

# **Surviving Spouse or Partner Pension**

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# Policy

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## 1. Purpose

- 1.1 This policy provides guidance on administering entitlement to the Surviving Spouse Pension under the Veterans' Support Act 2014 (the Act).

## 2. Legislative Reference

- 2.1 The relevant legislation is:
- the Act, sections 7, 66 to 70, and 84, clauses 6 and 8 of Schedule ,1
  - Veterans' Support Regulations 2014, regulation 18
  - Police the Act, Act 1958, section 42
  - Policing Act 2008, section 110.

## 3. Eligibility for Surviving Spouse or Partner Pension

- 3.1 A surviving spouse or **partner** is eligible to receive a Surviving Spouse or Partner Pension if:

The veteran had undertaken **qualifying operational service**;

**OR**

The veteran's death was **service-related**;

**OR**

At the time of the veteran's death, the veteran was receiving:

- a permanent War Disablement Pension of 70% or more under the War Pensions Act 1954 in relation to disablement, or
- a permanent Disablement Pension of 52% or more in relation to whole-person impairment, or
- could have been granted either if the veteran had applied immediately before death;

**AND**

The spouse or partner and veteran were living together and maintaining a relationship in the nature of marriage immediately before the veterans' death, and the spouse or partner was contributing to the veteran's day-to-day welfare immediately before the veteran's death; or the spouse or partner and veteran were living apart because of health, imprisonment, or employment obligations of the veteran or the spouse or partner.

*Section 66 of the Veterans' Support Act 2014*

## 4. Surviving spouse or partner of a veteran with service in the NZ Police

- 4.1 The surviving spouse or partner of a police officer with service in the New Zealand Police between 1958 and 1972 who was 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*

## 5. When a spouse or partner enters a new relationship

- 5.1 If the surviving spouse or partner of a deceased veteran enters into a new relationship (marriage, civil union or de facto), their entitlement to the Surviving Spouse or Partner Pension ceases immediately.
- 5.2 However, the spouse or partner in this situation can elect to receive a payment with a value equivalent to two years' worth of the Surviving Spouse or Partner Pension, either as a periodic payment over 2 years, or as a one-off lump sum payment. The entitlement to this payment begins on the day after the surviving spouse's/partner's entitlement to the Surviving Spouse or Partner Pension ceases.

*Section 68 of the Veterans' Support Act 2014*

- 5.3 The spouse or partner will be required to provide the following details on application for this lump-sum or periodic payment:
- Full name and date of birth of the new partner
  - Date on which the relationship began
  - Date the couple first became emotionally committed and financially interdependent, or, if married or in a civil union, the date the couple first became emotionally committed and financially interdependent; and
  - A Certified Copy of the marriage certificate or civil union certificate.

## 6. Reinstatement of Surviving Spouse or Partner Pension

- 6.1 If the new relationship the surviving spouse/partner has entered into ceases within 5 years of it starting the entitlement to the Surviving Spouse or Partner Pension can be reinstated. The surviving spouse/partner will be required to apply for reinstatement providing the details listed in paragraph 5.3 above together with evidence that the new relationship has ceased (e.g. divorce or official separation notice, death certificate, separate addresses, living alone allowance evidence).

*Section 69 of the Veterans' Support Act 2014*

## 7. What happens when the Surviving Spouse or Partner dies

- 7.1 A surviving spouse's or partner's entitlement to the Surviving Spouse or Partner Pension will cease 28 days after their death.

*Section 70 of the Veterans' Support Act 2014*

## 8. Rate and Payments of Surviving Spouse or Partner Pension

- 8.1 The weekly rate of the Surviving Spouse or Partner Pension is subject to annual CPI (all groups excluding cigarettes and other tobacco products until 2017) adjustment. **See Veterans' Affairs website for the current rate.**

*Regulation 18 of the Veterans' Support Regulations 2014*

- 8.2 Recipients using New Zealand bank accounts will receive the Surviving Spouse or Partner Pension on a fortnightly basis.
- 8.3 If the Surviving Spouse or Partner Pension is being paid to an overseas bank account it is paid on a four-weekly basis.

## 9. Applications for Surviving Spouse or Partner Pension

- 9.1 Surviving spouses or partners must apply for the Surviving Spouse or Partner Pension on the appropriate application form which they must sign. The Decision Officer will elicit any supporting evidence or information required.
- 9.2 If the application is accepted by Veterans' Affairs the entitlement to the Surviving Spouse or Partner Pension is to be treated as beginning on:
- the day after the veteran's death, if the application is received by Veterans' Affairs within 6 months of the veteran's death, or
  - the day on which Veterans' Affairs received the application, if Veterans' Affairs received the application more than 6 months after the veteran's death.

*Section 67 of the Veterans' Support Act 2014*

## 10. Living Overseas

- 10.1 The policy on Surviving Spouse or Partner Pension applies equally to the surviving spouses or partners of all veterans who had undertaken qualifying operational service, were in receipt of a War Disablement Pension of 70% or more or a Disablement Pension of 52% or more, or who a suffered service-related death, irrespective of their country of residence.
- 10.2 Overseas entitlements do not affect the payment of New Zealand entitlements. However, other countries may view New Zealand entitlement payments as

income which could impact on payments received from those countries. Recipients may also be required to pay tax on payments received. Veterans' Affairs is to advise recipients of the need to contact the appropriate local agency to ascertain what, if any, impact the receipt of the Surviving Spouse or Partner Pension will have at the time the entitlement is granted.

## **11. Reviews, Appeals and Complaints**

- 11.1 If the surviving spouse or partner disagrees about a decision concerning eligibility for an entitlement or service see separate policies on Reviews and Appeals. If the surviving spouse or partner is concerned about Veterans' Affairs' administration of an entitlement or service see separate policy on Complaints.

## **12. Resolution of claims after death**

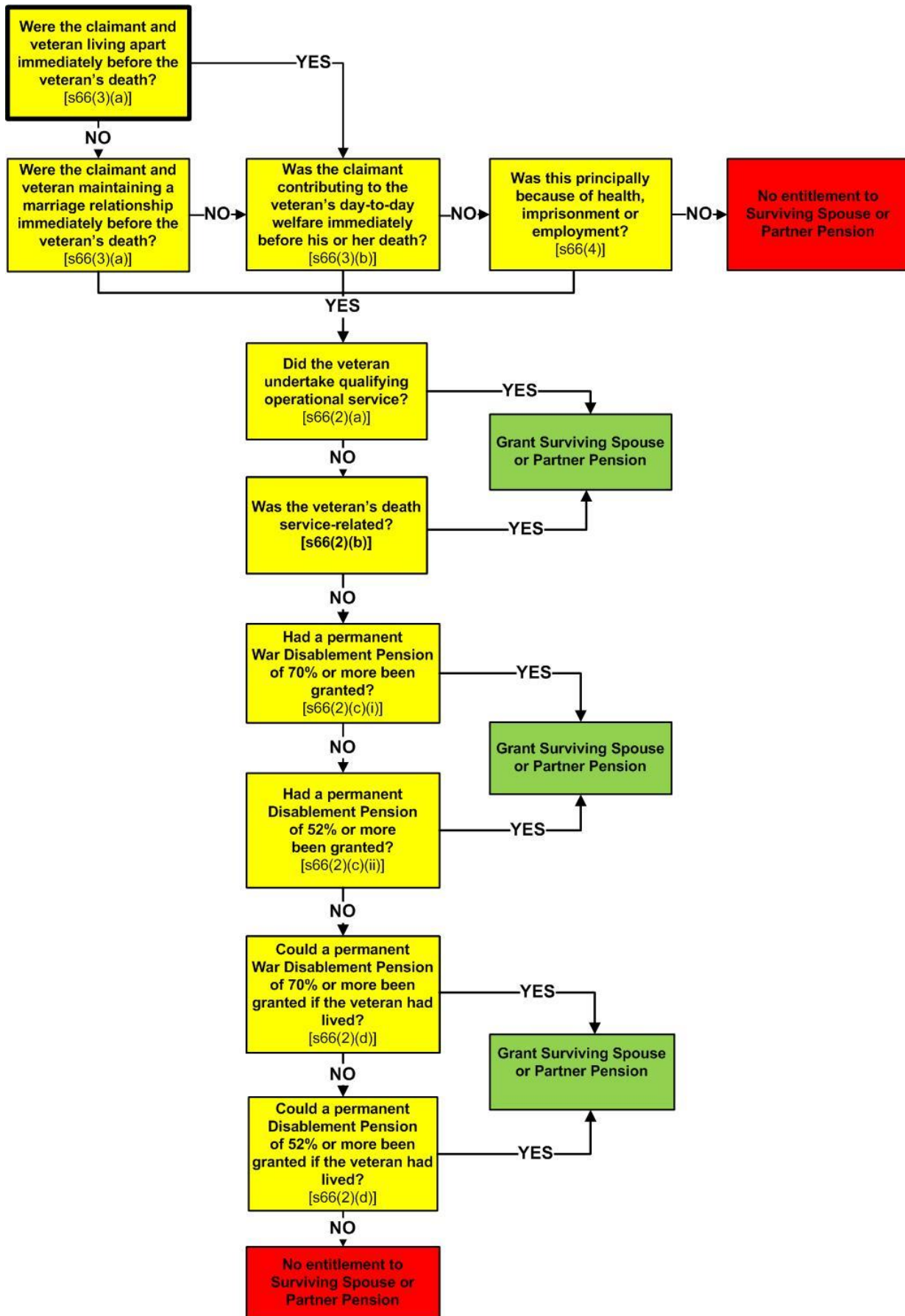
- 12.1 Where Veterans' Affairs has received a claim and it has not been resolved prior to the surviving spouse or partner's death, the claim will be considered and determined based on the available information. If an entitlement is granted any payment is to be made to their estate.
- 12.2 The exception to the above is when the surviving spouse or partner entered into a new relationship and opted for a one-off lump sum payment equivalent to two years' worth of the Surviving Spouse or Partner Pension but died before the payment was made. In such situations the lump sum payment cannot be paid to an estate.

## **13. Transitional Arrangements**

- 13.1 A spouse or partner of a veteran who was receiving a Surviving Spouse Pension under the War Pensions Act 1954 (including any parent's allowance paid under section 32 (2) of the Act) immediately before the commencement of the Veterans' Support Act 2014 is entitled to continue to receive the pension at the same rate as a Surviving Spouse or Partner Pension.
- 13.2 This rate may be adjusted if the rate of pension received under the War Pensions Act was not a rate of payment to which the surviving spouse or partner was entitled under that Act, or is no longer a rate of payment to which the surviving spouse or partner is entitled to under the Veterans' Support Act.

*Clause 8, Part 2 of Schedule 1 of the Veterans' Support Act 2014*

# Appendix 1: Pathway



## Glossary

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### **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.

### **partner** [section 7]

Means a civil union partner or a de facto partner (see also section 2D of the Property (Relationships) Act 1976).

### **qualifying operational service** [section 7]

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.

### **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.

### **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]

In Part 3 (Scheme One) means death attributable to qualifying service.

### **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
- (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.