should be applied

5.1 If a veteran's injury, illness, or death is claimed as relating to:

- qualifying operational service, then the Reasonable Hypothesis version of a SOP is to be applied
- **qualifying routine service**, then the Balance of Probabilities version of a SOP is to be applied

Regulation 15 of the Veterans' Support Regulations 2014

5.2 For veterans who have qualifying service prior to 1 April 1974 comprising both qualifying operational service and qualifying routine service, the Reasonable Hypothesis should be applied first. If none of the Reasonable Hypothesis SOP factors can be met the Balance of Principles SOP may be applied.

5.3 SOPs are periodically reviewed and updated as set out in sections 23 and 24 of the Veterans' Support Act and it is important to check that the latest version of a SOP adopted in New Zealand is being applied.

6. Applying the Statements of Principles (the Deledio steps)

6.1 Before applying a SOP the Decision Officer will consider all the available material that is relevant to the veteran's claim and decide whether the material points to and is consistent with an hypothesis or assumption that it is likely that the veteran's injury, illness or death is service-related. The clock may be stopped in order to seek additional information.

6.2 If the material is not consistent with an hypothesis that the veteran's condition is service-related the claim will be declined. If the material is consistent the Decision Officer will then establish whether there is a SOP in force that applies to the particular condition raised in the claim. This may not be the contention advanced by the veteran. The Decision Officer must ascertain whether there is a SOP in force for all viable contentions.

- 6.3 If there is an applicable SOP the Decision Officer will determine whether a Reasonable Hypothesis SOP or a Balance of Probabilities SOP is to be applied in accordance with section 5 (**Go to section 5**). **If there is no applicable SOP see section 12.**

Section 14 (1)(2)(3) of the Veterans' Support Act 2014

7. Checking the veteran's condition against the SOP definition

- 7.1 The Decision Officer will then verify that:
- the veteran's condition meets the SOP's definition of the injury or disease or death; and
 - specific tests required to satisfy diagnosis and any specific guidelines or instructions or guidelines on the process for obtaining the diagnosis have been met.
- 7.2 If in doubt an opinion from a relevant **health practitioner** with appropriate expertise should be obtained to be certain that the condition meets the definition for coverage under the SOP. The Decision Officer may also need to fill any information gaps by receiving a personal statement from the veteran.
- 7.3 If the claimed condition is an aggravation, the Decision Officer will consider if the definition of permanent clinical worsening is as required by the SOP. "Permanent" excludes any temporary exacerbations or flare-ups. "Worsening" means progression of the underlying pathology of the condition which may manifest itself in the severity or frequency of symptoms, and includes a failure to show the expected improvement in the condition. The Decision Officer will seek medical opinion on these questions. (**See section 9 for applying the SOP factors on conditions that are aggravations**).

8. Applying the SOP Factors

- 8.1 A veteran's condition only needs to meet one of the factors in the appropriate SOP in order for the claim to be accepted.
- 8.2 The Decision Officer will step through the SOP's factors, requirements and definitions in a logical sequence and will "deconstruct" each factor looking at general requirements first and then additional requirements to determine whether the factor is applicable to the veteran's claim.

9. Applying SOP Factors to determine aggravation

- 9.1 In the case of aggravation the Decision Officer will assess whether the event relating to the injury occurred within any specified time requirement set out in the SOP. If the answer is no, the factor has not yet been met and the claim will fail if no other factors are relevant. If the answer is yes the Decision Officer will consider if there are any other requirements about aggravation that also need to be met.

- 9.2 There may be factors that have a requirement to satisfy a minimum cumulative amount of something. These factors will usually have a time period specified for the factor to be undertaken within, and a time period that the onset or worsening needs to have occurred in. The Decision Officer will assess whether the material contribution by service has been made within the specified time frame. This is called applying the Kattenberg Principles as modified by Newson. **(See Appendix II for scenario example).**

10. When a factor is another condition

- 10.1 If another pre-existing disease (e.g. hypertension) is a factor in the SOP for the disease claimed for (e.g. ischaemic heart disease), the process for applying the SOPs must also be applied to the disease named as a factor. To accept the claim for ischaemic heart disease on the basis of hypertension, the veteran must be able to satisfy a factor in the SOP for hypertension and relate it to service. This is known as propagation of SOPs.
- 10.2 If the veteran meets any one of the factors for the propagated SOP condition he/she will be advised by the Case Manager that he/she may make a claim for this condition separate to the claim for the original condition under consideration. Decision Officers must note this position in their decision so that the Case Manager can follow up.

11. Final steps in SOP factor process (Stage 4 of the Deledio steps)

- 11.1 If the veteran meets none of the factors for the condition claimed, the Decision Officer will inform the veteran that the claim has been declined.
- 11.2 If the veteran meets one of the factors of the SOP the Decision Officer must determine whether all the material provided and the examination of the SOP indicate beyond reasonable doubt that the condition is not contributed to by service. If the answer is no the claim will be accepted. If the answer is yes the claim will be declined.
- 11.3 Satisfaction “Beyond Reasonable Doubt” does not mean satisfaction beyond all or any doubt. The Decision Officer does not have to be absolutely convinced that a fact(s) exists (or does not exist), but that any doubt about its existence (or non-existence) is unreasonable.

Section 14 (7) of the Veterans' Support Act 2014

12. Applications when there is no applicable SOP

- 12.1 When there is no SOP applicable to the condition the veteran is claiming for, the Decision Officer will seek advice from the relevant health practitioner with appropriate medical expertise to assess whether the condition claimed could be linked to any SOP. If not, the claim is progressed on the basis of assessing whether:

- there is more than a possibility that the veteran's condition is consistent with a reasonable hypothesis that it is service-related; and
- the hypothesis is consistent with the known facts; and
- the hypothesis is not inconsistent with proved or known scientific facts.

12.2 If a claim is consistent with the above points, then the claim must be accepted.

Section 15 of the Veterans' Support Act 2014 (2014 No 56)

13. Veterans Living Overseas

13.1 The Statements of Principles policy applies to all New Zealand veterans equally irrespective of their country of residence.

14. Reviews, Appeals and Complaints

14.1 If a veteran disagrees with a decision about eligibility for an entitlement or service see separate papers on **Reviews** and **Appeals**. If a veteran is concerned about Veterans' Affairs administration of an entitlement or service, see separate paper on **Complaints**.

15. Reconsideration

15.1 Pursuant to section 205 (3)(a) of the Veterans' Support Act, Veterans' Affairs may reconsider a decision if in its view a SOP is adopted or modified under section 22 after the decision was made and, if the SOP had been adopted or modified before the decision was made, it would have materially affected the decision. This reconsideration can occur either on the application of a veteran or other claimant or at Veterans' Affairs' own initiative.

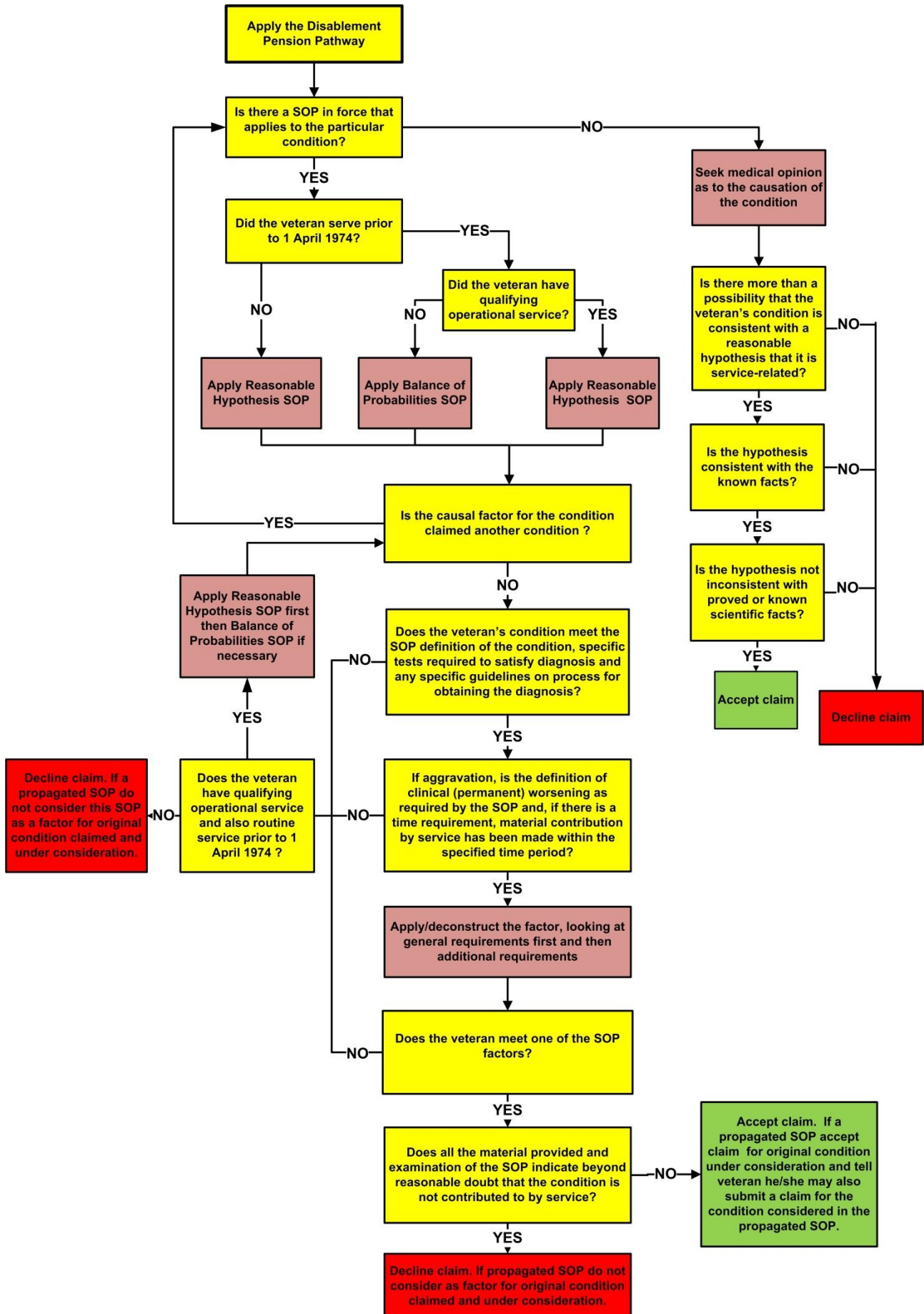
16. Transitional Arrangements

16.1 For grand-parented War Disablement Pension veterans existing approvals will continue to apply and will be reviewed against the relevant Statement of Principle at the time the veteran applies for:

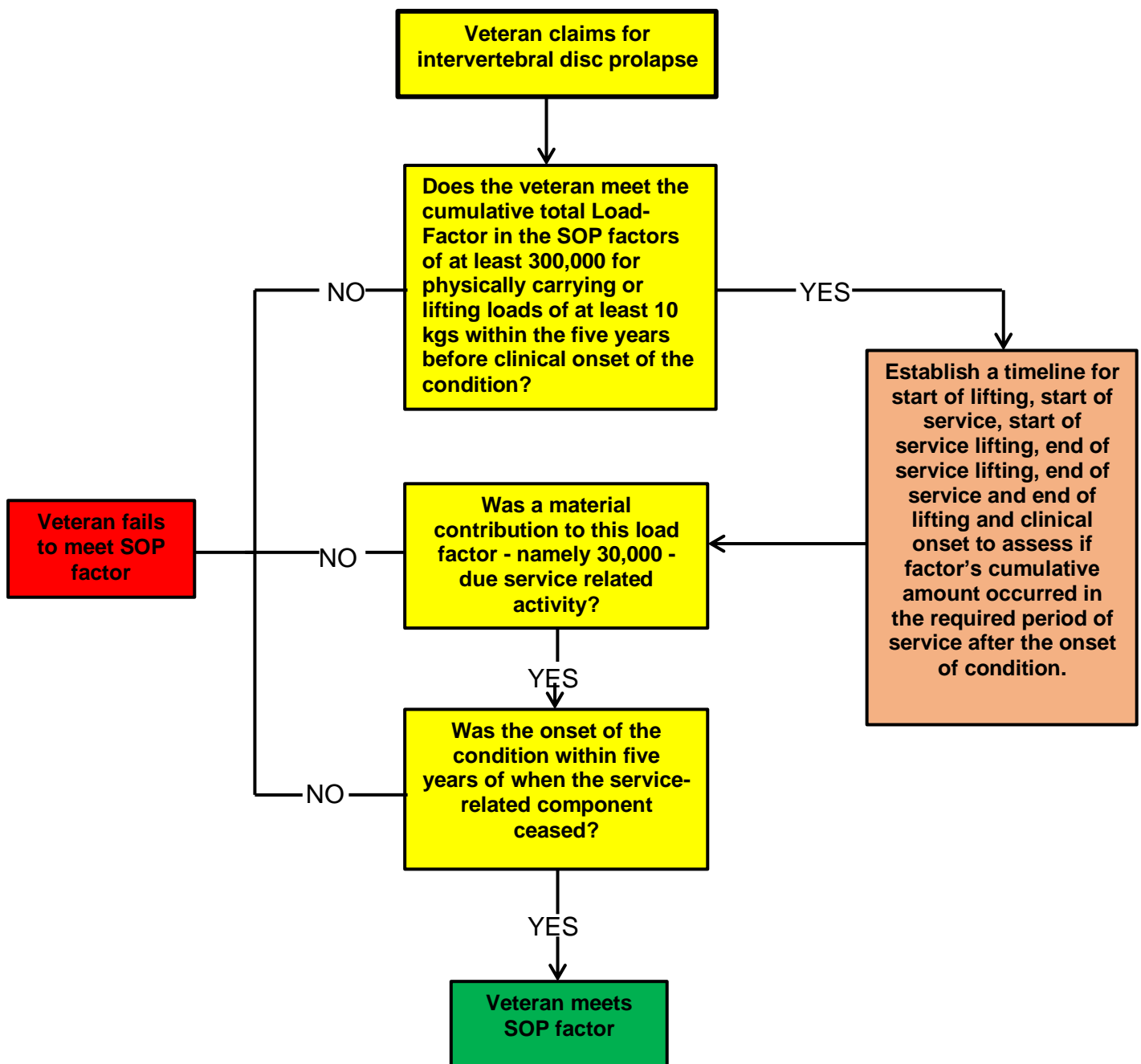
- a new injury or illness
- a temporary Disablement Pension
- where the veteran's illness or injury is reassessed.

16.2 At these points claims for entitlement must be made under the terms of the Veterans' Support Act 2014.

Appendix I: Pathway for Statements of Principles Decisions



Appendix II: Scenario for applying SOP for aggravation condition that involves minimum cumulative amount (Kattenberg Principle)



Glossary

health practitioner [section 7]

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

condition [policy definition]

For the purposes of this policy means an injury or illness.

medical practitioner [section 7]

Means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of medicine.

member of the armed forces [section 7]

Means a person who is or has been a member of the New Zealand armed force raised by the Governor-General on behalf of the Sovereign,—

- (a) whether in New Zealand or elsewhere; and
- (b) whether before or after the passing of this Act.

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; or
- (b) service on any deployment declared to be operational service under section 9.

qualifying routine service [section 8]

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

qualifying service [section 8]

Means—

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

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]

- (a) in relation to Part 3 (Scheme One), means death attributable to qualifying service; and
- (b) in relation to Part 4 (Scheme Two), means—
 - (i) the death of a person who, at the time of the person's death, was taking part in qualifying operational service;
 - (ii) the death of a person within 10 years after the person took part in qualifying operational service from a service-related illness or injury;
 - (iii) the death of a person more than 10 years after the person took part in qualifying operational service from an accepted late-onset condition.

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
- (aa) a member of the armed forces who took part in qualifying routine service before 1 April 1974; 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.