

# **Weekly Compensation for Veterans**

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# Policy

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## 1. Purpose

- 1.1 This Policy provides guidance on administering entitlement to Weekly Compensation for **veterans** under the Veterans' Support Act 2014.
- 1.2 Weekly Compensation is paid to Scheme Two veterans **unable to work full-time** due to a **service-related** injury or illness.
- 1.3 See separate Policy on *Weekly Compensation for Spouse or Partner, Children or Dependants* for income compensation for the families of deceased Scheme Two veterans. For income compensation for Scheme One veterans see separate Policy on *Weekly Income Compensation*.

## 2. Legislative reference

- 2.1 Relevant legislation is:
  - sections 7, 11, 27, 59, 83, 100-104, 270, and clauses 23-44 of Schedule 2, Veterans' Support Act 2014
  - regulation 8, Health Entitlement Cards Regulations.

## 3. Eligibility for Weekly Compensation

- 3.1 To be entitled to Weekly Compensation a veteran must meet all of the following:
  - have eligible service after 1 April 1974 in a deployment that is deemed to be **qualifying operational service** (see the list of **Qualifying Service** on the Veterans' Affairs website)
  - under the New Zealand Superannuation age (with exceptions as per section 8 of this Policy)
  - **unable to work full-time** because of service-related injury or illness
  - participating in rehabilitation set out in their Your Plan if assessed as able to do so.

*Sections 83 and 100 of the Veterans' Support Act 2014*

### **Veterans undergoing treatment and still employed**

- 3.2 Veterans who are in employment can receive Weekly Compensation during the period they are unable to work while receiving treatment for an accepted service-related injury or illness. Provided they do not take sick leave or annual leave, or do not work part-time, no abatement will apply.

### **Disqualifying circumstances**

- 3.3 A veteran's claim to Weekly Compensation may be excluded if, when his or her injury or illness occurred, he or she was:

- a deserter
- absent without leave
- was committing an offence.

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

3.4 Veterans' Affairs may, however grant Weekly Compensation if it is satisfied on reasonable grounds that exclusion for the above reasons would be unfair to the veteran (e.g. because the desertion or absence without leave was brief, or the offence was minor in nature).

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

3.5 A veteran's claim to Weekly Compensation may also be excluded if their injury or illness was predominantly caused by or significantly aggravated by any one of the following:

- use of alcohol or tobacco products
- misuse of illegal or prescription drugs
- contracting of a sexually transmitted disease.

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

3.6 Veterans' Affairs may, however, grant Weekly Compensation if satisfied on reasonable grounds that–

- the injury or illness was due to a psychological condition that was attributed to or aggravated by the experience of the veteran during qualifying operational service, or
- the injury or illness is 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
- in the case of a sexually transmitted disease, the disease resulted from being sexually assaulted.

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

3.7 Claims in relation to an injury or illness that is wholly or substantially due to the ageing process will be declined.

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

### **Receiving ACC Weekly Compensation**

3.8 ACC provides Weekly Compensation for those unable to work because of an injury resulting from an accident at a rate of 80% of the claimant's pre-injury income.

3.9 A veteran cannot receive full Weekly Compensation from both ACC and Veterans' Affairs.

- 3.10 If ACC is paying 80% of the veteran's earnings, Veterans' Affairs will top up this amount to 100% for the first year of **incapacity**, and to 85% for any period after the first year of incapacity has ended. If a veteran applies to Veterans' Affairs after the first year of incapacity has ended, Weekly Compensation will be topped up to the 85% rate.
- 3.11 If the total amount is still less than the **minimum rate**, Veterans' Affairs will pay the minimum rate, that being 80% of the average wage.

*Section 102 and clause 44 of Schedule 2 of the Veterans' Support Act 2014*

- 3.12 Veterans who have been declined by ACC may be eligible for Weekly Compensation provided by Veterans' Affairs (usually veterans whose **impairment** is from illness, rather than injury).

## 4. Application for Weekly Compensation

### Start of entitlement

- 4.1 Weekly Compensation begins on whichever is the latest of:
- 7 December 2015
  - the date the veteran is unable to work due to their incapacity because of injury or illness related to qualifying operational service
  - the date qualifying operational service was declared.

*Section 100 and clause 26 of Schedule 2 of the Veterans' Support Act 2014*

### Evidence of earnings

- 4.2 Veterans must provide all of the following details:
- their tax code and IRD number
  - type of work they do
  - their wages in the 12 months before they were unable to work
  - employers in those 12 months
  - other earnings from that period
  - periods of time they were not working
  - if they have stopped earning, sick pay, holiday pay, termination pay or redundancy pay they received or are receiving.
- 4.3 Veterans can consent to Veterans' Affairs obtaining their earning details from IRD on their behalf.
- 4.4 Veterans' Affairs may seek confirmation of the veteran's income from their current or former employer.

### Offence to mislead

- 4.5 Veterans (or their representative) must not mislead Veterans' Affairs in order to receive Weekly Compensation, either actively by making statements about

their earnings known to be false, or by wilful omission. This is an offence which can lead to conviction to imprisonment for up to three months, or a fine of up to \$5,000.

*Section 270 of the Veterans' Support Act 2014*

### **Identification, service history and bank account details**

4.6 Except where already provided to Veterans' Affairs for another entitlement, veterans must supply their service number and one of the following documents verifying their identity:

- certified full birth certificate
- current passport
- drivers licence
- firearms licence.

4.7 Veterans must also provide their:

- bank account details (if an overseas bank account a certified copy of a bank account statement is required); and
- service history details.

### **Evidence of incapacity**

4.8 Veterans must supply with their application all the following details from a **medical practitioner**:

- diagnosis of the veteran's conditions
- confirmation of the veteran's fitness to undertake work, if they are:
  - fully unable to work full-time in their current or previous role; or
  - fully unable to work full-time in all types of work; or
  - able to do some work.

4.9 **The full requirements for medical certificates are set out in Appendix 1.**

### **Application timeline**

4.10 Veterans' Affairs must within 7 **working days** after receiving the application, acknowledge receipt of the application, and must keep the veteran up-to-date on the progress of the application.

4.11 Veterans' Affairs will make a decision on a claim as soon as practicable after receipt of the application. Veterans' Affairs considers each injury or illness included in an application as a separate claim.

4.12 Veterans' Affairs will give notice of its decision on a claim in writing, providing:

- the reasons for the decision, and
- information about the veteran's right of review.

*Section 11 of the Veterans' Support Act 2014*

## Overseas applicants

4.13 Veterans living overseas can apply for Weekly Compensation.

*Section 100 of the Veterans' Support Act 2021*

## 5. Determining whether a veteran is able to work

5.1 The Rehabilitation Adviser assesses a veteran's ability to work from the medical information provided and provides their findings to a Decision Officer to determine the veteran's entitlement to Weekly Compensation.

### Establishing a veteran's inability to work

5.2 **See Appendix 3: Flowchart for gathering entitlement information.**

*Serious injury or illness: unable to work*

5.3 If the veteran has a serious injury or illness and it is clear from the medical certificate it is unlikely they will be able to sustain employment (e.g. severe brain injury), they are considered seriously incapacitated and the application is referred to the Decision Officer.

*Serious injury or illness: work ability unclear*

5.4 If the veteran has a serious injury or illness but it is not clear whether they will be able to sustain employment (e.g. the veteran has burns, multiple fractures, or paraplegia), the Rehabilitation Advisor will consult with the Decision Officer and an appropriately qualified medical professional to determine whether to conduct a Vocational Assessment or obtain an Occupational Assessment.

*Serious injury or illness but likely to sustain employment, or not a serious injury or illness*

5.5 If the veteran has a serious injury or illness but is likely to be able to sustain employment, or the veteran does not have a serious injury or illness, the Rehabilitation Advisor will consider whether the veteran has previous suitable employment history.

*Suitable employment history*

5.6 Suitable employment history is a history of working in a job which, considering the veteran's injuries or illness, they will be able to return to in the future.

5.7 In determining suitable employment history the Rehabilitation Advisor will establish all of the following:

- general type of employment the veteran is / was employed in
- general duties they are required to perform for that employment
- broad characteristics of the employment type and the veteran's limitations due to the injury or illness
- period per week the veteran was normally required to be available for work in that job
- whether or not workplace modifications have or could be applied to minimise the veteran's restrictions.

5.8 The Rehabilitation Advisor will decide if a vocational or occupational assessment is required. They may consult with the Decision Officer and an appropriately qualified medical professional for information to support this decision.

#### Ability to work part-time

5.9 The Rehabilitation Advisor will consider how Veterans Affairs can help a veteran to transition into **part-time** work, particularly if this will help them to transition into full-time work when able.

## 6. Payment of Weekly Compensation

### Determining a veteran's weekly earnings

6.1 The amount of Weekly Compensation paid will depend on whether the veteran has any earnings that need to be taken into account.

6.2 The rate of Weekly Compensation is adjusted annually in line with the Labour Cost Index. The rate paid is dependent on the veteran's pre-injury earnings. It is subject to a minimum rate of 80% of the **average wage** as at 1 July each year within the meaning of the **Social Security Act 2018**.

*Clause 25 of Schedule 2 of the Veterans' Support Act 2014*

6.3 Veterans' Affairs must calculate the veteran's gross earnings prior to **incapacity** to determine the rate of Weekly Compensation to pay the veteran.

6.4 Weekly Compensation is paid at 100% of the veteran's earnings for the first year of incapacity (or for any part of that year they have entitlement for).

6.5 Where incapacity continues after the first year, Weekly Compensation is paid at 85% if the veteran:

- has a rehabilitation plan and is assessed as unable to work, or
- is medically assessed as unable to be rehabilitated or further rehabilitated and is unable to work.

*Clause 26(4) of Schedule 2 of the Veterans' Support Act 2014*

6.6 If a veteran receiving Weekly Compensation is working part-time, their earnings must be calculated to determine whether they should be abated.

*Section 101 and clause 44 of Schedule 2 of the Veterans' Support Act 2014*

6.7 The veteran's employer's superannuation contribution will not be considered as earnings, irrespective of where the veteran resides.

### Veterans who are receiving ACC compensation

6.8 If a veteran is receiving Weekly Compensation from ACC and Veterans' Affairs, Veterans' Affairs will top up the veteran's ACC payments to 100% for the first year of incapacity, and 85% for any following years. Veterans' Affairs will apply ACC's earnings calculations for top ups.

*Section 102 of the Veterans' Support Act 2014*

- 6.9 If the topped up amount is still less than the minimum rate, Veterans' Affairs will top up payment to this amount.

*Clause 25 of Schedule 2 of the Veterans' Support Act 2014*

- 6.10 Veterans' Affairs will usually calculate a veteran's earnings using an average of their earnings. Different calculations are used, depending whether:

- the veteran was earning before incapacity as an employee, a shareholder employee, a self-employed earner or a combination, or
- the veteran was not earning before incapacity, the reason for this and how recently they stopped earning.

*Clauses 27 to 40 of Schedule 2 of the Veterans' Support Act 2014*

- 6.11 **Appendix 2 of this policy details how to calculate a veteran's weekly earnings (including flowchart).**

- 6.12 Veterans using New Zealand bank accounts will receive the Weekly Compensation on a fortnightly basis.

- 6.13 If the Weekly Compensation is being paid to an overseas bank account, it is paid on a four-weekly basis.

**Veterans who are receiving private income protection payments**

- 6.14 Veterans receiving private income payments during a period they are unable to work full-time due to a service-related injury or illness are able to receive the full amount of Weekly Compensation without any abatement.

**Tax treatment of Weekly Compensation arrears payment**

- 6.15 A Weekly Compensation arrears payment is treated by the Inland Revenue Department as salary and wages and will be taxed accordingly. If a veteran's Weekly Compensation arrears payment covers a period extending over more than one tax year the Inland Revenue Department will calculate tax liability of the full amount of the arrears payment in the year it is received and returned to IRD.

## **7. Community Services Card eligibility**

- 7.1 A veteran in receipt of Weekly Compensation may be eligible to receive a Community Services Card without income testing.

*Regulation 8(1)(ab) of the Health Entitlement Cards Regulations 1993*

- 7.2 The spouse or partner of a veteran in receipt of Weekly Compensation may be eligible to receive a Community Services Card, on that basis. Any eligibility the spouse or partner may have to a Community Services Card in such circumstances ends on the veteran's death.

*Regulation 8(3) of the Health Entitlement Cards Regulations 1993*

## 8. End of eligibility

8.1 A veteran's entitlement to Weekly Compensation ends:

- on the 28<sup>th</sup> day after his or her date of death, or
- he or she reaches superannuation age, or
- when he or she is non-compliant (see below for examples), or
- resumes full-time work (see below).

### Reaching superannuation (or Veteran's Pension) age

8.2 Veterans who have been receiving Weekly Compensation for more than two years are no longer entitled when they turn 65. They can receive New Zealand Superannuation or Veteran's Pension if eligible but not Weekly Compensation as well. Special rules apply if the veteran first becomes entitled within two years of turning 65 if the veteran is 65 or older.

#### End dates for Weekly Compensation (unless stopped earlier)

Start of entitlement	End date (unless stopped earlier)
Has been entitled for 24 months or longer before reaching 65 years of age.	When the veteran reaches 65 years of age.
Has been entitled less than 24 months before reaching 65 years of age.	24 months after start of entitlement.
First became entitled on or after reaching 65 years of age.	24 months after start of entitlement.

*Section 104 of the Veterans' Support Act 2014*

8.3 The end dates above that apply in New Zealand cannot be adjusted to account for different superannuation age limits that apply in other countries.

### Non-compliance

8.4 To receive Weekly Compensation veterans must be participating in rehabilitation set out in their Your Plan if they are assessed as being able to do so, but can receive it if their injury or illness prevents them from doing so. For example, a veteran suffering total incapacity from a severe stroke will not be required to participate in the vocational section of their Your Plan.

#### *Section 100(c)(i)&(ii) of the Veterans' Support Act 2014*

8.5 If, however, a veteran's injury or illness makes them unable to drive a car this will not restrict their participation in Your Plan because the veteran can access travel support for treatment (for service-related injury or illness) and rehabilitation support.

8.6 Veterans' Affairs may suspend or cancel their entitlement if a veteran is able to participate in rehabilitation, but is doing any of the following:

- not providing all relevant information despite a reasonable request
- refusing to undergo assessment
- refusing to co-operate in the development or implementation of rehabilitation in their Your Plan
- refusing to undertake rehabilitation in accordance with his or her Your Plan.

*Sections 27 and 100(c) of the Veterans' Support Act 2014*

#### *Reasonable request*

- 8.7 A request is reasonable when the decision maker takes into account the relevant factors, uses reliable evidence and makes a decision in good faith and for a proper purpose.
- 8.8 The Manager Veterans' Services determines final decisions on whether a veteran has failed to comply with a reasonable request and their entitlement should cease.

#### *Example: Reasonable request and unreasonable refusal*

- 8.9 Veterans' Affairs asks a veteran to attend a medical assessment in two weeks' time. The veteran is advised in writing about the assessment and the implications of non-compliance. The veteran ignores the request to attend the assessment, saying they did not have enough notice, or did not choose the provider, or have not been told about non-compliance. Any of these responses is considered unreasonable.
- 8.10 **See Appendix 4 for administration of non-compliance (warning, timings of suspension, and cancellation).**

#### **Imprisoned veterans**

- 8.11 A veteran who is a **prisoner** in any **prison** is not entitled to receive Weekly Compensation.

*Section 29 of the Veterans' Support Act 2014*

- 8.12 If, however, the veteran has dependants, Veterans' Affairs will work with the Ministry of Social Development and the veteran's family to ensure continuity of income and will not stop Weekly Compensation payments until it is clear that the family is safe and supported.

#### **Resuming full-time work**

- 8.13 Veterans who resume full-time work, or who are assessed as able to work full-time, are no longer eligible for Weekly Compensation and their entitlement will cease. The time allowed after a veteran is assessed as able to work full-time depends on whether they are able to resume work in the same job, or in a different job.

*Sections 100(b) and 101 of the Veterans' Support Act 2014*

8.14 A veteran's ability to return to work will be determined by the Manager of Veterans Services or the Team Leader Case Management, in consultation with the Rehabilitation Advisor, taking into account all of the following:

- the nature and severity of the veteran's injury or illness
- any treatment and rehabilitation outcomes from the veteran's Your Plan
- any vocational or occupational assessment
- any medical certificate provided.

*Return to work assessments on lapse of medical certificate*

8.15 Veterans' Affairs may assess a veteran as able to return to full-time work if the veteran cannot provide a valid medical certificate.

*Veterans assessed as able to return to part-time work*

8.16 If a veteran is assessed as able to return to part-time work it is relevant to their Your Plan. The Rehabilitation Advisor will consider how Veterans' Affairs can help a veteran to transition into part-time work, particularly if this will help them to transition into full-time work when they are able.

*Veteran must notify return to work*

8.17 A veteran must inform Veterans' Affairs when they return to work.

*Section 27(2)(a) of the Veterans' Support Act 2014*

8.18 Veterans who return to work without notifying Veterans' Affairs are liable to repay any Weekly Compensation paid to them while they are working.

8.19 If the veteran has been working, and receiving Weekly Compensation, for more than five days without informing Veterans' Affairs, Veterans' Affairs may investigate whether the veteran has misled by wilful omission in order to continue to receive compensation.

*Evidence that a veteran has returned to work*

8.20 A veteran will be considered to have returned to full-time work for the purposes of ceasing their entitlement if Veterans' Affairs receives verbal or written confirmation from the veteran, their spouse or partner, or their employer.

8.21 The Manager of Veterans' Services or the Team Leader Case Management determines final decisions on whether a veteran has returned to work and whether their entitlement should cease.

**Giving a veteran notice of stopping compensation payments**

8.22 The notice that Veterans' Affairs gives before stopping payments varies depending on the reason for stopping payment (see table below).

8.23 None of this should come as a surprise to the veteran and should be discussed with them verbally.

Notice periods before stopping Weekly Compensation due to change in work status

The veteran returns to work full-time.	Weekly compensation stops from the date the veteran returns to full-time work.
The veteran is assessed as being able to return to work full-time in the same job they had previously.	If the veteran has been receiving payments for less than six months their entitlement ceases after <b>10 days</b> of notice of this assessment.  If the veteran has been receiving payments for more than six months and is assessed as being able to return to the same job their entitlement ceases when they return to work, or 28 days after they are assessed, whichever occurs first.
The veteran is assessed as being able to return to work full-time, but in a job that's different to their previous job.	Entitlement ceases on the day the veteran returns to work, or 28 days after the assessment, whichever occurs first.  <i>Section 101 of the Veterans' Support Act 2014</i>

## 9. Reviews and Appeals

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

## Appendix 1: Medical certificates

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### 1. Requirements for medical certificates

#### *Evidence from a medical practitioner*

- 1.1 Medical certificates must include details from a medical practitioner, including:
- diagnosis of the veteran's conditions by a specialist; and
  - confirmation of the veteran's ability to undertake work, if they are either:
    - unable to work full-time in their current or previous role; or
    - unable to work full-time in all types of work; or
    - able to do some work.

#### *Rules for medical certificates for incapacity*

- 1.2 Medical certificates supplied for the purposes of ongoing entitlement to Weekly Compensation must adhere to the Medical Council of New Zealand's guidelines.
- 1.3 A medical practitioner can confirm whether a veteran is unable to perform their employment duties through issuing a medical certificate. A medical certificate can be any of the following:
- a written medical certificate; or
  - information included within a report from a medical practitioner.
- 1.4 To be acceptable the certificate must refer to the injury or illness in question and clearly identify the veteran's restrictions due to the injury or illness.
- 1.5 The medical certificate should be provided by the medical practitioner the veteran consulted about the injury or illness, and include any specialist reports.
- 1.6 If that medical practitioner is not available, a medical practitioner from the same practice can provide the certificate, if details of the consultation can be confirmed.
- 1.7 If a public hospital treated the veteran but did not complete a certificate, it can be completed later, provided the medical practitioner completing the certificate has the hospital notes. If required, Veterans' Affairs will contact this medical practitioner to check that the hospital notes were available to them.
- 1.8 All medical certificates must be signed by the relevant provider.

#### *Cost of medical assessment*

- 1.9 Veterans' Affairs may reimburse the costs of a medical assessment to determine a veteran's ongoing entitlement.

- 1.10 For reimbursement the provider should supply Green Cross with the invoice from the appointment, or the veteran can seek reimbursement from Veterans' Affairs.

## 2. Ongoing medical certificates

- 2.1 To be entitled to on-going compensation, veterans must provide Veterans' Affairs with regular medical certificates certifying their **incapacity** for work.
- 2.2 Regular medical certificates allow Veterans' Affairs to monitor a veteran's continued need for income compensation and rehabilitation.

## 3. Frequency of medical certificates

- 3.1 In most cases, Veterans' Affairs requires medical certificates to be submitted at least every 13 weeks, for long-term recipients of Weekly Compensation. **(See paragraph 3.2 below and section 5 for variations to this requirement).**
- 3.2 Where the veteran is receiving on-going treatment from a medical practitioner, more frequent certificates may be appropriate to:
- ensure the veteran attends the medical practitioner when requested; or
  - understand whether the veteran's condition has changed in the meantime, enabling them to return to work.

## 4. Acceptance of certificates

- 4.1 Certificates that result in the granting of entitlements may be accepted by email or mail.
- 4.2 All medical certificates must be signed by the relevant provider, or appropriately authorised by the provider. The patient does not need to sign a medical certificate.

## 5. Exemptions

- 5.1 It may be appropriate to require medical certificates less frequently than every 13 weeks, for example at 6-monthly or 12-monthly intervals.
- 5.2 Ongoing incapacity is, instead, monitored by regular contact with the Case Manager.

### Criteria

- 5.3 Medical certificates can be accepted for periods exceeding 13 weeks, for a maximum period of 12 months, if all of the following are met:
- functional restrictions have stabilised and are likely to remain unchanged

- these restrictions mean the veteran is unable to perform any work
- eligibility to long-term entitlements is not in doubt
- significant periods of backdated entitlements are supported by medical evidence, e.g. an Occupational Physician's report.

5.4 Agreement to less frequent medical certificates must be documented in the veteran's Your Plan.

5.5 The veteran must agree that:

- the Case Manager will monitor ongoing incapacity as part of scheduled, regular contact; and
- the veteran, or their representative, must regularly complete a personal declaration, stating they are aware of their responsibility to declare to Veterans' Affairs any change in work fitness and other income while receiving Weekly Compensation.

5.6 This declaration is necessary to monitor progress and reduce the potential for fraud.

#### **Where the exemption does not apply**

5.7 The exemption should not apply if the veteran has a serious illness or disability but is 'non-compliant' with treatment or rehabilitation.

#### **Unstable health status: Serious illness or disability**

5.8 Where the health status of the veteran is fragile or unstable, e.g. where there are pressure sores or recurrent infections, the exemption does not apply.

5.9 In these cases, although the veteran's level of physical restriction is not in doubt, it is vital for their health status that there is regular medical supervision. The 13-weekly medical certificate provides this opportunity.

#### **Monitoring exemptions**

5.10 There will be situations where an exemption may need to be withdrawn once already approved, e.g. for reasons of non-compliance.

5.11 The Rehabilitation Team Leader is responsible for ensuring that discretion for agreement to less regular medical certificates is exercised appropriately.

5.12 The Rehabilitation Team Leader is also responsible for monitoring the use of this discretion as part of their coaching and Quality Assurance responsibilities.

## **6. Gaps of time between medical certificates**

6.1 In some cases there may be a gap between the period covered by the elapsed medical certificate and the period covered by the new medical certificate. For example, a veteran provides a medical certificate covering their **incapacity** for 13 weeks. When that period ends, the veteran provides a second 13-week certificate. However, as the veteran was late in seeing the doctor, there is a gap of a couple of days between the end-date of the first certificate, and the start date of the second.

## Gaps between medical certificates of less than 29 days

- 6.2 When the gap between medical certificates is less than 29 days Veterans' Affairs can continue to pay Weekly Compensation as long as it is satisfied that the veteran was incapacitated for that period.
- 6.3 Consider each case on its own merits. Some examples are:
- if the veteran has a serious illness, was clearly full-time, but could not get an appointment with their general practitioner; or
  - the gap occurred within the accepted duration for that type of illness, and both the veteran and the current employer have confirmed the veteran did not work.
- 6.4 In all cases:
- contact the veteran and/or their employer (if any) to confirm they did not work during the gap period and note their response; and
  - note the gap period.

## 7. Retrospective and forward-dated medical certificates

- 7.1 The following are examples of retrospective and forward-dated medical certificates.

### Retrospective medical certificates

#### *Example 1*

- 7.2 A veteran suffers symptoms of their illness on Sunday afternoon. They have Monday and Tuesday off work and are still suffering on Wednesday when they visit their general practitioner (GP). The GP provides a medical certificate, which is backdated to the date their symptoms started, despite not seeing the person until Wednesday.
- 7.3 The veteran's employer confirms that they were off work on Monday and Tuesday due to their symptoms.
- 7.4 Due to the nature of the illness, it is reasonably evident that **incapacity** would have commenced immediately at the time. Also, the veteran's employer has confirmed their unavailability for work due to the illness. Therefore, it is reasonable to accept the backdated medical certificate from Monday.

#### *Example 2*

- 7.5 A veteran suffered symptoms of an illness or condition in the evening Tuesday 1 October, went to work on Wednesday but had Thursday off work. Their condition was still giving them trouble a week later and they were finding it difficult to manage their job. On Wednesday 9 October the veteran went to their GP who certified them as unfit from Tuesday 1 October to Sunday 13 October.
- 7.6 In this case, there is no basis on which to accept the backdated certificate. The veteran did not see a treatment provider until 9 October and the GP had

no supporting medical information with which to certify that the veteran was incapacitated from 1 October. As a result the backdated certificate should not be accepted and the start of entitlement would be Wednesday 9 October.

### Forward-dated medical certificates

#### *Example 1*

- 7.7 A veteran is unfit for work with a medical certificate confirming incapacity for the period 17 July to 17 September. On 13 September the veteran approaches his GP to obtain a new medical certificate for ongoing incapacity. The GP completes a new medical certificate on 13 September, indicating that the veteran will remain incapacitated for a further three months from 18 September.
- 7.8 It is clear from the medical information on file that the veteran will not be fit to return to work within three months of 18 September. The gap between the date of the certificate and the start date of incapacity is five days, and it is clear the certificate has been provided early simply to ensure continuity of Weekly Compensation payments. The certificate is accepted as verifying a three-month incapacity period from 18 September.

#### *Example 2*

- 7.9 A veteran is scheduled to undergo surgery on 23 August. On 19 August, the veteran obtains a medical certificate from their GP stating they will be incapacitated from work for five days following the surgery on 23 August.
- 7.10 Veterans' Affairs arranged the surgery scheduled for 23 August. After checking with an appropriately qualified medical professional, Veterans' Affairs determines the certificate is acceptable, as for the particular surgery to be undertaken it is reasonable to expect the veteran to be off work for at least five days.

#### *Example 3*

- 7.11 A veteran is scheduled for surgery on 29 January. On 26 January, the veteran's GP completes a medical certificate stating incapacity for four weeks following the surgery on 29 January.
- 7.12 Veterans' Affairs consults with an appropriately qualified medical professional and decides not to accept the certificate as evidence of incapacity following the surgery. It cannot be determined simply from the type of surgery and without examination of the veteran following the surgery, whether they will require this period of time off work. The veteran is instructed to obtain a new certificate of incapacity from their operating surgeon after the surgery, when their condition and likely period of incapacity can be assessed.

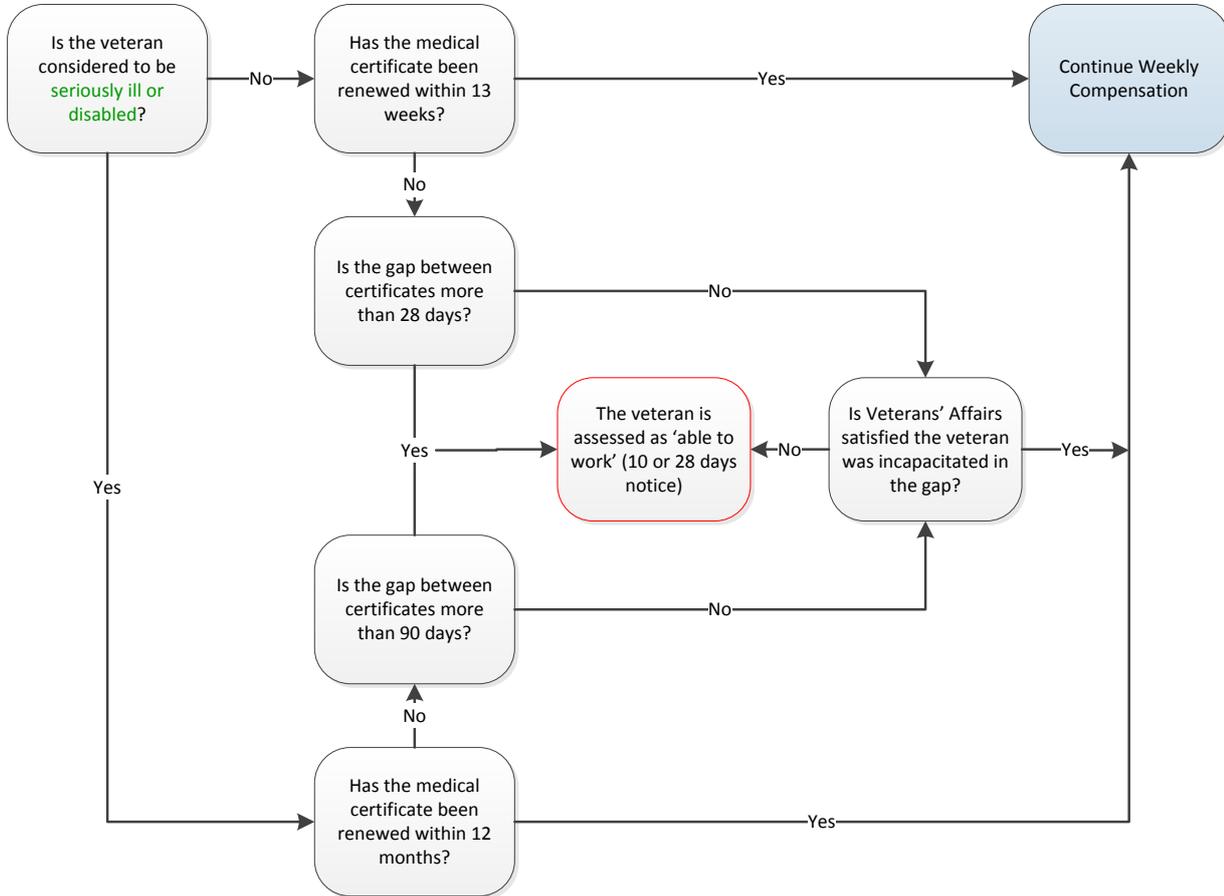
## 8. Overseas medical certificates

- 8.1 If a medical certificate is received from an overseas provider, Veterans' Affairs may consider:
- the nature of the veteran's illness or disability, and

- the medical accreditation system in the veteran's country of residence to determine if a further certificate from a provider on the list of Panel Physicians approved by Immigration New Zealand is required.

## Medical Certificates Flowchart

This flowchart is a summary of the process and should not be referred to without full consideration of the policy.



## Appendix 2: Calculating earnings

### 1. Determining earnings

Veterans who are earning at the start of their incapacity	
Standard approach	
<i>Standard calculations:</i> Earnings as an employee	<p>For the first four weeks (after the first week of incapacity) find: the veteran's total earnings as an employee for the four weeks prior to their incapacity</p> <p style="text-align: center;"><b>divided by</b></p> <p style="text-align: center;">the number of full or part weeks during which the veteran earned those earnings</p>
	<p>After the first four weeks: the veteran's total earnings as an employee for the 52 weeks immediately before his or her incapacity commenced</p> <p style="text-align: center;"><b>divided by</b></p> <p style="text-align: center;">the number of full or part weeks during which the veteran earned those earnings as an employee</p>
	<i>Clauses 27 and 28 of Schedule 2 of the Veterans' Support Act 2014</i>
Exceptions to the standard approach	
<i>Exception:</i> Veteran received Weekly Compensation in the 52 weeks prior	<p>Apply the standard calculations</p> <p>Disregard any periods the veteran received Weekly Compensation (including abated Weekly Compensation)</p>
	<i>Clause 27 to 30 of Schedule 2 of the Veterans' Support Act 2014</i>
<i>Exception:</i> Veteran is a <b>non- permanent</b> employee	<p>Apply the standard calculations</p> <p>Deduct any periods of time, and any earnings from that period, the veteran received:</p> <ul style="list-style-type: none"> <li>• unpaid sick leave of more than one week</li> <li>• self-employed or shareholder-employee earnings</li> </ul>
	<i>Clause 29 to 30 of Schedule 2 of the Veterans' Support Act 2014</i>

<p><i>Exception:</i> Veteran only has earnings as a shareholder employee or self-employed earnings</p>	<p>If the veteran is a <b>new self-employed or shareholder employee earner</b>:</p> <ul style="list-style-type: none"> <li>• apply the standard calculations</li> <li>• disregard the veteran's new self-employed or shareholder employee earnings</li> </ul>
	<p><i>Clause 32(2)(a) and 34(2)(a) of Schedule 2 of the Veterans' Support Act 2014</i></p>
	<p>If the veteran is a <b>recent self-employed or shareholder employee earner</b>, find:</p> <p style="text-align: center;">the veteran's total earnings as an employee in the 52 weeks before incapacity <b>plus</b> the veteran's earnings as a self-employed person or shareholder employee in the <b>relevant year</b></p> <p style="text-align: center;"><b>Divide this total by</b></p> <p style="text-align: center;">The number of full or part weeks the veteran had earnings as an employee <b>plus</b> the number of weeks or part weeks the veteran earned earnings as a self-employed person or shareholder employee in the relevant year up to a combined maximum of 52 weeks (or the total weeks in the relevant year if it is more than 52 weeks)</p>
	<p><i>Clause 32(2)(b) and 34(2)(b) of Schedule 2 of the Veterans' Support Act 2014</i></p>
<p>If the veteran is an <b>established self-employed or shareholder employee earner</b>, find:</p> <p style="text-align: center;">the veteran's total earnings as an employee in the 52 weeks immediately before his or her incapacity <b>divided by</b> 52</p> <p style="text-align: center;"><b>Add this total to</b></p> <p style="text-align: center;">the veteran's earnings as a self-employed person or shareholder employee in the relevant year <b>divided by</b> the number of weeks in the relevant year</p>	
<p><i>Clause 32(2)(c) and 34(2)(c) of Schedule 2 of the Veterans' Support Act 2014</i></p>	

	<p>Earnings as an employee can be:</p> <ul style="list-style-type: none"> <li>• excluded from the calculations; or</li> <li>• included in the recent or established self-employed or shareholder employee calculations; or</li> <li>• calculated separately using the standard calculations and <b>aggregated</b> with the self-employed or shareholder employee calculation</li> </ul> <p>A veteran may chose the option that produces the highest earning rate</p>
<p><i>Exception:</i> The calculated earnings are less than the minimum rate</p>	<p>Pay the veteran the minimum rate</p>
	<p><i>Clause 25 of Schedule 2 of the Veterans' Support Act 2014</i></p>

<p>Veterans who are not earning at the start of their incapacity</p>	
<p>Standard approach</p>	
<p>No earnings</p>	<p>Pay the veteran the minimum rate</p>
	<p><i>Clause 37(5) of Schedule 2 of the Veterans' Support Act 2014</i></p>
<p>Exceptions to the standard approach</p>	
<p><i>Exception:</i> Veteran stopped earning due to their incapacity in the last 28 days</p>	<p>Calculate the rate as if the veteran is still earning and treat the start of the veteran's incapacity as the last date of employment</p>
	<p><i>Clause 38(2) of Schedule 2 of the Veterans' Support Act 2014</i></p>
<p><i>Exception:</i> Veteran stopped earning but is still receiving income related payments</p>	<p>Calculate the rate as if the veteran is still earning and treat the start of the veteran's incapacity as the last date of employment</p>
	<p><i>Clause 28(2)(b) of Schedule 2 of the Veterans' Support Act 2014</i></p>

<p><i>Exception:</i> Earning within 12 months</p>	<p>A veteran's earnings from a date within 12 months may be used to determine their earnings rate if they suffer from an illness or injury, but do not have pre-injury or pre-illness earnings between the cause of the injury and the onset of the illness or injury</p> <p>Calculate the rate at 100% pre-injury or pre-illness earnings for the first year and 85% thereafter</p> <p><i>Clause 37(1) and (2) of Schedule 2 of the Veterans' Support Act 2014</i></p>
<p><i>Exception:</i> Veteran is on unpaid parental leave</p>	<p>Apply the standard calculations, except:</p> <ul style="list-style-type: none"> <li>• to find the earnings rate use the date the veteran began parental leave as the date incapacity commenced</li> <li>• to find the start date use the date the veteran would be required to return to work at the end of parental leave as the start of incapacity</li> </ul> <p><i>Clause 39 of Schedule 2 of the Veterans' Support Act 2014</i></p>

## 2. Standard assessment: Veterans who are employees

### Defining permanent employees

- 2.1 A veteran is considered to be in permanent employment if they would have received earnings from their employment for a continuous period of 12 months or more from the start of their incapacity, had they not suffered the injury or illness.

*Clause 27(3) of Schedule 2 of the Veterans' Support Act 2014*

### Defining non-permanent employees

- 2.2 A veteran is considered to be a non-permanent employee if they would have not continued their employment for more than 12 months after the start of their incapacity.

*Clause 29(2) of Schedule 2 of the Veterans' Support Act 2014*

## 3. Exceptions: Veterans who are self-employed or shareholder employees

### Self-employed earnings

- 3.1 A self-employed veteran is a person who works for themselves and declares taxable earnings to the relevant taxation authority on a periodic basis.

### Shareholder employee earnings

- 3.2 A shareholder employee is a veteran who has a share-holding in a limited liability company by which they are employed. Shareholder employees can

receive an annual salary from the company (drawings), a regular salary (PAYE earnings) like any other employee, or a combination of both.

### **Self-employed or shareholder employee calculations**

3.3 The calculations to determine a veteran's self-employed earnings are the same as the calculations to determine a veteran's shareholder employee earnings.

3.4 There are three ways to calculate a veteran's self-employed or shareholder earnings, depending whether the veteran is a new, recent, or established earner:

- New: veteran became self-employed or a shareholder employee in the same **tax year** as the start of their incapacity.
- Recent: when the **relevant year** was the first full year the veteran was self-employed or a shareholder employee.
- Established: veterans who have been self-employed or a shareholder employee in full years before the relevant year.

### **If a self-employed veteran became a shareholder employee in the relevant year**

3.5 If a veteran has changed from being self-employed in the relevant year to being a shareholder employee at the start of incapacity, for the purposes of the calculations, Veterans' Affairs will treat the new shareholder employee earnings as if they are self-employed earnings.

*Clause 33 of Schedule 2 of the Veterans' Support Act 2014*

### **If a shareholder employee veteran became self-employed in the relevant year**

3.6 If a veteran has changed from being a shareholder employee in the relevant year to being self-employed at the start of incapacity the same rule applies. For the purposes of the calculations, Veterans' Affairs will treat the new self-employed earnings as if they are shareholder employee earnings.

*Clause 35 of Schedule 2 of the Veterans' Support Act 2014*

### **Aggregating earnings**

3.7 If a veteran has more than one form of employment, the veteran's weekly earnings can be found by calculating each earning type separately and adding the amounts together.

*Clause 36 of Schedule 2 of the Veterans' Support Act 2014*

3.8 There is no need to aggregate earnings if the veteran has:

- only one form of employment; or
- multiple non-permanent forms of employment; or
- elected to exclude their earnings as an employee; or

- elected to include their earnings as an employee in their shareholder or self-employed calculations.

## 4. Standard assessment: If the veteran is not earning

- 4.1 A veteran who has no earnings within 12 months of the start of their service-related injury or illness is entitled to Weekly Compensation at the minimum rate being 80% of the average wage.

*Clause 37(5) of Schedule 2 of the Veterans' Support Act 2014*

## 5. Exception: Employment ended recently

### Within 28 days of incapacity

- 5.1 If a veteran would have continued in employment, had they not suffered their incapacity, for:

- three months, if the veteran had an employment agreement; or
- 12 months, if the veteran was in seasonal employment with the same employer in the last two seasons, and the employer confirms that they could reasonably have expected to be re-employed in the season after the veteran's incapacity commenced;

the veteran is deemed to still be employed for 28 days, or longer if they are continuing to receive income related payments, outlined below.

*Clause 38 of Schedule 2 of the Veterans' Support Act 2014*

### Veterans receiving income related payments after the end of employment

- 5.2 A veteran who is receiving income related payments on ceasing employment is deemed to still be in employment for the purposes of calculating earnings.
- 5.3 This includes payments such as overtime, back pay, long service leave, bonuses, gratuities, salaries to partners or shareholder-employers, or income from self-employment.
- 5.4 During this period a veteran is deemed to be deriving earnings at the same rate they were before they ceased to be an employee, self-employed, or a shareholder employee.
- 5.5 This continues until the veteran's entitlement to the payments ceases, or longer, if the payments cease within 28 days and the veteran would have continued in employment had they not suffered their **impairment**, outlined above.

*Clause 38 of Schedule 2 of the Veterans' Support Act 2014*

## **6. Exception: Veteran had earnings within 12 months of the start of the service-related injury or illness**

6.1 If a veteran did not have earnings at the onset of their service-related impairment, but had earnings within 12 months of the cause of that impairment, Veterans' Affairs may consider their earnings from before the cause of impairment.

6.2 This covers a veteran who:

- was not in the workforce at the time of their application (for example having travelled), but had proven earning capacity from the 12 months before their impairment; and
- suffers from an illness or injury which may not present symptoms immediately after its cause, or where the extent of impairment is not immediately realised (particularly psychological conditions associated with service in the armed forces).

*Clause 37(1) of Schedule 2 of the Veterans' Support Act 2014*

## **7. Exception: If the veteran is on unpaid parental leave**

7.1 For determining earnings, the date the veteran began parental leave is deemed to be the date his or her incapacity commenced.

7.2 For determining the start of entitlement, the date the veteran would be required to return to work at the end of parental leave is deemed to be the start of incapacity.

7.3 A veteran is not on paid leave if they are receiving payment under Part 7A of the Parental Leave and Employment Protection Act 1987.

*Clause 39 of Schedule 2 of the Veterans' Support Act 2014*

## **8. Minimum rate**

8.1 If a veteran's earnings rate is assessed to be less than the minimum rate, Veterans' Affairs will increase the veteran's earnings to the minimum rate.

*Clause 25 of Schedule 2 of the Veterans' Support Act 2014*

## **9. Further and subsequent impairment**

### **Further impairment**

9.1 If a veteran receiving Weekly Compensation suffers from a further injury or illness, the veteran's entitlement is calculated using the weekly earnings from the original earnings assessment.

*Clause 41(1) and (2) of Schedule 2 of the Veterans' Support Act 2014*

## Subsequent impairment

- 9.2 If the veteran stops receiving Weekly Compensation then later suffers from a subsequent service-related incapacity, their entitlement is calculated using the earnings from the start of the veteran's subsequent service-related incapacity.

*Clause 41(3) of Schedule 2 of the Veterans' Support Act 2014*

## 10. Evidence of earnings

- 10.1 A veteran's earnings as an employee for the 52 weeks prior to incapacity must be gathered from the veteran's employer, or, with the veteran's consent from IRD, even when the veteran is no longer in that employment.
- 10.2 Veterans who are shareholder employees or self-employed must provide their earning details as declared to Inland Revenue for any relevant period to be included in their earning calculation.
- 10.3 Veterans' Affairs must take an income tax return into account unless it considers that the income tax return provided by the veteran has been unreasonably influenced by:
- the veteran's incapacity; or
  - the effects or likely effects of the incapacity on the veteran's income or business activities.

*Clause 24 of Schedule 2 of the Veterans' Support Act 2014*

### Self-employed veterans whose tax return is not available

- 10.4 If a self-employed veteran's income tax return for the **relevant year** is not available (for example if it has not been filed, or has been filed but has not been processed) the income tax return for the **next previous year** must be used.
- 10.5 If Veterans' Affairs applies the previous year's tax return and then finds that the compensation paid is less than what would have been paid if the veteran's income tax return for the relevant year had been available, the Weekly Compensation must be increased.

*Clause 31 of Schedule 2 of the Veterans' Support Act 2014*

## 11. Estimating earnings

- 11.1 If a veteran had earnings as a self-employed person or shareholder-employee that cannot be readily ascertained, Veterans' Affairs may estimate an amount that represents reasonable remuneration for the veteran until:
- the income tax return for the **relevant year** is available; or
  - three months have passed after the incapacity commenced.

11.2 If the veteran's income tax return for the relevant year remains unavailable at the end of the 3-month period, Veterans' Affairs can pay Weekly Compensation only as an advance, and only at the minimum rate.

11.3 In estimating earnings Veterans' Affairs must consider:

- the evidence available of the veteran's earnings; and
  - the nature of the veteran's employment immediately before his or her incapacity commenced; and
  - any employment, whatever its nature, that the veteran has while suffering the incapacity.
- If Veterans' Affairs finds that the Weekly Compensation it paid is greater than that it would have paid if the veteran's income tax return for the relevant year had been available, Veterans' Affairs may recover the difference:
    - as a debt; or
    - by deducting it from any entitlement otherwise payable to the veteran (whether or not in respect of the same injury or illness).

*Clause 43 of Schedule 2 of the Veterans' Support Act 2014*

### **Estimating abated earnings that cannot be ascertained**

11.4 If a veteran has earnings as a self-employed person or earnings as a shareholder-employee that cannot be readily ascertained, Veterans' Affairs may estimate the reasonable remuneration for the veteran.

11.5 When estimating reasonable remuneration, Veterans' Affairs must consider:

- the evidence available of the veteran's earnings; and
- the nature of the veteran's employment immediately before his or her incapacity commenced; and
- the nature of the veteran's employment that the veteran has during the period of incapacity.

## **12. Veterans who have part-time earnings**

12.1 If a veteran has part-time work while receiving Weekly Compensation, Veterans' Affairs must reduce their entitlement so their combined earnings and compensation do not exceed the veteran's calculated earnings for Weekly Compensation. This reduction is called **abatement**.

12.2 Abatement formula example;

- 100% of the veteran's pre-incapacity calculated earnings = \$1000
- Current payment rate 85% of their pre-incapacity earnings = \$850
- Part-time earnings = \$250

Determine the 15% of weekly earnings amount which does not reduce Weekly Compensation	$\$1000 \times 15\% (1000 \times 0.15) = \$150$
Subtract the '15% amount' from the total earnings subject to abatement	$\$250 - \$150 = \$100$
Reduce the Weekly Compensation amount by the difference	$\$850 - 100 = \$750$

*Clause 44 of Schedule 2 of the Veterans' Support Act 2014*

- 12.3 If a veteran is receiving Weekly Compensation at the minimum rate, Veterans' Affairs must reduce the amount of Weekly Compensation paid to the veteran to ensure that the total of the veteran's Weekly Compensation and earnings do not exceed the average wage.

*Clause 44(2) of Schedule 2 of the Veterans' Support Act 2014*

- 12.4 Abatement formula example for minimum rate (not current figures);

- 100% of the average wage = \$1000
- Current payment rate 80% of the average wage = \$800
- Part-time earnings = \$300

Determine the 20% of weekly earnings amount which does not reduce Weekly Compensation	$\$1000 \times 20\% (1000 \times 0.20) = \$200$
Subtract the '20% amount' from the total earnings subject to abatement	$\$300 - \$200 = \$100$
Reduce the Weekly Compensation amount by the difference	$\$800 - \$100 = \$700$

### **Abatement on Termination of Employment**

- 12.5 If the veteran's employment has terminated, Veterans' Affairs will take into account earnings in respect of leave entitlements when determining abatement of Weekly Compensation. Veterans' Affairs must treat such a payment as having been derived after the termination of employment for a period that is equal to the total period that the veteran could have taken as leave if the veteran had not received the payment.

*Clause 42, Schedule 2 of the Veterans' Support Act 2014*

## 13. Annual adjustments

### Average wage

- 13.1 The average wage is used to find the minimum rate of Weekly Compensation. This is adjusted annually at 1 July to match the average wage in the latest Quarterly Employment Survey published by Statistics New Zealand.

*Clause 37(6) of Schedule 2 of the Veterans' Support Act 2014 and Schedule 10 Part 1 of the Social Security Act 2018*

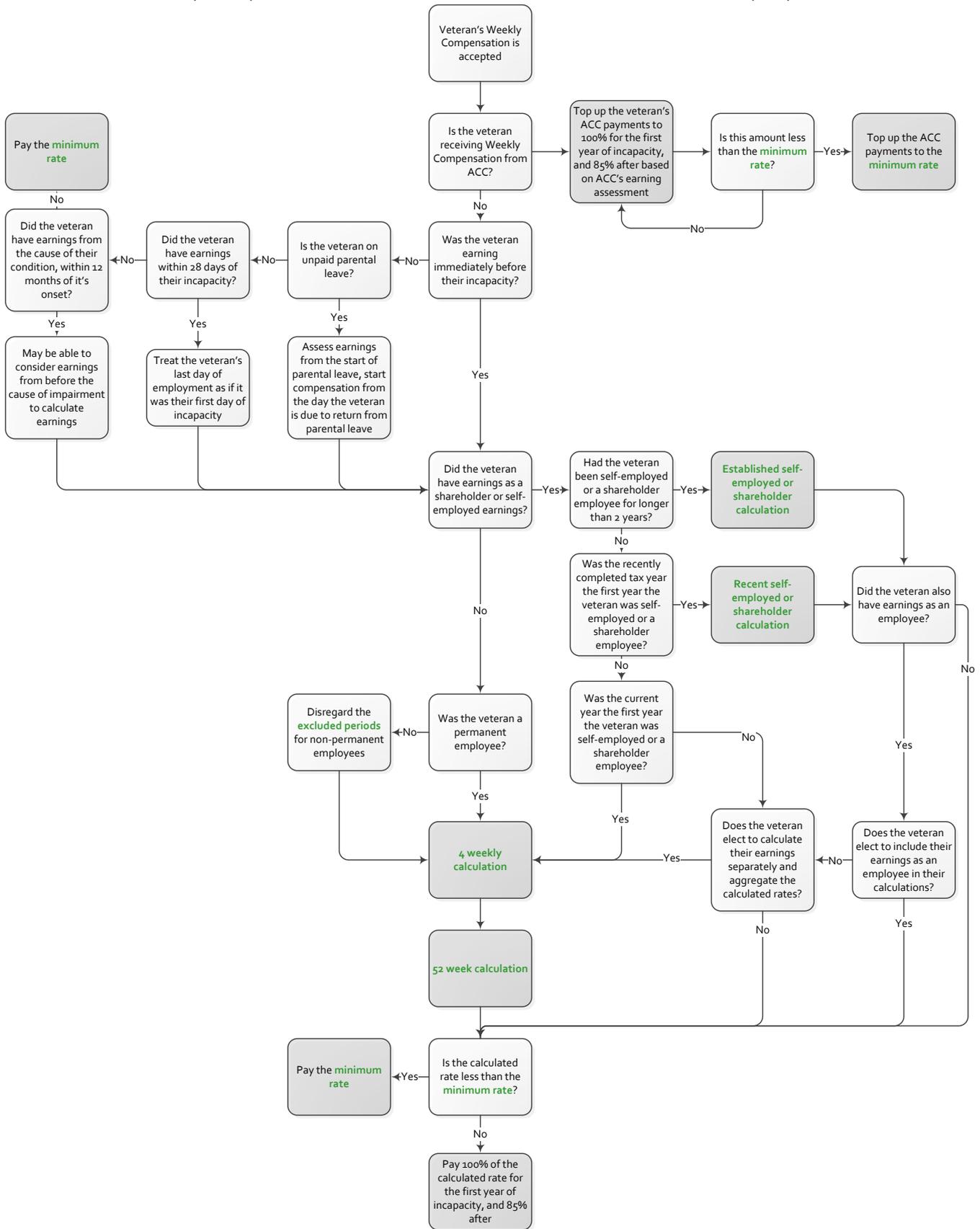
### Weekly Compensation

- 13.2 The earnings payment rate for a veteran on long term Weekly Compensation is adjusted annually according to the Labour Cost Index on 1 July each year.

*Section 30(1) of the Veterans' Support Act 2014 and Regulation 15A of the Veterans' Support Regulations 2014*

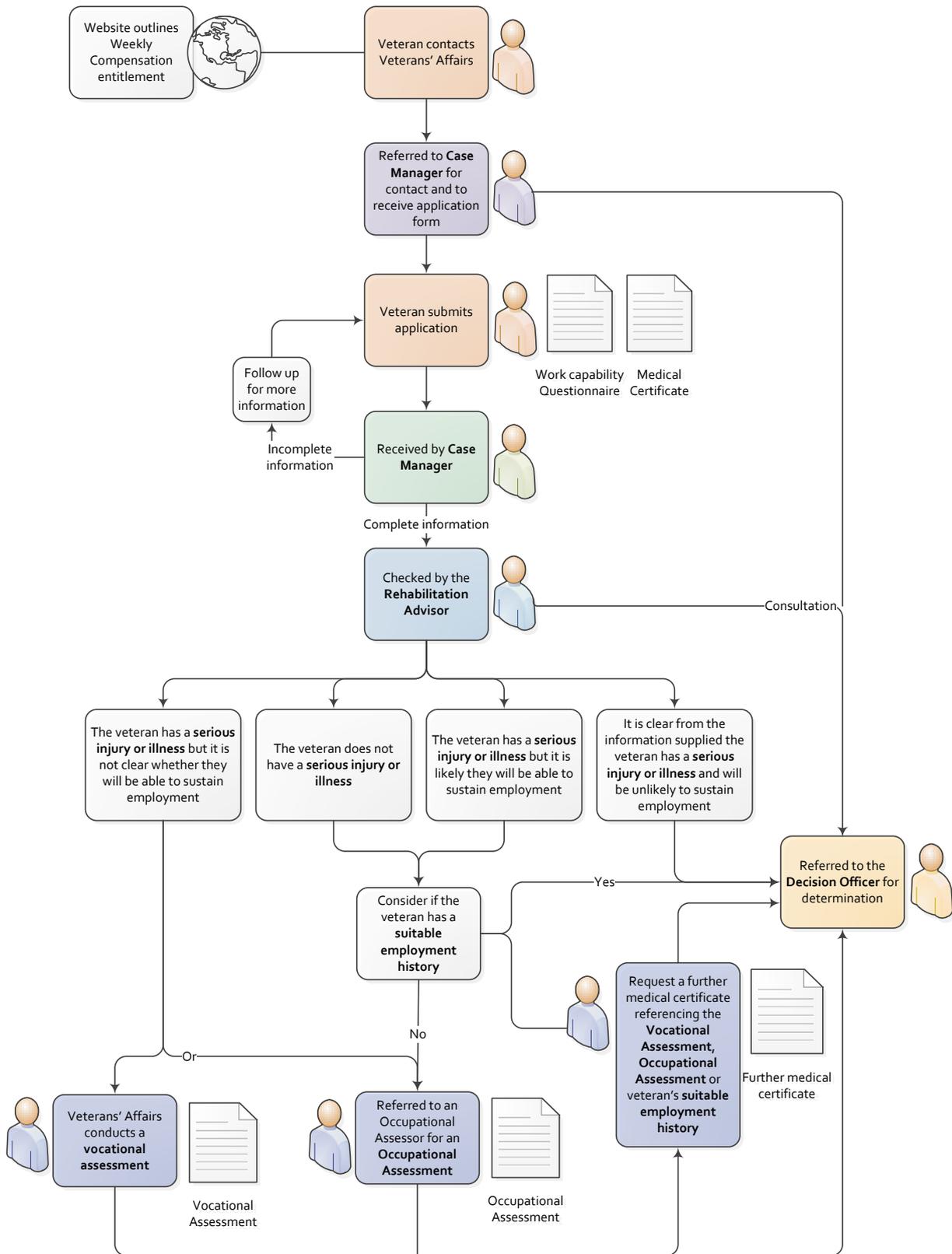
# Flowchart for calculating earnings

This flowchart is a summary of the process and should not be referred to without full consideration of the policy.



# Appendix 3: Flowchart for gathering entitlement information

This flowchart is a summary of the process and should not be referred to without full consideration of the policy.



## Appendix 4: Administration of non-compliance warning, suspension and cancellation

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### 1. Written notice of intention to cease payment

1.1 Veterans' Affairs may cease payment if:

- it has given the recipient written notice of its intention to cease payment because they failed to comply with the requirement; and
- the recipient has not, within 28 days:
  - complied with the requirement; or
  - established reasonable grounds for not complying with the requirement.

*Section 27(5) of the Veterans' Support Act 2014*

1.2 Decisions to cease Weekly Compensation because a veteran has not complied with a reasonable request from Veterans' Affairs are determined by the Manager of Veterans' Services.

1.3 Veterans' Affairs cannot decline entitlements retrospectively, and can only decline to pay future payments and cannot recover payments that it has already made.

*Reasonable grounds*

1.4 Reasonable grounds for non-compliance include but are not limited to:

- the veteran is temporarily medically unfit to comply and has a medical certificate verifying this; or
- the veteran has been affected by unforeseen circumstances or circumstances beyond their control that Veterans' Affairs accepts as reasonable grounds for non-compliance.

### 2. 90 day suspension

2.1 After ceasing payments Veterans' Affairs will suspend payment for 90 days.

2.2 In the 90 day period Veterans' Affairs may resume payment from the date the veteran complies and/or attends a missed appointment. Veterans' Affairs is not normally liable to make any payment to which the veteran would otherwise have been entitled for the period between:

- the date from which their payments were first withheld; and
- the date payments resume, i.e. the date the veteran begins to comply.

2.3 A veteran forfeits payments for the period in which they fail to comply.

### *Entitlement payments during 90 day suspension*

2.4 Veterans' Affairs is not required to pay a veteran's entitlement over the period in which the veteran failed to comply. However, Veterans' Affairs can if it believes that both:

- exceptional circumstances exist; and
- it would be unfair to refuse to backdate.

2.5 Factors relevant include, but are not limited to:

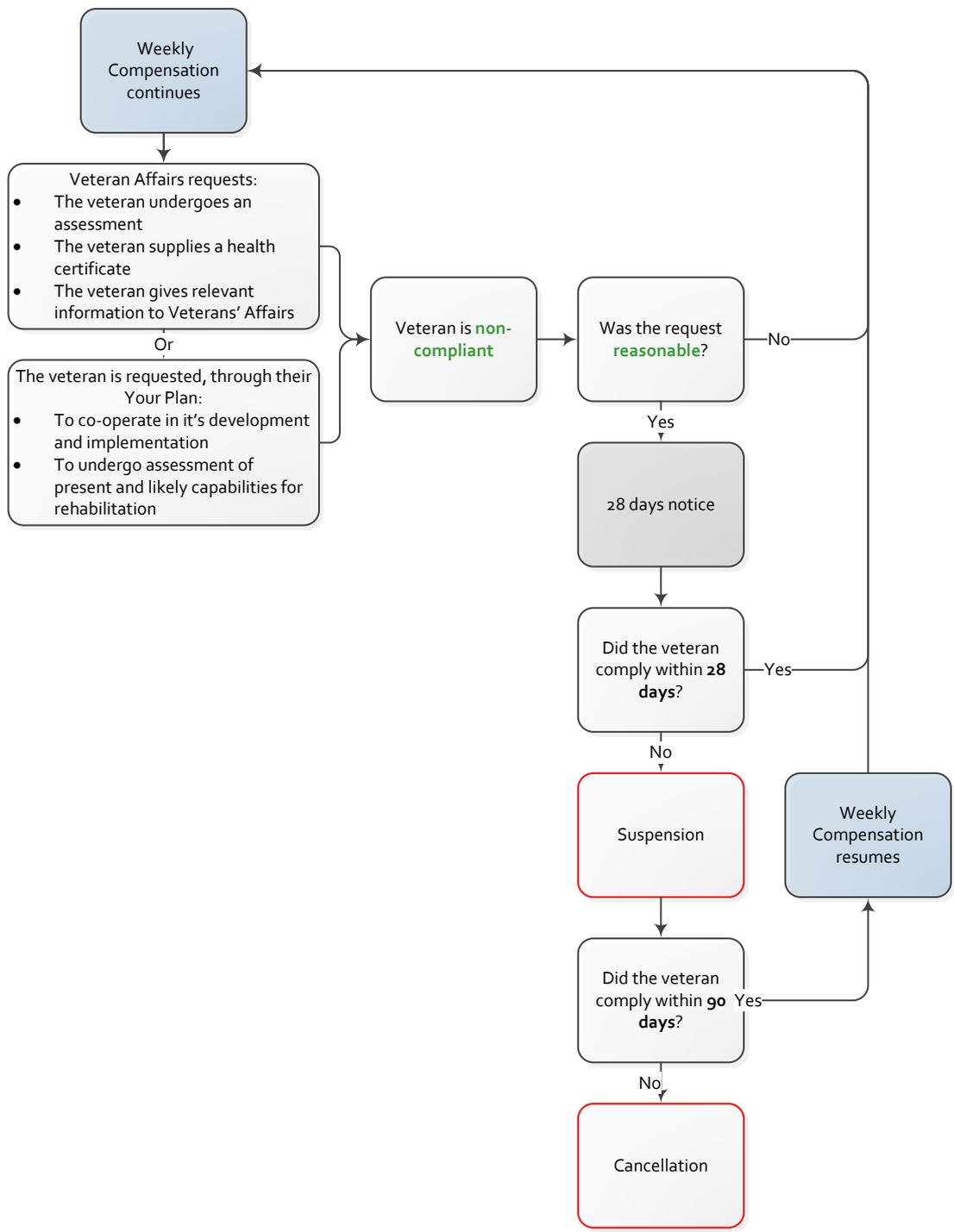
- the veteran is temporarily medically unfit to comply and has a medical certificate verifying this; or
- the veteran has been affected by unforeseen circumstances or circumstances beyond their control that have caused significant financial hardship or emotional distress; or
- the impact for the veteran or their family of not having the entitlement backdated is out of all reasonable proportion to the reason why the veteran refused to comply; or
- the veteran's rehabilitation has not been affected or delayed by the period of non-compliance.

## **3. Cancellation after 90 days**

3.1 If a veteran has not complied within 90 days their Weekly Compensation entitlement is cancelled.

# Flowchart for non-compliance

The flowchart is a summary of the process and should not be referred to without full consideration of the policy.



## Glossary

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### **abatement**

The term used for the process of deducting part-time earnings from Weekly Compensation under the Veterans' Support Act 2014.

### **average wage** [Clause 25(2) Schedule 2(1)]

means the before tax average ordinary time weekly wage (all sectors, male and female combined) as at 1 July each year, as specified in—:

- (a) the latest Quarterly Employment Survey published by Statistics New Zealand; or
- (b) if the survey referred to in paragraph (a) ceases to be published, a survey certified by the Government Statistician as an equivalent survey to the survey referred to in that paragraph.

### **days**

Unless specified otherwise, means calendar days

### **Established self-employed or shareholder employee**

Means veterans who have been self-employed or a shareholder for longer than the relevant year before the start of their incapacity.

### **full-time** [section 7]

in relation to employment and work, means employment for either –

- (a) an average of at least 30 hours per week; or
- (b) a lesser number of hours, if the lesser number of hours is defined as full-time employment in the employment agreement under which the veteran was employed, because of the particular nature of employment.

### **health practitioner** [section 7]

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

### **impairment** [section 7]

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

### **incapacity** [ACC glossary]

The inability to work in employment, or the absence from a workplace for healthcare, because of a covered injury or illness.

### **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.

### **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.

### **minimum rate** [schedule 2 clause 25]

The base rate of Weekly Compensation, prior to any abatement from part-time earnings, must not be less than 80% of the average wage.

### **new self-employed or shareholder earner**

Means a veteran who became self-employed or a shareholder employee in the same tax year as the start of their incapacity.

### **next previous year**

Means the income year prior to the most recently completed income year.

### **non-permanent employee**

Means work where the veteran is:

- (a) A seasonal or casual employee
- (b) An employee on unpaid parental or extended unpaid leave in the next 12 months
- (c) An employee with a long-term employment contract but with lengthy scheduled breaks with no wages payable
- (d) An employee who would not continue to receive earnings from that employment for a continuous period of 12 months.

### **Part-time work**

Means work that does not meet the definition of full-time work.

### **prison** [section 29]

Means—

- (a) a prison within the meaning of section 3(1) of the Corrections Act 2004; or  
[which under that Act reads as follows:  
(a) means a prison established or deemed to be established under section 32;  
and  
(b) to avoid doubt, includes any land or building declared to be a prison.]  
Note these relate to Corrections prisons and Police jails.
- (b) a service prison within the meaning of section 2(1) of the Armed Forces Discipline Act 1971; or  
[which under that Act reads as follows:  
Means a building or part of a building set aside under this Act as a service prison.
- (c) an overseas prison.

### **prisoner** [section 29(3)]

Means,—

- (a) for a prison referred to in **paragraph (a)** of the definition of prison, a prisoner within the meaning of section (3)(1) of the Corrections Act 2004; or  
[prisoner under that Act reads as follows:  
Means any person for the time being in the legal custody under this Act of the following persons:  
(a) the chief executive;  
(b) the Commissioner of Police.
- (b) for a prison referred to in **paragraph (b)** of that definition, a service prisoner within the meaning of section 2(1) of the Armed Forces Discipline Act 1971; or  
[service prisoner under that Act reads as follows:

*Means a person under a sentence that includes imprisonment imposed under this Act by the Court Martial].*

- (c) for a prison referred to in **paragraph (c)** of that definition, a person for the time being in legal custody in that prison.

**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.

**recent self-employed or shareholder earner**

Means the **relevant year** was the first full year the veteran was self-employed or a shareholder employee before the start of their incapacity.

**relevant year** [Schedule 2 clause 23]

The most recent tax year (as defined in section YA 1 of the Income Tax Act 2007) last ended before the commencement of the period of incapacity.

**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.

**tax year**

Means a period starting on 1 April and ending on 31 March.

**unable to work**

Means unable to work full-time as a consequence of injury or illness that is related to qualifying operational service.

**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.

**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.