

Survivor's Grant

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Policy

1. Purpose

- 1.1 This Policy provides guidance for the administration of entitlement under the Veterans' Support Act 2014 (the Act) to the Survivor's Grant for the spouse or **partner**, **children** and **dependants** of a deceased Scheme Two **veteran** whose death was related to Scheme Two qualifying operational service.

2. Legislative Reference

- 2.1 The relevant legislation is:
- the Act, sections 11, 31, 83, 84, 86(2) and clauses 52 and 53 of Part 4, Schedule 2
 - the Veterans' Support Regulations 2014, regulation 16A.

3. Eligibility for Survivor's Grant

- 3.1 The Survivor's Grant is a one-off payment available to the spouse or partner, children and dependants of a deceased veteran whose death relates to Scheme Two qualifying operational service that occurred after 1 April 1974.
- 3.2 For the purposes of this policy any child of a veteran who is born within 12 months after the veteran suffers a service-related death is deemed to be:
- dependent on the veteran at the date of the veteran's death; and
 - under the care of the surviving parent of the child on that date.

Clause 52 of Part 4, Schedule 2 of the Veterans' Support Act 2014

- 3.3 Veterans' Affairs will pay a Survivor's Grant to the following persons who are related as specified to a deceased veteran who suffered a service-related death:
- a surviving spouse or partner of the deceased veteran (but if there is more than one surviving spouse or partner the grant will be divided equally among them)
 - each child of the deceased veteran who has not yet turned 18 years of age
 - any other dependant of the deceased veteran.

Clause 53(1) of Part 4, Schedule 2 of the Veterans' Support Act 2014

4. Circumstances that exclude or limit entitlement

- 4.1 The surviving spouse or partner, children or dependants of the deceased veteran are not entitled to a Survivor's Grant if they are entitled to a survivor's grant under the Accident Compensation Act 2001, though Veterans' Affairs will pay the difference between any survivor's grant available from ACC under their Act and the grant available under the Veterans' Support Act 2014.

Clause 53(2) of Part 4, Schedule 2 of the Veterans' Support Act 2014

- 4.2 A spouse or partner is not entitled to a Survivor's Grant if immediately before the veteran's death:
- the pair were living apart, or were not in a relationship in the nature of marriage, and
 - the spouse or partner was not contributing to the veteran's day-to-day welfare

unless these circumstances occurred because of health, imprisonment or work obligations.

Clause 54(2) and (3) of Schedule 2 of the Veterans' Support Act 2014.

- 4.3 A spouse or partner or dependant is entitled to a Survivor's Grant if they became the veteran's spouse or partner or dependant after the start of the veteran's injury or illness, if they remain the spouse or partner or dependant at the date of the veteran's death.

- 4.4 A spouse or partner or dependant is not entitled to the Survivor's Grant if Veterans' Affairs believes, on reasonable grounds, that the main purpose of the relationship was to qualify for entitlements.

Clause 63 of Schedule 2 of the Veterans' Support Act 2014.

- 4.5 Any application received after 7 December 2015 for surviving spouse or partner assistance in respect of a veteran whose service was post 1 April 1974 will usually be treated as an application for the Survivor's Grant and other relevant Scheme Two family assistance. If, however, the veteran concerned had service both before and after 1 April 1974 Veterans' Affairs may decide that the Surviving Spouse or Partner Pension applies if the condition resulting in the veteran's death originated in service prior to 1 April 1974.

Section 84 of the Veterans' Support Act 2014

Disqualifying circumstances

- 4.6 A claim for Survivor's Grant may be excluded if, when the veteran died, they were:
- a. a deserter
 - b. absent without leave
 - c. was committing an offence.

Section 28(a) & (b) of the Veterans' Support Act 2014

- 4.7 Veterans' Affairs may, however grant a Survivor's Grant if it is satisfied on reasonable grounds that exclusion for the above reasons would be unfair to the claimant (e.g. because the desertion or absence of the veteran without leave was brief, or the offence was minor in nature).

Section 28(1A) of the Veterans' Support Act 2014

- 4.8 A claim for a Survivor's Grant may also be excluded if the veteran's death was predominantly caused by any one of the following:
- a. use of alcohol or tobacco products
 - b. misuse of illegal or prescription drugs
 - c. contracting of a sexually transmitted disease.

Section 28(1)(d) of the Veterans' Support Act 2014

- 4.9 Veterans' Affairs may, however, grant a Survivor's Grant if satisfied on reasonable grounds that–
- a. the veteran's death was due to a psychological condition that was attributed to or aggravated by the experience of the veteran during qualifying operational service, or
 - b. the injury or illness leading to the veteran's death was itself a psychological condition (for example, alcohol use disorder) that was attributed to or aggravated by the experiences of the veteran during qualifying operational service, or
 - c. in the case of a sexually transmitted disease, the disease resulted from being sexually assaulted.

Section 28(2) of the Veterans' Support Act 2014

- 4.10 Claims in relation to a veteran's death that is wholly or substantially due to the ageing process will be declined.

Section 28(4) of the Veterans' Support Act 2014

End of Life Choice

- 4.11 Veterans' Affairs will not exclude a Survivor's Grant where the veteran had a terminal condition related to Scheme Two qualifying operational service, was not suffering from any form of mental disorder or mental illness and ended their life through assisted dying in accordance with **sections 5 and 6 of the End of Life Choice Act 2019**.

5. Applications for Survivor's Grant

- 5.1 Application for a Survivor's Grant must be made on the appropriate application form provided by Veterans' Affairs by the surviving spouse or partner of the deceased veteran, or by the child or dependant of the deceased veteran or by a person able to act on behalf of such individuals (e.g. a caregiver for a child under 16 years of age).

- 5.2 Veterans' Affairs must within 7 **working days** after receiving the application, acknowledge receipt of the application, and must keep the claimant up-to-date on the progress of the application.
- 5.3 Veterans' Affairs will make a decision on a claim as soon as practicable after receipt of the application.
- 5.4 Veterans' Affairs will give notice of its decision on a claim in writing, providing:
- the reasons for the decision, and
 - information about the claimant's right of review.

Section 11 of the Veterans' Support Act 2014

6. Payments of Survivor's Grant

- 6.1 On receipt and approval of the signed application by a Decision Officer, Veterans' Affairs will make payments of the Survivor's Grant to the surviving spouse or partner, children or dependants of the deceased veteran.
- 6.2 **See Veterans' Affairs website for the rates of the Survivor's Grant.**
- 6.3 The rates of the Survivor's Grant will be CPI adjusted annually.

Section 31 and Clause 53(3) of Part 4, Schedule 2 of the Veterans' Support Act 2014 and Regulation 16A of the Veterans' Support Regulations 2014

7. Living Overseas

- 7.1 The policy on the Survivor's Grant applies equally to the surviving spouses or partners, children and dependants of all veterans who suffered service-related death, irrespective of their country of residence.
- 7.2 Overseas entitlements do not affect the payment of New Zealand entitlements. However, other countries may view New Zealand entitlement payments or grants as income which could impact on payments received from those countries. Recipients may also be required to pay tax on grants 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 Survivor's Grant will have at the time the entitlement is granted.

8. Reviews, Appeals and Complaints

- 8.1 For questions about eligibility see separate policies on **Reviews and Appeals**. For questions about Veterans' Affairs' administration of the entitlement **see separate policy on Complaints**.

9. Resolution of claims after death

- 9.1 In the event of the death of a claimant for the Survivor's Grant the claim would not be continued and the claimant's estate should be advised that no Survivor's Grant can be paid.

Glossary

child [section 7]

In relation to a veteran,—

- (a) means a natural child of the veteran; and
- (b) includes—
 - (i) an adopted child of the veteran; and
 - (ii) a child of whom the veteran is or has been a guardian; and
 - (iii) a grandchild or a whāngai of the veteran in relation to whom the veteran acts or has acted as a parent or guardian; and
- (c) includes any other child who would ordinarily be regarded as a child of the veteran because the veteran—
 - (i) is or has been the spouse or partner of one of the child's parents; and
 - (ii) acts or has acted as a parent of the child.

dependant [section 7]

In relation to a veteran, means any of the following persons:

- (a) a person (not being the spouse, partner, or child of the veteran) who –
 - (i) is under 18 years of age; and
 - (ii) is wholly or primarily dependent on the veteran for financial support; and
 - (iii) ordinarily resides with the veteran;
- (b) a person (not being the spouse, partner or child of the veteran) who –
 - (i) is 18 years of age or more; and
 - (ii) is under the care of the veteran; and
 - (iii) ordinarily resides with the veteran because the person is unable to live independently of the veteran due to disability, illness or advanced age;
- (c) a person who –
 - (i) is the child of the veteran; and
 - (ii) is 18 years of age or more; and
 - (iii) is under the care of the veteran; and
 - (iv) is unable to live independently of the veteran due to physical or mental infirmity.

End of Life Choice Act 2019 [sections 5 and 6]

5. Meaning of person who is eligible for assisted dying or eligible person

- (1) In this Act, **person who is eligible for assisted dying** or **eligible person** means a person who—
 - (a) is 18 years or over; and
 - (b) is—
 - (i) a person who has New Zealand citizenship as provided in the Citizenship Act 1977; or
 - (ii) a permanent resident as defined in section 4 of the Immigration Act 2009; and
 - (c) suffers from a terminal illness that is likely to end the person's life within 6 months; and
 - (d) is in an advanced state of irreversible decline in physical capability; and
 - (e) experiences unbearable suffering that cannot be relieved in a manner that the person considers tolerable; and
 - (f) is competent to make an informed decision about assisted dying.

- (2) A person is not a person who is eligible for assisted dying or an eligible person by reason only that the person—
- (a) is suffering from any form of mental disorder or mental illness; or
 - (b) has a disability of any kind; or
 - (c) is of advanced age.

6. Meaning of competent to make an informed decision about assisted dying

In this Act, a person is **competent to make an informed decision about assisted dying** if the person is able to—

- (a) understand information about the nature of assisted dying that is relevant to the decision; and
- (b) retain that information as part of the process of making the decision; and
- (c) use or weigh that information as part of the process of making the decision; and
- (d) communicate the decision in some way.

guardian [section 7]

Has the same meaning as in section 15 of the Care of Children Act 2004.

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.

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 relation to Part 4 (Scheme Two), means death attributable to qualifying service and

- (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.

whāngai [section 7]

Means a child adopted by the veteran in accordance with Māori custom.

working day [section 7]

Means a day of the week other than:

- (a) a Saturday, a Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's birthday, and Labour Day; and
- (b) if Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday; and
- (c) a day in the period commencing on 25 December in any year and ending with 15 January in the following year.