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Veterans' Support Act 2014

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.

Note 4 at the end of this reprint provides a list of the amendments incorporated.

This Act is administered by the New Zealand Defence Force.

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Veterans' Support Act 2014.

2 Commencement

(1) This Act (except the provisions specified in subsections (2) and (3)) comes into force on the day that is 4 months after the date on which this Act receives the Royal assent.

(2) Sections 22, 23, subparts 1 and 2 of Part 8, and subpart 2 of Part 9 come into force on the day after the date on which this Act receives the Royal assent.

(3) The following provisions come into force on the day that is 16 months after the date on which this Act receives the Royal assent:

(a) Part 4 (Scheme Two):

(b) subpart 4 of Part 5:

(c) Schedule 2 (except Part 1).

Part 1
Preliminary provisions

Subpart 1—Preliminary matters

3 Purpose

(1) The purpose of this Act is to provide for—

(a) the rehabilitation of and support for veterans who, as a result of being placed in harm's way in the service of New Zealand, have been injured or become ill; and

(b) entitlements for eligible veterans who suffer service-related injuries or illnesses; and

(c) entitlements for eligible spouses, partners, and dependants of severely impaired or deceased veterans.

(2) The purpose of Part 2 is to promote positive veteran and claimant interaction with Veterans' Affairs New Zealand through the development and operation of a Code of Veterans' and Other Claimants' Rights.

4 Overview

(1) This Act comprises 9 Parts.

(2) This Part—

(a) sets out the purpose of this Act:

(b) provides that this Act binds the Crown:

(c) defines terms used in this Act:

(d) specifies general principles about how functions and powers under the Act are to be performed and exercised:

(e) states VANZ's general duties:

(f) provides the process for how claims are to be decided and provides certain presumptions relating to fitness for service, the cause of injury or illness, and paired organs:

(g) provides for the indexation of certain entitlements.

(3) Part 2 provides for a Code of Veterans' and Other Claimants' Rights.

(4) Part 3 (Scheme One) provides entitlements to veterans whose injury or illness is caused by, contributed to by, or aggravated by qualifying service before 1 April 1974 and their spouses, partners, children, and dependants. Certain veterans with qualifying service after 1 April 1974 are also included.

(5) The entitlements are—

(a) travel costs associated with treatment (subpart 2); and

(b) the disablement pension (subpart 3); and

(c) weekly income compensation (subpart 4); and

(d) entitlements for spouses, partners, children, and dependants of veterans (subpart 5); and

(e) children's bursaries (subpart 6).

(6) Part 4 (Scheme Two) provides entitlements to veterans whose injury or illness is caused by, contributed to by, or aggravated by qualifying operational service on or after 1 April 1974 and to their spouses, partners, children, and dependants. Certain veterans with qualifying operational service after 1 April 1974 who are covered by Part 3 (Scheme One) are excluded.

(7) The entitlements are—

(a) vocational services for spouses or partners (subpart 3); and

(b) payments for permanent impairment (subpart 4); and

(c) weekly compensation (subpart 5).

(8) Part 5 provides additional entitlements to or in respect of veterans to whom Scheme One or Scheme Two applies.

(9) The entitlements are—

(a) treatment (subpart 2); and

(b) rehabilitation for veterans (subpart 3 and Schedule 2); and

(c) participation in the veterans' independence programme (subpart 4); and

(d) aids and appliances (subpart 5); and

(e) motor vehicle grants (subpart 6); and

(f) retirement lump sum (subpart 7); and

(g) funeral expenses (subpart 8).

(10) Part 6 provides an entitlement to a veteran's pension to certain veterans and their spouses and partners who have reached the New Zealand superannuation qualification age.

(11) Part 7 provides for—

(a) the establishment and functions of VANZ (subpart 1):

(b) the review of decisions by VANZ by a review officer or review panel, and for the establishment of a Veterans' Service Review Panel (subpart 2):

(c) appeals against a review decision to an appeal board and for the establishment of a Veterans' Entitlements Appeal Board (also subpart 2).

(12) Part 8 provides for—

(a) the establishment and functions of the Veterans' Advisory Board (subpart 1):

(b) the establishment and functions of the Veterans' Health Advisory Panel (subpart 2):

(c) the administration of the Veterans' Medical Research Trust Fund (subpart 3).

(13) Part 9 provides for a range of miscellaneous matters as follows:

(a) notification of documents and information (subpart 1):

(b) regulations (subpart 2):

(c) offences (subpart 3):

(d) repeals, transitional provisions, and consequential amendments (subpart 4):

(e) other matters relating to missing veterans, arrangements with other countries, and exclusion of Crown liability for the death or disablement of veterans (subpart 5).

(14) This section—

(a) is only a guide to the general scheme and effect of this Act; and

(b) does not limit or affect the other provisions of this Act.

5 Act to bind the Crown

This Act binds the Crown.

6 Application of provisions of this Act

Schedule 1 contains application, transitional, and savings provisions that affect this Act's other provisions as from time to time amended, repealed, or repealed and replaced (*see* section 277).

Subpart 2—Interpretation and related matters

7 Interpretation

In this Act, unless the context otherwise requires,—

accepted late-onset condition, in relation to Part 4 (Scheme Two),—

(a) means a condition specified in regulations made under section 265 as accepted as being linked to specific exposure or specific events occurring during qualifying operational service; and

(b) without limiting paragraph (a), includes conditions specified in regulations referred to in that paragraph, being—

(i) a malignancy or other physical disorder that is capable of being caused by exposure during qualifying operational service that occurs 10 or more years before the onset of the illness; or

(ii) a mental disorder that is capable of being caused by an event that occurs 10 or more years before the onset of the illness; and

(iii) a mental disorder that is capable of being caused by an event that occurs less than 10 years before the onset of the illness and that is

capable of causing the person suffering from it to be unable to seek medical help for the disorder during that period

advisory board means the Veterans' Advisory Board established under Part 8

advisory panel means the Veterans' Health Advisory Panel established under Part 8

appeal board means the Veterans' Entitlements Appeal Board established under Part 7

armed forces has the same meaning as in section 2(1) of the Defence Act 1990

child, in relation to a veteran,—

(a) means a natural child of the veteran; and

(b) includes an adopted child of the veteran; and

(c) includes any other child who would ordinarily be regarded as a child of the veteran because the veteran—

(i) is or was the spouse or partner of one of the child's parents; and

(ii) acted as a parent of the child

Code—

(a) means the Code of Veterans' and Other Claimants' Rights approved under section 34; and

(b) includes any amendments to the Code approved under section 37

Defence Force has the same meaning as in section 2(1) of the Defence Act 1990

dependant, 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 a 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

deputy general manager means the Deputy General Manager of VANZ appointed under section 200

full-time, 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 that employment

full-time study has the same meaning as in section 6(1) of the Accident Compensation Act 2001

general manager means the General Manager of VANZ appointed under section 200

health practitioner has the same meaning as in section 5(1) of the Health Practitioners Competence Assurance Act 2003

impairment means a loss or abnormality of psychological, physiological, or anatomical function or structure

medical practitioner has the same meaning as in section 5(1) of the Health Practitioners Competence Assurance Act 2003

member of the armed forces means a person who is or has been a member of a 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

Minister means the Minister of the Crown who is, with the authority of the Prime Minister, for the time being responsible for the administration of this Act

New Zealand superannuation qualification age means the age at which a person becomes entitled to receive New Zealand superannuation under the New Zealand Superannuation and Retirement Income Act 2001

other claimants means—

(a) persons who have served as members of the armed forces before 1 April 1974 and whose injury or illness was caused by, contributed to by, or aggravated by routine service in New Zealand or overseas; and

(b) dependants of veterans; and

(c) spouses or partners of veterans

partner means a civil union partner or a de facto partner

review decision means a decision made by a review officer, a review panel, or the general manager under subpart 2 of Part 7

review officer 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

review panel means a Veterans' Service Review Panel established under section 223

service-related, 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,—

(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

treatment provider—

(a) means a chiropractor, dentist, medical laboratory technologist, nurse, nurse practitioner, occupational therapist, optometrist, osteopath, physiotherapist, podiatrist, or medical practitioner; and

(b) includes a member of any occupational group as added for the purposes of this definition by regulations made under section 265 and subject to any criteria specified in those regulations, including (but not limited to) whether and, if so, the extent to which members of an occupational group are recognised by the Accident Compensation Corporation as treatment providers for the purposes of the Accident Compensation Act 2001

VANZ means Veterans' Affairs New Zealand established under section 198

veteran means—

(a) a member of the armed forces who took part in qualifying operational service at the direction of the New Zealand Government; 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 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.

8 Meaning of different types of service

(1) In this Act, unless the context otherwise requires, **qualifying service** means—

(a) qualifying operational service; and

(b) qualifying routine service.

(2) For the purposes of subsection (1),—

qualifying operational service means—

(a) service on any deployment treated as a war or emergency for the purposes of the War Pensions Act 1954; and

(b) service on any deployment declared to be operational service under section 9

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

9 Declarations that deployments are operational service

(1) As soon as practicable after a decision is made to deploy members of the Defence Force, the Chief of Defence Force must provide a report to the Minister that assesses the operational and environmental threats posed to the health and well-being of the members.

(2) If further information on the threats posed to the members becomes available or the nature or significance of the threats changes, the Chief of Defence Force must provide a further report to the Minister.

(3) If the Minister is satisfied that the deployment poses a significant risk of harm to the members deployed, the Minister must, by notice in the *Gazette*, declare—

(a) the deployment to be operational service; and

(b) the area (whether land, sea, or airspace) in which the deployment is to be operational service; and

(c) the period during which the deployment is to be operational service.

(4) The Chief of Defence Force must advise the Minister when the deployment ends or the threats posed to members on which the Minister relied in making a declaration under subsection (3) escalate, abate, or cease.

(5) The Minister may, by notice in the *Gazette*, shorten or extend the period specified under subsection (3)(c) if,—

(a) in the case of shortening the period, the Minister is satisfied that the deployment has ceased or will cease to pose a significant risk of harm to members of the deployed force before the expiry of the period; and

(b) in the case of extending the period, the Minister is satisfied that the deployment will continue to pose a significant risk of harm to members of the deployed force after the expiry of the period.

(6) For the purposes of this section,—

environmental threat means a threat posed by 1 or more of the following:

(a) water and food quality or availability, or sanitation conditions:

(b) epidemics and other diseases, including diseases that are endemic:

(c) insect, plant, and animal hazards:

(d) roads and associated traffic hazards:

(e) any other matter that the Minister considers poses an environmental threat

operational threat means a threat posed by 1 or more of the following:

(a) the activity of individuals, stakeholders and factions, security forces, and other groups, including those conducting military and political activity:

(b) the local conditions and hazards, including violence connected with crime, civil disturbance, rioting, and protest action:

(c) the risk associated with mines, unexploded ordnance, and booby traps:

(d) the risk associated with chemical, biological, radiological, and nuclear exposure:

(e) acts of terrorism, whether or not directed at members of the Defence Force:

(f) any other matter that the Minister considers poses an operational threat.

Subpart 3—General principles and related matters

General principles

10 Functions to be performed and powers to be exercised in accordance with certain principles

Every person who performs any function or exercises any power under this Act must do so—

(a) in acknowledgement, on behalf of the community, of the responsibility for the injury, illness, or death of veterans as a result of them being placed in harm's way in the service of New Zealand; and

(b) in accordance with the following principles:

(i) the principle of providing veterans, their spouses and partners, their children, and their dependants with fair entitlements:

(ii) the principle of promoting equal treatment of equal claims:

(iii) the principle of taking a benevolent approach to claims:

(iv) the principle of determining claims—

(A) in accordance with substantial justice and the merits of the claim; and

(B) not in accordance with any technicalities, legal forms, or legal rules of evidence.

VANZ's general duties

11 VANZ to perform functions and exercise powers on reasonable grounds and in a timely manner

(1) VANZ must perform its functions and exercise its powers on reasonable grounds and in a timely manner, having regard to the requirements of this Act, the nature of the function or power, and all the circumstances.

(2) For the purposes of subsection (1), VANZ is to be treated as responding to a claim in a timely manner if it makes a decision on the claim within 30 working days after receiving the claim.

(3) However, the 30 working days does not include any period while VANZ is waiting for a veteran or other claimant to provide further information that VANZ requires to determine whether to accept the claim.

12 VANZ must keep veteran or claimant up to date on progress of claim and give notice of its decision

(1) VANZ must keep a veteran or claimant up to date on the progress of the veteran's or claimant's claim.

(2) As soon as practicable after making a decision on a claim, VANZ must give notice of its decision on the claim to the claimant.

(3) Every notice given under this section must—

(a) be in writing; and

(b) contain the reasons for the decision; and

(c) comply with section 13.

13 VANZ must tell claimant about review rights

VANZ must tell a claimant that he or she has the right to apply for a review of any of VANZ's decisions on the claim, and must do so at a time appropriate to enable the claimant to exercise the right.

How claims are to be decided

14 Process for deciding claims

(1) This section sets out the sequential steps to be taken in deciding whether a claim under this Act is accepted.

(2) The first step is to—

(a) consider all the available material that is relevant; and

(b) decide whether the material is consistent with an hypothesis that the veteran's injury, illness, or death was service-related.

(3) If the material is consistent with an hypothesis as specified in subsection (2), the second step is to decide whether there is a statement of principles that applies.

(4) If there is no statement of principles that applies, section 15 applies.

(5) If there is a statement of principles that applies, the third step is to decide whether the hypothesis is consistent with the statement of principles.

(6) If the hypothesis is consistent with the statement of principles, the fourth step is to accept the claim, unless there are reasonable grounds for believing that the veteran's injury, illness, or death was not service-related.

(7) In this section and section 15, **statement of principles** means a statement of principles that, under section 22(6) and regulations made under section 265, applies for the purposes of this Act.

15 Where no statement of principles applies

(1) This section applies if, under section 14(4), there is no applicable statement of principles.

(2) The person deciding whether to accept the claim must decide whether the claim is consistent with an hypothesis that is reasonable.

(3) If the claim is consistent with an hypothesis that is reasonable, then the claim must be accepted, unless there are reasonable grounds for believing that the veteran's injury, illness, or death was not service-related.

(4) An hypothesis is reasonable if it is—

(a) more than a possibility; and

(b) consistent with the known facts; and

(c) not inconsistent with proved or known scientific facts.

16 Process in sections 14 and 15 subject to other sections

The process set out in sections 14 and 15 applies to the extent that it is not modified or overtaken by the presumptions in sections 17 to 21 or the provisions of section 28.

Presumptions

17 Presumption of physical and mental fitness for service

(1) For the purposes of this Act, a person who is medically assessed by the Defence Force to be physically and mentally fit for service in the armed forces is presumed to be physically and mentally fit for service in the armed forces.

(2) The presumption in subsection (1) is conclusive, but—

(a) applies subject to subsection (3); and

(b) does not apply if subsection (4) applies.

(3) The presumption in subsection (1) applies subject to any physical or mental condition that—

(a) qualifies a person's physical and mental fitness for service in the armed forces; and

(b) is noted in writing and given to the person at the time the person's physical and mental fitness is assessed.

(4) The presumption in subsection (1) does not apply if—

(a) the person failed to disclose, after proper inquiry of the person, any material facts in relation to his or her physical or mental health or history of physical or mental health; or

(b) by reason of any false statement, non-disclosure, or misrepresentation by the person, he or she was incorrectly assessed as physically and mentally fit for service in the armed forces.

18 Application of section 17(4) to veterans with qualifying operational service

(1) Section 17(4) does not preclude the production of evidence (whether strictly legal evidence or not) showing that any conditions that resulted in the disablement or death of the person were possibly service-related.

(2) If that evidence is produced, then (in the absence of evidence to the contrary), the person's condition is to be treated as service-related.

19 Presumption that injury, illness, or death due to qualifying operational service

(1) For the purposes of this Act, a veteran who is injured, becomes ill, or dies is presumed to have been injured, become ill, or died as a result of performing qualifying operational service if the injury, illness, or death occurred while the veteran was performing qualifying operational service.

(2) For the purposes of this Act, the aggravation of an injury or illness of a veteran is presumed to be the result of performing qualifying operational service if—

(a) the injury or illness was sustained or suffered before the veteran began performing qualifying operational service; and

(b) the injury or illness was recorded in the service medical records before the veteran commenced qualifying operational service, but only where the injury or illness was known to the veteran before commencing qualifying operational service; and

(c) the aggravation to the injury or illness occurred during the performance of qualifying operational service.

(3) The presumptions in subsections (1) and (2) are conclusive.

20 Presumption in relation to paired organs

(1) This section applies if—

(a) a veteran suffers the loss of, or the permanent loss of the use of, one of any paired organs of his or her body; and

(b) that loss is service-related; and

(c) the veteran subsequently loses or suffers impaired efficiency of the other corresponding organ (from whatever cause).

(2) The subsequent loss or impaired efficiency of the corresponding organ is presumed to be service-related.

(3) The presumption in subsection (2) is conclusive.

(4) Regulations may be made under section 265 on the recommendation of the Minister specifying which organs are paired organs for the purposes of this section.

(5) The Minister must not make a recommendation under subsection (4) without first consulting—

(a) relevant medical organisations; and

(b) the advisory panel; and

(c) any other person or organisation that the Minister considers appropriate to consult.

21 Conclusively presumed injuries, illnesses, and conditions

(1) Regulations made under section 265 on the recommendation of the Minister may specify injuries, illnesses, and conditions that must be treated as service-related if a veteran has—

(a) been exposed to specific events during qualifying operational service; or

(b) served at specified times in, or during specified periods of, or in specified deployments during, qualifying operational service.

(2) The Minister must not make a recommendation under subsection (1) without first consulting—

(a) relevant medical organisations; and

(b) the advisory panel; and

(c) any other person or organisation that the Minister considers appropriate to consult.

Australian statements of principles

22 Statements of principles made under Australian legislation

(1) As soon as practicable after the commencement of this section, VANZ must undertake and complete a review of the statements of principles determined by the Australian Repatriation Medical Authority under the Veterans' Entitlements Act 1986 (Aust).

(2) The purpose of the review is to assess which of the statements of principles should be applied in New Zealand.

(3) In conducting the review, VANZ must consult, and have regard to the views of,—

(a) the Royal New Zealand Returned and Services' Association Incorporated; and

(b) relevant medical organisations; and

(c) any other person or organisation that VANZ considers appropriate to consult.

(4) After completing the review, VANZ must prepare and provide a report to the Minister and the advisory panel.

(5) As soon as practicable after receiving the report and any comments on it from the advisory panel, the Minister must decide which statements of principles should apply in New Zealand.

(6) Regulations may be made under section 265 on the recommendation of the Minister specifying that a statement of principles applies for the purposes of this Act.

(7) Any assessment of a statement of principles or consultation on a statement of principles includes any assessment or consultation begun or completed before the commencement of this section.

23 New statements of principles and revocation of statements of principles

(1) As soon as practicable after VANZ becomes aware of a new statement of principles being issued or of a statement of principles being revoked, VANZ must—

(a) review the new statement of principles or the revocation of the statement of principles; and

(b) prepare and provide a report to the Minister and the advisory panel.

(2) As soon as practicable after receiving the report and any comments on it from the advisory panel, the Minister must decide,—

(a) in the case of a new statement of principles, whether the statement of principles should apply in New Zealand; and

(b) in the case of a revocation of a statement of principles, whether the statement of principles should cease to apply in New Zealand.

(3) Regulations may be made under section 265 on the recommendation of the Minister,—

(a) in the case of a new statement of principles, specifying that the statement of principles applies for the purposes of this Act; and

(b) in the case of a revocation of a statement of principles, specifying that the statement of principles ceases to apply for the purposes of this Act.

24 Amendments to statements of principles

(1) As soon as practicable after VANZ becomes aware of a statement of principles that applies in New Zealand being amended, VANZ must—

(a) review the amendment; and

(b) prepare and provide a report to—

(i) the Minister; and

(ii) if the amendment is not a minor amendment, the advisory panel.

(2) As soon as practicable after receiving the report and any comments on it by the advisory panel (in the case of an amendment that is not minor), the Minister must decide whether the amendment should apply in New Zealand.

(3) The Minister may, by notice in the *Gazette*, specify that the amendment applies for the purposes of this Act.

25 Application of certain sections of Legislation Act 2012

Sections 52 and 56 of the Legislation Act 2012 apply to regulations made under section 22 or 23 and notices in the *Gazette* under section 24 as if the

regulations or notices incorporated material by reference and had been made in reliance on section 49 of that Act.

26 Proof of statements of principles

The production in proceedings of a statement of principles or an amendment of a statement of principles, certified by the Chief of Defence Force as applying in New Zealand, is, in the absence of proof to the contrary, sufficient evidence that the statement of principles or the amendment of the statement of principles applies in New Zealand.

Subpart 4—Other matters

Veteran's and claimant's obligations

27 Responsibility of veteran or other claimant to assist in establishing and maintaining entitlements

(1) A veteran who applies for or receives an entitlement under this Act must, when reasonably required to do so by VANZ,—

(a) give VANZ a certificate by a health practitioner or treatment provider that deals with the matters or contains the information that VANZ requires:

(b) authorise VANZ to obtain medical and other records that are or may be relevant to the veteran's application or entitlement:

(c) undergo assessment at VANZ's expense by an assessor appointed by VANZ under section 212 and specified by VANZ.

(2) A veteran or other claimant who applies for or receives an entitlement under this Act must, when reasonably required by VANZ,—

(a) give VANZ relevant information about any matters relating to his or her application or entitlement that VANZ requires at any time:

(b) undergo any assessment in relation to the veteran's or claimant's application or entitlement that VANZ may require under this Act:

(c) participate in rehabilitation, including—

(i) co-operating with VANZ in the development and implementation of any individual rehabilitation plan; and

(ii) undergoing, at VANZ's expense, assessment of present and likely capabilities for the purposes of rehabilitation.

(3) If VANZ requires the veteran or other claimant to do so, he or she must provide the information referred to in subsection (2)(a) in a form supplied or specified by VANZ.

(4) If a veteran or other claimant fails to comply with a requirement under subsection (1) or (2), VANZ may cease payment of an entitlement to which the requirement relates.

(5) VANZ may cease payment of an entitlement under subsection (4) only if—

(a) VANZ has given the veteran or other claimant written notice of its intention to cease payment because the veteran or other claimant has failed to comply with the requirement; and

(b) the veteran or other claimant has not, within 28 days of the date of giving the notice,—

(i) complied with the requirement; or

(ii) established, to VANZ's satisfaction, reasonable grounds for not complying with the requirement.

Disentitlement

28 Circumstances that exclude or limit entitlements

(1) Claims to entitlements under this Act are excluded if the injury, illness, or death concerned occurred in any of the following circumstances:

(a) while the veteran was a deserter or absent without leave within the meaning of the relevant armed forces disciplinary legislation applicable at the time of the injury, illness, or death:

(b) while the veteran was committing an offence under New Zealand law or committing an act overseas that, had it been done in New Zealand, would have been an offence under New Zealand law:

(c) in the case of death, the death was self-inflicted (unless occurring during qualifying operational service), but only in relation to entitlements under Part 4 (Scheme Two):

(d) the injury, illness, or death was predominantly caused by or significantly aggravated by the use of alcohol or tobacco products, the misuse of illegal or prescription drugs, or the contracting of a sexually transmitted disease, but only in relation to entitlements under Part 4 (Scheme Two).

(2) Despite subsection (1), VANZ may provide entitlements that would otherwise be excluded by subsection (1)(c) and (d) if VANZ is satisfied on reasonable grounds that—

(a) the injury, illness, or death was due to a psychological condition that was attributed to or aggravated by the experiences of the veteran during qualifying operational service; or

(b) in the case of a sexually transmitted disease, the disease resulted from suffering a sexual assault.

(3) For the purposes of subsection (1)(a), the finding of a military tribunal (within the meaning of the Armed Forces Discipline Act 1971) that a veteran was a deserter or absent without leave is conclusive proof that the veteran was a deserter or absent without leave.

(4) Claims to entitlements under this Act in relation to injury or illness are excluded to the extent that the injury or illness is due wholly or substantially to the ageing process.

29 Disentitlement during imprisonment

(1) VANZ must not provide any entitlements under Part 3, 4, or 5 to a claimant in respect of any period during which the claimant is a prisoner in any prison.

(2) VANZ is not required to undertake any assessments or make any payments to a claimant under Part 3, 4, or 5 while the claimant is a prisoner in any prison.

(3) In this section, **prisoner** and **prison**—

(a) have the same meaning as in section 3(1) of the Corrections Act 2004; and

(b) **prison** includes—

(i) a service prison within the meaning of the Armed Forces Discipline Act 1971; and

(ii) an overseas prison.

Indexation

30 Indexation of certain entitlements in relation to average weekly earnings

(1) VANZ must adjust the following in the manner specified in subsection (2):

(a) the rate of weekly compensation as calculated under Part 2 of Schedule 2:

(b) the amount of weekly earnings under clause 44(1) of Schedule 2.

(2) Any adjustments required by subsection (1)—

(a) must be made in accordance with a prescribed formula or prescribed formulas relating to movements in average weekly earnings; and

(b) have effect from the prescribed date or dates; and

(c) must be published by VANZ on an Internet site maintained by or on behalf of VANZ and published in any other manner that VANZ thinks appropriate to bring the adjustments to the attention of claimants and the general public.

(3) VANZ is not required to adjust any amount under subsection (1) if—

(a) the prescribed formula specifies a minimum movement in average weekly earnings; and

(b) the movement in average weekly earnings is less than the minimum movement specified.

31 Indexation of certain entitlements in relation to New Zealand Consumers Price Index

(1) VANZ must adjust the following in the manner specified in subsection (3):

(a) the rates of disablement pension (section 56):

(b) the rate of the surviving spouse or partner pension (section 66):

(c) the rate of the children's pension (section 72):

(d) the rate of the dependant's pension (section 76):

(e) the rate of the children's bursary (section 81):

(f) the lump sum payment for permanent impairment (section 98):

(g) the maximum amount for motor vehicle grants (section 148):

(h) the amount of the retirement lump sum payment (section 151):

(i) the asset threshold for non-exempt assets (section 151):

(j) the maximum amount payable for funeral expenses for a veteran whose death is attributable to qualifying service (section 153):

(k) the maximum amount payable for funeral expenses for a veteran whose death is not attributable to qualifying service (section 154):

(l) the lump sum payment to a surviving spouse or partner of a veteran receiving the veteran's pension (section 174):

(m) the survivor's grant (clause 53 of Schedule 2):

(n) child care payments for children of deceased veterans (clause 64 of Schedule 2).

(2) VANZ may adjust in the manner specified in subsection (3) any costs, amounts, or limits on costs that are not required to be adjusted under section 30 or subsection (1) of this section.

(3) Any adjustments under subsection (1) or (2)—

(a) must be made in accordance with a prescribed formula or prescribed formulas relating to any movement in the New Zealand Consumers Price Index or any group or subgroup within the Index; and

(b) have effect from the prescribed date or dates; and

(c) must be published by VANZ on an Internet site maintained by or on behalf of VANZ and published in any other manner that VANZ thinks appropriate to bring the adjustments to the attention of claimants and the general public.

(4) VANZ is not required to adjust any amount under subsection (1) if—

(a) the prescribed formula specifies a minimum movement in the New Zealand Consumers Price Index or any group or subgroup within the Index; and

(b) the movement in the New Zealand Consumers Price Index, group, or subgroup is less than the minimum movement specified.

Part 2
Code of Veterans' and Other Claimants' Rights

32 Purpose of Code

(1) The purpose of the Code is to meet the reasonable expectations of veterans and claimants (including the highest practicable standard of service and fairness) about how VANZ should deal with them, by—

(a) specifying what VANZ will do, in performing its functions and exercising its powers, to ensure that it acts in accordance with the principles in section 10(b); and

(b) conferring rights on veterans and claimants and imposing obligations on VANZ in relation to how VANZ should deal with the veterans and claimants; and

(c) providing for the procedure for lodging and dealing with complaints about breaches of the Code by VANZ; and

(d) providing—

(i) for the consequences of, and remedies for, a breach of the Code by VANZ; and

(ii) without limiting subparagraph (i), how and to what extent VANZ must address situations where its conduct is not consistent with or does not uphold the rights of veterans and claimants under the Code; and

(e) providing for and explaining a veteran's and claimant's right to a review of a decision made under the Code about a claimant's complaint.

(2) The rights and obligations in the Code—

(a) are in addition to any other rights veterans and claimants have, and obligations VANZ has, under this Act, any other enactment, or the general law; and

(b) do not affect the entitlements and responsibilities of veterans and claimants under this Act, any other enactment, or the general law.

33 Chief of Defence Force to prepare draft Code in consultation with persons nominated by Minister

(1) The Chief of Defence Force must, as soon as practicable after this section comes into force, prepare a draft Code of Veterans' and Other Claimants' Rights.

(2) In preparing a draft Code, the Chief of Defence Force must consult such persons, bodies, organisations, and agencies as the Minister considers necessary to

ensure that a wide range of views is available to the Chief of Defence Force to assist him or her in preparing a draft Code.

(3) In subsection (2), **organisation** includes the Royal New Zealand Returned and Services' Association Incorporated and other groups representing veterans and claimants.

(4) For the purposes of subsection (2), the Minister may take into account any relevant consultation undertaken by the Chief of Defence Force before this section comes into force.

(5) After preparing the draft Code, the Chief of Defence Force must forward it to the Minister.

34 Approval of draft Code by Minister

(1) If the Minister agrees with the draft Code forwarded to him or her under section 33(5), the Minister must,—

(a) by notice in the *Gazette*, approve the Code; and

(b) present the Code to the House of Representatives within 12 sitting days after approving the Code; and

(c) arrange for the approval of the Code to be notified in daily newspapers published in Auckland, Hamilton, Wellington, Christchurch, and Dunedin.

(2) A notice given under subsection (1)(c) must state where copies of the Code may be obtained.

(3) The Code comes into force—

(a) on the date specified for that purpose in the Code, being a date after the date on which the Code is approved; or

(b) if no such date is specified, the day after the date on which the Code is approved.

35 VANZ's obligations in respect of Code

(1) VANZ must, in all its dealings with veterans and claimants, ensure that its actions are consistent with and uphold the rights of veterans and claimants in the Code.

(2) VANZ must—

(a) make the Code accessible to veterans and claimants and members of the public generally; and

(b) promote awareness of the Code among veterans and claimants and members of the public generally.

36 Status of Code as disallowable instrument

The Code is a disallowable instrument for the purposes of the Legislation Act 2012.

37 Amendments to Code

(1) The Code may be amended by the Minister approving, by notice in the *Gazette*, 1 or more amendments to the Code proposed by the Minister or the Chief of Defence Force.

(2) Sections 33 and 34 apply, with all necessary modifications, in relation to an amendment to the Code as if the amendment were the preparation of a draft Code.

(3) However, those provisions do not apply to an amendment if—

(a) the amendment is a minor or technical amendment; and

(b) the Minister considers that compliance with those provisions is unnecessary.

Part 3
Scheme One

Subpart 1—Application and purpose

38 Application of Part 3

(1) This Part applies to the following persons:

(a) every veteran with qualifying service performed—

(i) before 1 April 1974; or

(ii) before 31 March 1975, in connection with the civilian surgical team based at Qui Nhon Provincial State Hospital, Binh Dinh province, Vietnam; or

(iii) before 21 April 1975, in connection with 41 Squadron RNZAF in Vietnam:

(b) every spouse, partner, child, and dependant of every veteran referred to in paragraph (a).

(2) This Part also applies in relation to a veteran's claim if VANZ has determined under section 84(2) that the claim is to be dealt with under this Part.

39 Application of Part 3 before commencement of Part 4 (Scheme Two)

This Part also applies to claims made before the commencement of Part 4 (Scheme Two) by the following persons:

(a) every veteran with qualifying operational service performed in the period beginning on 1 April 1974 and ending on the day before the date on which Part 4 (Scheme Two) comes into force; and

(b) every spouse, partner, child, and dependant of every veteran referred to in paragraph (a).

40 Purpose of Scheme One

(1) The purpose of Scheme One is to provide entitlements to veterans and their spouses, partners, children, and dependants who are eligible under section 38 or 39.

(2) The entitlements are—

(a) travel costs associated with treatment and long-term hospital care (subpart 2); and

(b) the disablement pension (subpart 3); and

(c) weekly income compensation (subpart 4); and

(d) entitlements for spouses, partners, children, and dependants of deceased veterans (subpart 5); and

(e) children's bursaries (subpart 6).

41 Other entitlements

(1) Part 5 provides other entitlements that are common to Scheme One and Scheme Two.

(2) Part 1 of Schedule 2 provides additional entitlements in relation to rehabilitation.

Subpart 2—Travel costs associated with treatment and long-term hospital care

42 Interpretation

In this subpart, unless the context otherwise requires,—

travel costs means the cost of—

(a) travel:

(b) meals and accommodation reasonably associated with the travel:

(c) actual and reasonable out-of-pocket expenses associated with the travel.

43 When travel costs payable

VANZ is responsible for paying or contributing to the travel costs of a veteran in the following situations:

(a) where the veteran has to undergo treatment for a service-related injury or illness:

(b) where VANZ requires the veteran to undergo a medical assessment for the purpose of determining whether or to what extent a veteran can claim an entitlement under this Part:

(c) where the veteran is required to undergo a medical assessment for the purposes of a review of or appeal against a decision relating to the veteran's entitlement under this Part.

44 Travel escort

(1) This section applies where VANZ is responsible for paying or contributing to the cost of travel under section 43.

(2) VANZ is also responsible for paying or contributing towards paying the cost of a travel escort for a veteran if a health practitioner certifies, in writing, that the veteran is not fit or able to travel alone.

45 Travel costs of certain persons visiting veteran in long-term hospital care

(1) VANZ is responsible for paying or contributing to the reasonable travel costs of the persons specified in subsection (2) who are visiting a veteran who is in long-term hospital care.

(2) The persons are—

(a) the veteran's spouse or partner:

(b) any children or dependants of the veteran:

(c) any other person if VANZ considers it appropriate to pay or contribute to pay the cost of the person to visit the veteran.

46 Regulations

Regulations may be made under section 265 specifying—

(a) the maximum amounts payable for travel costs under this subpart:

(b) the process for claiming and paying travel costs under this subpart:

(c) any other matters for the effective and efficient administration of this subpart.

Subpart 3—Disablement pension

47 Disablement pension

(1) A veteran (whether resident in New Zealand or overseas) who suffers disablement as a consequence of a service-related injury or illness is entitled to a disablement pension.

(2) However, a veteran is not entitled to a temporary disablement pension unless he or she—

(a) is participating in a rehabilitation plan; or

(b) has a reasonable excuse for not participating in a rehabilitation plan in relation to the veteran's service-related injury or illness.

48 Application for disablement pension

(1) A veteran becomes entitled to a disablement pension when—

(a) the veteran has completed and provided to VANZ an application form provided by VANZ; and

(b) the veteran has supplied, in the form required by VANZ, any supporting evidence or information required by VANZ; and

(c) VANZ has accepted the application.

(2) If an application is accepted by VANZ, the veteran's entitlement to the disablement pension is to be treated as beginning on the day on which VANZ received the application.

49 Disablement pension temporary unless specified to be permanent

(1) A disablement pension is temporary unless VANZ, when notifying a veteran that his or her application for a disablement pension has been accepted, notifies the veteran that his or her disablement pension is permanent.

(2) A disablement pension may be notified as permanent if VANZ, on the basis of medical and other relevant evidence, considers that—

(a) the veteran's condition is not likely to improve; or

(b) the veteran's condition has stabilised or reached its final state.

(3) If a disablement pension is temporary, VANZ must advise a veteran that his or her disablement pension is temporary and must state the date by which the veteran's disablement is to be reassessed. VANZ may, if it considers it appropriate in the circumstances, advise the veteran of a later date by which the veteran's disablement is to be reassessed.

(4) On or before the date specified under subsection (3), VANZ must reassess the veteran's disablement to determine whether—

(a) the veteran's disablement pension should be cancelled because the veteran is no longer suffering from a medical condition that entitles him or her to receive a disablement pension; or

(b) the veteran's temporary disablement pension should continue because the medical condition that entitles the veteran to receive a disablement pension has not stabilised or reached its final state; or

(c) the veteran's temporary disablement pension should be made permanent because the condition causing the veteran's disablement has stabilised or reached its final state.

(5) To avoid doubt, a veteran's temporary disablement pension may be made permanent, even though the veteran is assessed at 0% whole-person impairment and therefore not entitled to a disablement pension, on either or both of the following grounds:

(a) the need for ongoing treatment to deal with the effects of the disablement:

(b) the potential for the disablement to return or recur.

(6) If VANZ makes a determination under subsection (4)(b), it must notify the veteran of a further date by which the veteran's disablement is to be reassessed.

(7) For the purposes of the reassessment under subsection (6), subsection (4) applies with all necessary modifications as if the reference to the date in subsection (3) were a reference to the date specified under subsection (6).

50 Suspension of temporary disablement pension

(1) VANZ may suspend payment of a temporary disablement pension to a veteran if VANZ is unable to complete a reassessment of the veteran's disablement under section 52 because the veteran has, without reasonable excuse, not complied with any reasonable requirement by VANZ for the purpose of completing the reassessment.

(2) However, VANZ must not suspend payment of a temporary disablement pension under subsection (1) unless it has given the veteran not less than 28 days' notice in writing that it proposes to suspend payment of the pension.

51 Treatment and rehabilitation during period of temporary disablement pension

VANZ must, in consultation with a veteran whose disablement pension is temporary, prepare a treatment and rehabilitation plan for the veteran to follow.

52 Reassessment of veteran's disablement

(1) VANZ may, from time to time, reassess the disablement of a veteran who is receiving a permanent disablement pension.

(2) A reassessment under subsection (1) must not be undertaken earlier than 2 years—

(a) after the veteran's disablement pension became permanent; or

(b) after the veteran's last whole-person impairment assessment.

(3) However, a reassessment may be undertaken earlier if—

(a) the veteran provides medical evidence to the satisfaction of VANZ that the veteran's disablement has increased significantly; or

(b) VANZ considers that the veteran's disablement has changed significantly.

(4) For the purposes of subsection (3), a change in disablement is significant if the change in whole-person impairment is 10% or more.

53 Lump sum payment for terminal conditions

(1) A veteran who is entitled to a disablement pension may elect to—

(a) suspend payment of the pension for a period of 12 months; and

(b) receive a lump sum payment equal to the aggregate of the pension payable at the maximum rate for the 12-month period.

(2) A veteran may make an election under subsection (1)—

(a) only once if the election is accepted by VANZ; and

(b) only if the veteran produces evidence to the satisfaction of VANZ that the veteran has a terminal medical condition that is a service-related condition.

(3) For the purposes of subsection (1), if VANZ accepts that the veteran may make an election under this section, the 12-month period is to be treated as starting on the day on which VANZ receives the veteran's election.

(4) Schedule 4 contains a consequential amendment to the Income Tax Act 2007 that exempts a lump sum payment under this section from income tax.

(5) If, during the 12-month period, the rate of payment of the disablement pension is adjusted, the veteran is entitled to an additional lump sum payment equal to the difference between—

(a) what the veteran received under subsection (1); and

(b) what the veteran would have received under subsection (1) had the adjustment to the rate and the date of the adjustment been taken into account when the lump sum was paid.

(6) If a veteran who receives a lump sum payment under this section is still alive at the close of the 12-month period referred to in subsection (1)(b), the veteran is entitled to the maximum disablement pension on and from the day after the close of that period.

(7) In subsection (2)(b) and section 54, **terminal medical condition** means an advanced progressive disease likely to cause death within the 12-month period referred to in subsection (1).

54 Maximum disablement pension payable if veteran has terminal condition

(1) A veteran may apply to VANZ to increase his or her disablement pension to the maximum rate.

(2) VANZ may accept the application if the veteran produces evidence to the satisfaction of VANZ that the veteran has a terminal medical condition that is a service-related medical condition.

(3) This section does not prevent a veteran from subsequently making an election under section 53.

55 Entitlement to disablement pension ceases 28 days after veteran's death

(1) When a veteran who is receiving a disablement pension dies, the entitlement to the pension ceases at the close of the 28th day after the date on which the veteran dies.

(2) This section does not apply in relation to a veteran who has elected to receive a lump sum payment under section 53 and dies during the 12-month period referred to in that section.

56 Rate of disablement pension

(1) The rates of the disablement pension are to be set by regulations made under section 265.

(2) The regulations must set different rates for different levels of whole-person impairment.

57 Increased pension if treatment requires veteran's absence from home or work

(1) VANZ may increase the rate of disablement pension payable to a veteran if—

(a) the veteran is undergoing any treatment; and

(b) VANZ is satisfied that the treatment requires the veteran to live away from home or be absent from work for 1 or more days in any week.

(2) An increase in the rate of disablement pension under subsection (1)—

(a) applies only for the period of the treatment; and

(b) must not result in the rate of the pension exceeding the rate that would be payable if the veteran were totally disabled.

58 Transitional provisions

Schedule 1 contains transitional provisions relating to veterans who are receiving a war disablement pension under Part 2 of the War Pensions Act 1954 immediately before the commencement of this Part.

Subpart 4—Weekly income compensation

59 Weekly income compensation

(1) A veteran (whether resident in New Zealand or overseas) is entitled to weekly income compensation in accordance with this subpart if the veteran is—

(a) under the New Zealand superannuation qualification age; and

(b) unable to work full-time; and

(c) either—

(i) participating in a rehabilitation plan; or

(ii) through no fault of the veteran, unable to participate in a rehabilitation plan in relation to the veteran's service-related injury or illness; and

(d) not receiving any benefit under the Social Security Act 1964.

(2) If a veteran is resident overseas, the veteran is responsible for paying the costs of assessing whether the veteran is unable to work full-time.

(3) In this subpart, **unable to work** means unable to work as a consequence of injury or illness from whatever cause.

60 Application for weekly income compensation

(1) A veteran becomes entitled to weekly income compensation when—

(a) the veteran has completed and provided to VANZ an application form provided by VANZ; and

(b) the veteran has supplied, in the form required by VANZ, any supporting evidence or information required by VANZ; and

(c) VANZ has accepted the application.

(2) If an application is accepted by VANZ, the veteran's entitlement to weekly income compensation is to be treated as beginning on the day on which VANZ received the application.

61 Rate of weekly income compensation

(1) Weekly income compensation is payable at the rate that is 80% of the average wage.

(2) In subsection (1), **average wage** means the average wage, as at 1 April each year, within the meaning of the Social Security Act 1964.

62 Entitlement to weekly income compensation ceases if veteran able to work full-time

(1) This section applies to a veteran who is under the New Zealand superannuation qualification age and is receiving weekly income compensation.

(2) If the veteran has been receiving weekly income compensation for less than 6 months and VANZ assesses the veteran as able to work full-time in employment in which he or she was employed immediately before receiving weekly income compensation, the veteran ceases to be entitled to weekly income compensation on the expiry of 10 days after receiving notice of the assessment.

(3) If the veteran has been receiving weekly income compensation for 6 months or more and VANZ assesses the veteran as able to work full-time in employment in which he or she was employed immediately before receiving weekly income compensation, the veteran ceases to be entitled to weekly income compensation on the earlier of—

(a) the date on which the veteran commences full-time employment; or

(b) the expiry of 28 days after the assessment.

(4) If the veteran is not able to work full-time in employment in which he or she was employed immediately before receiving weekly income compensation, but VANZ assesses the veteran as able to undertake other full-time employment, then the veteran ceases to be entitled to weekly income compensation on the earlier of—

(a) the date on which the veteran commences full-time employment; or

(b) the expiry of 28 days after the assessment.

63 Entitlement to compensation reduces if veteran able to work part-time

(1) This section applies to a veteran who is under the New Zealand superannuation qualification age and is receiving weekly income compensation.

(2) If the veteran undertakes part-time work, VANZ must reduce the amount of weekly income compensation payable to the veteran to ensure that the total of the veteran's weekly income compensation and earnings does not exceed the average wage.

(3) In subsection (2), **average wage** has the same meaning as in section 61(2).

64 Extent to which veteran entitled to weekly income compensation under this subpart and under Accident Compensation Act 2001

(1) A veteran who has cover under the Accident Compensation Act 2001 is not entitled to weekly income compensation under this subpart and under the Accident Compensation Act 2001.

(2) However, the veteran is entitled to receive from VANZ the difference between the weekly income compensation payable under this subpart and under the Accident Compensation Act 2001.

65 Relationship between weekly income compensation and New Zealand superannuation or veteran's pension

(1) Subsection (2) applies to a veteran who—

(a) first becomes entitled to weekly income compensation before reaching New Zealand superannuation qualification age; and

(b) has been entitled to it for 24 months or longer before reaching that age.

(2) Such a veteran loses his or her entitlement to weekly income compensation on reaching that age.

(3) Subsections (4) and (5) apply to a veteran who first becomes entitled to weekly income compensation 12 months or more, but less than 24 months, before reaching New Zealand superannuation qualification age.

(4) Such a veteran is entitled to weekly income compensation for 24 months from the date of entitlement to the compensation.

(5) However, the veteran's entitlement to the compensation is dependent on his or her making an election to be entitled, after reaching New Zealand superannuation qualification age, to the compensation, rather than to New Zealand superannuation or a veteran's pension under Part 6.

(6) Subsections (7) and (8) apply to a veteran who first becomes entitled to weekly income compensation—

(a) within 12 months before reaching New Zealand superannuation qualification age; or

(b) on or after reaching New Zealand superannuation qualification age.

(7) Such a veteran is entitled to the weekly income compensation for a period of 12 months following the later of—

(a) the date of reaching New Zealand superannuation qualification age; or

(b) the date of entitlement to weekly income compensation.

(8) The veteran is then entitled to the weekly income compensation for the next 12 months, if he or she makes an election to be entitled, during those 12 months, to the compensation, rather than to New Zealand superannuation or the veteran's pension under Part 6.

(9) Nothing in this section entitles a veteran to weekly income compensation if he or she is not otherwise entitled to it under this Act.

(10) A veteran must make an election under subsection (5) or (8) within the period that is the later of the following:

(a) within 1 month before the date on which the election would take effect; or

(b) within 1 month after the veteran has been notified of the amount of the weekly income compensation by VANZ, the review officer, or the appeal board, whichever is applicable in the veteran's case.

(11) VANZ may allow a veteran to exercise or revoke an election under subsection (5) or (8) after the period specified in subsection (10) has ended, but only if VANZ is satisfied that the veteran's circumstances have changed significantly since the end of the period.

Subpart 5—Spouses, partners, children, and dependants of veterans

Surviving spouse or partner pension

66 Surviving spouse or partner pension

(1) Subsection (2) applies in relation to a deceased veteran if—

(a) the veteran's death was a service-related death; or

(b) at the time of the veteran's death, the veteran was receiving—

(i) a permanent war disablement pension under Part 2 of the War Pensions Act 1954 in relation to disablement of 70% or more; or

(ii) a permanent disablement pension granted under subpart 3 in relation to whole-person impairment of 52% or more; or

(c) VANZ considers that, had the veteran not died, the veteran would have been eligible to receive a pension specified in paragraph (b)(i) or (ii) (to the extent of impairment specified) had he or she applied for it immediately before his or her death.

(2) Subsection (1) does not apply if, immediately before the veteran's death,—

(a) the veteran and the claimant were living apart or were not maintaining a relationship in the nature of marriage; and

(b) the claimant was not contributing to the veteran's day-to-day welfare.

(3) Subsection (2) does not apply if the circumstances described in the subsection occurred principally because of the health, imprisonment, or employment obligations of the veteran or the claimant.

(4) A spouse or partner of the veteran is entitled to a surviving spouse or partner pension at a rate specified in regulations made under section 265.

67 Application for surviving spouse or partner pension

(1) A surviving spouse or partner becomes entitled to a surviving spouse or partner pension when—

(a) the surviving spouse or partner has completed and provided to VANZ an application form provided by VANZ; and

(b) the surviving spouse or partner has supplied, in the form required by VANZ, any supporting evidence or information required by VANZ; and

(c) VANZ has accepted the application.

(2) If an application is accepted by VANZ, the surviving spouse's or partner's entitlement to a surviving spouse or partner pension is to be treated as beginning on—

(a) the day after the veteran's death, if the application is received by VANZ within 6 months after the veteran's death; or

(b) the day on which VANZ received the application, if the application is received by VANZ more than 6 months after the veteran's death.

68 Surviving spouse or partner pension ceases after spouse or partner enters into new relationship

(1) If the spouse or partner of a deceased veteran enters into a new relationship, the spouse's or partner's entitlement to the surviving spouse or partner pension ceases immediately.

(2) However, a spouse or partner who enters into a new relationship may elect to receive—

(a) a periodic payment for 2 years at the same rate as the surviving spouse or partner pension; or

(b) a lump sum equivalent to 2 years' payments of the surviving spouse or partner pension.

(3) After an election is made under subsection (2), the entitlement to the option elected is to be treated as having begun on the day after the date on which the pension ceases under subsection (1).

(4) For the purposes of this section, a spouse or partner of a deceased veteran enters into a new relationship when, after the veteran's death, the spouse or partner—

(a) marries; or

(b) enters into a civil union; or

(c) enters into a de facto relationship.

69 Reinstatement of surviving spouse or partner pension

The spouse or partner of a deceased veteran whose entitlement to the surviving spouse or partner pension has ceased under section 68 is entitled to a reinstatement of his or her entitlement to the pension if the relationship he or she entered into that caused the termination of the pension under section 68 comes to an end within 5 years after the start of the relationship.

70 Entitlement to surviving spouse or partner pension ceases 28 days after spouse's or partner's death

When a surviving spouse or partner who is receiving a surviving spouse or partner pension dies, the entitlement to the pension ceases at the close of the 28th day after the date on which the surviving spouse or partner dies.

71 Transitional provisions

Schedule 1 contains transitional provisions relating to spouses and partners of veterans who were receiving a surviving spouse pension under Part 2 of the War Pensions Act 1954 immediately before the commencement of this Part.

Children's pension

72 Children's pension

(1) Every child who is under 18 years of age and described in subsection (2) is entitled to a children's pension at the rate specified in regulations made under section 265.

(2) The children are—

(a) a child of a veteran who,—

(i) immediately before the commencement of this section, was receiving a war disablement pension under Part 2 of the War Pensions Act 1954 in relation to disablement of 70% or more; or

(ii) is receiving a disablement pension granted under subpart 3 in relation to whole-person impairment of 52% or more; or

(b) a child of a deceased veteran, if—

(i) the veteran's death was a service-related death; or

(ii) at the time of the veteran's death, the veteran was receiving—

(A) a permanent war disablement pension under Part 2 of the War Pensions Act 1954 in relation to disablement of 70% or more; or

(B) a permanent disablement pension granted under subpart 3 in relation to whole-person impairment of 52% or more; or

(iii) VANZ considers that, had the veteran not died, the veteran would have been eligible to receive a pension or other payment specified in paragraph (b)(ii)(A) or (B) (to the extent of impairment specified) had he or she applied for it immediately before his or her death.

(3) If the child suffers from any mental or physical infirmity, VANZ may, in its discretion, extend the entitlement beyond the date on which the child turns 18 years of age for as long as the child continues to suffer from the mental or physical infirmity.

(4) If the child is undertaking full-time study, he or she is entitled to continue to receive the children's pension until the date on which he or she turns 23.

73 Application for children's pension

(1) A child becomes entitled to a children's pension when—

(a) the child has completed and provided to VANZ an application form provided by VANZ; and

(b) the child has supplied, in the form required by VANZ, any supporting evidence or information required by VANZ; and

(c) VANZ has accepted the application.

(2) If an application is accepted by VANZ, the child's entitlement to the children's pension is to be treated as beginning on—

(a) the day on which VANZ received the application, if the veteran is living; or

(b) the day after the veteran's death, if the application is received by VANZ within 6 months after the veteran's death; or

(c) the day on which VANZ received the application, if the application is received by VANZ more than 6 months after the veteran's death.

74 Entitlement to children's pension ceases 28 days after child's death

When a child who is receiving a children's pension dies, the entitlement to the pension ceases at the close of the 28th day after the date on which the child died.

75 Transitional provisions

Schedule 1 contains transitional provisions relating to children of veterans who were receiving a children's pension under Part 2 of the War Pensions Act 1954 immediately before the commencement of this Part.

Dependant's pension

76 Dependant's pension

(1) A dependant described in subsection (2) is entitled to a dependant's pension at the rate specified in regulations made under section 265.

(2) The dependants are—

(a) a dependant of a veteran who,—

(i) immediately before the commencement of this section, was receiving a war disablement pension under Part 2 of the War Pensions Act 1954 in relation to disablement of 70% or more; or

(ii) is receiving a disablement pension granted under subpart 3 in relation to whole-person impairment of 52% or more; or

(b) a dependant of a deceased veteran, if—

(i) the veteran's death was a service-related death; or

(ii) at the time of the veteran's death, the veteran was receiving—

(A) a permanent war disablement pension under Part 2 of the War Pensions Act 1954 in relation to disablement of 70% or more; or

(B) a permanent disablement pension granted under subpart 3 in relation to whole-person impairment of 52% or more; or

(iii) VANZ considers that, had the veteran not died, the veteran would have been eligible to receive a pension or other payment specified in paragraph (b)(ii)(A) or (B) (to the extent of impairment specified) had he or she applied for it immediately before his or her death.

(3) Regulations made under subsection (1) must—

(a) provide for VANZ to be able to take into account a dependant's economic position; and

(b) specify a maximum rate that does not exceed the maximum rate payable for the surviving spouse or partner pension.

(4) For the purposes of subsection (3)(a), the regulations—

(a) must specify the criteria that VANZ is to take into account in assessing a dependant's economic position, including (but not limited to) the property and income of a dependant from all sources; and

(b) may specify different rates for different types of economic circumstances.

77 Application for dependant's pension

(1) A dependant becomes entitled to a dependant's pension when—

(a) the dependant has completed and provided to VANZ an application form provided by VANZ; and

(b) the dependant has supplied, in the form required by VANZ, any supporting evidence or information required by VANZ; and

(c) VANZ has accepted the application.

(2) If an application is accepted by VANZ, the dependant's entitlement to the dependant's pension is to be treated as beginning on—

(a) the day on which VANZ received the application, if the veteran is living; or

(b) the day after the veteran's death, if the application is received by VANZ within 6 months after the veteran's death; or

(c) the day on which VANZ received the application, if the application is received by VANZ more than 6 months after the veteran's death.

78 Entitlement to dependant's pension ceases 28 days after dependant's death

When a dependant who is receiving a dependant's pension dies, the entitlement to the pension ceases at the close of the 28th day after the date on which the dependant dies.

79 Certain children not entitled to dependant's pension

A child who is receiving a children's pension under section 72(3) or (4) is not entitled to a dependant's pension.

80 Transitional provisions

Schedule 1 contains transitional provisions relating to dependants of veterans who were receiving a dependant's pension under Part 2 of the War Pensions Act 1954 immediately before the commencement of this Part.

Subpart 6—Children's bursaries

81 Entitlement to children's bursary

(1) Every child described in subsection (2) is entitled to a children's bursary if they are undertaking—

(a) full-time study at a secondary school; or

(b) full-time or part-time study at a tertiary institution.

(2) The children are—

(a) children who are entitled to a children's pension:

(b) children of veterans who are receiving weekly income compensation under subpart 4 of this Part or the veteran's pension under Part 6.

(3) The entitlement to a children's bursary ceases at the end of the year in which a child reaches 23 years of age.

(4) The rate of the children's bursary is to be prescribed in regulations made under section 265, and more than 1 rate may be specified for different circumstances.

(5) In this section, **secondary school** and **tertiary institution** have the same meaning as in the Education Act 1989.

82 Transitional provisions

Schedule 1 contains transitional provisions relating to children who, before the commencement of this Part, were entitled to a war bursary under the War Pensions Act 1954.

Part 4
Scheme Two

Subpart 1—Preliminary matters

83 Application

This Part—

(a) applies to the following persons:

(i) every veteran with qualifying operational service performed on or after 1 April 1974; and

(ii) every spouse, partner, child, and dependant of every veteran referred to in subparagraph (i); but

(b) does not apply to the following persons:

(i) the veterans referred to in section 38(1)(a)(ii) and (iii); and

(ii) every spouse, partner, child, and dependant of every veteran referred to in subparagraph (i).

84 Application in other circumstances

(1) Subsection (2) applies to a claim that—

(a) is made by or in relation to a veteran referred to in section 83(a)(i); and

(b) relates to injury, illness, or death that is attributable in part to circumstances before 1 April 1974 and in part to circumstances on or after 1 April 1974.

(2) This Part applies to the claim unless VANZ determines that the claim should be dealt with under Part 3.

(3) This Part does not apply to claims that Part 3 applies to under section 39.

85 Purpose of Scheme Two

(1) The purpose of Scheme Two is to provide entitlements to veterans and other persons who are eligible under section 83 or 84.

(2) The entitlements are—

(a) transport costs associated with treatment (subpart 2); and

(b) vocational services for spouses or partners (subpart 3); and

(c) payments for permanent impairment (subpart 4); and

(d) weekly compensation (subpart 5).

86 Other entitlements

(1) Part 5 provides other entitlements that are common to Scheme One and Scheme Two.

(2) Parts 2 to 4 of Schedule 2 provide additional entitlements in relation to rehabilitation, weekly compensation, and fatal injuries.

87 Extent to which entitlements provided by this Part

(1) This section specifies the extent to which a veteran has an entitlement under this Part for injury or illness that is related to qualifying operational service.

(2) If a veteran is a member of the Defence Force and has cover under the Accident Compensation Act 2001,—

(a) the Defence Force is responsible for managing the veteran's claim and VANZ is to provide the entitlements in relation to the claim to the extent that the claim comes within an accreditation agreement (if any) between the Defence Force and the Accident Compensation Corporation (**ACC**):

(b) ACC is responsible for managing the veteran's claim and providing the entitlements in relation to the claim to the extent that the claim is not subject to an accreditation agreement (if any) between the Defence Force and ACC.

(3) If a veteran is a member of the Defence Force and does not have cover under the Accident Compensation Act 2001, the Defence Force is responsible for managing the veteran's claim and VANZ is to provide entitlements in relation to the claim in accordance with this Part.

(4) If a veteran is not a member of the Defence Force and has cover under the Accident Compensation Act 2001, ACC is responsible for managing the claim and providing the entitlements in relation to the claim.

(5) If a veteran is not a member of the Defence Force and does not have cover under the Accident Compensation Act 2001, VANZ is responsible for managing the veteran's claim and providing the entitlements in relation to the claim in accordance with this Part.

(6) Subsections (1) to (5) apply subject to any agreement or arrangement between the Defence Force, VANZ, and ACC under which VANZ—

(a) manages a veteran's claim and provides entitlements in relation to the claim; and

(b) the claim is wholly or in part based on cover under the Accident Compensation Act 2001.

(7) For the purposes of this section, the Defence Force, VANZ, and ACC must cooperate with each other to reduce, to the extent reasonably practicable, any duplication of process or requirements for a veteran referred to in subsection (6).

Subpart 2—Transport costs associated with treatment

88 Transport costs associated with treatment

(1) VANZ is responsible for paying the costs of transport reasonably required by the veteran in order to receive treatment that VANZ is responsible for paying or contributing to the cost of.

(2) The extent to which VANZ is responsible for paying the costs of transport under subsection (1) is to be specified in regulations made under section 265.

Subpart 3—Vocational services and assistance for spouse or partner

89 Application of subpart

This subpart applies to the spouse or partner of a veteran if the veteran—

(a) has an injury or illness—

(i) that results from qualifying operational service; and

(ii) that makes the veteran unable to work or unable to undertake vocational rehabilitation; or

(b) has died and his or her death is a service-related death.

90 Spouse or partner entitled to vocational services and assistance

(1) The spouse or partner of a veteran to whom this subpart applies is entitled to be provided with vocational services and vocational assistance in accordance with this subpart and regulations made under section 265.

(2) The purpose of providing vocational services and vocational assistance under subsection (1) is to reduce the financial impact on the veteran's spouse or partner and any dependants of the veteran of the veteran's inability to work or undertake vocational rehabilitation or of the veteran's death (as the case may be).

91 Period for which vocational assistance may be provided

(1) VANZ must provide the vocational assistance to the spouse or partner for the minimum period necessary to achieve its purpose, but must not provide any vocational assistance for longer than 3 years (which need not be consecutive).

(2) However, VANZ may, at its discretion, provide vocational assistance for longer than 3 years if VANZ considers that the vocational assistance would be appropriate in the circumstances.

(3) VANZ must not take into account as a factor against providing vocational assistance that the spouse or partner is, or may be, a person to whom section 104 applies.

92 Assessment of spouse's or partner's vocational assistance needs

An assessment of a spouse's or partner's vocational assistance needs must consist of an initial occupational assessment, undertaken by an occupational assessor, to identify the types of work that may be appropriate for the spouse or partner.

93 Conduct of initial occupational assessment

(1) An occupational assessor who is undertaking an initial occupational assessment must—

(a) take into account information provided by VANZ and the spouse or partner; and

(b) discuss with the spouse or partner all the types of work that are available and suitable for the spouse or partner; and

(c) consider any comments the spouse or partner makes to the assessor about those types of work.

(2) VANZ must provide to an occupational assessor all the information that VANZ has that is relevant to an initial occupational assessment.

94 Report on occupational assessment

(1) The occupational assessor must prepare and provide to VANZ a report on the occupational assessment that specifies—

(a) the types of work for the purposes of section 92, taking into account the information, discussions, and comments referred to in section 93; and

(b) the spouse's or partner's work experience; and

(c) the spouse's or partner's education, including any incomplete formal qualifications; and

(d) any work-related training in which the spouse or partner has participated; and

(e) all the skills that the assessor has reasonably identified the spouse or partner as having; and

(f) all the types of work reasonably identified as suitable for the spouse or partner; and

(g) in relation to each type of work, the requirements of that type of work, including any environmental modifications that the assessor identifies as necessary to enable the spouse or partner to function safely in that type of work.

(2) VANZ must provide a copy of the report to the spouse or partner.

Subpart 4—Payments for permanent impairment

95 Entitlement to payment for permanent impairment

This subpart applies to a veteran if the veteran—

(a) has an injury or illness that results from qualifying operational service; and

(b) has a permanent impairment that is due to the injury or illness.

Independence allowance

96 Independence allowance

(1) An independence allowance is payable in relation to permanent impairment if the injury or illness that caused the permanent impairment occurred in the period beginning on 1 April 1974 and ending on the close of 31 March 2002.

(2) An independence allowance is payable at the same rate and for the same levels of impairment as would be payable if a veteran were entitled to the disablement pension under subpart 3 of Part 3.

(3) A veteran may, instead of receiving an independence allowance by way of periodic payments, elect to receive a lump sum payment in accordance with regulations made under section 265.

(4) A lump sum payment must not be more than an amount that is equivalent to 5 years of the independence allowance.

97 Extent to which veteran entitled to independence allowance under this subpart and under Accident Compensation Act 2001

(1) A veteran who has cover under the Accident Compensation Act 2001 is not entitled to an independence allowance under this subpart and an independence allowance under the Accident Compensation Act 2001 in relation to the same impairment.

(2) However, the veteran is entitled to receive from VANZ the difference between the independence allowance payable under this subpart and the independence allowance payable under the Accident Compensation Act 2001.

Lump sum payments

98 Lump sum payments

(1) A lump sum is payable in relation to permanent impairment if the injury or illness that caused the permanent impairment occurred on or after 1 April 2002.

(2) A lump sum comprises—

(a) the amount that—

(i) is payable to the veteran under the Accident Compensation Act 2001, if the veteran is entitled to lump sum compensation for the impairment under that Act; or

(ii) if the veteran is not entitled to lump sum compensation for the impairment under that Act, would be payable if the veteran's impairment were covered under that Act; and

(b) an additional amount equivalent to 20% of the amount payable under paragraph (a).

(3) If the veteran's degree of impairment is below the level at which lump sums are payable under the Accident Compensation Act 2001, the amount for the purposes of subsection (2) is an amount specified in regulations made under section 265.

(4) The amounts payable under subsections (2)(a)(ii) and (b) and (3) are payable by VANZ.

Tax status of impairment payments

99 Impairment payments exempt from income tax

Schedule 4 contains a consequential amendment to the Income Tax Act 2007 that exempts payments of the independence allowance and of lump sums under this subpart from income tax.

Subpart 5—Weekly compensation

100 Entitlement to weekly compensation

A veteran (whether resident in New Zealand or overseas) is entitled to weekly compensation if the veteran is—

(a) under the New Zealand superannuation qualification age; and

(b) unable to work because of injury or illness that is related to qualifying operational service; and

(c) either—

(i) participating in a rehabilitation plan; or

(ii) through no fault of the veteran, unable to participate in a rehabilitation plan.

101 Entitlement to compensation ceases or abates if veteran able to work

(1) This section applies to a veteran who is under the New Zealand superannuation qualification age and is receiving weekly compensation.

(2) If the veteran has been receiving weekly compensation for less than 6 months and VANZ assesses the veteran as able to work full-time in employment in which he or she was employed immediately before receiving weekly compensation, the veteran ceases to be entitled to weekly compensation on the expiry of 10 days after receiving notice of the assessment.

(3) If the veteran has been receiving weekly compensation for 6 months or more and VANZ assesses the veteran as able to work full-time in employment in which he or she was employed immediately before receiving weekly compensation, the veteran ceases to be entitled to weekly compensation on the earlier of—

(a) the date on which the veteran commences full-time employment; or

(b) the expiry of 28 days after the assessment.

(4) If the veteran is not able to work full-time in employment in which he or she was employed immediately before receiving weekly compensation, but VANZ assesses the veteran as able to undertake other full-time employment, then the veteran ceases to be entitled to weekly compensation on the earlier of—

(a) the date on which the veteran commences full-time employment; or

(b) the expiry of 28 days after the assessment.

102 Extent to which veteran entitled to weekly compensation under this subpart and under Accident Compensation Act 2001

(1) A veteran who has cover under the Accident Compensation Act 2001 is not entitled to weekly compensation under this subpart and under the Accident Compensation Act 2001.

(2) However, the veteran is entitled to receive from VANZ the difference between the weekly compensation payable under this subpart and under the Accident Compensation Act 2001.

103 Weekly compensation is income for purposes of Income Tax Act 2007

Schedule 4 contains a consequential amendment to the Income Tax Act 2007 that makes payments of weekly compensation under this subpart income for the purposes of that Act.

104 Relationship between weekly compensation and New Zealand superannuation or veteran's pension

(1) Subsection (2) applies to a veteran who—

(a) first becomes entitled to weekly compensation before reaching the New Zealand superannuation qualification age; and

(b) has been entitled to it for 24 months or longer before reaching that age.

(2) Such a veteran loses his or her entitlement to weekly compensation on reaching that age.

(3) Subsections (4) and (5) apply to a veteran who first becomes entitled to weekly compensation 12 months or more, but less than 24 months, before reaching New Zealand superannuation qualification age.

(4) Such a veteran is entitled to weekly compensation for 24 months from the date of entitlement to the compensation.

(5) However, the veteran's entitlement to the compensation is dependent on his or her making an election to be entitled, after reaching New Zealand superannuation qualification age, to the compensation, rather than to New Zealand superannuation or a veteran's pension under Part 6.

(6) Subsections (7) and (8) apply to a veteran who first becomes entitled to weekly compensation—

(a) within 12 months before reaching New Zealand superannuation qualification age; or

(b) on or after reaching New Zealand superannuation qualification age.

(7) Such a veteran is entitled to the weekly compensation for a period of 12 months following the later of—

(a) the date of reaching New Zealand superannuation qualification age; or

(b) the date of entitlement to weekly compensation.

(8) The veteran is then entitled to the weekly compensation for the next 12 months, if he or she makes an election to be entitled, during those 12 months, to the compensation, rather than to New Zealand superannuation or a veteran's pension under Part 6.

(9) Nothing in this section entitles a veteran to weekly compensation if he or she is not otherwise entitled to it under this Act.

(10) A veteran must make an election under subsection (5) or (8) within the period that is the later of the following:

(a) within 1 month before the date on which the election would take effect; or

(b) within 1 month after the veteran has been notified of the amount of the weekly compensation by VANZ, the review officer, or the appeal board, whichever is applicable in the veteran's case.

(11) VANZ may allow a veteran to exercise or revoke an election under subsection (5) or (8) after the period specified in subsection (10) has ended, but only if VANZ is satisfied that the veteran's circumstances have changed significantly since the end of the period.

Part 5
Entitlements common to Scheme One and Scheme Two

Subpart 1—Application and purpose

105 Application

This Part applies to veterans to whom Part 3 or 4 applies.

106 Purpose of this Part

(1) The purpose of this Part is to provide additional entitlements to, or in respect of, veterans to whom Scheme One or Scheme Two applies.

(2) The entitlements are—

- (a) treatment (subpart 2); and
- (b) rehabilitation for veterans (subpart 3 and Part 1 of Schedule 2); and
- (c) participation in the veterans' independence programme (subpart 4); and
- (d) aids and appliances (subpart 5); and
- (e) motor vehicle grants (subpart 6); and
- (f) funeral expenses (subpart 8).

Subpart 2—Treatment

107 Treatment

(1) VANZ is responsible for paying or contributing towards paying the cost of treatment of a veteran's injury or illness if the injury or illness is service-related.

(2) However, VANZ is not responsible for paying or contributing to the cost of treatment if—

- (a) the veteran is a member of the armed forces and the Defence Force is paying or contributing to the cost of the veteran's treatment; or
- (b) the treatment is available under the New Zealand Public Health and Disability Act 2000; or
- (c) ACC is paying or contributing to the cost of the veteran's treatment.

108 Extent to which VANZ responsible for paying or contributing to cost of treatment

(1) As soon as practicable after accepting an application for payment or contribution to payment of the costs of treatment under this subpart, VANZ must decide what treatment VANZ will pay for or contribute towards paying for.

(2) In making a decision under subsection (1), VANZ must take into account the following matters:

(a) the nature and severity of the injury or illness:

(b) the generally accepted means of treating the injury or illness in New Zealand:

(c) any other means of treating the injury or illness in New Zealand:

(d) whether the treatment sought is necessary, appropriate, and of the quality required to treat the injury or illness:

(e) whether the treatment will be provided only on the number of occasions necessary:

(f) whether the treatment is of a type normally provided by the treatment provider for the injury or illness concerned:

(g) whether the treatment provider is sufficiently qualified and experienced to provide the treatment required.

109 When VANZ responsible for paying or contributing to cost of ancillary services related to treatment

(1) VANZ is responsible for paying or contributing to the cost of any service if the service facilitates the treatment and the service is reasonably required as an ancillary service related to treatment, such as—

(a) accommodation:

(b) pharmaceuticals prescribed by a treatment provider who has statutory authority to prescribe pharmaceuticals:

(c) laboratory tests requested by a health practitioner.

(2) This section applies subject to any regulations made under section 265.

Compare: 2001 No 49 Schedule 1 cl 3

110 Application for additional treatment

(1) This section applies to a veteran if the veteran is receiving treatment for a service-related injury or illness and VANZ is paying or contributing towards paying the cost of treatment for the injury or illness.

(2) The veteran may apply to VANZ—

(a) to increase the amount VANZ is paying for or contributing towards paying the cost of treatment; or

(b) to include additional treatment; or

(c) to do both.

(3) In deciding whether to grant an application under subsection (2), VANZ must take into account the matters specified in section 108(2).

111 Approval of VANZ required before treatment begins

(1) VANZ is not responsible for paying or contributing to the cost of treatment under this subpart unless it has given its prior approval to the treatment being provided.

(2) However, subsection (1) does not apply where VANZ is satisfied that treatment had to be provided in an emergency and it was not practicable to obtain VANZ's prior approval.

Subpart 3—Rehabilitation

112 Appointment of case manager

As soon as practicable after accepting a veteran's claim for entitlements under Part 3 or 4 (whether for full entitlements or partial entitlements), VANZ must appoint a case manager.

113 Appointment of case manager and provision of entitlements before claim accepted

VANZ may appoint a case manager under section 112 and provide entitlements before accepting a veteran's claim in relation to entitlements under Part 4—

(a) if reasonably satisfied that the veteran's injury or illness in respect of which the veteran's claim is made is service-related; but

(b) only in relation to the provision of entitlements for rehabilitation.

114 VANZ's responsibilities in relation to rehabilitation plan

VANZ must—

(a) ensure that a rehabilitation plan is prepared,—

(i) in the case of a veteran who has been granted an entitlement under Part 3; or

(ii) in the case of a veteran who is claiming full entitlements under Part 4; and

(b) liaise with ACC as to whether VANZ or ACC should prepare a rehabilitation plan, in the case of a veteran who is not claiming full entitlements under Part 3 or 4; and

(c) if, under paragraph (b), it is decided that—

(i) VANZ should prepare the rehabilitation plan, ensure a rehabilitation plan is prepared; or

(ii) ACC should prepare the rehabilitation plan, liaise with ACC about the rehabilitation plan that ACC is preparing.

115 General duty of VANZ

(1) VANZ must take all reasonable and practicable steps to assist a veteran to achieve the maximum level of rehabilitation, having regard to the nature and extent of the veteran's disablement.

(2) If, under section 114, ACC is to prepare a rehabilitation plan—

(a) VANZ must act under subsection (1) in accordance with that plan; and

(b) VANZ's obligations under this subpart apply in relation to rehabilitation not covered by the rehabilitation plan prepared by ACC.

Individual rehabilitation plan

116 VANZ to determine need for rehabilitation plan

Within 13 weeks after VANZ accepts a veteran's claim for entitlements under Part 3 or 4, VANZ—

(a) must—

(i) determine whether the veteran is likely to need social or vocational rehabilitation after the 13 weeks have ended; and

(ii) if so, prepare an individual rehabilitation plan in consultation with the veteran; and

(b) may include in the plan provision for treatment.

117 Provision of rehabilitation before and after individual rehabilitation plan agreed

(1) Before an individual rehabilitation plan for a veteran is agreed, VANZ is responsible for providing the veteran with—

(a) social rehabilitation that VANZ considers suitable for the veteran and necessary in the circumstances, having regard to the purpose in section 120; and

(b) vocational rehabilitation that VANZ considers suitable for the veteran and appropriate in the circumstances, having regard to the purpose in section 125.

(2) VANZ may provide rehabilitation under subsection (1) before—

(a) any assessment of the veteran is undertaken or completed for the purposes of this Part; or

(b) starting or concluding its consideration of the matters specified in section 128(1).

(3) To avoid doubt, subsections (1) and (2) do not prevent the provision of treatment before an individual rehabilitation plan is agreed.

(4) After an individual rehabilitation plan for the veteran is agreed, VANZ is responsible for providing the veteran with rehabilitation in accordance with the

plan and Schedule 2, but only to the extent that VANZ has specified which services it will provide under the plan.

118 Assessment of needs and content of individual rehabilitation plan

(1) In preparing an individual rehabilitation plan, VANZ must assess the veteran's needs for rehabilitation, having regard to the purposes in sections 120 and 125.

(2) An individual rehabilitation plan must—

(a) identify the veteran's needs for rehabilitation; and

(b) identify the assessments to be done; and

(c) identify services appropriate to those needs, whether or not VANZ is responsible for providing any or all of those services; and

(d) specify which of the services identified under paragraph (c) VANZ will provide, pay for, or contribute to.

(3) For the purposes of subsection (2)(a), VANZ must assess a veteran's needs for—

(a) social rehabilitation under section 124 and clauses 8 to 17 of Schedule 2; and

(b) for vocational rehabilitation under sections 130 to 137.

(4) However, VANZ is not required to assess a veteran's needs under subsection (3)(b) if the veteran's needs are solely related to maintaining employment.

119 Individual rehabilitation plan must be updated

(1) An individual rehabilitation plan must be updated from time to time to reflect the outcome of assessments done and progress made under the plan.

(2) VANZ—

(a) is responsible for ensuring subsection (1) is complied with if it is required under section 114 to prepare the rehabilitation plan:

(b) must liaise with ACC about ACC complying with subsection (1) if ACC is required under section 114 to prepare the rehabilitation plan.

Social rehabilitation

120 Purpose of social rehabilitation

The purpose of social rehabilitation is to assist in restoring a veteran's independence to the maximum extent practicable.

121 VANZ's responsibility to provide key aspects of social rehabilitation

(1) In this section, **key aspect of social rehabilitation** means any of the following:

(a) aids and appliances:

(b) attendant care:

(c) child care:

(d) education support:

(e) home help:

(f) modifications to the home:

(g) training for independence:

(h) transport for independence.

(2) Terms in subsection (1)(a), (b), and (d) to (h) have the same meaning as in clause 7 of Schedule 2.

(3) VANZ is responsible for providing a key aspect of social rehabilitation to a veteran—

(a) if the conditions in subsection (4) are met; but

(b) not earlier than a date determined in accordance with section 123.

(4) The conditions are—

(a) a veteran is assessed or reassessed under section 124 as needing the key aspect; and

(b) the provision of the key aspect is in accordance with VANZ's assessment of it under whichever of clauses 8 to 16 of Schedule 2 are relevant; and

(c) VANZ considers that the key aspect—

(i) is required as a direct consequence of the injury or illness for which the veteran has entitlements under Part 3 or 4; and

(ii) is for the purpose set out in section 120; and

(iii) is necessary and appropriate, and of the quality required, for that purpose; and

(iv) is of a type normally provided by a rehabilitation provider; and

(d) the provision of the key aspect has been agreed in the veteran's individual rehabilitation plan, if a plan has been agreed.

(5) This section is subject to any regulations made under section 267.

122 VANZ may provide other social rehabilitation

(1) VANZ may provide any other social rehabilitation if—

(a) it is required as a direct consequence of the injury or illness for which the veteran has entitlements under this Part; and

(b) the veteran is assessed or reassessed under section 124 as needing it; and

(c) VANZ considers that it is—

(i) for the purpose set out in section 120; and

(ii) necessary and appropriate, and of the quality required, for that purpose; and

(iii) of a type normally provided by a rehabilitation provider; and

(d) its provision has been agreed in the veteran's individual rehabilitation plan, if a plan has been agreed.

(2) This section is subject to any regulations made under sections 267 and 268.

123 Date of entitlement to social rehabilitation

(1) This section applies to the provision of social rehabilitation that VANZ—

(a) is responsible for providing under section 121; or

(b) has decided to provide under section 122.

(2) VANZ is responsible for providing social rehabilitation on the later of—

(a) the date on which the application for the social rehabilitation is made; or

(b) if the need for the social rehabilitation is assessed to arise after the date of the application, the date when it is assessed to arise.

(3) However, if VANZ considers that, in the veteran's circumstances, it would be unreasonable for the veteran to have made an earlier application, it may begin providing social rehabilitation to the veteran on and from another date that it considers reasonable.

(4) Subsection (3) does not entitle a veteran to entitlements that the veteran would not have been entitled to had the application been made earlier.

124 Assessment and reassessment of need for social rehabilitation

(1) An assessment under this section assesses a veteran's need for social rehabilitation and identifies the specific social rehabilitation that the veteran needs.

(2) Assessments and reassessments must be undertaken by assessors appointed under section 212.

(3) A veteran's need for social rehabilitation—

(a) may be reassessed from time to time; and

(b) must be reassessed if VANZ considers that the veteran's condition or circumstances have changed.

(4) The matters to be taken into account in an assessment or reassessment include—

(a) the level of independence a veteran had before suffering the injury or illness:

(b) the level of independence a veteran has after suffering the injury or illness:

(c) the limitations suffered by a veteran as a result of the injury or illness:

(d) the kinds of social rehabilitation that are appropriate for a veteran to minimise those limitations:

(e) the rehabilitation outcome that would be achieved by providing particular social rehabilitation:

(f) the alternatives and options available for providing particular social rehabilitation so as to achieve the relevant rehabilitation outcome in the most cost-effective way:

(g) any social rehabilitation (not provided as vocational rehabilitation) that may reasonably be provided to enable a veteran who is entitled to vocational rehabilitation to participate in employment:

(h) the geographical location in which a veteran lives:

(i) in the case of a reassessment,—

(i) whether any item that VANZ provided for the purposes of social rehabilitation is in such a condition as to need replacing:

(ii) changes in the veteran's condition or circumstances since the last assessment was undertaken.

(5) VANZ must provide to an assessor all information VANZ has that is relevant to the assessment.

Vocational rehabilitation

125 Purpose of vocational rehabilitation

(1) The purpose of vocational rehabilitation is to help a veteran to, as appropriate,—

(a) maintain employment; or

(b) obtain employment; or

(c) regain or acquire vocational independence.

(2) Without limiting subsection (1), the provision of vocational rehabilitation includes the provision of activities for the purpose of maintaining or obtaining employment that is—

(a) suitable for the veteran; and

(b) appropriate for the veteran's levels of training and experience.

126 VANZ responsible for providing vocational rehabilitation

(1) VANZ is responsible for providing vocational rehabilitation to a veteran who—

(a) has suffered an injury or illness for which he or she has entitlements under Part 3 or 4; and

(b) is—

(i) entitled to weekly income compensation or weekly compensation; or

(ii) likely, unless he or she has vocational rehabilitation, to be entitled to weekly income compensation or weekly compensation; or

(iii) on parental leave.

(2) Despite subsection (1)(b)(i), VANZ is responsible for providing vocational rehabilitation to a person who was entitled to weekly compensation and who would, but for section 104, continue to be entitled to weekly income compensation or weekly compensation.

127 Matters to be considered in deciding whether to provide vocational rehabilitation

(1) In deciding whether to provide vocational rehabilitation, VANZ must have regard to the matters in section 128.

(2) In deciding what vocational rehabilitation is appropriate for the veteran to achieve the purpose of vocational rehabilitation under section 125,—

(a) VANZ must consider whether it is reasonably practicable to return the veteran to the same employment in which the veteran was engaged, and with the employer who was employing the veteran, when the veteran's incapacity commenced; and

(b) if it is not, VANZ must consider the following matters:

(i) whether it is reasonably practicable to return the veteran to an employment of a different kind with that employer:

(ii) whether it is reasonably practicable to return the veteran to the employment in which the veteran was engaged when the veteran's incapacity commenced, but with a different employer:

(iii) whether it is reasonably practicable to return the veteran to a different employment with a different employer, in which the veteran is able to use his or her experience, education, or training:

(iv) whether it is reasonably practicable to help the veteran use as many of his or her pre-injury skills as possible to obtain employment.

128 Further matters to be considered in deciding whether to provide vocational rehabilitation

(1) In deciding whether to provide vocational rehabilitation, VANZ must have regard to—

(a) whether the vocational rehabilitation is likely to achieve its purpose under the veteran's individual rehabilitation plan; and

(b) whether the vocational rehabilitation is likely to be cost-effective, having regard to the likelihood that costs of entitlements under this Act will be reduced as a result of the provision of vocational rehabilitation; and

(c) whether the vocational rehabilitation is appropriate in the circumstances.

(2) VANZ must provide the vocational rehabilitation for the minimum period necessary to achieve its purpose, but must not provide any vocational rehabilitation for longer than 3 years (which need not be consecutive).

(3) However, VANZ may, at its discretion, provide vocational rehabilitation for longer than 3 years if VANZ considers that—

(a) the vocational rehabilitation would be likely to achieve its purpose under the veteran's individual rehabilitation plan; and

(b) the vocational rehabilitation would be likely to be cost-effective, having regard to the likelihood that costs of entitlements under this Act will be reduced as a result of the provision of vocational rehabilitation; and

(c) the vocational rehabilitation would be appropriate in the circumstances.

(4) Despite subsections (1)(b) and (3)(b), VANZ must not take into account as a factor against providing vocational rehabilitation that the veteran is, or may become, a person to whom section 65 or 104 (relationship between weekly compensation and New Zealand superannuation) applies.

(5) This section is subject to any regulations made under section 267.

129 Vocational rehabilitation may start or resume if circumstances change

(1) VANZ may, at any time, decide whether or not there has been a change of circumstances affecting the veteran's need for vocational rehabilitation.

(2) If VANZ decides that there has been such a change, VANZ and the veteran may agree to the modification of the veteran's individual rehabilitation plan to reflect the changed circumstances.

(3) VANZ may resume providing vocational rehabilitation under the veteran's individual rehabilitation plan, with any agreed modifications, to a veteran who—

(a) had vocational rehabilitation; and

(b) as a result, obtained employment; but

(c) is unable to maintain the employment because of his or her incapacity.

(4) This section is subject to section 128(2) and (3).

130 Assessment of veteran's vocational rehabilitation needs

An assessment of a veteran's vocational rehabilitation needs must consist of—

(a) an initial occupational assessment to identify the types of work that may be appropriate for the veteran; and

(b) an initial medical assessment to determine whether the types of work identified under paragraph (a) are, or are likely to be, medically sustainable for the veteran.

131 Occupational assessor

An occupational assessment must be undertaken by an assessor appointed under section 212 whom VANZ considers has the appropriate qualifications and experience to do the assessment required in the particular case.

132 Conduct of initial occupational assessment

(1) An occupational assessor who undertakes an initial occupational assessment must—

(a) take into account information provided by VANZ and the veteran; and

(b) discuss with the veteran all the types of work that are available in New Zealand and suitable for the veteran; and

(c) consider any comments the veteran makes to the assessor about those types of work.

(2) In considering the suitability of the types of work referred to in subsection (1)(b), the occupational assessor may take into account, among other things, the veteran's earnings before the veteran's incapacity.

(3) VANZ must provide to an occupational assessor all information VANZ has that is relevant to an initial occupational assessment.

133 Report on initial occupational assessment

(1) The occupational assessor must prepare and provide to VANZ a report on the initial occupational assessment.

(2) The report must—

(a) identify the types of work for the purposes of section 130(a); and

(b) take into account the information, discussions, and comments referred to in section 132(1).

(3) VANZ must provide a copy of the report to the veteran and the medical assessor.

134 Medical assessor

A medical assessment must be undertaken by a medical practitioner appointed under section 212 whom VANZ considers has the appropriate qualifications and experience to do the assessment in the particular case.

135 Assessments when medical assessor unavailable

(1) A medical practitioner who does not qualify under section 212 may undertake a medical assessment if VANZ is satisfied that—

(a) the circumstances in subsection (2) exist; and

(b) the medical practitioner's qualifications and experience are broadly comparable with the qualifications and experience specified in section 212.

(2) The circumstances are that—

(a) a medical practitioner who does qualify under section 212 is not available to undertake a medical assessment without unreasonable delay or unreasonable inconvenience to the veteran; and

(b) the delay or inconvenience would have an adverse effect on providing vocational rehabilitation to the veteran.

(3) Sections 136 and 137 apply to a medical practitioner who qualifies under this section to undertake a medical assessment.

136 Conduct of initial medical assessment

(1) A medical assessor who undertakes an initial medical assessment must take into account—

(a) information provided to the assessor by VANZ; and

(b) any of the following reports, information, or comments provided to the assessor:

(i) medical reports requested by VANZ before the individual rehabilitation plan was prepared:

(ii) any other relevant medical reports; and

(c) the report of the occupational assessor on the initial occupational assessment; and

(d) the medical assessor's clinical examination of the veteran; and

(e) any other information or comments that the veteran requests the medical assessor to take into account and that the medical assessor decides are relevant.

(2) The medical assessor must also take into account any condition suffered by the veteran that is not related to the veteran's injury or illness.

(3) VANZ must provide to a medical assessor all information VANZ has that is relevant to an initial medical assessment.

137 Report on initial medical assessment

(1) The medical assessor must prepare and provide to VANZ a report on the initial medical assessment.

(2) The report must—

(a) contain the determination required by section 130(b); and

(b) take into account the matters referred to in section 136.

(3) VANZ must provide a copy of the report to the veteran.

Subpart 4—Veterans' independence programme

138 VANZ to establish and administer veterans' independence programme

VANZ must establish and administer a veterans' independence programme (the **programme**) in accordance with this subpart.

139 Purpose of programme

(1) The purpose of the programme is to provide services and support to veterans to the extent that they cannot undertake activities that are required in order for them to live independently in their home.

(2) In this section, **home** has the same meaning as in clause 7 of Schedule 2.

140 Scope of programme

(1) Services and support under the programme are to be provided to a veteran with qualifying service to the extent assessed by VANZ and subject to any limits specified in regulations made under section 265.

(2) Services and support to be provided under the programme include—

(a) attendant care:

(b) home help:

(c) house and section maintenance:

(d) home adaptations:

(e) travel (other than transport related to treatment and rehabilitation), including an escort if a veteran is unable to travel alone:

(f) allowance to contribute to cost of adaptive clothing and footwear.

141 Extent to which services and support to be provided under programme

(1) A veteran who is entitled to impairment compensation under Part 3 or 4 is entitled to apply for all types of services and support provided under the programme.

(2) For the purposes of subsection (1), the provision of services and support under the programme is to be determined in accordance with regulations made under section 265.

(3) A veteran who is not entitled to impairment compensation under Part 3 or 4 may apply for all types of services and support provided under the programme, but the provision of services and support is at the discretion of VANZ.

(4) In this section, **impairment compensation** means—

(a) the disablement pension payable under subpart 3 of Part 3:

(b) the independence allowance and lump sums payable under subpart 4 of Part 4.

142 Application for services and support

(1) A veteran becomes entitled to services and support when—

(a) the veteran has completed and provided to VANZ an application form provided by VANZ; and

(b) the veteran has supplied, in the form required by VANZ, any supporting evidence or information required by VANZ; and

(c) VANZ has accepted the application.

(2) If an application is accepted by VANZ, the veteran's entitlement to the services and support applied for is to be treated as beginning on the day on which VANZ received the application.

143 Surviving spouse or partner

(1) This section applies to the surviving spouse or partner of a deceased veteran, if the veteran was receiving or was entitled to services and support under the programme before his or her death.

(2) For the period of 12 months after the veteran's death, his or her spouse or partner is entitled to services and support under the programme to the same extent as the veteran was entitled to.

(3) Subsection (4) applies to the spouse or partner of a deceased veteran who was receiving services and support under the case management programme operated by VANZ before the commencement of this subpart.

(4) For the period of 12 months after the commencement of this subpart, the spouse or partner of a deceased veteran is entitled to the services and support under the programme to the same extent as the veteran was receiving under the case management programme.

144 Regulations

Regulations may be made under section 265 that specify—

(a) the services and support provided under the programme:

(b) the criteria for the purposes of section 141(2):

(c) the amounts that may be paid under the programme:

(d) the circumstances in which and the method by which payments are to be made:

(e) the persons to whom payments will be made:

(f) different levels of services or support according to the level of impairment or need:

(g) whether assessments of impairment or need are required and, if so, the process for conducting the assessments:

(h) any other matters necessary or desirable for the effective and efficient administration of the programme.

Subpart 5—Regulations relating to aids and appliances

145 Regulations relating to aids and appliances

Regulations may be made under section 265 that do either or both of the following:

(a) specify limits on the cost of providing or contributing to the cost of providing aids and appliances; and

(b) provide for the payment of a weekly battery allowance payable to veterans using hearing aids approved by VANZ.

Subpart 6—Motor vehicle grants

146 Interpretation

In this subpart, **motor vehicle**—

(a) includes a mobility device as defined in section 2(1) of the Land Transport Act 1998; but

(b) does not include a vehicle that the director has declared is not a motor vehicle under section 168A of the Land Transport Act 1998.

147 Eligibility for motor vehicle grants

A veteran with total lower body mobility impairment or with severe lower body mobility impairment may apply to VANZ for a grant to be applied to the cost of a motor vehicle owned or to be purchased by the veteran for his or her personal transport.

148 Regulations relating to motor vehicle grants

(1) Regulations may be made under section 265 specifying—

(a) definitions of total lower body mobility impairment and severe lower body mobility impairment:

(b) the criteria and process for determining whether a grant should be made, including (but not limited to) assessments and the number of occasions on which a grant can be made:

(c) the maximum amount of a grant, including specifying different maximums in different circumstances:

(d) any other matter for the effective and efficient administration of this subpart.

(2) Without limiting subsection (1), if the regulations—

(a) specify the number of occasions on which a grant can be made to a veteran, the regulations may specify that a motor vehicle loan under the War Pensions Act 1954 may be taken into account:

(b) specify a minimum interval between grants, the regulations may specify that a motor vehicle loan under the War Pensions Act 1954 may be taken into account.

(3) Despite regulations made for the purposes of this subpart, a veteran—

(a) whose total lower body mobility impairment met the criteria for a motor vehicle loan under the War Pensions Act 1954 must be treated as meeting the criteria for total lower body mobility impairment for a motor vehicle grant under this subpart:

(b) whose severe lower body mobility impairment met the criteria for a motor vehicle loan under the War Pensions Act 1954 must be treated as meeting the criteria for severe lower body mobility impairment for a motor vehicle grant under this subpart.

Subpart 7—Retirement lump sum

149 Retirement lump sum

(1) A veteran is entitled, on reaching the New Zealand superannuation qualification age, to a retirement lump sum if—

(a) the veteran received weekly income compensation under Part 3 or weekly compensation under Part 4 over a 10-year period before the date on which he or she reached the New Zealand superannuation qualification age; and

(b) an assessment under section 150 determines that the value of the veteran's non-exempt assets is less than the applicable asset threshold.

(2) To avoid doubt,—

(a) this section applies only to veterans who reach the New Zealand superannuation qualification age on or after the commencement of this section; and

(b) the 10-year period referred to in subsection (1) does not have to be a continuous period.

(3) In this section, **weekly income compensation** includes the veteran's pension, war veteran's allowance, war service pension, and economic pension payable under the War Pensions Act 1954.

150 Asset assessment

(1) A veteran who applies for a retirement lump sum must also apply for an asset assessment.

(2) An application for an asset assessment must be made on a form provided for the purpose by VANZ.

(3) VANZ must arrange for an asset assessment to be conducted as soon as practicable after receiving an application.

(4) The value of the veteran's assets is to be assessed as at the date the veteran reached the New Zealand superannuation qualification age.

(5) An asset assessment must be conducted in accordance with regulations made under section 265.

151 Regulations relating to this subpart

(1) Regulations may be made under section 265 on the recommendation of the Minister that specify for the purposes of this subpart—

(a) the amount of the retirement lump sum payment; and

(b) the types of assets to be taken into account in an asset assessment; and

(c) what assets are exempt from being taken into account in an assessment; and

(d) the asset threshold; and

(e) how an asset assessment is to be conducted.

(2) For the purposes of subsection (1)(d),—

(a) more than 1 asset threshold may be specified for different circumstances; and

(b) a veteran may be permitted to elect which threshold applies to him or her.

Subpart 8—Funeral expenses

152 Application

(1) Section 153 applies in relation to the death of a veteran if the death is attributable to qualifying service.

(2) Section 154 applies in relation to the death of a veteran if the death is not attributable to qualifying service.

153 Funeral expenses if death due to qualifying service

(1) VANZ may pay or contribute to the payment of the expenses of the funeral and burial or cremation of the veteran.

(2) The maximum amount payable under subsection (1) must be specified in regulations made under section 265.

(3) If the veteran dies in hospital and his or her burial or cremation is to take place in the locality where the veteran was admitted to hospital, VANZ is responsible for paying the reasonable cost of transporting the body.

(4) If the veteran dies in hospital and his or her burial or cremation is to take place outside the locality where the veteran was admitted to hospital, VANZ is responsible for paying the lesser of—

(a) the reasonable cost of transporting the body to the place of burial or cremation; or

(b) an amount equivalent to the reasonable cost of transporting the body to the locality from where the veteran was admitted to hospital.

(5) Regulations may be made under section 265 specifying the maximum amount that may be paid under subsection (3) or (4) for the cost of transporting a veteran's body.

154 Funeral expenses if death not due to qualifying service

(1) VANZ may pay a reasonable amount in respect of the funeral and burial or cremation of a veteran whose death is not attributable to qualifying service if subsection (2) applies.

(2) This subsection applies if—

(a) the veteran was, at the time of death, receiving any of the following pensions or entitlements:

(i) weekly income compensation under Part 3:

(ii) weekly compensation under Part 4:

(iii) veteran's pension under Part 6 of this Act or Part 6 of the War Pensions Act 1954:

(iv) New Zealand Superannuation:

(v) a supported living payment under the Social Security Act 1964; and

(b) the veteran leaves a surviving spouse or partner, or a child or children, or dependants, who will, in the opinion of VANZ be entitled to—

(i) a pension under section 66, 72, or 76; or

(ii) a survivor's grant under clause 53 of Schedule 2 or weekly compensation under clause 54 or 58 of Schedule 2.

(3) The maximum amount payable under subsection (1) must be specified in regulations made under section 265.

155 Extent to which funeral expenses payable under this subpart and under Accident Compensation Act 2001

(1) Funeral expenses are payable under this subpart in respect of a veteran in addition to any funeral grant payable under the Accident Compensation Act 2001.

(2) However, if the funeral expenses payable under this subpart in respect of a veteran are more than a funeral grant payable under the Accident Compensation Act 2001, VANZ is required to pay only the difference.

(3) In this section, **funeral expenses** does not include the costs referred to in section 153(3) or (4), as the case may be.

Subpart 9—Plaques and headstones

156 Plaques and headstones

(1) VANZ is responsible for providing, or meeting the cost of providing, plaques and headstones in relation to the burial of veterans and their spouses and partners if—

(a) the burials take place in cemeteries or parts of cemeteries under section 15 of the Burial and Cremation Act 1964; or

(b) the burials do not take place under that section, but would have been eligible to take place under that section.

(2) For the purposes of subsection (1), **burial** includes the burial of cremated remains.

(3) Regulations may be made under section 265 specifying the circumstances and extent to which VANZ is responsible for providing or meeting the cost of providing plaques and headstones.

Subpart 10—Financial advice

157 Veteran entitled to financial advice in certain circumstances

(1) This section applies—

(a) in relation to the following payments:

(i) lump sum payments payable under section 98:

(ii) aggregated payments payable under clause 55 of Schedule 2:

(iii) any other payment under this Act that is specified in regulations made under section 265 for the purposes of this section; and

(b) if the payment is equal to or greater than the prescribed amount.

(2) VANZ must provide or meet the cost of providing the veteran with financial advice from an authorised financial adviser under the Financial Advisers Act 2008 for the purpose of enabling the veteran to make an informed decision about investing the lump sum.

(3) Regulations may be made under section 265 that specify—

(a) any other payment under this Act for the purposes of this section:

(b) the prescribed amount for the purposes of subsection (1)(b):

(c) any limits on the extent to which VANZ provides or meets the cost of providing financial advice:

(d) whether VANZ will arrange for the provision of financial advice in all cases or meet the costs of financial advice in all cases or a combination of both.

(4) To avoid doubt, VANZ is under no liability for advice provided by an authorised financial adviser under this section.

Part 6
Veteran's pension

Preliminary provisions

158 Interpretation

(1) In this Part, unless the context otherwise requires,—

dependent child, in relation to any person, means a child—

(a) whose care is primarily the responsibility of that person; and

(b) who is being maintained as a member of that person's family; and

(c) who is financially dependent on that person; and

(d) who is not a child in respect of whom payments are being made under section 363 of the Children, Young Persons, and Their Families Act 1989

employment income—

(a) means any salary, wage, allowance, bonus, gratuity, extra salary, compensation for loss of office or employment, emolument (of whatever kind), or other benefit in money, for, or in connection with, the employment or service of the person; and

(b) includes,—

(i) subject to paragraph (c), any expenditure on account of an employee (within the meaning of section YA 1 of the Income Tax Act 2007); and

(ii) any benefit of a kind referred to in section CE 1(1)(d) of the Income Tax Act 2007; and

(iii) in the case of a person who, in the relevant period, has been provided, in respect of any office or position held by the person, with board or lodging (or the use of a house or quarters) or has been paid an allowance instead of being provided with board or lodging (or with the use of a house or quarters), the value of those benefits (and the value of the benefits is to be determined, in the case of a dispute, by VANZ); but

(c) does not include any employer's superannuation contribution (within the meaning of section YA 1 of the Income Tax Act 2007)

full-time employment has the same meaning as in section 3(1) of the Social Security Act 1964

income has the same meaning as in section 3(1) of the Social Security Act 1964

Income Test 3 means that the applicable rate of veterans' pension must be reduced by 70 cents for every $1 of the combined income of the person receiving

a veteran's pension and his or her spouse or partner that is in excess of $100 per week

living alone, in relation to a single person, has the meaning given to it by section 159

New Zealand superannuation means New Zealand superannuation paid or payable under the New Zealand Superannuation and Retirement Income Act 2001

ordinarily resident, in relation to any person, does not include being unlawfully resident in New Zealand

relationship (partner not receiving superannuation or pension) legacy rate means the rate of a veteran's pension specified in regulations that is payable to a person—

(a) who is married or in a civil union or in a de facto relationship; and

(b) whose spouse or partner is not entitled to receive New Zealand superannuation or a veteran's pension; and

(c) who was receiving, or had applied for and was entitled to receive, New Zealand superannuation or a veteran's pension at the alternative rate before 1 October 1991

relationship (partner not receiving superannuation or pension) rate means the rate of a veteran's pension specified in regulations that is payable to a person—

(a) who is married or in a civil union or in a de facto relationship; and

(b) whose spouse or partner is not entitled to receive New Zealand superannuation or a veteran's pension

relationship rate means the rate of a veteran's pension specified in regulations that is payable to a person who is married or in a civil union or in a de facto relationship

single means not married nor in a civil union nor in a de facto relationship

single living alone rate means the rate of a veteran's pension specified in regulations that is payable to a single person who is living alone

single sharing accommodation rate means the rate of a veteran's pension specified in regulations that is payable to a single person who is not living alone

spouse means the husband or wife of an applicant or person receiving a veteran's pension, as the case may require.

(2) Unless the context otherwise requires,—

(a) any word or expression used in this Part but not defined in this Part has the same meaning as it has in section 7 of this Act; and

(b) any word or expression used in this Part but not defined in this Part or in section 7 of this Act has the meaning given to it in section 3(1) of the Social Security Act 1964.

159 Meaning of living alone

(1) A single person (**person A**) is **living alone** only if he or she meets the 2 conditions specified in subsections (2) and (3).

(2) The first condition is that person A occupies a principal place of residence of a kind described in subsection (6).

(3) The second condition is that person A does not share that residence with any person 18 years old or older, except a person to whom subsection (4) or (5) applies.

(4) This subsection applies to person A's dependent child—

(a) who—

(i) is 18 years old (despite the definition of child in section 3(1) of the Social Security Act 1964); and

(ii) is not financially independent; and

(iii) is attending a school or a tertiary educational establishment; but

(b) only until the close of 31 December in the year in which the child turns 18 years old.

(5) This subsection applies to a temporary visitor to person A's residence who stays there less than 13 weeks in any period of 26 weeks.

(6) The place of residence referred to in subsection (2) is—

(a) a house or flat; or

(b) a boat or craft moored within any of the following sea or waters, whether or not it is from time to time travelling within that sea or any of those waters:

(i) the territorial sea of New Zealand or any internal waters of New Zealand; or

(ii) any waters within New Zealand, being any lake, estuary, lagoon, river, stream, creek, or other waters; or

(c) a hotel room, a motel unit, a room in a boarding house, or a unit of accommodation in a caravan park.

(7) In this section,—

boarding house has the same meaning as in section 66B of the Residential Tenancies Act 1986

territorial sea of New Zealand and **internal waters** have the same meanings as in the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977.

Compare: 1954 No 54 s 67A

160 Delegation of general manager's functions, duties, and powers under this Part

(1) The general manager may, either generally or particularly, delegate to the chief executive of the department for the time being responsible for the administration of the Social Security Act 1964 any of the general manager's functions, duties, and powers under—

(a) this Part; and

(b) any provision in the Social Security Act 1964 or the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990 that relates to the veteran's pension.

(2) Subsection (1) applies to any of the functions, duties, and powers that are the general manager's functions, duties, and powers in accordance with section 201.

(3) Sections 41 and 42 of the State Sector Act 1988 apply to a delegation under subsection (1) as if the delegation were made under section 41 of that Act.

Compare: 1954 No 54 s 69

Entitlement

161 Entitlement to veteran's pension

(1) A veteran is entitled to a veteran's pension if—

(a) the veteran has qualifying operational service; and

(b) the veteran has reached the New Zealand superannuation qualification age and is eligible to receive New Zealand superannuation.

(2) A person is entitled to a veteran's pension if—

(a) the person has reached the New Zealand superannuation qualification age and is eligible to receive New Zealand superannuation; and

(b) the person was, immediately before the commencement of this Part, entitled to receive a veteran's pension under the War Pensions Act 1954.

(3) This section is subject to section 167.

162 Entitlement of spouse or partner of veteran to veteran's pension

(1) For the purposes of subsection (2)(b), this subsection applies to a veteran if—

(a) the veteran has qualifying operational service; and

(b) the veteran has reached the New Zealand superannuation qualification age and is eligible to receive New Zealand superannuation; and

(c) either—

(i) the veteran is entitled to a disablement pension or an independence allowance, or has been paid a lump sum under section 98, for whole-person impairment of 52% or more; or

(ii) the veteran was, immediately before the commencement of this Part, entitled to a war disablement pension for disablement of 70% or more under Part 2, 4, or 5 of the War Pensions Act 1954.

(2) Subject to subsection (3), the spouse or partner of a veteran is entitled to a veteran's pension if—

(a) the spouse or partner has reached the New Zealand superannuation qualification age and is eligible to receive New Zealand superannuation; and

(b) subsection (1) applies to the veteran or the veteran is entitled to a veteran's pension under section 164.

(3) A spouse or partner described in subsection (2) is not entitled to a veteran's pension if—

(a) the veteran and the claimant are living apart or are not maintaining a relationship in the nature of a marriage; and

(b) the claimant is not contributing to the veteran's day-to-day welfare.

(4) Despite subsection (3), a spouse or partner described in subsection (2) is entitled to a veteran's pension if the circumstances described in subsection (3) occurred principally because of the health, imprisonment, or employment obligations of the veteran or the claimant.

(5) This section is subject to section 167.

Compare: 1954 No 54 s 70(1), (2)

163 Entitlement of spouse or partner of deceased veteran to veteran's pension

(1) The spouse or partner of a deceased veteran is entitled to a veteran's pension if—

(a) the spouse or partner has reached the New Zealand superannuation qualification age and is eligible to receive New Zealand superannuation; and

(b) the veteran had qualifying operational service; and

(c) the veteran, had he or she not died, would have reached the New Zealand superannuation qualification age and been eligible to receive New Zealand superannuation; and

(d) one of the following applies:

(i) the veteran was, at the date of his or her death, receiving a disablement pension or an independence allowance, or had been paid

a lump sum under section 98, for whole-person impairment of 52% or more:

(ii) the veteran was, at the date of his or her death, receiving a war disablement pension for disablement of 70% or more under Part 2, 4, or 5 of the War Pensions Act 1954:

(iii) VANZ considers that, had the veteran not died, the veteran would have been eligible to receive,—

(A) if the veteran died after the commencement of this Part, a disablement pension or an independence allowance, or a lump sum under section 98, for whole-person impairment of 52% or more; or

(B) if the veteran died before the commencement of this Part, a war disablement pension for disablement of 70% or more under Part 2, 4, or 5 of the War Pensions Act 1954.

(2) The spouse or partner of a deceased veteran is entitled to a veteran's pension if—

(a) the spouse or partner has reached the New Zealand superannuation qualification age and is eligible to receive New Zealand superannuation; and

(b) the veteran had qualifying operational service; and

(c) the veteran died—

(i) before the commencement of this Part and either—

(A) the veteran was, at the date of his or her death, receiving a veteran's pension under section 70(1)(b)(ii) of the War Pensions Act 1954; or

(B) VANZ considers that the veteran would have been eligible, at the date of his or her death, to receive a veteran's pension under section 70(1)(b)(ii) of the War Pensions Act 1954; or

(ii) after the commencement of this Part and the veteran was, at the date of his or her death, entitled to a veteran's pension under section 164.

(3) Subsections (1) and (2) do not apply if, immediately before the veteran's death,—

(a) the veteran and the claimant were living apart or were not maintaining a relationship in the nature of marriage; and

(b) the claimant was not contributing to the veteran's day-to-day welfare.

(4) Subsection (3) does not apply if the circumstances described in that subsection occurred principally because of the health, imprisonment, or employment obligations of the veteran or the claimant.

(5) If a spouse or partner described in subsection (1) or (2) enters into a new relationship after the veteran's death, the spouse or partner's entitlement to the veteran's pension ceases immediately.

(6) For the purposes of subsection (5), a spouse or partner of a deceased veteran enters into a new relationship after the veteran's death, when the spouse or partner—

(a) marries; or

(b) enters into a civil union; or

(c) enters into a de facto relationship.

(7) This section is subject to section 167.

Compare: 1954 No 54 s 70(1), (2)

Entitlement to veteran's pension by reason of infirmity

164 Entitlement to veteran's pension under War Pensions Act 1954 by reason of infirmity

(1) A veteran is entitled to a veteran's pension if, at the commencement of this Part, he or she—

(a) was receiving a veteran's pension under the War Pensions Act 1954 by reason of infirmity in accordance with section 70(1)(b)(ii) of that Act; and

(b) has not reached the New Zealand superannuation qualification age.

(2) The veteran ceases to be entitled to a veteran's pension under subsection (1) on reaching the New Zealand superannuation qualification age.

(3) If the veteran is also entitled to weekly income compensation under subpart 4 of Part 3, the veteran may elect to receive weekly income compensation instead of a veteran's pension.

(4) If the veteran elects to receive weekly income compensation, all of the provisions of subpart 4 of Part 3 apply to the veteran.

(5) A veteran who has received weekly income compensation under subpart 4 of Part 3 may not elect to receive a veteran's pension under this section.

Compare: 1954 No 54 s 70(1)

165 Veteran's ability to earn employment income

(1) This section applies to a veteran who is receiving a veteran's pension under section 164(1).

(2) The veteran does not cease to be entitled to a veteran's pension merely because he or she, at any time, is no longer prevented from undertaking employment because of a mental or physical infirmity.

(3) However, if a medical practitioner or nurse practitioner certifies in accordance with section 166(2) that the veteran is not prevented from undertaking full-time

employment as a result of a mental or physical infirmity, the veteran's entitlement to a veteran's pension under section 164 ceases.

Compare: 1954 No 54 s 71

166 Medical examination of veteran receiving pension under section 164

(1) VANZ may require a veteran receiving a veteran's pension under section 164 to undergo a medical examination by a medical practitioner or nurse practitioner appointed under section 212.

(2) The medical practitioner or nurse practitioner must certify—

(a) whether, in his or her opinion, the veteran is prevented from undertaking full-time employment as a result of a mental or physical infirmity; and

(b) the estimated duration of that condition.

(3) The medical practitioner or nurse practitioner must state the grounds for his or her opinion.

Compare: 1954 No 54 s 72

Person may not receive New Zealand superannuation and veteran's pension

167 Person may not receive New Zealand superannuation and veteran's pension at same time

(1) A person who is entitled to both a veteran's pension and New Zealand superannuation may receive only one of those entitlements at any time.

(2) A person who receives New Zealand superannuation and who would also, except for subsection (1), be entitled to a veteran's pension, may elect to receive a veteran's pension instead of New Zealand superannuation.

(3) A person who receives a veteran's pension and who would also, except for subsection (1), be entitled to New Zealand superannuation, may elect to receive New Zealand superannuation instead of a veteran's pension.

Compare: 1954 No 54 s 70(3), (4)

Commencement and rates of veteran's pension

168 Commencement of veteran's pension

A veteran's pension commences on the later of—

(a) the date on which the applicant became entitled to it; and

(b) the date on which VANZ received the application for it.

Compare: 1954 No 54 s 73

169 Rates of veteran's pension

(1) The rate of veteran's pension payable to a person is the appropriate rate specified in regulations made under section 265.

(2) The following rates of veteran's pension must be specified in the regulations referred to in subsection (1):

(a) a single living alone rate:

(b) a single sharing accommodation rate:

(c) a relationship rate:

(d) a relationship (partner not receiving superannuation or pension) rate:

(e) a relationship (partner not receiving superannuation or pension) legacy rate.

(3) The regulations referred to in subsection (1) must not specify an amount for the relationship (partner not receiving superannuation or pension) legacy rate that is less than the relationship (partner not receiving superannuation or pension) rate.

Compare: 1954 No 54 s 74(1)

170 Annual adjustment of rates of veteran's pension

(1) The rates of veteran's pension must be reviewed in accordance with this section before 1 April every year and, if the review concludes that any of the rates require adjustment under this section, the relevant rate or rates must be adjusted as at 1 April by regulations made under section 265.

(2) In this section,—

average wage means the average ordinary time weekly earnings (males and females combined) as determined by the last Quarterly Employment Survey of wages published by Statistics New Zealand before 1 March in each year (after the deduction of standard tax and the earner levy payable on those earnings)

CPI means the Consumers Price Index All Groups published by Statistics New Zealand

earner levy means the levy payable under section 219(1) of the Accident Compensation Act 2001

standard tax means the amount of tax, calculated on a weekly basis, that would be deductible in accordance with tax code M specified in section 24B of the Tax Administration Act 1994.

(3) Subject to subsections (5) and (6), the relationship rate, the single living alone rate, and the single sharing accommodation rate must be adjusted upwards to reflect any percentage movement upwards in the CPI between—

(a) the CPI for the quarter that ends on 31 December 1 year before the immediately preceding 31 December; and

(b) the CPI for the quarter that ends on the immediately preceding 31 December.

(4) The adjustments (by any percentage movements upwards in the CPI) required under subsection (3) as at 1 April in 2015, 2016, and 2017 must, despite sub-

sections (2) and (3), be calculated using index numbers of the CPI, excluding cigarettes and other tobacco products, published by Statistics New Zealand.

(5) If the relationship rate, the single living alone rate, or the single sharing accommodation rate does not meet the relevant criteria described in subsection (6), the rate must be adjusted to meet the criteria.

(6) The criteria are—

(a) the total amount payable to a veteran and the veteran's spouse or partner who are both eligible to receive a veteran's pension at the relationship rate (before any abatement under section 171 but after the deduction of standard tax) must not be less than 65% of the average wage or more than 72.5% of the average wage:

(b) the single living alone rate (before any abatement under section 171 but after the deduction of standard tax) must be 65% of the total amount payable to a veteran and the veteran's spouse or partner who are both eligible to receive a veteran's pension paid at the relationship rate (before any abatement under section 171 but after the deduction of standard tax):

(c) the single sharing accommodation rate (before any abatement under section 171 but after the deduction of standard tax) must be 60% of the total amount payable to a veteran and the veteran's spouse or partner who are both eligible to receive a veteran's pension paid at the relationship rate (before any abatement under section 171 but after the deduction of standard tax).

(7) Any regulations made in accordance with subsection (1)—

(a) must preserve the proportional relationship of the relationship (partner not receiving superannuation or pension) rate (before any abatement under section 171, but after the deduction of standard tax) to the relationship rate, the single living alone rate, and the single sharing accommodation rate (as they were before the adjustment):

(b) must not reduce any of the rates of veteran's pension:

(c) come into force, or are to be treated as having come into force, on 1 April of the calendar year in which they are made, and apply to veterans' pensions payable on and after that date.

Compare: 1954 No 54 s 74C

171 Abatement of veteran's pension

(1) The amount payable to a veteran who is entitled to a veteran's pension under section 161 at the relationship (partner not receiving superannuation or pension) rate or the relationship (partner not receiving superannuation or pension) legacy rate is subject to abatement in accordance with Income Test 3.

(2) The amount payable to a veteran who is entitled to a veteran's pension under section 164 is subject to abatement in accordance with—

(a) subsection (3), if the veteran receives the veteran's pension at the relationship rate, the single living alone rate, or the single sharing accommodation rate:

(b) subsection (4), if the veteran receives the veteran's pension at the relationship (partner not receiving superannuation or pension) rate or the relationship (partner not receiving superannuation or pension) legacy rate.

(3) VANZ must, in calculating the veteran's pension payable to a veteran to whom this subsection applies, reduce the amount of the pension payable by—

(a) 30 cents for every $1 of the employment income derived by the veteran (before the deduction of income tax) that is in excess of $100 per week, but not in excess of $200 per week; and

(b) 70 cents for every $1 of the employment income derived by the veteran (before the deduction of income tax) that is in excess of $200 per week.

(4) VANZ must, in calculating the veteran's pension payable to a veteran to whom this subsection applies, reduce the amount of the pension payable by—

(a) 30 cents for every $1 of the combined income derived by the veteran and the veteran's spouse or partner in excess of $100 per week, but not in excess of $200 per week; and

(b) 70 cents for every $1 of the combined income derived by the veteran and the veteran's spouse or partner in excess of $200 per week.

Compare: 1954 No 54 s 74D

172 Election if spouse or partner not entitled to superannuation or veteran's pension

(1) This section applies to a veteran—

(a) who is entitled to a veteran's pension; and

(b) who is not single; and

(c) whose spouse or partner is not entitled to New Zealand superannuation or a veteran's pension.

(2) The veteran may elect to receive—

(a) the relationship rate; or

(b) the relationship (partner not receiving superannuation or pension) rate; or

(c) if the veteran was receiving, or had applied for and was entitled to receive, New Zealand superannuation or a veteran's pension at the alternative rate before 1 October 1991, the relationship (partner not receiving superannuation or pension) legacy rate.

(3) A veteran who has made an election under subsection (2) may change that election.

(4) Subsection (5) applies to a veteran's election to receive the relationship (partner not receiving superannuation or pension) rate, and to a veteran's election to receive the relationship (partner not receiving superannuation or pension) legacy rate, under subsection (2) when—

(a) the veteran's spouse or partner is in employment under a contract of service; and

(b) the combined income of the veteran and his or her spouse or partner, during that employment, is enough to prevent receipt of any veteran's pension due to abatement under section 171.

(5) If this subsection applies to the veteran's election, the election does not take effect until the employment has ceased.

Compare: 1954 No 54 s 74(2)–(5)

173 Entitlement to veteran's pension for spouses or partners of persons in long-term residential care in hospital or rest home

(1) This section applies to any person—

(a) who is not in long-term residential care but whose spouse or partner is in long-term residential care in a hospital or rest home, whether or not the spouse or partner is a resident assessed as requiring care (within the meaning of section 136 of the Social Security Act 1964); and

(b) who is receiving a veteran's pension, or whose spouse or partner is receiving a veteran's pension.

(2) A person to whom this section applies is entitled to a veteran's pension at—

(a) the single living alone rate, if the person is living alone; or

(b) the single sharing accommodation rate, if the person is not living alone.

(3) Any benefit payable to a person to whom this section applies is not subject to abatement in respect of any income of the person that has been included in a means assessment of the person's spouse or partner under Part 4 of the Social Security Act 1964.

Compare: 1954 No 54 s 74BA

Lump sum payment on death

174 Lump sum payment on death

(1) Subsection (2) applies on the death of the following:

(a) a veteran to whom section 162(1) applies and who, on the date of death,—

(i) is ordinarily resident in New Zealand; and

(ii) is receiving a veteran's pension; and

(b) a veteran who, on the date of death,—

(i) is ordinarily resident in New Zealand; and

(ii) is receiving a veteran's pension under section 164.

(2) The amount specified in regulations made under section 265—

(a) is payable to the surviving spouse or partner of the veteran; or

(b) if there is no surviving spouse or partner, is to be apportioned equally between any dependent children of the veteran.

(3) Subsection (4) applies on the death of the spouse or partner of a veteran if, on the date of death, the spouse or partner is—

(a) ordinarily resident in New Zealand; and

(b) receiving a veteran's pension under section 162(2).

(4) The amount specified in regulations made under section 265 is payable to the surviving veteran.

(5) The regulations specifying the amounts payable under this section may provide for different amounts to be payable—

(a) on the death of a veteran who,—

(i) on the date of his or her death, was receiving a veteran's pension on account of his or her own service; and

(ii) before 1 April 1990, was receiving a war veteran's allowance under the War Pensions Act 1954:

(b) on the death of a veteran who, on the date of his or her death, was receiving a veteran's pension on account of his or her own service:

(c) on the death of the spouse or partner of a veteran if the veteran is receiving a veteran's pension on account of his or her own service and the spouse or partner was receiving a veteran's pension.

(6) The amount of any veteran's pension paid or payable in respect of the person who has died following their death is deductable from any amount payable under this section.

Compare: 1954 No 54 s 74A

Review of decision relating to veteran's pension

175 Review of decision relating to veteran's pension

(1) Subject to subsection (2), any person affected by a decision of VANZ under this Part may appeal the decision to the Social Security Appeal Authority in accordance with section 12J of the Social Security Act 1964 or, if the decision was made on medical grounds, to a Board appointed under section 10B(3) of that Act.

(2) A person may not appeal to the Social Security Appeal Authority a decision to decline entitlement to a veteran's pension on the basis that the service on which a claim to entitlement is based is not qualifying operational service.

(3) A person affected by a decision described in subsection (2) may apply for a review of the decision in accordance with subpart 2 of Part 7.

Payment overseas of veteran's pension

176 Effect of absence from New Zealand on veteran's pension

A person is not entitled to a veteran's pension while that person is absent from New Zealand, except as provided in sections 177 to 196 or in any agreement or convention adopted under section 19 of the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990.

Compare: 1954 No 54 s 74E

177 First 26 weeks of certain temporary absences

A veteran's pension that would otherwise be payable to a person (other than a person who is receiving a veteran's pension overseas under section 181) is payable in respect of the first 26 weeks of any absence from New Zealand if—

(a) the person's absence does not exceed 30 weeks; or

(b) the person's absence exceeds 30 weeks and VANZ is satisfied that the absence beyond 30 weeks is due to circumstances beyond that person's control that he or she could not reasonably have foreseen before departure.

Compare: 1954 No 54 s 74F

178 Absences up to 2 years for medical treatment

VANZ may, in its discretion, pay a veteran's pension to any person who would otherwise be entitled to receive it, but who is absent from New Zealand for any period or periods not exceeding 2 years in total because that person or his or her spouse, partner, child, or sibling is receiving medical treatment overseas for which the Ministry of Health is granting assistance.

Compare: 1954 No 54 s 74G

179 Absences up to 156 weeks with aid agencies

(1) VANZ may pay a veteran's pension to any person who—

(a) is otherwise entitled to receive it; and

(b) is absent from New Zealand for a period not exceeding 156 weeks; and

(c) is engaged, while absent from New Zealand, in full-time voluntary and unpaid humanitarian work for a recognised aid agency that—

(i) has, as its principal function, the giving of aid and assistance to less advantaged communities in 1 or more other countries; and

(ii) has not deprived another person of paid employment to engage the person to do that work on an unpaid basis.

(2) The chief executive of the Ministry of Foreign Affairs and Trade must determine any question that arises as to whether an aid agency fulfils the qualifications set out in subsection (1).

Compare: 1954 No 54 s 74H

180 Date absence commences

If a person who is absent from New Zealand would have become entitled to a veteran's pension during his or her absence but for section 176, the person's absence must be regarded as having commenced on the day that he or she would have become entitled to a veteran's pension.

Compare: 1954 No 54 s 74I

181 Payment overseas of veteran's pension

Section 182—

(a) applies to a country if it is not a country with whose government New Zealand has a reciprocal agreement or convention, in force under section 19 of the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990, that relates to the veteran's pension; and

(b) applies to a person if he or she has left New Zealand at a time when he or she—

(i) was intending to reside for a period longer than 26 weeks in a country (or 2 or more countries) to which this subsection applies, but not intending to reside for a period longer than 52 weeks in a specified Pacific country (within the meaning of section 190(1)); or

(ii) was intending to travel for a period longer than 26 weeks, but not intending to reside in any country other than New Zealand.

Compare: 1954 No 54 s 74J

182 Entitlement to payments overseas

(1) A person to whom this section applies is entitled to be paid a veteran's pension at the appropriate rate specified in section 183(1),—

(a) in the case of a person who has left New Zealand at a time when he or she was intending to reside for a period longer than 26 weeks in a country (or 2 or more countries) to which this section applies, but not intending to reside for a period longer than 52 weeks in a specified Pacific country (within the meaning of section 190(1)), until he or she—

(i) begins to reside in a country that is not a country to which this section applies; or

(ii) begins to reside in New Zealand again; or

(iii) begins to receive a veteran's pension otherwise than under this section; or

(iv) begins to receive New Zealand superannuation under the New Zealand Superannuation and Retirement Income Act 2001; and

(b) in the case of a person who has left New Zealand at a time when he or she was intending to travel for a period longer than 26 weeks, but not intending to reside in any country other than New Zealand, until he or she—

(i) begins to reside in a country that is not a country to which this section applies; or

(ii) returns to New Zealand.

(2) For the purposes only of subsection (1)(b)(ii), a person does not return to New Zealand if—

(a) he or she—

(i) interrupts his or her overseas travel, and travels to and stays briefly in New Zealand, in order to attend an event (for example, a wedding or funeral) or to visit a person (for example, a sick or injured family member); and then

(ii) resumes his or her overseas travel; and

(b) he or she does not while in New Zealand—

(i) begin to receive a veteran's pension otherwise than under this section; or

(ii) begin to receive New Zealand superannuation under the New Zealand Superannuation and Retirement Income Act 2001.

(3) Except to the extent provided by subsection (1)(a)(i) and (b)(i), a person does not cease to be entitled to be paid a veteran's pension under that subsection by reason only of changing his or her intentions after leaving New Zealand.

(4) Subsection (3) is for the avoidance of doubt.

Compare: 1954 No 54 s 74J

183 Rates of veteran's pension payable overseas

(1) The rates referred to in section 182(1) are,—

(a) for a single person, a rate that is a proportion (calculated under section 184) of the single sharing accommodation rate:

(b) for a person who is married or in a civil union or in a de facto relationship, a rate that is a proportion (calculated under section 184) of the relationship rate.

(2) If section 171(2) applies to a person for whom an amount is specified by subsection (1), the calculation under section 184 of the proportion of the amount

he or she is entitled to be paid must be made in respect of that amount after it has been abated under that section.

(3) This section is subject to section 186.

Compare: 1954 No 54 s 74J

184 Calculation of amount of veteran's pension payable overseas

The proportion referred to in section 183(1) is to be calculated by—

(a) treating each period during which the person concerned has resided in New Zealand while aged 20 or more and less than 65 as whole calendar months and (where applicable) additional days; and

(b) adding the number of additional days (if any), dividing the total by 30, and disregarding any remainder; and

(c) adding the number of calendar months and the quotient calculated under paragraph (b); and

(d) dividing the total calculated under paragraph (c) by 540.

Compare: 1954 No 54 s 74JA

185 Certain absences excluded from calculation

(1) In determining for the purposes of section 184 the periods during which a person has resided in New Zealand, no account is to be taken of—

(a) any period of absence from New Zealand of a kind described in section 9(1) of the New Zealand Superannuation and Retirement Income Act 2001; or

(b) any period of absence from New Zealand—

(i) while the person was engaged in missionary work (within the meaning of section 10(4) of the New Zealand Superannuation and Retirement Income Act 2001) as a member of, or on behalf of, any religious body; or

(ii) while the person's spouse or partner was engaged in missionary work (within the meaning of section 10(4) of the New Zealand Superannuation and Retirement Income Act 2001) as a member of, or on behalf of, any religious body, and the person was with his or her spouse or partner; or

(c) any period of absence from New Zealand while the person was treated under section 79(3)(a) of the Social Security Act 1964 as being resident and present in New Zealand; or

(d) any period of absence from New Zealand while, as the spouse or partner of a person treated under section 79(3)(a) of the Social Security Act 1964 as being resident and present in New Zealand, the person was also (by virtue of section 79(3)(b) of the Social Security Act 1964) treated as being resident and present in New Zealand.

(2) Subsection (1) applies to a period of absence only if VANZ is satisfied that during it the person concerned remained ordinarily resident in New Zealand.

(3) Subsection (1)(b) applies to a period of absence only if VANZ is satisfied that the person concerned either was born in New Zealand or—

(a) in the case of a person to whom subsection (1)(b)(i) applies, was ordinarily resident in New Zealand immediately before leaving New Zealand to engage in the missionary work concerned:

(b) in the case of a person to whom subsection (1)(b)(ii) applies, was ordinarily resident in New Zealand immediately before leaving New Zealand to accompany or join his or her spouse or partner.

Compare: 1954 No 54 s 74JA

Section 185(1)(c): amended, on 10 April 2015, by section 12 of the Social Security Amendment Act 2015 (2015 No 41).

Section 185(1)(d): amended, on 10 April 2015, by section 12 of the Social Security Amendment Act 2015 (2015 No 41).

186 Application for entitlement

A person is not entitled to be paid a veteran's pension under section 182 unless he or she—

(a) has made an application for the payment of a veteran's pension under that section that states (as the case may be)—

(i) the country or countries in which he or she intends to reside and the period for which he or she intends to reside there; or

(ii) the country or countries to and in which he or she intends to travel; and

(b) is ordinarily resident and present in New Zealand on the day he or she makes the application and—

(i) is entitled to a veteran's pension on that day; or

(ii) will become entitled to a veteran's pension before he or she leaves New Zealand.

Compare: 1954 No 54 s 74JB

187 Applications after leaving New Zealand

(1) This section applies if a person did not make an application for payment under section 182 while ordinarily resident and present in New Zealand because he or she left New Zealand intending to be absent for 26 weeks or less.

(2) VANZ may accept an application for payment in accordance with section 182 if satisfied that the absence for more than 26 weeks is or was due to circumstances beyond the applicant's control that could not reasonably have been foreseen before leaving New Zealand.

(3) If VANZ has accepted an application under subsection (2) and, after the applicant left New Zealand, the applicant has been paid any instalment of a veteran's pension in accordance with sections 177 to 180, no liability to repay any of those instalments arises merely because the applicant fails to return to New Zealand within the period allowed for by those sections.

Compare: 1954 No 54 s 74K

188 Date of commencement of payment overseas

(1) The date of commencement of payment overseas of a veteran's pension under section 182 is the first pay day after the date of the applicant's departure from New Zealand.

(2) However, in the case of an application under section 187, the date of commencement is the first pay day after the date on which the application was received by VANZ.

(3) Subsection (2) is subject to section 80AA of the Social Security Act 1964.

Compare: 1954 No 54 s 74L

189 Relationship with other benefit provisions

(1) A person who is receiving a veteran's pension overseas under section 182 is not entitled to receive any supplementary or special benefit, temporary additional support, lump sum payment, or any other assistance under the Social Security Act 1964 or under any welfare programme approved under section 124(1)(d) of that Act.

(2) Despite the provisions of section 80BD of the Social Security Act 1964, when a person who receives a veteran's pension overseas under section 182 dies, the pension terminates on a date to be determined by VANZ, being a date not more than 4 weeks after the person's date of death.

(3) Except as otherwise provided in this section, the Social Security Act 1964 (other than sections 69G to 70, 74(1)(a), 75 to 77, and 82(7)) applies to veterans' pensions being paid overseas under section 182.

Compare: 1954 No 54 s 74M

190 Specified Pacific country

(1) In sections 191 to 195, **specified Pacific country** means a country or territory—

(a) that is listed in Schedule 3; and

(b) that is not a country with which New Zealand has a reciprocal agreement in force under section 19 of the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990 relating to the portability of the veteran's pension.

(2) The Governor-General may, by Order in Council, amend Schedule 3 by—

(a) inserting the name of any Pacific country or territory; or

(b) replacing the former name of a country or territory with its new name.

(3) The Order in Council must state the date on which it takes effect, which may be a date before the date on which it is made.

(4) The Order in Council applies to payments of the veteran's pension under section 191 payable on or after the date on which the order takes effect.

(5) Section 61H(3) to (6) of the Social Security Act 1964 applies to every Order in Council made under subsection (2)(a) as if it had been made under that section.

Compare: 1954 No 54 s 74N

191 Entitlement to be paid veteran's pension in specified Pacific country

(1) A person entitled to a veteran's pension is entitled to be paid the pension in a specified Pacific country at a rate calculated under section 192 if subsection (2) or (3) or (4) applies to the person.

(2) This subsection applies to a person—

(a) who intends to leave New Zealand to reside for more than 52 weeks in a specified Pacific country; and

(b) who is resident and present in New Zealand on the date of his or her application to be paid a veteran's pension in a specified Pacific country; and

(c) who—

(i) is entitled to a veteran's pension on the date of the application; or

(ii) will be entitled to a veteran's pension before leaving New Zealand; and

(d) who is resident in a specified Pacific country when each payment of the veteran's pension is due to be made to him or her.

(3) This subsection applies to a person—

(a) who was, immediately before this Part came into force, being paid a veteran's pension while resident in a specified Pacific country under section 74O of the War Pensions Act 1954 as it was immediately before that date; and

(b) who is resident in a specified Pacific country when each payment of the veteran's pension is due to be made to him or her.

(4) This subsection applies to a person—

(a) who, on or after the date this subsection comes into force, makes an application to be paid a veteran's pension in a specified Pacific country; and

(b) who is resident in the Cook Islands, Niue, or Tokelau on the date of the application; and

(c) who, before he or she left New Zealand to reside in one of the countries or in the territory specified in paragraph (b), met the residential qualifications for New Zealand superannuation set out in section 8(b) and (c) of the New Zealand Superannuation and Retirement Income Act 2001; and

(d) who is resident in a specified Pacific country when each payment of the veteran's pension is due to be paid to him or her.

(5) If subsection (4) applies, an application to be paid a veteran's pension in a specified Pacific country must be made in addition to an application to be paid a veteran's pension under section 11D of the Social Security Act 1964.

(6) The applications referred to in subsection (5) may be made together or separately, and may be made—

(a) before an applicant meets the age qualification for New Zealand superannuation in section 7 of the New Zealand Superannuation and Retirement Income Act 2001, in anticipation of becoming entitled to be paid a veteran's pension on reaching the qualifying age; or

(b) when or after the applicant meets the age qualification.

Compare: 1954 No 54 s 74O

Section 191(1): amended, on 1 July 2015, by section 9(1) of the Social Assistance (Portability to Cook Islands, Niue, and Tokelau) Act 2015 (2015 No 61).

Section 191(4): inserted, on 1 July 2015, by section 9(2) of the Social Assistance (Portability to Cook Islands, Niue, and Tokelau) Act 2015 (2015 No 61).

Section 191(5): inserted, on 1 July 2015, by section 9(2) of the Social Assistance (Portability to Cook Islands, Niue, and Tokelau) Act 2015 (2015 No 61).

Section 191(6): inserted, on 1 July 2015, by section 9(2) of the Social Assistance (Portability to Cook Islands, Niue, and Tokelau) Act 2015 (2015 No 61).

192 Rates of payment of veteran's pension payable to people resident in specified Pacific countries

(1) The rate of veteran's pension payable under section 191 is,—

(a) in the case of a person who has resided in New Zealand for 20 or more years since turning 20 years, the base rate:

(b) in the case of a person who has resided in New Zealand for 10 or more years but fewer than 20 years since turning 20 years, an amount calculated using the following formula:

$$\frac{a \times b}{20}$$

where—

a is the base rate

b is the whole number of years the person has resided in New Zealand since turning 20 years:

(c) in the case of a person who is resident in a specified Pacific country and was, immediately before section 74P(1)(c) of the War Pensions Act 1954 came into force, being paid a veteran's pension under section 17BA of the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990 as it was immediately before that date, the higher of—

(i) the amount he or she was being paid immediately before that date (subject to abatement under section 171(2) if that section applies to the person); and

(ii) the appropriate amount payable under paragraph (a) or (b).

(2) For the purposes of this section, the base rate is,—

(a) in the case of a single person, the single sharing accommodation rate (subject to abatement under section 171 if that section applies to the person); and

(b) in the case of a person who is married or in a civil union or in a de facto relationship, the relationship rate (subject to abatement under section 171(2) if that section applies to the person).

(3) However, if section 70 of the Social Security Act 1964 applies, that amount must be reduced by the amount deducted in accordance with that section.

Compare: 1954 No 54 s 74P

193 Commencement and termination of payments

(1) The commencement date of payment of a pension paid under section 191 is,—

(a) in the case of a person to whom section 191(2) applies, the first pay day after the date of the person's departure from New Zealand; and

(b) in the case of a person to whom section 191(3) applies, the first pay day after the date on which this section comes into force; and

(c) in the case of a person to whom section 191(4) applies, the later of—

(i) the date that the person meets the age qualification for New Zealand superannuation in section 7 of the New Zealand Superannuation and Retirement Income Act 2001; and

(ii) the date that the application referred to in section 191(4) is made.

(2) When a person being paid a pension under section 191 dies, the pension terminates on a date to be determined by VANZ, being a date not more than 4 weeks after the person's date of death.

Compare: 1954 No 54 s 74Q

Section 193(1)(b): amended, on 1 July 2015, by section 10(1) of the Social Assistance (Portability to Cook Islands, Niue, and Tokelau) Act 2015 (2015 No 61).

Section 193(1)(c): inserted, on 1 July 2015, by section 10(2) of the Social Assistance (Portability to Cook Islands, Niue, and Tokelau) Act 2015 (2015 No 61).

194 Effect on other benefits

A person who is receiving a veteran's pension overseas under section 191 is not entitled to receive any supplementary or special benefit, temporary additional support, lump sum payment, or any other assistance under the Social Security Act 1964 or under any welfare programme approved under section 124(1)(d) of that Act.

Compare: 1954 No 54 s 74R

195 Application of this Act and Social Security Act 1964

(1) Sections 176 to 189 do not apply in respect of a veteran's pension being paid in a specified Pacific country under section 191.

(2) The Social Security Act 1964 (other than sections 74(1)(a), 75, 75A, 76, 77, and 80) applies to a veteran's pension being paid in a specified Pacific country under section 191.

Compare: 1954 No 54 s 74S

196 Certain former economic pensioners may be paid up to the full rate of veteran's pension overseas

Despite sections 74(1)(a) and 77 of the Social Security Act 1964 and sections 181 to 189 of this Act, if, immediately before 1 April 1990, a person residing outside New Zealand was being paid an economic pension under the War Pensions Act 1954 as it was immediately before that date, VANZ may pay the full rate, or any lesser percentage of the full rate (being not less than 50%), of a veteran's pension to that person while he or she remains a resident outside New Zealand.

Compare: 1954 No 54 s 74T

Part 7
Administration

Subpart 1—Establishment and functions of VANZ and related matters

197 Chief of Defence Force responsible for administration of Act

The Chief of Defence Force is responsible to the Minister for the efficient, effective, and economic administration of this Act.

198 Establishment of VANZ as unit within Defence Force

The Chief of Defence Force must establish a unit within the Defence Force to be called Veterans' Affairs New Zealand.

199 Functions of VANZ

The functions of VANZ are—

(a) to provide entitlements to veterans and other claimants in accordance with this Act; and

(b) to arrange for the provision of treatment, rehabilitation, and related services to veterans and other claimants in accordance with this Act; and

(c) to ensure that systems and processes are in place to enable VANZ, the Defence Force, and the Accident Compensation Corporation to exercise their respective responsibilities under section 87; and

(d) to supply, or to contribute to the cost of, plaques and headstones for deceased service and ex-service persons and their spouses and partners in accordance with this Act; and

(e) to contribute to the maintenance and development of cemeteries or parts of cemeteries set aside under section 15 of the Burial and Cremation Act 1964; and

(f) to administer the Veterans' Medical Research Trust Fund; and

(g) to provide advice to the Minister on any matters relating to veterans; and

(h) to undertake any other functions relating to veterans and their families as directed to be undertaken by the Minister or Chief of Defence Force; and

(i) to undertake any functions related to or incidental to the functions specified in paragraphs (a) to (h).

200 General Manager and Deputy General Manager of VANZ

(1) The Chief of Defence Force must appoint suitable persons to be the General Manager of VANZ, and Deputy General Manager of VANZ.

(2) The general manager has and may perform and exercise, subject to the control and direction of the Chief of Defence Force, all the functions and powers necessary for the administration of this Act.

(3) The deputy general manager has and may perform and exercise, subject to the control and direction of the Chief of Defence Force or the general manager, all the functions and powers necessary for the administration of this Act.

(4) If there is a vacancy in the office of the general manager, or if the general manager is absent from duty for any reason, the deputy general manager has and may perform and exercise all the functions, duties, and powers of the general manager for as long as the vacancy or absence continues.

(5) The fact that the deputy general manager performs or exercises any function, duty, or power of the general manager is, in the absence of proof to the contrary, conclusive evidence of the deputy general manager's authority to do so.

201 Functions, duties, and powers of VANZ

Every function, duty, and power of VANZ under this Act is a function, duty, or power of the general manager.

202 General manager may delegate functions, duties, and powers to members of Defence Force

(1) The general manager may delegate, either generally or particularly, any of his or her functions, duties, and powers under this Act to any member of the Defence Force.

(2) A delegation may be made under this section to—

(a) a specified person; or

(b) a person belonging to a specified class of persons; or

(c) the holder of a specified office or appointment in the Defence Force; or

(d) the holder of an office or appointment of a specified class in the Defence Force.

(3) The delegation—

(a) must be written; and

(b) may include a power to subdelegate any function, duty, or power to any other member of the Defence Force; and

(c) may be made subject to any restrictions and conditions that the general manager thinks fit; and

(d) is revocable at any time, in writing; and

(e) does not prevent the performance of a function or duty, or the exercise of a power, by the general manager.

(4) Subject to any restrictions or conditions imposed by the general manager, a person to whom any functions, duties, or powers are delegated may perform and exercise them in the same manner, subject to the same restrictions, and with the same effect as if they had been conferred directly by this Act and not by delegation.

(5) A person who appears to act under a delegation is presumed to be acting in accordance with its terms in the absence of evidence to the contrary.

Compare: 1988 No 20 s 41; 2012 No 123 s 50

203 General manager may delegate functions, duties, and powers outside Defence Force with approval

(1) The general manager may delegate any of his or her functions, duties, and powers under this Act,—

(a) with the written approval of the Chief of Defence Force, to a person described in section 41(1A) of the State Sector Act 1988:

(b) with the written approval of the Chief of Defence Force and the Minister, to a person described in section 41(2A) of the State Sector Act 1988.

(2) Sections 41 and 42 of the State Sector Act 1988 apply, with any necessary modifications, to a delegation under subsection (1), as if the general manager were a Public Service chief executive.

(3) This section does not limit section 160.

Compare: 1988 No 20 s 41

204 Immunity from civil liability

(1) This section applies to—

(a) the general manager:

(b) the deputy general manager:

(c) any member of the Defence Force performing or exercising a function, duty, or power under this Act:

(d) a review officer:

(e) the RSA member of the review panel:

(f) a member of the appeal board:

(g) a member of the advisory board:

(h) a member of the advisory panel.

(2) The person is immune from liability in civil proceedings for good-faith actions or omissions in pursuance or intended pursuance of their functions, duties, or powers.

(3) Despite subsection (2), to the extent that the person's actions or omissions are not done or omitted in the discharge or purported discharge of the person's responsibilities of a judicial nature or in connection with the execution of judicial process,—

(a) a court may find the Crown itself liable in tort in respect of the actions or omissions; and

(b) for the purpose of determining whether the Crown is so liable, the court must disregard the immunity in subsection (2).

Compare: 1950 No 54 s 6(5); 1988 No 20 s 86

205 VANZ may reconsider decision

(1) If VANZ considers it made a decision in error, it may reconsider the decision at any time, whatever the reason for the error.

(2) Subsection (3) applies to a decision by VANZ that affects a person and in respect of which—

(a) an application for review of the decision did not succeed (in whole or in part); and

(b) an appeal against the unsuccessful review decision did not succeed (in whole or in part).

(3) VANZ may reconsider a decision if, in VANZ's view, any of the following apply:

(a) a statement of principles is adopted or modified under section 22 after the decision was made and, if the statement had been adopted or modified before the decision was made, it would have materially affected the decision; or

(b) a presumptive decision-making condition is specified or amended in regulations made after the decision was made and, if the condition had been specified or amended before the decision was made, it would have materially affected the decision; or

(c) service is declared operational service under section 9 after the decision was made and, if the declaration had been made before the decision was made, it would have materially affected the decision.

(4) VANZ may reconsider a decision to which subsection (3)(a) or (b) applies on application by the affected person or on its own initiative.

(5) VANZ may reconsider a decision to which subsection (3)(c) applies on application by the affected person.

(6) A decision by VANZ to decline to reconsider a decision under this section is not subject to review under section 215.

(7) If VANZ decides to reconsider a decision under this section, VANZ must provide the claimant with an opportunity to make a submission on the decision before it is reconsidered.

(8) If, following reconsideration, VANZ decides that a person has an entitlement, the entitlement commences on the date it would have commenced on had VANZ decided that the person had the entitlement at the outset.

(9) Any decision made as a consequence of the reconsideration of a decision under this section is subject to review under section 215.

206 Recovery of debts by VANZ

(1) An overpayment by VANZ is a debt due to VANZ if the overpayment is—

(a) an amount paid to a person that exceeds the amount to which the person is entitled under this Act or that was payable under the War Pensions Act 1954; or

(b) an amount paid to a person who has no entitlement to it under this Act or the War Pensions Act 1954.

(2) VANZ may—

(a) recover the debt by way of proceedings; or

(b) deduct all or part of the debt from any amount payable to that person by VANZ.

(3) However, if a person receives a payment from VANZ in good faith, VANZ may not—

(a) recover all or any part of the payment on the ground only that the decision under which the payment was made has been revised on medical grounds; or

(b) recover all or any part of the payment if the recipient—

(i) did not intentionally contribute to the error; and

(ii) has so altered his or her position in reliance on the validity of the payment that it would be inequitable to require repayment.

Compare: 2001 No 49 ss 248, 251

207 Entitlements inalienable

(1) All entitlements are absolutely inalienable, whether by way of, or in accordance with, a sale, assignment, charge, execution, bankruptcy, or otherwise.

(2) This section does not affect—

(a) any right of VANZ to recover any amounts under this Act or to make any deductions authorised by this Act from any entitlements that VANZ is liable to provide; or

(b) sections 4 and 5 of the Maori Housing Act 1935; or

(c) sections 84F to 84M of the District Courts Act 1947; or

(d) sections 87(2)(b), 88AE(1)(a), 103, 104, and 105 to 106B of the Summary Proceedings Act 1957; or

(e) section 27Y of the Social Security Act 1964 (as saved by section 256(1) of the Child Support Act 1991) or sections 71 and 86A of the Social Security Act 1964; or

(f) sections 105, 110, 118, and 121 of the Family Proceedings Act 1980 (as saved by section 259(1) of the Child Support Act 1991); or

(g) the Child Support Act 1991; or

(h) subparts 1, 2, and 5 of Part 2 or section 193 of the Student Loan Scheme Act 2011; or

(i) subpart 1 of Part 3 of the KiwiSaver Act 2006; or

(j) section 157 of the Tax Administration Act 1994; or

(k) section 41B of the Legal Services Act 2011.

Compare: 1954 No 54 s 89(1); 1964 No 136 s 84(1); 2001 No 49 s 123

208 Entitlements to be provided to claimant only

(1) VANZ must provide entitlements only to the claimant to whom VANZ is liable to provide the entitlements.

(2) Subsection (1) does not apply—

(a) to payments made by VANZ directly to a person for providing entitlements to the claimant; or

(b) to payments authorised by regulations made under section 265 to be made to any other person; or

(c) to payments made under section 209 or 210.

Compare: 2001 No 49 s 124

209 VANZ to pay amount for child to caregiver or financially responsible person

(1) This section applies if an entitlement provided to a claimant who is not yet 16 years old is solely a payment of money.

(2) VANZ must make the payment—

(a) to a person who is caring for the claimant; or

(b) if VANZ considers that it would not be appropriate to make the payment to such a person, to another person or to trustees who, in either case, VANZ considers will apply the payment as required by subsection (3).

(3) A person to whom a payment is made under subsection (2) must apply it for the maintenance, education, advancement, or benefit of the claimant.

(4) VANZ is not under an obligation to see to the application of any money paid under this section, and is not liable to the claimant in respect of any such payment.

Compare: 2001 No 49 s 125

210 VANZ to pay amount to claimant's estate

(1) Subsection (2) applies to any entitlement (other than a lump sum payment) that is a payment that VANZ—

(a) is liable to make to a claimant, but that has accrued and is unpaid at the date of the claimant's death; or

(b) would have been liable to make to the claimant, if the claimant had made a claim for it.

(2) VANZ is liable to pay the amount to the claimant's estate if the estate applies for it within 3 years after the date of the claimant's death.

Compare: 2001 No 49 s 126

211 Defence Force to report on timeliness of decision-making and implementation of systems and procedures

The Defence Force must, in its annual report,—

(a) provide a comparison of—

(i) the period of time on average that VANZ takes to make decisions on claims for entitlement under this Act during the year; and

(ii) the 30-working-day period specified under section 11(2) (or any shorter period agreed between the Minister and VANZ); and

(b) report on the implementation of the systems and procedures referred to in section 199(c).

212 Appointment of assessors and examiners

(1) VANZ must appoint as many health practitioners as it considers necessary to do assessments or examinations under sections 27(1)(c) and (2)(c), 124, 130, and 166(1), and clause 48 or 50 of Schedule 2.

(2) VANZ may appoint a health practitioner to do assessments under the Act generally, or in respect of particular sections of the Act.

(3) VANZ must pay assessors to do assessments and, if fees and allowances of assessors are prescribed in or under regulations made under section 265, VANZ must pay prescribed amounts.

(4) In appointing a person to be an assessor, VANZ must have regard to the skills, qualifications, and training that VANZ considers appropriate for a person to do the assessments for which it is proposed to appoint the person an assessor.

(5) VANZ may appoint a medical practitioner to do assessments under section 134 only if the medical practitioner meets the requirements described in subsection (6) or (7).

(6) A medical practitioner who provides general medical services must also—

(a) have an interest, and proven work experience, in disability management in the workplace or in occupational rehabilitation; and

(b) have at least 5 years' experience in general practice; and

(c) meet at least 1 of the following criteria:

(i) be a Fellow of the Royal New Zealand College of General Practitioners or hold an equivalent qualification:

(ii) be undertaking training towards becoming a Fellow of the Royal New Zealand College of General Practitioners or holding an equivalent qualification:

(iii) have undertaken relevant advanced training.

(7) A medical practitioner who does not provide general medical services must—

(a) have an interest, and proven work experience, in disability management in the workplace or in occupational rehabilitation; and

(b) be a member of a recognised college.

Compare: 2001 No 49 Schedule 1 cl 58

213 Purposes for which VANZ may collect information

VANZ may collect information for the following purposes:

(a) to enable a comprehensive claims database to be maintained:

(b) to facilitate the monitoring of the operation of this Act:

(c) to monitor and evaluate the nature, incidence, severity, and consequences of service-related illnesses and injuries:

(d) the provision of appropriate rehabilitation and treatment:

(e) the provision of appropriate compensation:

(f) policy development under this Act.

Compare: 2001 No 49 s 279

Subpart 2—Reviews and appeals

Preliminary provision

214 Effect of review or appeal on decisions

(1) A decision by VANZ that relates to a veteran's or other claimant's entitlement continues to be of full effect even though—

(a) an applicant has made a review application relating to the decision; or

(b) any other proceeding relating to the decision has been commenced.

(2) A review decision continues to be of full effect, unless subsection (3) applies, even though—

(a) an appellant has filed a notice of appeal relating to the review decision; or

(b) any other proceeding relating to the review decision has been commenced.

(3) A review decision ceases to be of full effect if all the parties to the review agree to a variation of it for the benefit of the claimant.

(4) A review decision is subject to section 237 (the appeal board's powers to determine an appeal).

Compare: 2001 No 49 s 133

Review of VANZ decisions

215 Review of decision

(1) A veteran or other claimant may apply for a review of a decision by VANZ that relates to that person's entitlement, including—

(a) a decision of VANZ made under Part 3, 4, or 5 if the decision relates to 1 or more of the following:

(i) eligibility for an entitlement:

(ii) whether there is a relationship between a veteran's injury, illness, or death and the veteran's qualifying service:

(iii) whether and, if so, to what extent a veteran's service is qualifying service:

(iv) the degree of impairment caused by an injury or illness:

(b) a decision of VANZ to decline entitlement to a veteran's pension under Part 6 on the basis that the service on which a claim for entitlement is based is not qualifying operational service.

(2) Subsection (1) does not limit or affect any other right or appeal provided for under this Act.

216 Procedure for reviews

(1) The procedure for reviews may be prescribed in regulations made under section 265.

(2) Regulations referred to in subsection (1) prescribing the procedure for reviews—

(a) may prescribe different procedures to apply in respect of different types of review; and

(b) must not be inconsistent with the provisions of this subpart.

217 Application for review

(1) A review application is made by giving an application that complies with subsection (2) to VANZ.

(2) The application must—

(a) be in writing:

(b) be made in the form provided by VANZ for the purpose:

(c) identify the decision or decisions in respect of which it is made:

(d) state the grounds on which it is made.

(3) An applicant may also provide written submissions and any information (whether prepared by the applicant or any other person) in support of the application.

Compare: 2001 No 49 s 135

218 Time limit for application for review

(1) The applicant must apply for review within 6 months after receiving notification of the decision.

(2) However, a review application may be made later if the review officer is satisfied that the delay was caused by circumstances beyond the applicant's control.

Compare: 1954 No 54 s 15D(1)

219 Review to be conducted by review officer or review panel

(1) A review of the decision must be conducted by a review officer unless subsection (3) applies.

(2) If an application for review relates to—

(a) a decision made by the deputy general manager, the review must be conducted by a review officer appointed by the general manager:

(b) a decision made by the general manager, the review must be conducted by a review officer appointed by the Chief of Defence Force.

(3) This subsection applies to a review of a decision of VANZ—

(a) to decline entitlement under this Act on the basis that the service on which the claim for entitlement is based is not qualifying service; or

(b) to decline entitlement to a veteran's pension under Part 6 on the basis that the service on which a claim for entitlement is based is not qualifying operational service.

(4) If subsection (3) applies—

(a) the review must be conducted by the review panel instead of a review officer; and

(b) this subpart applies, with all necessary modifications, to a review by the review panel as if the review were conducted by a review officer.

220 Conduct of review

(1) A review officer must act independently when conducting a review.

(2) A review officer must not conduct a review if the review officer has had any previous involvement with the claim other than as a review officer.

(3) The review officer must—

(a) decide the review on the basis of its substantive merits under this Act:

(b) conduct the review on the papers without a hearing:

(c) comply with—

(i) the principles of natural justice; and

(ii) the principles specified in section 10(b); and

(iii) any other relevant provision of this Act and any regulations made under this Act in accordance with section 216.

Compare: 1954 No 54 s 15B(1)(a)

221 Review officer may require further information or assessment

(1) The review officer may require the applicant or VANZ to provide any information that the review officer considers is reasonably necessary to decide the review.

(2) The review officer may seek an assessment of the person's impairment only if the review officer considers that the assessment is reasonably necessary to decide the review.

(3) The medical assessment must be conducted in accordance with any regulations made under section 265 for the conduct of medical assessments.

Compare: 1954 No 54 s 15B(1)(b), (c)

222 Decision of review officer

(1) The review officer must—

(a) confirm the decision; or

(b) modify the decision; or

(c) revoke the decision; or

(d) make any other decision that is appropriate to the circumstances of the case.

(2) If the review officer revokes the decision, the review officer must—

(a) substitute the review officer's decision for that of VANZ; or

(b) require VANZ to make the decision again in accordance with directions that the review officer gives to VANZ.

Compare: 1954 No 54 s 15D(3)

Veterans' Service Review Panel

223 Veterans' Service Review Panel

(1) The general manager may appoint a Veterans' Service Review Panel (the **review panel**)—

(a) from time to time; or

(b) in respect of a particular review.

(2) The review panel has the function specified in subsection (3) in relation to a review of a decision of VANZ—

(a) to decline entitlement under this Act on the basis that the service on which the claim for entitlement is based is not qualifying service; or

(b) to decline entitlement to a veteran's pension under Part 6 on the basis that the service on which a claim for entitlement is based is not qualifying operational service.

(3) The function of the review panel is to conduct the review in accordance with section 219(4).

224 Membership of review panel

(1) The general manager must only appoint members who, in the general manager's view, have qualifications and experience that are relevant to the review panel's function.

(2) The review panel must comprise—

(a) an employee or contractor of the New Zealand Defence Force; and

(b) a person nominated by the Royal New Zealand Returned and Services' Association (the **RSA member**).

225 Review panel may seek and receive further information

(1) The review panel may seek and receive any information that the review panel considers reasonably necessary to decide the review from any person with relevant expertise (for example, an historian).

(2) The review panel's ability to seek and receive information under this section is in addition to the ability to require information under section 221(1).

226 Decision stands if panel unable to agree

If the members of the review panel are unable to agree how to decide a review, the decision under review is to be treated as if it has been confirmed by the review panel.

227 RSA member

(1) The RSA member of the review panel is entitled, in accordance with the fees framework,—

(a) to receive remuneration for services as a member at a rate and of a kind determined by the Minister; and

(b) to be reimbursed for actual and reasonable travelling and other expenses incurred in carrying out his or her office as a member.

(2) For the purposes of subsection (1), **fees framework** has the same meaning as in section 10 of the Crown Entities Act 2004.

(3) The RSA member may resign at any time by giving written notice to the general manager.

Appeal against review decision

228 Appeal against review decision

(1) A review decision made under this subpart may be appealed by the person who applied for the review or by VANZ.

(2) An appeal is brought by the appellant giving a notice of appeal to the other party.

(3) The notice of appeal must be in writing and made in the form provided for the purpose by VANZ.

(4) An appeal must be brought within 6 months after the date of the review decision.

(5) However, the appeal board may, in its discretion, extend the time for bringing an appeal if the appeal board thinks an extension is in the interests of justice.

(6) As soon as practicable after an appeal is brought, VANZ must provide to the appeal board—

(a) the notice of appeal; and

(b) the review decision under appeal; and

(c) any application, written submissions, statements, reports, and other documents held by VANZ that relate to the review decision.

(7) VANZ must, at the time that it provides the documents specified in subsection (6)(c) to the appeal board, provide a copy of the documents to the other party.

229 Hearing and determination of appeal

(1) An appeal made to the appeal board is a *de novo* appeal, and the appeal board is not bound by any findings of fact made by the decision maker whose decision is the subject of the appeal.

(2) Appeals must, in accordance with section 10(b)(iv), be heard and determined without regard to legal or procedural technicalities.

(3) The appeal board may, for the purposes of hearing an appeal,—

(a) receive any evidence or information that, in its opinion, may assist it to determine the appeal, whether or not that evidence or information would be admissible in a court of law:

(b) take evidence on oath or affirmation, and for that purpose an oath or affirmation may be administered by the chairperson of the appeal board:

(c) permit a witness to give evidence by any means, including by written or electronic means or in person or remotely, and, if the appeal board considers it appropriate, require the witness to verify the evidence by oath or affirmation.

(4) The appeal board may, on application or on its own initiative, hear an appeal or part of an appeal in private.

(5) The appeal board must comply with—

(a) the principles of natural justice; and

(b) the principles specified in section 10(b); and

(c) any other relevant provision of this Act and any regulations made under section 265 of this Act.

Compare: 1954 No 54 s 18; 2013 No 60 s 14

230 Composition of appeal board

(1) Every appeal must be heard by not fewer than 3 members—

(a) 1 of whom must be a medical practitioner; and

(b) 1 of whom must be the chairperson.

(2) Every appeal must be determined by a majority of the votes of the members hearing the appeal, and the chairperson has a casting vote if voting is equal.

Compare: 1954 No 54 s 8(3), (8)

231 Power to require documents

The appeal board may, for the purposes of hearing an appeal, require any person to—

(a) produce any documents or things in that person's possession or control or copies of those documents or things:

(b) allow copies or representations of those documents or things to be made:

(c) verify by statutory declaration any written information, copies of documents, or representations of things provided to the inquiry.

Compare: 2013 No 60 s 20

232 Power to summon witnesses

(1) The appeal board may issue a witness summons in writing to any person, requiring that person to attend and give evidence at a hearing before the appeal board.

(2) The witness summons must state—

(a) the place where, and the date and time when, the person is to attend; and

(b) the documents or things in that person's possession or control that he or she is required to produce to the appeal board; and

(c) the person's entitlement to be paid costs and travelling expenses, in accordance with section 235; and

(d) the penalty for failing to attend.

Compare: 2013 No 60 s 23

233 Service of summons on witness

(1) Unless a witness has consented to service by another means, a summons must be served personally on that witness by delivering a sealed copy of the summons to the witness not later than 24 hours before the witness must attend the hearing.

(2) Despite subsection (1), the appeal board may direct substituted service in accordance with the High Court Rules.

Compare: 2013 No 60 s 24

234 Offence to fail to comply with summons

Any person who intentionally, and without reasonable excuse, fails to attend a hearing in accordance with the notice of summons commits an offence and is liable, on conviction, to a fine not exceeding $2,000.

Compare: 2013 No 60 ss 29, 30

235 Reimbursement of costs and travelling expenses of appellant, witnesses, and other participants

(1) The following are entitled to be paid for their reasonable costs and travelling expenses to attend the hearing of an appeal:

(a) the appellant; and

(b) any person summoned to attend a hearing.

(2) The appeal board may also order that other persons who participate in the hearing of an appeal be paid for their reasonable costs and travelling expenses.

(3) The level of reimbursement payable for reasonable costs and travelling expenses is the level prescribed by regulations made under section 265 or, in the absence of regulations, determined by the appeal board.

Compare: 2013 No 60 s 25

236 Immunities and privileges of participants

(1) Witnesses and other persons participating in the hearing of an appeal under this subpart (other than counsel) have the same immunities and privileges as if they were appearing in civil proceedings and the provisions of subpart 8 of Part 2 of the Evidence Act 2006 apply to the appeal, to the extent that they are relevant, as if—

(a) the appeal were a civil proceeding; and

(b) every reference to a Judge were a reference to the appeal board.

(2) Counsel appearing before the appeal board have the same immunities and privileges as they would have if appearing before a court.

Compare: 2013 No 60 s 27

237 Decision of appeal board

(1) The appeal board must—

(a) confirm the review decision; or

(b) modify the review decision; or

(c) revoke the review decision; or

(d) make any other decision that is appropriate to the circumstances of the case.

(2) If the appeal board revokes the review decision, the appeal board must—

(a) substitute the appeal board's decision for that of the review officer or the review panel (as the case may be); or

(b) require VANZ to make the decision again in accordance with directions that the appeal board gives to VANZ.

238 Decision to be made available unless publication prohibited or restricted

(1) A decision of the appeal board must be in writing and be signed by the members of the board who heard the appeal.

(2) Subject to subsection (3), VANZ must make decisions of the appeal board available on its Internet site.

(3) The appeal board may, on application by the appellant or on its own initiative, make an order prohibiting or restricting the publication of—

(a) any report of a hearing:

(b) the decision or any part of a decision:

(c) the name of any person and any details of the decision that would identify the person.

(4) Any person who contravenes an order made under subsection (3) commits an offence and is liable on conviction to a fine not exceeding $5,000.

239 Appeal to High Court on questions of law

An appeal against a determination of the appeal board may be made to the High Court, in accordance with the rules of court, only on a question of law.

Veterans' Entitlements Appeal Board

240 Veterans' Entitlements Appeal Board

(1) This section establishes the Veterans' Entitlements Appeal Board (the **appeal board**).

(2) The function of the appeal board is to determine appeals against review decisions.

(3) The appeal board may, subject to any provision in this Act or regulations made under this Act, regulate its own procedure.

241 Membership of appeal board

(1) The appeal board consists of not more than 4 members of which—

(a) 1 must be a lawyer (within the meaning of the Lawyers and Conveyancers Act 2006) who has at least 7 years' standing; and

(b) 2 must be medical practitioners, 1 of whom must be nominated by the Royal New Zealand Returned and Services' Association.

(2) The Minister must appoint members of the appeal board on any terms and conditions that the Minister thinks fit.

(3) The Minister must appoint the member referred to in subsection (1)(a) as the chairperson.

242 Deputy members

(1) For each member that the Minister appoints, the Minister may appoint a deputy member to act in the place of the member if the member is not available to attend and deliberate on an appeal.

(2) Every deputy member of the appeal board who acts in the place of a member of the appeal board has the powers and capacity of the member, and the fact that any deputy acts in the place of a member is proof of the deputy's authority to do so.

243 Specialist member

(1) The chairperson may appoint a specialist member to assist the members of the appeal board hearing an appeal if—

(a) the appeal involves technical, scientific, or medical matters; and

(b) the appointment of a specialist member would substantially assist the members of the appeal board to determine the appeal.

(2) A specialist member may participate in the hearing of the appeal to the same extent as the other members hearing the appeal, except that the specialist member is not a member of the appeal board for the purposes of making a determination.

(3) A specialist member is appointed only for the purposes of a particular appeal and ceases to hold office when the members of the appeal board have determined the appeal.

244 Appeal board serviced by VANZ

VANZ must provide the resources and administrative support necessary to enable the appeal board to efficiently and effectively perform its functions.

245 Term of appointment

(1) The term of office of a member of the appeal board must not exceed 3 years.

(2) A member of the appeal board may be reappointed.

(3) A member may resign at any time by giving written notice to the Minister.

(4) The Minister may at any time remove a member of the appeal board for inability to perform the functions of a member of the appeal board, bankruptcy, neglect of duty, or misconduct.

246 Remuneration of members of appeal board

(1) Each member of the appeal board is entitled, in accordance with the fees framework,—

(a) to receive remuneration for services as a member at a rate and of a kind determined by the Minister; and

(b) to be reimbursed for actual and reasonable travelling and other expenses incurred in carrying out his or her office as a member.

(2) For the purposes of subsection (1), **fees framework** has the same meaning as in section 10 of the Crown Entities Act 2004.

Part 8
Advisory bodies and medical research trust fund

Subpart 1—Veterans' Advisory Board

247 Veterans' Advisory Board

(1) This section establishes the Veterans' Advisory Board (the **advisory board**).

(2) The function of the advisory board is to provide advice to the Minister on its own motion or on request, including advice on policies to be applied in respect of veterans' entitlement.

(3) The Minister may give terms of reference on the advice that the advisory board provides to the Minister.

(4) The advisory board may, subject to any provision of this Act or regulations made under this Act, determine its own procedure.

248 Membership of advisory board

(1) The advisory board consists of not more than 7 members and 1 serving veteran, nominated by the Chief of Defence Force, as an *ex officio* member.

(2) The Minister must appoint members of the advisory board on any terms and conditions that the Minister thinks fit.

(3) The Minister must appoint a chairperson and a deputy chairperson of the advisory board.

(4) If the chairperson and the deputy chairperson are both absent from any meeting, the remaining members may appoint one of their number to act as chairperson at that meeting.

(5) The Minister must endeavour to appoint members who are representative of the veteran community.

(6) The general manager and any veterans group may nominate a person for appointment as a member and the Minister must have regard to, but is not bound by, the nomination.

(7) The Minister may, by notice in writing to a member, remove the member from office for misconduct, inability to perform the functions of office, or neglect of duty.

249 Deputy members

(1) For each member that the Minister appoints, the Minister may appoint a deputy member to act in the place of the member for whom he or she is deputy while the member is unable to attend any meeting of the advisory board.

(2) Every deputy member of the advisory board, while so acting, will have the powers and capacity of a member of the advisory board, and the fact that any deputy attends a meeting is proof of the deputy's authority to do so.

250 Meetings of advisory board

(1) Meetings of the advisory board are to be held at the times and places that the advisory board or the chairperson may from time to time determine.

(2) The quorum for the advisory board is 4 members.

251 Advisory board serviced by VANZ

VANZ must provide the resources and administrative support necessary to enable the advisory board to perform its functions.

252 Term of appointment

(1) The term of office of a member of the advisory board must not exceed 3 years.

(2) A member of the advisory board may be reappointed.

(3) A member may resign at any time by written notice to the Minister.

253 Remuneration of members of advisory board

(1) Each member of the advisory board, other than the *ex officio* member, is entitled, in accordance with the fees framework,—

(a) to receive remuneration for services as a member at a rate and of a kind determined by the Minister; and

(b) to be reimbursed for actual and reasonable travelling and other expenses incurred in carrying out his or her office as a member.

(2) For the purposes of subsection (1), **fees framework** has the same meaning as in section 10 of the Crown Entities Act 2004.

Subpart 2—Veterans' Health Advisory Panel

254 Veterans' Health Advisory Panel

(1) This section establishes the Veterans' Health Advisory Panel (the **advisory panel**).

(2) The functions of the advisory panel are—

(a) to provide advice and guidelines to the Minister on—

(i) assessing the relationship between qualifying operational service and impairment for the purpose of assessing eligibility to entitlements:

(ii) the impacts of service on veterans' health:

(iii) monitoring veterans' health:

(iv) injuries or illnesses for which it should be presumed that deterioration after a veteran has left service is not service-related:

(v) the assessment and determination of claims by VANZ and medical assessors:

(b) to provide comments to the Minister on reports prepared by VANZ and provided to it under section 22, 23, or 24:

(c) to provide advice to the Minister on the pairing of organs under section 20 and on conditions to be treated as linked to service under section 21:

(d) to decide how the income of the Veterans' Medical Research Trust Fund is to be applied for grants and awards:

(e) to carry out any other functions the Minister requires that are consistent with this Act and any other enactment.

(3) The advisory panel may, subject to any provision in this Act or regulations made under this Act, regulate its own procedure.

255 Membership of advisory panel

(1) The advisory panel consists of not more than 10 members, of whom the following are *ex officio* members:

(a) a medical practitioner nominated by VANZ:

(b) a medical practitioner nominated by the Chief of Defence Force:

(c) a person nominated by the advisory board as its representative.

(2) A member appointed under subsection (1)(a), (b), or (c) may attend and speak at meetings of the advisory panel but may not vote on any matter before the panel.

(3) The Minister must appoint suitably qualified persons as members of the advisory panel on any terms and conditions that the Minister thinks fit.

(4) The Minister must appoint a chairperson and a deputy chairperson.

(5) If the chairperson and the deputy chairperson are both absent from any meeting, the remaining members may appoint one of their number to act as chairperson at that meeting.

(6) The Minister may, by notice in writing to a member, remove the member from office for misconduct, inability to perform the functions of office, or neglect of duty.

256 Advisory panel serviced by VANZ

VANZ must provide the resources and administrative support necessary to enable the advisory panel to perform its functions.

257 Meetings of advisory panel

(1) Meetings of the advisory panel must be held at the times and places that the advisory panel or the chairperson may from time to time appoint.

(2) The quorum for the advisory panel is 5 members.

(3) Every decision on how to apply the income of the Veterans' Medical Research Trust Fund must be made at a meeting of the advisory panel and by a majority of the votes of the members present and voting on it.

(4) When the advisory panel makes a decision referred to in subsection (3), the person for the time being acting as the chairperson has a deliberative vote and, if the voting is equal, has a casting vote.

258 Term of appointment

(1) The term of office of a member of the advisory panel other than an *ex officio* member must not exceed 3 years.

(2) A member may be reappointed.

(3) A member may resign at any time by written notice to the Minister.

259 Remuneration of members of advisory panel

(1) Every member of the advisory panel, other than the *ex officio* members, is entitled, in accordance with the fees framework,—

(a) to receive remuneration for services as a member at a rate and of a kind determined by the Minister; and

(b) to be reimbursed for actual and reasonable travelling and other expenses incurred in carrying out his or her office as a member.

(2) For the purposes of subsection (1), **fees framework** has the same meaning as in section 10 of the Crown Entities Act 2004.

Subpart 3—Veterans' Medical Research Trust Fund

260 Veterans' Medical Research Trust Fund

(1) The fund existing under the name of the War Pensions Medical Research Trust Fund immediately before the commencement of this Part continues under the name Veterans' Medical Research Trust Fund (the **fund**).

(2) VANZ administers the fund in accordance with this Act.

(3) The capital of the fund comprises—

(a) all property held by or on behalf of the War Pensions Medical Research Trust Fund on the commencement of this Act:

(b) all property held by or on behalf of the War Pensions Advisory Board immediately before the commencement of this Act:

(c) all money paid into the fund by way of grants, donations, or gifts:

(d) all property held by the Crown as capital of the fund:

(e) all money derived from the sale of any property held by the Crown as capital of the fund:

(f) all income transferred to capital under section 261(3).

(4) The income of the fund comprises—

(a) all income derived from the investment of money by VANZ under section 263:

(b) all income derived from the administration of property held by the Crown as capital of the fund:

(c) all money derived from the leasing of land:

(d) all other money not forming part of the capital of the fund.

261 Income to be applied for grants and awards

(1) VANZ must apply the income of the fund by making grants or awards for the purpose of research into any field of medicine that the advisory panel considers may be beneficial for veterans.

(2) VANZ must meet the costs incurred in the administration of the fund from the income.

(3) VANZ may transfer any income of the fund that is not required for expenditure under subsections (1) and (2) to the capital of the fund.

(4) In making decisions in respect of grants or awards under subsection (1), the advisory panel must—

(a) act fairly and transparently; and

(b) implement systems and procedures to enable it to give effect to the principle set out in paragraph (a); and

(c) make information about those systems and procedures available on VANZ's Internet site.

262 Annual report and audit of fund

(1) VANZ must prepare an annual report of the fund, including—

(a) annual financial statements prepared in accordance with generally accepted accounting practice (within the meaning of section 2(1) of the Public Finance Act 1989); and

(b) a report on the fund's implementation of the systems and procedures referred to in section 261(4)(b).

(2) The fund's annual report must include a statement of responsibility in respect of the fund's financial statements and the report on the fund's implementation of the systems and procedures.

(3) Section 45C of the Public Finance Act 1989 applies to the statement of responsibility as if VANZ were a department and the general manager were the department's chief executive.

(4) The fund is to be treated as a public entity as defined in section 4 of the Public Audit Act 2001 and, in accordance with that Act, the Auditor-General is its auditor.

(5) The Defence Force must ensure that the fund's annual report is included in the annual report prepared by the Defence Force in accordance with section 43(1) of the Public Finance Act 1989.

(6) The fund's financial statements and annual report are to be treated, for the purposes of sections 43(2), 44, and 45D of the Public Finance Act 1989, as if they are part of the Defence Force's financial statements and annual report.

263 Capital to be invested in accordance with Trustee Act 1956

(1) Any money, being capital of the fund, held by the Crown may be invested, but only in accordance with the Trustee Act 1956.

(2) However, VANZ is not obliged to convert any securities that are gifted to the fund and that are not securities in which VANZ may invest money under subsection (1).

(3) VANZ may invest any income of the fund in any manner authorised for the investment of capital under subsection (1).

(4) If at any time the income of the fund is insufficient for the purposes of section 261, VANZ may, to the extent of the insufficiency, use the capital of the fund for those purposes.

Part 9
Miscellaneous

Subpart 1—Notification

264 How documents given or information notified

(1) This section applies when this Act or regulations made under this Act—

(a) require a document to be given to a person; or

(b) require a person to be notified of any information, and references in this section to a document being given must be applied accordingly.

(2) A document that this Act or regulations made under this Act require to be given to a person must be given by the method in subsection (3) that the person

required to give the document considers is most likely to ensure that the document reaches the person.

(3) The methods by which a document may be given are—

(a) personally delivering it to the person; or

(b) posting it to a usual address of the person; or

(c) sending it to the person by fax or some other electronic means; or

(d) providing it to the person in a manner approved by the person.

(4) A document personally delivered under subsection (3)(a) must, if delivered to a corporate body, be delivered to the corporate body's offices during working hours.

(5) A document posted under subsection (3)(b) is deemed to have been delivered to the person at the time it would have been delivered in the ordinary course of post. For the purposes of proving delivery,—

(a) it is sufficient to prove that the document was properly addressed; and

(b) the document is presumed, in the absence of proof to the contrary, to have been posted on the day on which it was dated.

(6) A document sent under subsection (3)(c) is deemed, in the absence of proof to the contrary, to be delivered on the day after the day on which it is sent, and it is sufficient proof of sending that a correct machine-generated acknowledgement of receipt exists.

(7) This section is subject to any provision of this Act or regulations made under this Act that specifically provides how a document is to be given.

Subpart 2—Regulations

265 Regulations

(1) The Governor-General may, by Order in Council, make regulations for the purposes of 1 or more of the following provisions:

(1) section 7 (definitions of accepted late-onset condition and treatment provider):

(2) section 20 (specifying which organs are paired organs):

(3) section 21 (specifying conditions linked to specific exposure or specific events):

(4) section 22 (application of statements of principles under Australian legislation):

(5) section 23 (new statements of principles and revocation of statements of principles):

(6) sections 30 and 31 (indexation of certain entitlements):

(7) section 46 (travel costs associated with medical treatment):

(8) section 56 (rates of disablement pension):

(9) section 66 (rate of surviving spouse or partner pension):

(10) section 72 (rate of children's pension):

(11) section 76 (rate of dependant's pension):

(12) section 81 (rate of children's bursary):

(13) section 88 (transport costs associated with treatment):

(14) section 90 (vocational services and assistance for spouse or partner of veteran):

(15) section 96 (election to receive lump sum payment):

(16) section 98 (lump sum payments):

(17) section 109 (cost of ancillary services related to treatment):

(18) section 140 (limits on scope of independence programme):

(19) section 144 (veterans' independence programme):

(20) section 145 (aids and appliances):

(21) section 148 (motor vehicle grants):

(22) section 150 (asset assessment):

(23) section 151 (retirement lump sum):

(24) section 153 (funeral expenses if death due to qualifying service and maximum amount for transferring body):

(25) section 154 (funeral expenses if death not due to qualifying service):

(26) section 156 (provision of plaques and headstones):

(27) section 157 (provision of financial advice):

(28) section 169 (rates of veteran's pension):

(29) section 170 (annual adjustment of rates of veteran's pension):

(30) section 174 (lump sum payment on death):

(31) section 208 (payments to persons other than claimants):

(32) section 212 (fees and allowances of assessors):

(33) section 216 (procedure for reviews):

(34) section 221 (conduct of medical assessments):

(35) section 229 (procedure for appeals):

(36) section 235 (reimbursement of costs and travelling expenses of appellant, witnesses, and other participants):

(37) section 240 (procedure of appeal board):

(38) section 247 (procedure of advisory board):

(39) section 254 (procedure of advisory panel):

(40) Schedule 1 (application, savings, and transitional provisions):

(41) Schedule 2 (entitlements).

(2) The Governor-General may, by Order in Council, make regulations for any other matters contemplated by this Act, necessary for its administration, or necessary for giving it full effect.

266 Treatment cards

(1) The Governor-General may, by Order in Council, make regulations providing for treatment cards for veterans.

(2) The purpose of a treatment card is to enable a veteran to give treatment providers access to information held by VANZ about the service-related injuries, illnesses, or conditions the veteran has and for which VANZ will pay or contribute towards the cost of treatment.

(3) Without limiting subsection (1), regulations made under that subsection may—

(a) specify—

(i) the information to be included on a treatment card:

(ii) the obligations of a holder of a treatment card:

(iii) the conditions under which a treatment card may be used:

(iv) what uses of a treatment card are not authorised; and

(b) prescribe when a treatment card is to be recalled and when a treatment card may be cancelled; and

(c) prescribe when the holder of a treatment card may be exempted from any conditions under which the card may be used.

267 Regulations relating to treatment and rehabilitation

(1) For the purposes of Part 4 and Schedule 2, the Governor-General may, on the recommendation of the Minister, by Order in Council, make regulations—

(a) prescribing the costs that VANZ is liable to pay for the entitlement of treatment and rehabilitation:

(b) prescribing the circumstances in which, and the method by which, VANZ must make any payment for treatment and rehabilitation:

(c) prescribing the circumstances in which, and the method by which, VANZ may make arrangements, and make contributions, for treatment and rehabilitation:

(d) prescribing the persons to whom those payments may be made.

(2) The Minister must not make any recommendation under subsection (1) without first receiving a recommendation from VANZ and consulting the persons or organisations the Minister considers appropriate, having regard to the subject matter of the proposed regulations.

(3) Without limiting the matters that may be prescribed by regulations, regulations made under subsection (1) may—

(a) prescribe—

(i) a percentage, or different percentages, of the total costs to be paid by VANZ; or

(ii) a specified amount, or specified amounts, that VANZ is liable to pay in respect of those costs in specified circumstances:

(b) provide that VANZ is liable to make payments in respect of costs only to the extent that costs exceed amounts specified in the regulations:

(c) provide that VANZ is liable to make payments in respect of treatment and rehabilitation only if a person who is a member of a class prescribed in the regulations—

(i) provides treatment and rehabilitation; or

(ii) refers a claimant to treatment and rehabilitation; or

(iii) directly supervises the provision of treatment and rehabilitation:

(d) provide that VANZ—

(i) must not pay any of the cost of specified treatment and rehabilitation; or

(ii) is liable to pay some or all of such costs only if conditions specified in the regulations or by VANZ are met:

(e) prescribe—

(i) an amount that the veteran or claimant must or must not pay for treatment and rehabilitation that is treatment; or

(ii) a percentage that the veteran or claimant must or must not pay of the total amount payable for treatment.

(4) Without limiting the matters that may be prescribed by regulations, regulations made under subsection (1) may contain different provisions in respect of—

(a) payments relating to work-related injury or illness and payments relating to other injury or illness:

(b) payments relating to claimants based on either or both of the following:

(i) the need of a veteran or claimant as assessed by VANZ:

(ii) assessments conducted by or on behalf of any other relevant government agency:

(c) payments to persons not resident in New Zealand at the time of receiving the payments.

Compare: 2001 No 49 s 324

268 Regulations relating to ancillary services for rehabilitation

(1) For the purposes of clause 6 of Schedule 2, the Governor-General may, on the recommendation of the Minister, by Order in Council, make regulations—

(a) prescribing the costs that VANZ is liable to pay or contribute to paying in respect of 1 or more ancillary services that facilitate rehabilitation provided by VANZ in New Zealand:

(b) prescribing the circumstances in which, and the method by which, VANZ is liable for any payment for 1 or more services ancillary to rehabilitation:

(c) prescribing the circumstances in which, and the method by which, VANZ may make arrangements, and make contributions, for 1 or more services ancillary to rehabilitation:

(d) prescribing the conditions that must be met, and the matters that must be taken into account:

(e) prescribing the persons to whom those payments may be made.

(2) The Minister must not make any recommendation under subsection (1) without first consulting the persons or organisations the Minister considers appropriate, having regard to the subject matter of the proposed regulations.

(3) Without limiting the matters that may be prescribed by regulations, regulations made under subsection (1) may—

(a) prescribe the circumstances in which VANZ is liable to pay or contribute to the costs of 1 or more ancillary services that facilitate rehabilitation, examples of which are that the service—

(i) is necessary and appropriate:

(ii) is or will be provided by a person who is an appropriate provider of the particular ancillary service:

(iii) has been or will be provided only on the number of occasions necessary for that purpose:

(iv) has been agreed in an individual rehabilitation plan, if a plan has been agreed:

(v) is provided after VANZ has agreed to the rehabilitation and after VANZ has agreed to the ancillary service in respect of the rehabilitation:

(b) prescribe the matters that must be taken into account when VANZ is deciding whether and to what extent ancillary services that facilitate rehabilitation should be provided, including such matters as—

(i) the nature and severity of the injury:

(ii) the rehabilitation outcome that will be achieved:

(iii) the claimant's assessed need for the ancillary services:

(iv) the other options available to meet the need:

(v) the cost of the service and of the other options, compared with the benefit that the claimant is likely to receive from the ancillary service:

(vi) the responsibilities of the person in relation to his or her rehabilitation:

(vii) the geographic location in which the person lives:

(c) provide that VANZ is to make payments only if specified service thresholds have been met or exceeded.

Compare: 2001 No 49 s 325

269 Regulations relating to when conditions stabilise and to assessing whole-person impairment

(1) For the purposes of Part 3 of Schedule 2, the Governor-General may, on the recommendation of the Minister, by Order in Council, make regulations specifying when a claimant's condition is to be regarded as stabilised for the purposes of this Act.

(2) The Governor-General may, on the recommendation of the Minister, by Order in Council, make regulations for the purposes of assessing whole-person impairment, including regulations that—

(a) refer to, or incorporate by reference, in whole or in part, the American Medical Association *Guides to the Evaluation of Permanent Impairment*:

(b) refer to, or incorporate by reference, guides, frameworks, or other standards:

(c) prescribe an assessment tool that in itself may refer to, or incorporate by reference, in whole or in part, any thing referred to in paragraph (a) or (b):

(d) do any combination of the things referred to in paragraph (a), (b), or (c):

(e) amend the lump sum compensation amounts or independence allowance payable under clause 46 of Schedule 2:

(f) prescribe calculations and rules for determining the combined effects of injury or illness on a claimant who has suffered more than 1 injury or illness, for the purposes of clause 48(5) of Schedule 2:

(g) prescribe calculations and rules for adjusting the whole-person impairment score of a claimant to take into account the effect of injuries suffered before 1 April 2002:

(h) prescribe the scale of lump sum compensation amounts or independence allowance payable in respect of different degrees of whole-person impairment under clauses 46 and 49 of Schedule 2 so that the amount in-

creases exponentially or otherwise as the degree of impairment increases:

(i) prescribe such other matters as may be desirable to enable the assessment, calculation, and payment of lump sums or independence allowance.

(3) The Minister must not make any recommendation under subsection (1) or (2) without first consulting the persons or organisations that the Minister considers appropriate, having regard to the subject matter of the proposed regulations.

(4) Any material incorporated by reference under subsection (2)(a) must be incorporated in accordance with, and subject to, subpart 2 of Part 3 of the Legislation Act 2012.

Subpart 3—Offences

270 Offence to mislead VANZ

(1) A person commits an offence if the person, for the purpose described in subsection (2) or with the result described in subsection (3),—

(a) makes any statement knowing it to be false in any material particular; or

(b) wilfully does or says anything, or omits to do or say anything, for the purpose of misleading or attempting to mislead VANZ or any other person concerned in the administration of this Act.

(2) The purpose is—

(a) for the person to receive or continue to receive any payment or entitlement; or

(b) for another person to receive or continue to receive any payment or entitlement.

(3) The result is—

(a) that the person receives or continues to receive any payment or entitlement, whether or not entitled to it under this Act; or

(b) that another person receives or continues to receive any payment or entitlement, whether or not entitled to it under this Act.

(4) A person who commits an offence against this section is liable on conviction—

(a) to imprisonment for a term not exceeding 3 months; or

(b) to a fine not exceeding $5,000.

Compare: 1954 No 54 s 92; 2001 No 49 s 308

271 Offence not to provide earnings information to VANZ

(1) This section applies to a person who is receiving any of the following entitlements:

(a) first week compensation:

(b) weekly compensation:

(c) weekly income compensation:

(d) a veteran's pension under—

(i) section 161 if the pension is subject to abatement under section 171(1); or

(ii) section 164:

(e) a dependant's pension.

(2) A person to whom this section applies commits an offence if,—

(a) after he or she began receiving any payment for the entitlements, his or her earnings have increased in such a way as to reduce the entitlement payable to him or her; and

(b) he or she fails to advise VANZ of the matters in paragraph (a) as soon as practicable.

(3) A person who commits an offence against this section is liable on conviction to a fine not exceeding $5,000.

Compare: 2001 No 49 s 310

272 Offence not to provide requested information to VANZ

(1) This section applies to—

(a) an employer or a former employer of a claimant:

(b) a person who has provided any rehabilitation to a claimant:

(c) a person who has sought or received any payment in respect of a claimant.

(2) A person to whom this section applies must provide VANZ with any information or statement, when requested to do so by VANZ, for the purposes of facilitating decisions about cover and the timely and appropriate provision of entitlements, or detecting fraud.

(3) A person to whom this section applies commits an offence if the person refuses or fails to supply, without reasonable excuse, the information or statement requested under subsection (2).

(4) This section does not apply unless the claimant has authorised the request being made and the person to whom the request is made has notice of that authorisation.

(5) A person who commits an offence against this section is liable on conviction to a fine not exceeding $2,000.

Compare: 2001 No 49 s 309

273 Offence to demand or accept assignment or charge of entitlement

(1) A person must not, in relation to any entitlement under this Act, demand or accept any certificate, acknowledgment, or undertaking that would constitute a

legal or an equitable assignment of or a charge upon the entitlement (if the entitlement were capable of being legally assigned or charged).

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding $500.

Compare: 1954 No 54 s 89(2); 1964 No 136 s 84(2)

274 Time for filing charge

Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, the limitation period in respect of an offence against this Act, or any regulations made under it, ends on the date that is 12 months after the date on which the facts alleged in the charging document are brought to the knowledge of the person by whom the proceedings are instituted.

Compare: 1954 No 54 s 93

275 General fine for offences

A person who commits an offence against this Act or any regulations made under it for which no fine is provided in this Act or its regulations, otherwise than in this section, is liable on conviction to a fine not exceeding $500.

Compare: 2001 No 49 s 315

Subpart 4—Repeals, transitional provisions, and consequential amendments

276 Repeals

The War Pensions Act 1954 (1954 No 54) and the Veterans' Affairs Act 1999 (1999 No 76) are repealed.

277 Application, savings, and transitional provisions

The application, savings, and transitional provisions set out in Schedule 1 have effect for the purposes of this Act.

278 Consequential amendments

Amend the enactments specified in Schedule 4 as set out in that schedule.

Subpart 5—Other matters

279 Veteran officially reported as missing

(1) This section applies in relation to a veteran who is officially reported as missing while on qualifying operational service.

(2) No pensions, benefits, or entitlements payable if the veteran had died while on qualifying operational service are payable until the veteran is officially reported as having died while on qualifying operational service.

(3) If the veteran is officially reported as having died while on qualifying operational service and is subsequently found to be alive, then all pensions, benefits, and entitlements are cancelled on and from the date on which the veteran is found to be alive.

280 Arrangements with other countries

(1) The Minister may enter into arrangements with the appropriate authority in any other country providing that the appropriate department of State of that country is to act in that country as agent for the Defence Force for any purpose under this Act, and that the Defence Force is to act in New Zealand as agent for that department of State for any purpose under any analogous law of that country.

(2) There must be paid out of a Crown Bank Account, from money appropriated by Parliament for the purpose, all money required to be expended by the Minister or the Defence Force for the purpose of giving effect to any arrangement entered into under this section.

(3) Without limiting the power to make regulations conferred by section 265, regulations may be made under that section to give full effect to the provisions of this section and to any arrangement entered into by the Minister under this section.

(4) Any regulations made in accordance with subsection (3) may, so far as they relate to any particular arrangement, be made to come into force on the date on which the arrangement was entered into, even if that date is before the date of the making of the regulations.

281 When the Crown not liable to pay compensation or damages for death or disablement of veterans

(1) No proceedings for compensation or damages lie against the Crown or any officer of the Crown in respect of the death or disablement of a veteran if—

(a) any entitlement has at any time been provided or is being provided under this Act or the War Pensions Act 1954 in respect of the death or disablement; or

(b) VANZ has determined that, for the purposes of this Act, the death or disablement is, or is to be treated as being, caused by, contributed to by, or aggravated by the service of the veteran with the armed forces, or that the condition that resulted in the death or disablement was aggravated by his or her service with the armed forces.

(2) However, subsection (1) does not exempt an officer of the Crown from liability for any act or omission in any case where the court is satisfied that the act or omission was not connected with the execution of his or her duties as an officer of the Crown.

(3) Any determination of VANZ under subsection (1) may be made by VANZ whether or not a claim for an entitlement has been made under this Act.

(4) A certificate by the Chief of Defence Force to the effect that VANZ has determined that, for the purposes of this Act, the death or disablement of a veteran is, or is to be treated as being, caused by, contributed to by, or aggravated by his or her service with the armed forces, or that the condition that resulted in the death or disablement of the veteran was aggravated by his or her service with the armed forces, is for the purposes of this section conclusive as to the fact that it certifies.

282 Review of operation of Act

(1) As soon as practicable after the second anniversary of the commencement of Part 3 (Scheme One), the Chief of Defence Force must—

(a) review the operation of this Act; and

(b) consider whether any amendments to this Act are necessary or desirable; and

(c) report his or her findings to the Minister.

(2) As soon as practicable after receiving the report, the Minister must present a copy of the report to the House of Representatives.

Schedule 1
Application, savings, and transitional provisions

ss 6, 58, 71, 75, 80, 82, 277

Part 1
Savings

1 Allowances for services of attendant in certain cases

Section 29 of the War Pensions Act 1954 continues in force, as if this Act had not been passed, but only for the persons who (immediately before the commencement of this Act) were receiving allowances under that section.

2 Additional payments for decorations awarded

(1) Section 29A of the War Pensions Act 1954 and Part 5A of the War Pensions Regulations 1956 continue in force as if this Act had not been passed, but only for the persons who (immediately before the commencement of this Act) were receiving or entitled to receive an annuity or allowance in addition to his or her pension.

(2) This clause applies subject to Part 2.

3 Continuation of allowances, grants, concessions, and loans

Any other pension allowance, grant, concession, or loan granted to a veteran or surviving spouse of a veteran under the War Pensions Act 1954 and the War Pensions Regulations 1956 and current immediately before the commencement of this Act continues as if this Act had not been passed.

4 Reviews and appeals

Any review or appeal under the War Pensions Act 1954 instituted but not concluded at the commencement of this Act may be continued and concluded as if this Act had not been passed.

5 Rights of review and appeal

Any right of review or appeal under the War Pensions Act 1954 that existed but which had not been exercised at the commencement of this Act may be exercised and the review or appeal continued and concluded as if this Act had not been passed.

Part 2
Transitional provisions

6 War disablement pension

(1) A veteran who is receiving a war disablement pension under Part 2 of the War Pensions Act 1954 immediately before the commencement of Part 3 of this Act is entitled to continue receiving the pension as if it were payable under Part 3 of this Act.

(2) A veteran to whom subclause (1) applies may apply for a disablement pension under Part 3 of this Act and is entitled to receive a disablement pension in respect of any injury or illness for which a war disablement pension was granted to the veteran under Part 2 of the War Pensions Act 1954.

(3) However, the rate of payment to a veteran under subclause (1) or (2) must not be less than the rate of payment that the veteran was entitled to receive immediately before the commencement of Part 3 of this Act.

(4) For the purposes of this clause, the application for, and grant of, a disablement pension is to be treated as an application for, and grant of, a temporary disablement pension if, before the commencement of Part 3 of this Act, the veteran was receiving in relation to the same disablement both a permanent and temporary disablement pension.

(5) VANZ must assess, in accordance with regulations made under section 265, the degree of whole-person impairment of a veteran who applies under subclause (2).

(6) However, to avoid doubt, a veteran retains his or her entitlement to receive a disablement pension under Part 3 even though an assessment under subclause (5) indicates that the veteran's degree of whole-person impairment would not make the veteran eligible for a disablement pension under Part 3.

(7) Subclause (2) does not preclude a rate of payment being adjusted if the rate of payment a veteran was receiving immediately before the commencement of Part 3 of this Act—

(a) was not a rate of payment to which the veteran was entitled under the War Pensions Act 1954; or

(b) is no longer a rate of payment to which the veteran is entitled under this Act.

7 Terminal conditions

(1) This clause applies to a veteran who, under clause 6, is entitled to continue to receive a war disablement pension as if it were payable under Part 3 of this Act.

(2) The veteran may make an election under section 53 or make an application under section 54 as if he or she were receiving a disablement pension under Part 3 of this Act, and those sections apply accordingly.

8 Surviving spouse pension

(1) A spouse or partner of a veteran who is receiving a surviving spouse pension under Part 2 of the War Pensions Act 1954, immediately before the commencement of Part 3 of this Act is entitled to continue receiving the pension as if it were payable under Part 3 of this Act.

(2) The rate of payment to a surviving spouse or partner under subclause (1) must not be less than the rate of payment that the surviving spouse or partner was entitled to receive immediately before the commencement of Part 3 of this Act.

(3) Subclause (2) does not preclude a rate of payment being adjusted if the rate of payment a surviving spouse or partner was receiving immediately before the commencement of Part 3 of this Act—

(a) was not a rate of payment to which the surviving spouse or partner was entitled under the War Pensions Act 1954; or

(b) is no longer a rate of payment to which the surviving spouse or partner is entitled under this Act.

(4) For the purposes of this clause, the surviving spouse pension includes any parent's allowance paid under section 32(2) of the War Pensions Act 1954.

9 Children's pension

(1) A child of a veteran who is receiving a children's pension under Part 2 of the War Pensions Act 1954, immediately before the commencement of Part 3 of this Act is entitled to continue receiving the pension as if it were payable under Part 3 of this Act.

(2) The rate of payment to a child under subclause (1) must not be less than the rate of payment that the child was entitled to receive immediately before the commencement of Part 3 of this Act.

(3) Subclause (2) does not preclude a rate of payment being adjusted if the rate of payment a child was receiving immediately before the commencement of Part 3 of this Act—

(a) was not a rate of payment to which the child was entitled under the War Pensions Act 1954; or

(b) is no longer a rate of payment to which the child is entitled under this Act.

10 Dependants

(1) A dependant of a veteran who is receiving a dependant's pension under Part 2 of the War Pensions Act 1954, immediately before the commencement of Part

3 of this Act is entitled to continue receiving the pension as if it were payable under Part 3 of this Act.

(2) The rate of payment to a dependant under subclause (1) must not be less than the rate of payment that the dependant was entitled to receive immediately before the commencement of Part 3 of this Act.

(3) Subclause (2) does not preclude a rate of payment being adjusted if the rate of payment a dependant was receiving immediately before the commencement of Part 3 of this Act—

(a) was not a rate of payment to which the dependant was entitled under the War Pensions Act 1954; or

(b) is no longer a rate of payment to which the dependant is entitled under this Act.

11 War bursaries

(1) Every child who, immediately before the commencement of Part 3 of this Act, is entitled to a war bursary under the War Pensions Act 1954 retains that entitlement.

(2) For the purposes of subclause (1), the War Pensions Act 1954 continues to apply as if this Act had not been passed.

12 Certain allowances continued for specified period

(1) This clause applies in relation to claims made and accepted under section 47 in the specified period.

(2) During that period, the allowances specified in subclause (3) are payable as if the War Pensions Act 1954 had not been repealed.

(3) The allowances are the following allowances payable under the War Pensions Act 1954:

(a) attendant allowance:

(b) clothing allowance:

(c) travel allowance:

(d) recreational travel concession.

(4) A veteran becomes entitled to an allowance under this clause when—

(a) the veteran has completed and provided to VANZ an application form provided by VANZ; and

(b) the veteran has supplied any supporting evidence or information required by VANZ and in the form required by VANZ; and

(c) VANZ has accepted the application.

(5) If an application is accepted by VANZ, the veteran's entitlement to the allowance is to be treated as beginning on the day on which VANZ received the application.

(6) In this clause, **specified period** means the period—

(a) beginning on the commencement of Part 3 (Scheme One); and

(b) ending on the close of the day before the commencement of Part 4 (Scheme Two).

13 Entitlement to equivalent allowances under the veterans' independence programme on and from commencement of Part 4 (Scheme Two)

(1) This clause applies to the allowances and concession referred to in clause 12(3) that are payable under clause 1, 3, or 12(2).

(2) On and from the commencement of Part 4 (Scheme Two), the veteran is entitled to receive, under the veterans' independence programme under subpart 4 of Part 5, support and services that include allowances that are not less than the allowances that were payable under clause 12.

14 Initial rates of veteran's pension

(1) The rates of veteran's pension payable under Part 6 in the initial period must be equal to the corresponding rates in Schedule 11 as follows:

(a) the single living alone rate payable in the initial period is the rate in clause 1(a) of that schedule:

(b) the single sharing accommodation rate payable in the initial period is the rate in clause 1(b) of that schedule:

(c) the relationship rate payable in the initial period is the rate in clause 1(c) of that schedule:

(d) the relationship (partner not receiving superannuation or pension) rate payable in the initial period is the rate in clause 2(b) of that schedule:

(e) the relationship (partner not receiving superannuation or pension) legacy rate payable in the initial period is the rate in clause 2(a) of that schedule.

(2) In this clause,—

initial period means the period beginning with the commencement of Part 6 and ending at the end of the day that is the first occurrence of 31 March following that commencement

Schedule 11 means Schedule 11 of the War Pensions Act 1954, as it was immediately before the commencement of Part 6 of this Act.

15 Continuation of veteran's pension

A person who is receiving a veteran's pension under the War Pensions Act 1954 immediately before the commencement of Part 6 of this Act is entitled to continue receiving a veteran's pension under Part 6 of this Act.

Schedule 2
Entitlements

ss 2(3)(c), 4(9)(b), 30(1), 31(1)(m), (n), 41(2), 86(2), 106(2)(b), 117(4), 118(3)(a), 121(2), (4)(b), 139(2), 154(2)(b)(ii), 157(1)(a)(ii), 212(1), 265(1)(41), 267(1), 268(1), 269(2)(e), (f), (h)

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1 Application

(1) Part 1 applies in relation to Scheme One and Scheme Two.

(2) Parts 2 to 4 apply only in relation to Scheme Two.

Part 1
Rehabilitation (Scheme One and Scheme Two)

Individual rehabilitation plans

2 Preparation of individual rehabilitation plan

(1) VANZ must provide information to a veteran about—

(a) the rehabilitation to which the veteran may be entitled; and

(b) the plan development process; and

(c) in relation to a plan that will include vocational rehabilitation, VANZ's right to require the veteran to undergo an assessment of his or her vocational independence at the completion of the vocational rehabilitation, and the potential consequences of such an assessment; and

(d) the consequences of the veteran's agreeing to the plan.

(2) VANZ may engage a suitably qualified person or organisation to—

(a) assist in the assessment and preparation and costing of a plan; and

(b) provide a link between the veteran and the services identified in the plan.

(3) The following persons must be given an opportunity to participate in the preparation and costing of the plan to the extent that they are willing and able to do so:

(a) the veteran:

(b) any medical practitioner providing treatment to the veteran:

(c) any employer or potential employer of the veteran.

(4) VANZ is responsible for meeting the costs of preparing the plan, including the costs of any assessment that it has approved as necessary to enable the preparation of a plan.

(5) In this clause, **services** includes the key aspects of social rehabilitation, as defined in section 121.

Compare: 2001 No 49 Schedule 1 cl 7

3 Agreement to plan

(1) VANZ must then ask the veteran to agree to the plan prepared for the veteran under clause 2.

(2) If, after a reasonable time, the veteran declines to agree to the plan, VANZ may advise the veteran that the plan is finalised, and the plan is then to be regarded as if the veteran had agreed to it.

(3) When the plan is agreed or finalised, VANZ must implement the plan.

(4) VANZ is responsible for funding the provision to the veteran of the services it has specified under section 118(2)(d).

Compare: 2001 No 49 Schedule 1 cl 8

4 Disputes about plan

(1) For the purposes of Part 7 of this Act, VANZ makes a decision when—

(a) the veteran agrees to a plan; or

(b) VANZ advises the veteran that a plan has been finalised.

(2) The fact that a veteran has agreed to a plan does not affect his or her rights to make a review application under Part 7 of this Act with respect to the plan.

Compare: 2001 No 49 Schedule 1 cl 9

5 VANZ and veteran may agree to modify plan

The veteran and VANZ may agree to modify the plan from time to time, and clauses 2 to 4 apply to the process of modification and to the modified plan.

Compare: 2001 No 49 Schedule 1 cl 10

Ancillary services related to rehabilitation

6 When VANZ responsible for paying or contributing to cost of ancillary services related to rehabilitation

(1) VANZ is responsible for paying or contributing to the cost of any service reasonably required by the veteran as an ancillary service related to rehabilitation, such as accommodation, escort for transport, and transport, if the service facilitates rehabilitation.

(2) VANZ is responsible for paying or contributing to the cost of accommodation and transport of a person other than the veteran if the presence and support of

the person is necessary and appropriate to assist in achieving a rehabilitation outcome for the veteran.

(3) This clause applies subject to any regulations made under this Act.

Compare: 2001 No 49 Schedule 1 cl 11

Social rehabilitation

7 Definitions

In clauses 8 to 17,—

aid or **appliance** means any item likely to assist in restoring a veteran to independence

attendant care—

(a) means—

(i) personal care; and

(ii) assistance with cognitive tasks of daily living, such as communication, orientation, planning, and task completion; and

(iii) protection of the veteran from further injury or illness in his or her ordinary environment; and

(b) includes training a person to provide attendant care, if VANZ agrees to fund the training; but

(c) does not include child care, domestic activities, or home maintenance

child—

(a) means a child under 14 years; and

(b) includes any other child, if the child needs child care because of his or her physical or mental condition

communication means conveying and receiving information by using skills such as anger management, assertiveness, ability to concentrate, language, memory, numeracy, social awareness, social skills, speech production and development, and using communications technology

domestic activities means cleaning, laundry, meal preparation, and associated shopping activities, in relation to the veteran's home

home—

(a) means residential premises in which the veteran lives and which are owned, rented, or otherwise lawfully occupied by the veteran or his or her parent, guardian, or spouse or partner; and

(b) includes residential premises in which the veteran proposes to live after they are built and which will be owned, rented, or otherwise lawfully occupied by the veteran or his or her parent, guardian, or spouse or partner; but

(c) does not include any hospital, hostel, hotel, motel, rest home, or other institution

home help means the provision of domestic activities

independence includes the capacity to function in the following areas:

(a) communication:

(b) domestic activities:

(c) educational participation:

(d) financial management:

(e) health care:

(f) hygiene care:

(g) mobility:

(h) motivation:

(i) safety management:

(j) sexuality:

(k) cognitive tasks of daily living, such as orientation, planning, and task completion:

(l) use of transport

modifications to the home—

(a) means alterations to a veteran's home that—

(i) have the purpose of assisting a veteran to live as independently as practicable, having regard to the limitations caused by his or her injury or illness; and

(ii) remove structural barriers or add features fixed to the home; and

(b) includes real estate fees, legal fees, removal costs, and the costs of any modifications incurred in relocating a veteran to a new home, if VANZ decides that relocation is the most cost-effective alternative to modification of the veteran's existing home

personal care means physical assistance to move around and to take care of basic personal needs such as bathing, dressing, feeding, and toileting

rehabilitation outcome means,—

(a) before an individual rehabilitation plan is agreed, a rehabilitation goal, objective, or result determined by VANZ:

(b) if an individual rehabilitation plan is agreed, a goal, objective, or result specified in the plan

training for independence includes—

(a) training and coaching a veteran to assist in restoring the veteran's independence:

(b) training in using and maintaining aids or appliances, and integrating them into the veteran's daily life, for a veteran who needs aids or appliances

transport for independence—

(a) means assistance with the cost of, for example,—

(i) escorted travel by vehicle:

(ii) modifying a vehicle:

(iii) purchasing a vehicle:

(iv) travelling by public transport:

(v) travelling by taxi; and

(b) includes driver licence retraining, for a veteran who previously had a driver licence.

Compare: 2001 No 49 Schedule 1 cl 12

8 Aids and appliances

(1) In deciding whether to provide or contribute to the cost of an aid or appliance, VANZ must have regard to—

(a) any rehabilitation outcome that would be achieved by providing it; and

(b) whether a veteran has a prescription for the aid or appliance from a heath practitioner who holds appropriate qualifications to the satisfaction of VANZ.

(2) VANZ is not required to provide an artificial aid in the nature of an implant, unless the implant is implanted in the course of a surgical procedure approved by VANZ.

(3) VANZ is not required to provide any aid or appliance, if a veteran already—

(a) owns an aid or appliance that has, at the time at which VANZ is making its decision, a similar function to the aid or appliance for which the veteran has made a claim; or

(b) possesses such an aid or appliance on permanent loan from any person or organisation, including a hospital and health service,—

unless, in either case, the aid or appliance, because of its age or condition, is unsuitable to assist in restoring the veteran to independence.

(4) VANZ is not required to provide any aid or appliance, if the veteran has, after suffering the injury or illness, disposed of an aid or appliance that, at the time of disposal,—

(a) had a similar function to the aid or appliance for which the veteran has made a claim; and

(b) was still suitable for that function.

(5) VANZ is not required to meet any costs of—

(a) maintaining, repairing, or replacing any aid or appliance; or

(b) replacing any consumable items used in association with any aid or appliance,—

if the costs have been incurred because the veteran has neglected, abused, or misused the aid or appliance.

(6) VANZ may provide an aid or appliance by way of approving its hire by the veteran for a term it approves, if that hire is a cost-effective alternative to the purchase of the aid or appliance.

Compare: 2001 No 49 Schedule 1 cl 13

9 Attendant care

In deciding whether to provide or contribute to the cost of attendant care, VANZ must have regard to—

(a) any rehabilitation outcome that would be achieved by providing it; and

(b) the nature and extent of the veteran's injury or illness and the degree to which that injury or illness impairs his or her ability to provide for his or her personal care; and

(c) the extent to which attendant care is necessary to enable the veteran to undertake or continue employment (including agreed vocational training) or to attend a place of education, having regard to any entitlement the veteran has to education support; and

(d) the extent to which household family members or other family members might reasonably be expected to provide attendant care for the veteran after the veteran's injury or illness; and

(e) the extent to which attendant care is required to give household family members a break, from time to time, from providing attendant care for the veteran; and

(f) the need to avoid substantial disruption to the employment or other activities of household family members.

Compare: 2001 No 49 Schedule 1 cl 14

10 Child care

(1) In deciding whether to provide or contribute to the cost of child care, VANZ must have regard to—

(a) any rehabilitation outcome that would be achieved by providing it; and

(b) the number of the veteran's children and their need for child care; and

(c) the extent to which child care was provided by other household family members before the veteran's injury or illness; and

(d) the extent to which other household family members or other family members might reasonably be expected to provide child care services after the veteran's injury or illness; and

(e) the need to avoid substantial disruption to the employment or other activities of the household family members.

(2) VANZ is not required to provide child care under this clause if it provides child care for the child under clause 64.

(3) VANZ is not required to provide child care for a child to the extent that the child is being provided with attendant care, education support, or training for independence.

(4) VANZ is not required to pay for child care to the extent that child care continues to be provided after a veteran's injury or illness by a person—

(a) who lives in the veteran's home or lived in the veteran's home immediately before the veteran suffered his or her injury or illness; and

(b) who provided child care before the veteran suffered his or her injury or illness.

Compare: 2001 No 49 Schedule 1 cl 15

11 Home help

(1) In deciding whether to provide or contribute to the cost of home help, VANZ must have regard to—

(a) any rehabilitation outcome that would be achieved by providing it; and

(b) the extent to which a veteran undertook domestic activities before the veteran's injury or illness and the extent to which he or she is able to undertake domestic activities after his or her injury or illness; and

(c) the number of household family members and their need for home help; and

(d) the extent to which domestic activities were done by other household family members before the veteran's injury or illness; and

(e) the extent to which other household family members or other family members might reasonably be expected to do domestic activities for themselves and for the veteran after the veteran's injury or illness; and

(f) the need to avoid substantial disruption to the employment or other activities of the household family members; and

(g) the impact of the veteran's injury or illness on the contribution of other family members to domestic activities.

(2) VANZ is not required to pay for home help to the extent that home help continues to be provided after a veteran's injury or illness by a person—

(a) who lives in the veteran's home or lived in the veteran's home immediately before the veteran suffered his or her injury or illness; and

(b) who provided home help before the veteran suffered his or her injury or illness.

Compare: 2001 No 49 Schedule 1 cl 17

12 Modifications to home: matters to which VANZ must have regard

(1) In deciding whether to provide or contribute to the cost of modifications to the home, VANZ must have regard to—

(a) any rehabilitation outcome that would be achieved by providing them; and

(b) the difficulties faced by the veteran in doing the following without the proposed modifications:

(i) gaining access to his or her home:

(ii) enjoying reasonable freedom of movement in his or her home:

(iii) living independently in his or her home; and

(c) the likely duration of the veteran's residence in the home; and

(d) the cost, and the relevant benefit, to the veteran of the proposed modifications; and

(e) if the home is not owned by the veteran, whether the owner agrees to the modifications being done; and

(f) the likely cost of reasonable alternative living arrangements; and

(g) the likely duration of the limitations arising from the injury or illness for which the veteran has entitlements under this Act.

(2) For the purposes of subclause (1)(b)(iii), the assessment of whether a veteran is living independently is not affected by whether the veteran lives with others.

Compare: 2001 No 49 Schedule 1 cl 18

13 Modifications to home: rights and responsibilities

(1) VANZ is responsible for—

(a) making a preliminary assessment as to whether the proposed modifications serve the purpose in section 120; and

(b) if it considers the proposed modifications serve that purpose, meeting the costs of obtaining local authority approval.

(2) The veteran is responsible for—

(a) obtaining the written consent to the modifications to which VANZ has given preliminary approval from the owner of the home and any lessor or co-tenant or mortgagee; and

(b) obtaining any quotes required by VANZ for the proposed modifications.

(3) VANZ is—

(a) not required to be a contracting party at any stage of the modifications:

(b) not liable to the veteran or any other person for any liability arising from the carrying out of the modifications, other than for payment for those modifications VANZ has approved:

(c) not liable—

(i) to ensure that the veteran pays any person that undertakes the modifications; or

(ii) to pay that person directly, if the veteran does not pay:

(d) not responsible for the cost of insuring the modifications or the home in which the modifications have been installed:

(e) not required to replace any such modifications if the veteran continues to reside in the home:

(f) not responsible for the cost of removing any modifications no longer required:

(g) not responsible for the cost of returning a home to its former state if the veteran no longer occupies it:

(h) not responsible for any loss of value of any home resulting from any modifications to, or removal of modifications from, the home:

(i) not required to provide or contribute to the cost of modifications to a home to which the veteran moves from the modified home, unless VANZ has approved the costs of those modifications:

(j) not required to repair or replace any home or modifications that are not insured and that are damaged.

(4) VANZ is not entitled to recover any payment made to the veteran if—

(a) the modifications are removed or are no longer required; or

(b) the veteran no longer occupies the home to which the modifications were made.

Compare: 2001 No 49 Schedule 1 cl 19

14 Training for independence

In deciding whether to provide or contribute to the cost of training for independence, VANZ must have regard to—

(a) any rehabilitation outcome that would be achieved by providing it; and

(b) the extent to which training for independence, and the skills and knowledge likely to be acquired from it, are likely to reduce the veteran's need for further rehabilitation.

Compare: 2001 No 49 Schedule 1 cl 20

15 Transport for independence: matters to which VANZ must have regard

(1) In deciding whether to provide or contribute to the cost of transport for independence, VANZ must have regard to—

(a) any rehabilitation outcome that would be achieved by providing it; and

(b) the cost, and the relevant benefit, to the veteran of the transport for independence service for which the veteran has made a claim; and

(c) the difficulties faced by the veteran in doing the following in relation to the transport used by the veteran before his or her injury or illness, without the transport for independence service for which he or she has made a claim:

(i) driving or operating the vehicle:

(ii) gaining access to the vehicle:

(iii) enjoying freedom and safety of movement in the vehicle:

(iv) travelling as a passenger in the vehicle:

(v) transporting any essential mobility equipment in the vehicle; and

(d) the need for the veteran to own or have access to a vehicle, having regard to the times at which and the frequency with which the veteran is likely to need that form of transport; and

(e) alternative means of transport available to the veteran; and

(f) the effect that modifications, or purchase, of a vehicle will have on the likelihood of the veteran obtaining and retaining employment; and

(g) the existing vehicle or vehicles owned or used by the veteran; and

(h) whether and when the limitations caused by the veteran's injury or illness are expected to improve; and

(i) any plans and quotes an appropriately qualified person provides for proposed modifications to, or for the purchase of, a vehicle.

(2) VANZ may require the veteran to satisfy VANZ of the matters set out in subclause (3) or (4) before VANZ approves the modification or purchase for which the veteran has made a claim.

(3) VANZ may require the veteran to satisfy VANZ that a vehicle will be modified in such a way that it—

(a) will be able to be issued with a warrant of fitness; and

(b) will comply with or be exempted from any applicable rules made under Part 11 of the Land Transport Act 1998.

(4) If a veteran wishes to drive a modified or newly purchased vehicle, VANZ may require the veteran to satisfy VANZ that he or she is likely to be able to drive the vehicle safely and be legally permitted to drive it.

Compare: 2001 No 49 Schedule 1 cl 21

16 Transport for independence: rights and responsibilities

(1) VANZ is not required to purchase, or contribute to the purchase of, a motor vehicle if the veteran, or a person proposing to transport the veteran,—

(a) owns or part owns or has the use of a vehicle that may be modified in order to assist in restoring the veteran's independence; or

(b) disposed of a vehicle, after the veteran's injury or illness, that may have been able to be modified in order to assist in restoring the veteran's independence.

(2) VANZ is—

(a) not responsible—

(i) for ensuring that the veteran pays any person that sells the vehicle or undertakes the modifications; or

(ii) for paying that person directly, if the veteran does not pay:

(b) not required to meet the cost of maintenance or repair of any vehicle or modification to a vehicle, or for registration, licensing fees, insurance, or other running costs:

(c) not required to meet the cost of removing any vehicle modifications no longer required or for restoring any vehicle to its former state:

(d) not responsible for any loss of resale value resulting from modifications to any vehicle:

(e) not required to contribute to the cost of replacing a vehicle for whose purchase or modification VANZ has already contributed, unless the replacement is necessary for the veteran to maintain independence:

(f) not required to contribute to a replacement under paragraph (e) if the veteran's need for a replacement vehicle arises because the veteran—

(i) has not maintained or insured the existing vehicle; or

(ii) has, without a reasonable excuse, disposed of the existing vehicle.

(3) In determining the amount to be paid in respect of a vehicle, VANZ may take into account the value of any other motor vehicle owned by the veteran, if the veteran previously used the vehicle on a regular basis.

(4) VANZ must—

(a) make payments for the purchase of, or modification to, a vehicle to the veteran, unless the veteran requests otherwise; and

(b) make the payment by way of an outright grant.

(5) VANZ is not entitled to recover any payment made to the veteran if—

(a) the veteran no longer requires the vehicle modifications; or

(b) the vehicle is disposed of or destroyed.

Compare: 2001 No 49 Schedule 1 cl 22

17 VANZ not responsible for ensuring veteran pays rehabilitation provider

(1) VANZ is not responsible—

(a) for ensuring that the veteran pays any rehabilitation provider that delivers a social rehabilitation service to the veteran; or

(b) for paying that provider directly, if the veteran does not pay.

(2) To avoid doubt, subclause (1) does not prevent VANZ (if it thinks it appropriate to do so) from paying a provider directly, if a veteran does not pay.

Compare: 2001 No 49 Schedule 1 cl 23

Vocational rehabilitation

18 Occupational assessor

An occupational assessment must be undertaken by an assessor whom VANZ considers has the appropriate qualifications and experience to do the assessment required in the particular case.

Compare: 2001 No 49 Schedule 1 cl 24

19 Conduct of occupational assessment

(1) An occupational assessor undertaking an occupational assessment as part of an assessment of a veteran's vocational independence under section 130 may—

(a) take into account information provided by VANZ and the veteran; and

(b) consider the individual rehabilitation plan prepared for the veteran and review the vocational rehabilitation carried out under the plan; and

(c) discuss with the veteran all the types of work that the assessor identifies as suitable for the veteran; and

(d) consider any comments the veteran makes to the assessor about those types of work.

(2) In considering the suitability of the types of work referred to in subclause (1)(c), the occupational assessor may take into account, among other things, the veteran's earnings before the veteran's incapacity.

(3) VANZ must provide to an occupational assessor all information VANZ has that is relevant to an occupational assessment.

Compare: 2001 No 49 Schedule 1 cl 25

20 Report on occupational assessment

(1) The occupational assessor must prepare and provide to VANZ a report on the occupational assessment specifying—

(a) the veteran's work experience; and

(b) the veteran's education, including any incomplete formal qualifications; and

(c) any work-related training in which the veteran has participated; and

(d) all skills that the assessor has reasonably identified the veteran as having; and

(e) the vocational rehabilitation that the veteran has received under the individual rehabilitation plan or in any other way; and

(f) the outcome of the vocational rehabilitation; and

(g) all types of work reasonably identified as suitable for the veteran; and

(h) in relation to each type of work, the requirements of that type of work, including any environmental modifications that the assessor identifies as necessary to enable the veteran to function safely in that type of work.

(2) VANZ must provide a copy of the report to the veteran and the medical assessor.

Compare: 2001 No 49 Schedule 1 cl 26

21 Conduct of medical assessment

(1) A medical assessor undertaking a medical assessment as part of an assessment of a veteran's vocational independence under section 130 must take into account—

(a) information provided to the assessor by VANZ; and

(b) any individual rehabilitation plan for the veteran; and

(c) any of the following medical reports provided to the assessor:

(i) medical reports requested by VANZ before the individual rehabilitation plan was prepared:

(ii) medical reports received during the veteran's rehabilitation; and

(d) the report of the occupational assessor under clause 20; and

(e) the medical assessor's clinical examination of the veteran; and

(f) any other information or comments that the veteran requests the medical assessor to take into account and that the medical assessor decides are relevant.

(2) VANZ must provide to a medical assessor all information VANZ has that is relevant to a medical assessment.

Compare: 2001 No 49 Schedule 1 cl 28

22 Report on medical assessment

(1) The medical assessor must prepare and provide to VANZ a report on the medical assessment specifying—

(a) relevant details about the veteran, including details of the veteran's injury or illness; and

(b) relevant details about the clinical examination of the veteran undertaken by the assessor, including the methods used and the assessor's findings from the examination; and

(c) the results of any additional assessments of the veteran's condition; and

(d) the assessor's opinion of the veteran's vocational independence in relation to each of the types of work identified in the occupational assessor's report; and

(e) any comments made by the veteran to the assessor relating to the veteran's injury or illness and vocational independence in relation to each of the types of work identified in the occupational assessor's report.

(2) The report must also identify any conditions that—

(a) prevent the veteran from having vocational independence; and

(b) are not related to the veteran's injury or illness.

(3) VANZ must provide a copy of the report to the veteran.

Compare: 2001 No 49 Schedule 1 cl 29

Part 2
Weekly compensation (Scheme Two)

23 Meaning of relevant year

(1) In this Part, **relevant year** means 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.

(2) However, in the case of a self-employed person or a shareholder-employee, the relevant year is the most recent year ending with the balance date (whether 31 March or another date) of the self-employed person or shareholder-employee before the commencement of the period of incapacity.

Compare: 2001 No 49 Schedule 1 cl 30

24 Use of income tax returns in determining earnings

If VANZ is determining earnings under this Part in relation to a self-employed person or a shareholder-employee, it must take an income tax return into account, if—

(a) the veteran has given the return to the Commissioner; and

(b) VANZ considers that the return, and any related accounts, have not been unreasonably influenced by—

(i) the fact of the veteran's incapacity; or

(ii) the effects or likely effects of the incapacity on the veteran's income or business activities.

Compare: 2001 No 49 Schedule 1 cl 31

25 Minimum weekly compensation

(1) Despite the other provisions of this Part, the weekly compensation payable under this Part must not be less than 80% of the average wage.

(2) In subclause (1), **average wage** means the average wage, as at 1 July each year, within the meaning of the Social Security Act 1964.

VANZ to pay weekly compensation from first day of incapacity

26 VANZ to pay weekly compensation for loss of earnings to veteran who was earner

(1) VANZ is responsible for paying weekly compensation for loss of earnings to a veteran who—

(a) has an incapacity resulting from an injury or illness for which he or she has entitlements under this Act; and

(b) was an earner immediately before his or her incapacity commenced.

(2) The veteran is entitled to weekly compensation for loss of earnings for the period of the incapacity.

(3) The weekly compensation payable is the specified percentage of the veteran's weekly earnings, as calculated under clauses 27 to 39 and 43.

(4) In subclause (3), **specified percentage** means—

(a) 100% during the shorter of—

(i) the first year of incapacity; or

(ii) the period during that year in which the veteran is receiving rehabilitation services:

(b) where incapacity continues after the first year, 85% if either—

(i) the veteran has a rehabilitation plan and is assessed as unable to work; or

(ii) the veteran is assessed as unable to be rehabilitated or further rehabilitated (as the case may be) and as unable to work.

(5) Subclause (3) is subject to clauses 40, 43, and 44.

(6) The amount of weekly compensation payable to the veteran must be adjusted in the manner provided in section 30.

Compare: 2001 No 49 Schedule 1 cl 32

Employee in permanent employment

27 Weekly earnings if earner had earnings as employee immediately before incapacity commenced: application of clause 28

(1) Clause 28 applies to a veteran who—

(a) was an earner immediately before his or her incapacity commenced; and

(b) was in permanent employment at that time; and

(c) had earnings as an employee from that permanent employment at that time.

(2) If the veteran had permanent employment with more than 1 employer at that time, the weekly earnings of the veteran, in respect of each employer he or she

had at that time, are as calculated separately under clause 28 and aggregated under clause 36.

(3) For the purposes of this clause and clause 28, the veteran is regarded as having been in permanent employment if, in the opinion of VANZ, he or she would have continued to receive earnings from that employment for a continuous period of more than 12 months after the date on which his or her incapacity commenced, if he or she had not suffered the injury or illness.

(4) Subclause (5) applies if—

(a) the veteran was in permanent employment (that was full-time employment) as an employee immediately before his or her incapacity commenced; and

(b) before the employment, the veteran was employed by the same employer for less than 30 hours per week.

(5) The weekly earnings of the veteran is the greater of—

(a) the veteran's weekly earnings calculated in accordance with clause 28; and

(b) the veteran's weekly earnings calculated in accordance with clause 30, as if the veteran were not in permanent employment immediately before his or her incapacity commenced.

Compare: 2001 No 49 Schedule 1 cl 33

28 Weekly earnings if earner had earnings as employee in permanent employment immediately before incapacity commenced: calculations

(1) This subclause applies to each of the 4 weeks after the first week of incapacity. The veteran's weekly earnings for each of the 4 weeks are calculated using the following formula:

$$\frac{a}{b}$$

where—

a is the veteran's earnings as an employee (from that permanent employment) in the 4 weeks immediately before his or her incapacity commenced

b is the number of full or part weeks during which the veteran earned those earnings as an employee in those 4 weeks.

(2) This subclause applies to any weekly period of incapacity after the 4 weeks described in subclause (1). The veteran's weekly earnings for any such weekly period are calculated using the following formula:

$$\frac{a}{b}$$

where—

a is the veteran's earnings as an employee (from employment with that employer) in the 52 weeks immediately before his or her incapacity commenced

b is the number of full or part weeks during which the veteran earned those earnings as an employee.

(3) For the purposes of this clause, the following must be disregarded in calculating weekly earnings:

(a) any period during which the veteran was entitled to weekly compensation; and

(b) any earnings in respect of any such period.

Compare: 2001 No 49 Schedule 1 cl 34

Employee not in permanent employment

29 Weekly earnings if earner had earnings as employee not in permanent employment immediately before incapacity commenced: application of clause 30

(1) Clause 30 applies to a veteran who—

(a) was an earner immediately before his or her incapacity commenced; and

(b) had at that time earnings as an employee (from employment that was not permanent employment).

(2) For the purposes of this clause and clause 30, employment is not permanent employment if, in the opinion of VANZ, the veteran would have not continued to receive earnings from that employment for a continuous period of more than 12 months after the date on which his or her incapacity commenced, if he or she had not suffered the injury or illness.

Compare: 2001 No 49 Schedule 1 cl 35

30 Weekly earnings if earner had earnings as employee not in permanent employment immediately before incapacity commenced: calculations

(1) This subclause applies to each of the 4 weeks after the first week of incapacity. The veteran's weekly earnings for each of the 4 weeks are calculated using the following formula:

$$\frac{a}{b}$$

where—

a is the veteran's earnings as an employee (from all employment that was not permanent employment) in the 4 weeks immediately before his or her incapacity commenced

b is the number of full or part weeks during which the veteran earned those earnings as an employee in the 4 weeks immediately before his or her incapacity commenced.

(2) This subclause applies to any weekly period of incapacity after the 4 weeks described in subclause (1). The veteran's weekly earnings for any such weekly period are calculated using the following formula:

$$\frac{a}{b}$$

where—

a is the veteran's earnings as an employee (from all employment that was not permanent employment) in the 52 weeks immediately before his or her incapacity commenced

b is 52 or such smaller number, if adjustments are required under subclause (4).

(3) For the purposes of this clause, the following must be disregarded in calculating weekly earnings:

(a) any period during which the veteran was entitled to weekly compensation:

(b) any continuous period of unpaid sick leave, during a period of employment, of more than 1 week:

(c) any period during which—

(i) the veteran did not receive earnings as an employee; and

(ii) the veteran did receive earnings as a self-employed person or as a shareholder-employee; and

(iii) those earnings ceased before the commencement of the veteran's incapacity:

(d) any earnings in respect of any period under paragraph (a), (b), or (c).

(4) In item b of the formula set out in subclause (2), the expression 52 is adjusted by deducting from it any number of weekly periods that subclause (3)(a), (b), or (c) applies to.

(5) For the purposes of subclause (3)(c), VANZ may determine the number of weeks that fairly and reasonably represent the period during which the veteran received earnings as a self-employed person or as a shareholder-employee.

Compare: 2001 No 49 Schedule 1 cl 36

Self-employed veteran

31 Weekly earnings if earner had earnings as self-employed person immediately before incapacity commenced: application of clause 32

(1) Clause 32 applies to a veteran who had earnings as a self-employed person immediately before his or her incapacity commenced.

(2) The weekly earnings of such a veteran are as calculated under clause 32.

(3) For the purposes of clause 32, if the veteran's income tax return for the relevant year is not available, the income tax return for the next previous year must be used.

(4) If VANZ—

(a) applies subclause (3); and

(b) pays weekly compensation; and

(c) subsequently finds that the weekly compensation it paid is less than that it would have paid if the veteran's income tax return for the relevant year had been available,—

VANZ must increase the weekly compensation.

Compare: 2001 No 49 Schedule 1 cl 37

32 Weekly earnings if earner had earnings as self-employed person immediately before incapacity commenced: calculations

(1) The weekly earnings of an earner who had earnings as a self-employed person immediately before the incapacity commenced are,—

(a) for the first 4 weeks after the first week of incapacity, the greater of the relevant amount calculated under subclause (2) or the amount under subclause (3):

(b) for any period of incapacity after the 4 weeks referred to in paragraph (a), the relevant amount calculated under subclause (2).

(2) The amounts that apply under this subclause are,—

(a) for veterans who first commenced receiving earnings as self-employed persons in the tax year in which the incapacity commenced, the amount calculated using the following formula:

$$\frac{a}{b}$$

where—

a is the total of the veteran's earnings as an employee in the 52 weeks immediately before the incapacity commenced

b is the number of full or part weeks during which the veteran earned those earnings as an employee:

(b) for veterans for whom the relevant year was the first year during which they received earnings as a self-employed person, the amount calculated using the following formula:

$$\frac{a + b}{c}$$

where—

a is the veteran's total earnings as an employee in the 52 weeks immediately before his or her incapacity commenced

b is the veteran's earnings as a self-employed person in the relevant year

c is the combined number of full or part weeks during which the veteran earned those earnings as an employee and the number of weeks that VANZ considers fairly and reasonably represents the number of weeks or part weeks during which the veteran earned those earnings as a self-employed person in the relevant year, up to a combined maximum of 52 weeks or the total number of weeks in the veteran's relevant year if the relevant year is more than 52 weeks:

(c) for all other veterans, the amount calculated using the following formula:

$$\frac{a}{c} + \frac{b}{d}$$

where—

a is the veteran's total earnings as an employee in the 52 weeks immediately before his or her incapacity commenced

b is the veteran's earnings as a self-employed person in the relevant year

c is 52

d is the number of weeks in the relevant year.

(3) A veteran is eligible for the greater of—

(a) the amount calculated under subclause (2) with the inclusion of earnings as an employee in the calculation; and

(b) the amount calculated under subclause (2) with the exclusion of earnings as an employee from the calculation.

(4) If the veteran's weekly earnings are calculated under subclause (2) with the inclusion of his or her earnings as an employee, the veteran is not also eligible to have his or her weekly earnings calculated under clauses 27 to 30.

(5) This clause applies to claims for weekly compensation made on or after 1 July 2005, whether made in respect of a period of incapacity that started before the day on which this clause comes into force or that starts on or after that day.

(6) To avoid doubt, if a claim for weekly compensation is made in respect of a period of incapacity that commenced before 1 July 2005, this clause—

(a) applies only to the calculation of weekly earnings for the purposes of weekly compensation that is payable for a period commencing on or after 1 July 2005; and

(b) does not authorise an increase to the rate of weekly compensation that is payable for a period before 1 July 2005.

Compare: 2001 No 49 Schedule 1 cl 38

33 Weekly earnings if self-employed veteran had earnings as a shareholder-employee in the relevant year

(1) This clause applies if the veteran—

(a) had earnings as a self-employed person immediately before the commencement of his or her incapacity; and

(b) did not have earnings as a self-employed person in the relevant year; and

(c) did have earnings as a shareholder-employee in the relevant year; and

(d) had been employed continuously even though the veteran changed from receiving earnings as a shareholder-employee to receiving earnings as a self-employed person.

(2) The veteran's weekly earnings must be calculated under clause 32(2) using the veteran's earnings as a shareholder-employee as if they were the veteran's earnings as a self-employed person in the relevant year.

Compare: 2001 No 49 Schedule 1 cl 38A

Shareholder-employee

34 Weekly earnings if veteran had earnings as shareholder-employee immediately before incapacity commenced

(1) The weekly earnings of a veteran who had earnings as a shareholder-employee immediately before his or her incapacity commenced are the higher of—

(a) the relevant amount calculated under clause 28 or 30, whichever is applicable; and

(b) the relevant amount calculated under subclause (2).

(2) The amounts to be calculated under this subclause are,—

(a) for veterans who first commenced receiving earnings as a shareholder-employee in the tax year in which the incapacity commenced, the amount calculated using the following formula:

$$\frac{a}{b}$$

where—

a is the total of the veteran's earnings as an employee in the 52 weeks immediately before the incapacity commenced

b is the number of full or part weeks during which the veteran earned those earnings as an employee:

(b) for veterans for whom the relevant year was the first year during which they received earnings as a shareholder-employee, the amount calculated using the following formula:

$$\frac{a + b}{c}$$

where—

a is the veteran's total earnings as an employee in the 52 weeks immediately before his or her incapacity commenced

b is the veteran's earnings as a shareholder-employee in the relevant year

c is the combined number of full or part weeks during which the veteran earned those earnings as an employee and the number of weeks that VANZ considers fairly and reasonably represents the number of weeks or part weeks during which the veteran earned those earnings as a shareholder-employee in the relevant year, up to a combined maximum of 52 weeks or the total number of weeks in the veteran's relevant year if the relevant year is more than 52 weeks:

(c) for all other veterans, the amount calculated using the following formula:

$$\frac{a}{c} + \frac{b}{d}$$

where—

a is the veteran's total earnings as an employee in the 52 weeks immediately before his or her incapacity commenced

b is the veteran's earnings as a shareholder-employee in the relevant year

c is 52

d is the number of weeks in the relevant year.

(3) A veteran is eligible for the greater of—

(a) the amount calculated under subclause (2) with the inclusion of earnings as an employee in the calculation; and

(b) the amount calculated under subclause (2) with the exclusion of earnings as an employee from the calculation.

(4) If the veteran's weekly earnings are calculated under subclause (2) with the inclusion of their earnings as an employee, the veteran is not also eligible to have his or her weekly earnings calculated under clauses 27 to 30.

(5) If a veteran's weekly earnings as a shareholder-employee are calculated under subclause (2), the same earnings cannot be used as earnings as an employee for the purposes of clauses 27 to 30.

(6) This clause applies to claims for weekly compensation made on or after 1 July 2005, whether made in respect of a period of incapacity that started before the day on which this clause comes into force or that starts on or after that day.

(7) To avoid doubt, if a claim for weekly compensation is made in respect of a period of incapacity that commenced before 1 July 2005, this clause—

(a) applies only to the calculation of weekly earnings for the purposes of weekly compensation that is payable for a period commencing on or after 1 July 2005; and

(b) does not authorise an increase to the rate of weekly compensation that is payable for a period before 1 July 2005.

Compare: 2001 No 49 Schedule 1 cl 39

35 Weekly earnings if veteran as shareholder-employee had earnings as self-employed person in relevant year

(1) This clause applies if the veteran—

(a) had earnings as a shareholder-employee immediately before the commencement of his or her incapacity; and

(b) did not have earnings as a shareholder-employee in the relevant year; and

(c) did have earnings as a self-employed person in the relevant year; and

(d) had been employed continuously even though the veteran changed from receiving earnings as a self-employed person to receiving earnings as a shareholder-employee.

(2) The veteran's weekly earnings must be calculated under clause 34(2) using the veteran's earnings as a self-employed person as if they were earnings as a shareholder-employee in the relevant year.

Compare: 2001 No 49 Schedule 1 cl 40

Aggregation of calculations

36 Calculations for multiple employment situations

(1) Veterans to whom clause 32 applies, and to whom clauses 27 to 30 apply because they have earnings as an employee at the time their incapacity commences, may—

(a) have their weekly earnings calculated under clause 32 with the inclusion of their earnings as an employee; or

(b) have their weekly earnings calculated under clause 32 excluding their earnings as an employee, but may also have their employee earnings calculated under clauses 27 to 30 and aggregated under subclause (5).

(2) If a veteran's weekly earnings are calculated in accordance with subclause (1)(a), the same earnings cannot be used as earnings as an employee for the purposes of any other calculation of an amount of weekly earnings.

(3) Veterans to whom clause 34 applies, and to whom clauses 27 to 30 apply because they have earnings as an employee at the time their incapacity commences, may—

(a) have their weekly earnings calculated under clause 34 with the inclusion of their earnings as an employee; or

(b) have their weekly earnings calculated under clause 34 excluding their earnings as an employee, but may also have their employee earnings calculated under clauses 27 to 30 and aggregated under subclause (5).

(4) If a veteran's weekly earnings are calculated in accordance with subclause (3)(a), the same earnings cannot be used as earnings as an employee for the purposes of any other calculation of an amount of weekly earnings.

(5) If a veteran is not prohibited from doing so by subclause (2) or (4), and would have more than 1 amount of weekly earnings from different employment situations because of the operation of clause 28, 30, 32, or 34, the veteran's weekly earnings are to be calculated by doing the relevant calculations under those clauses separately and then aggregating the results.

(6) However, a veteran's weekly earnings calculated under clause 28 or 30 must not be aggregated with the veteran's weekly earnings under clause 34 if the veteran's weekly earnings under clause 34 are his or her earnings under clause 28 or 30.

Compare: 2001 No 49 Schedule 1 cl 41

37 Minimum rates of weekly compensation for veterans who have no recent pre-injury or pre-illness earnings

(1) Subclause (2) applies to veterans who had pre-injury or pre-illness earnings within 12 months of the start of the service-related injury or illness, but do not have pre-injury or pre-illness earnings between the cause of the injury or illness and the onset of the illness or injury.

(2) A veteran to whom this subclause applies is entitled to weekly compensation at the following rates:

(a) 100% of the veteran's pre-injury or pre-illness earnings for the first year of entitlements:

(b) 85% of the veteran's pre-injury or pre-illness earnings for the second and any subsequent year of entitlement.

(3) However, the veteran is entitled to weekly compensation at a rate that is not less than 80% of the average wage if the amount calculated under subclause (2) is less than 80% of the average wage.

(4) Subclause (5) applies to a veteran who had no pre-injury or pre-illness earnings within 12 months of the start of the service-related injury or illness.

(5) A veteran to whom this subclause applies is entitled to weekly compensation at a rate that is not less than 80% of the average wage.

(6) In this clause, **average wage** means the average wage, as at 1 July each year, within the meaning of the Social Security Act 1964.

Veteran no longer an employee

38 Weekly earnings if employment ended before commencement of incapacity

(1) Subclause (2) applies to a veteran who, before his or her incapacity commenced, had ceased to be in employment.

(2) The veteran is deemed to continue to be in employment and have earnings from that employment for the purposes of this schedule for the longer of—

(a) 28 days from the date he or she ceased to be in employment, if he or she—

(i) had been in employment within 28 days before his or her incapacity commenced; and

(ii) would have been an employee within the period specified in subclause (3) after the date on which his or her incapacity commenced, but for the incapacity; or

(b) the period for which payments that the veteran is entitled to receive on ceasing employment and on which earner levy is payable constitute earnings under subclause (4).

(3) For the purposes of subclause (2)(a)(ii), the period is,—

(a) unless paragraph (b) applies, 3 months if the veteran had entered into an employment agreement, or had arranged to enter into an employment agreement, before the incapacity commenced; or

(b) 12 months if—

(i) the veteran was employed in seasonal employment with the same employer as he or she had been employed by in the 2 seasons before the veteran's incapacity commenced; and

(ii) the employer confirms that the veteran could reasonably have expected to be re-employed in the season after the veteran's incapacity commenced.

(4) A veteran, who is deemed by subclause (2)(b) to continue to be in employment, is also deemed to be deriving earnings at the same rate as he or she derived earnings while in employment immediately before he or she ceased to be an employee, a self-employed person, or a shareholder-employee, as the case may be.

(5) For the purposes of calculating the veteran's weekly earnings, the date his or her incapacity commenced is deemed to be the last date on which the veteran was in employment.

(6) In this clause,—

employee includes an employee who is on unpaid leave that is not unpaid parental leave

employment means employment as—

(a) an employee; or

(b) a self-employed person; or

(c) a shareholder-employee.

Compare: 2001 No 49 Schedule 1 cl 43

Employee on unpaid parental leave

39 Weekly earnings if employee on unpaid parental leave immediately before his or her incapacity commenced

(1) This clause applies to a veteran who is an employee on unpaid parental leave immediately before his or her incapacity commenced.

(2) For the purposes of calculating the veteran's weekly earnings, the date he or she began parental leave is deemed to be the date his or her incapacity commenced.

(3) For the purposes of determining the commencement date of entitlement to compensation for loss of earnings, the date on which the veteran would otherwise be required to return to work at the end of the parental leave is deemed to be the date his or her incapacity commenced.

(4) If this clause applies the veteran is entitled to the greater of—

(a) weekly compensation for loss of earnings arising from the application of this clause; or

(b) weekly compensation for loss of earnings arising from an entitlement under any other provision of this schedule.

(5) Parental leave must not be treated as paid leave for the purposes of this clause only because the person may be entitled to a payment in respect of the leave under Part 7A of the Parental Leave and Employment Protection Act 1987.

Compare: 2001 No 49 Schedule 1 cl 44

Estimated earnings

40 Interim estimation of weekly earnings that cannot be ascertained

(1) This clause applies to a veteran who, immediately before his or her incapacity commenced,—

(a) had earnings as a self-employed person; or

(b) had earnings as a shareholder-employee.

(2) This clause applies while VANZ cannot readily ascertain the veteran's actual weekly earnings.

(3) For the purposes of clauses 32 to 35, in order to calculate the veteran's weekly earnings under this Part, VANZ may estimate an amount that represents reasonable remuneration for the veteran until the earlier of—

(a) the income tax return for the relevant year is available; or

(b) 3 months have passed after the incapacity commenced.

(4) If the veteran's income tax return for the relevant year remains unavailable at the end of the 3-month period in subclause (3)(b), VANZ can pay weekly compensation only as an advance and only at the minimum rate referred to in clause 25.

(5) In doing an estimate under subclause (3), VANZ must have regard to—

(a) the evidence available of the veteran's earnings; and

(b) the nature of the veteran's employment immediately before his or her incapacity commenced; and

(c) any employment, whatever its nature, that the veteran has while suffering the incapacity.

(6) If VANZ—

(a) applies subclause (3); and

(b) pays weekly compensation; and

(c) subsequently 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,—

VANZ may recover the difference, either as a debt due to it or by deducting it from any entitlement otherwise payable to the veteran (whether or not in respect of the same injury or illness).

Compare: 2001 No 49 Schedule 1 cl 45

Further injury or illness

41 Effect of further injury or illness on entitlement to weekly compensation

(1) This clause applies to a veteran who—

(a) is already entitled to receive weekly compensation; and

(b) suffers incapacity from a further injury or illness for which the veteran has cover under this Act.

(2) If it is necessary to recalculate the veteran's entitlement to weekly compensation, the veteran's entitlement to weekly compensation in respect of incapacity from both injuries or illnesses is calculated using the weekly earnings assessed when calculating the weekly compensation referred to in subclause (1)(a).

(3) Subclause (2) does not apply to any subsequent periods of incapacity.

Compare: 2001 No 49 Schedule 1 cl 48

Abatement

42 Earnings definitions for purposes of clause 44

(1) In clause 44(1), **earnings** includes any payment made on the termination of employment in respect of leave entitlements. VANZ 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.

(2) In clause 44(1),—

(a) **earnings** includes payments—

(i) whether made in New Zealand or overseas:

(ii) whether made in New Zealand currency or an overseas currency:

(b) **employment** includes employment whether in New Zealand or overseas.

(3) Payments made in an overseas currency must be treated as having been converted into New Zealand currency at the average rate of foreign exchange offered, at the date of payment, by registered banks in New Zealand.

Compare: 2001 No 49 Schedule 1 cl 49

43 Estimation for abatement purposes of earnings that cannot be ascertained

(1) This clause applies to a veteran who has—

(a) earnings as a self-employed person; or

(b) earnings as a shareholder-employee.

(2) This clause applies when VANZ cannot readily ascertain, for abatement purposes, the veteran's actual earnings during a particular period during incapacity.

(3) In order to calculate the veteran's earnings under this Part, VANZ may estimate an amount that represents reasonable remuneration for the veteran during the period.

(4) VANZ must have regard to—

(a) the evidence available of the veteran's earnings; and

(b) the nature of the veteran's employment immediately before his or her incapacity commenced; and

(c) the nature of the veteran's employment that the veteran has during the period of incapacity.

Compare: 2001 No 49 Schedule 1 cl 50

44 Abatement of compensation

(1) In calculating weekly compensation under this Part, VANZ must reduce the amount of weekly compensation paid to a veteran so as to ensure that the total of the veteran's weekly compensation and earnings after his or her incapacity commenced does not exceed the veteran's weekly earnings as calculated under clauses 27 to 40.

(2) However, if a veteran is receiving weekly compensation at the minimum rate payable under clause 25, 37(3), or 37(5), VANZ must reduce the amount of weekly compensation paid to the veteran to ensure that the total of the veteran's weekly compensation and earnings does not exceed the average wage.

(3) In subclause (2), **average wage** has the same meaning as in clause 25(2).

(4) The amount of a veteran's weekly earnings under subclause (1) must be adjusted in the manner provided in section 30.

Compare: 2001 No 49 Schedule 1 cl 51

Part 3
Lump sum compensation for permanent impairment (Scheme Two)

45 Lump sum compensation for permanent impairment

(1) VANZ is responsible for paying the veteran lump sum compensation in accordance with this schedule, if—

(a) the veteran has suffered injury or illness, after the commencement of this Part, for which he or she has entitlements under this Part; and

(b) the veteran—

(i) has survived the injury or illness for not less than 28 days; and

(ii) is alive when assessed under clause 48; and

(c) an assessment carried out under clause 48 establishes that the veteran's injury or illness has resulted in a degree of whole-person impairment of 5% or more.

(2) To avoid doubt, there is no entitlement to lump sum compensation in respect of injury or illness suffered before 1 April 2002 or in respect of any subsequent consequences of any such injury or illness.

Compare: 2001 No 49 Schedule 1 cl 54

46 Amount of lump sum compensation for permanent impairment

(1) The amount of lump sum compensation for permanent impairment that VANZ is responsible for paying to a veteran is the appropriate amount specified in regulations made under section 265.

(2) The regulations apply subject to subclauses (3) to (5).

(3) The minimum lump sum compensation for permanent impairment that VANZ is responsible for paying to a veteran is—

(a) $2,500; and

(b) payable to a veteran whose degree of whole-person impairment is 5%.

(4) The maximum lump sum compensation for permanent impairment that is payable to a veteran whose degree of whole-person impairment is 100% is the maximum lump sum specified in regulations made under section 265, which must be not less than the aggregate of the following amounts:

(a) the maximum lump sum compensation payable under the Accident Compensation Act 2001 for 100% whole-person impairment; and

(b) 20% of the amount referred to in paragraph (a).

(5) The amounts specified in regulations, the minimum amount specified in subclause (3), and the maximum amount specified in subclause (4) must be adjusted in the manner provided in section 31.

Compare: 2001 No 49 Schedule 1 cl 56

47 VANZ not to assess entitlement until it receives medical certificate as to stability of veteran's condition

(1) VANZ must not assess the veteran's entitlement to lump sum compensation until the earlier of the following:

(a) VANZ receives a certificate from a medical practitioner indicating that—

(i) the veteran's condition resulting from the injury or illness has stabilised; and

(ii) it is likely that there is permanent impairment resulting from the injury or illness; or

(b) after 2 years have passed since the date of the injury or illness, VANZ receives a certificate from a medical practitioner indicating that—

(i) the veteran's condition resulting from the injury or illness has not stabilised; but

(ii) it is likely that there is permanent impairment resulting from the injury or illness.

(2) A certificate provided under subclause (1) in respect of injury or illness that is mental injury or illness must—

(a) state that it is likely that permanent impairment has arisen from the mental injury or illness; and

(b) be provided by a medical practitioner who is suitably qualified (to VANZ's satisfaction) to assess mental injury or illness.

(3) VANZ is responsible for paying the reasonable costs associated with the provision of a certificate under subclause (1).

Compare: 2001 No 49 Schedule 1 cl 57

48 Assessment of entitlement to lump sum compensation

(1) After VANZ receives a certificate under clause 47, VANZ must authorise an assessor to do an assessment of the veteran.

(2) An assessor assesses the veteran's percentage of whole-person impairment.

(3) In doing an assessment under this clause, an assessor must—

(a) assess the veteran in accordance with regulations made under this Act; and

(b) exclude from the assessment any permanent impairment—

(i) that does not result from injury or illness for which the veteran has entitlements under this Act:

(ii) that arises from injuries or illness suffered before the commencement of this Part; and

(c) include in the assessment any permanent impairment for which the veteran has received lump sum compensation under this Part.

(4) Subclause (3) applies subject to any regulations made under section 265.

(5) A veteran who has suffered more than 1 injury or illness must be assessed by establishing, in accordance with regulations made under this Act, the combined effect of those injuries.

(6) However, no veteran is to be assessed as having more than 100% whole-person impairment.

(7) VANZ is responsible for paying the veteran's reasonable costs associated with the assessment if the costs are incurred with VANZ's prior agreement.

(8) In this clause and clause 50, **assessor** means an assessor appointed under section 212.

Compare: 2001 No 49 Schedule 1 cl 59

49 Payment of lump sum compensation for permanent impairment

(1) VANZ determines an amount of lump sum compensation based on an assessment of whole-person impairment under clause 48 and regulations made for the purposes of clause 46.

(2) Any amount derived under subclause (1) has deducted from it any lump sum compensation for permanent impairment received previously under this Part, as adjusted under subclause (3).

(3) If a veteran has received lump sum compensation for permanent impairment previously under this Part, the amount received previously must be adjusted for the purposes of subclause (2) in the manner provided in section 31.

(4) VANZ must notify the veteran of—

(a) the assessed degree of whole-person impairment; and

(b) the amount of lump sum compensation payable, if any.

Compare: 2001 No 49 Schedule 1 cl 60

50 Reassessment of entitlement to lump sum compensation

(1) Clauses 45 to 49 apply to reassessments under this clause.

(2) VANZ must arrange for an assessor to reassess a veteran if—

(a) the veteran was assessed after VANZ received a certificate under clause 47(1)(b) and before VANZ received a certificate under clause 47(1)(a); and

(b) VANZ then receives a certificate under clause 47(1)(a).

(3) A reassessment under subclause (2) is not a reassessment for the purposes of subclause (7).

(4) VANZ must arrange for an assessor to reassess a veteran who produces to VANZ a certificate from a medical practitioner indicating that the veteran's permanent impairment is likely to have increased since the date of assessment.

(5) Subclause (4) is subject to subclauses (6) and (7).

(6) A certificate provided under subclause (4) in respect of injury or illness that is mental injury or illness must be provided by a medical practitioner who is suitably qualified (to VANZ's satisfaction) to assess mental injury or illness.

(7) A veteran is not entitled to more than 1 reassessment under subclause (4) in any 12-month period.

Compare: 2001 No 49 Schedule 1 cl 61

51 Payment of entitlement to lump sum compensation to deceased veteran's estate

If a veteran dies after the completion of the assessment of the degree of permanent impairment but before payment of the lump sum, VANZ is responsible for paying the lump sum to the deceased veteran's estate.

Compare: 2001 No 49 Schedule 1 cl 62

Part 4
Entitlements arising from fatal injuries (Scheme Two)

52 Child not born at date of veteran's death

For the purposes of this Part, any child of a veteran who is born within 12 months after the veteran's death is deemed to be—

(a) dependent on the veteran at the date of the veteran's death; and

(b) under the care of the surviving parent of the child on that date.

Compare: 2001 No 49 Schedule 1 cl 63

53 Survivor's grant

(1) VANZ is responsible for paying a survivor's grant for a deceased veteran as follows:

(a) to a surviving spouse or partner of the veteran, $25,000 but, if there is more than 1 surviving spouse or partner, VANZ must divide that amount equally between them:

(b) to each child of the veteran who has not yet turned 18 years, $10,000:

(c) to any other dependant of the veteran, $10,000.

(2) However, if the surviving spouse or partner of the veteran or child or dependant of the veteran is entitled to a survivor's grant under the Accident Compensation Act 2001, VANZ is responsible for paying any difference between the entitlement under that Act and the entitlement under this clause.

(3) Adjustments to the amounts specified in subclause (1) must be made in the manner provided in section 31.

Compare: 2001 No 49 Schedule 1 cl 65

54 Weekly compensation for surviving spouse or partner

(1) VANZ is responsible for paying weekly compensation to a surviving spouse or partner (**claimant**) of a deceased veteran.

(2) Subclause (1) does not apply if, immediately before the veteran's death—

(a) the veteran and the claimant were living apart or were not maintaining a relationship in the nature of marriage; and

(b) the claimant was not contributing to the veteran's day-to-day welfare.

(3) Subclause (2) does not apply if the circumstances described in the subclause occurred principally because of the health, imprisonment, or employment obligations of the veteran or the claimant.

(4) Weekly compensation payable under this clause is payable from the date of the veteran's death at the rate of 60% of the weekly compensation for loss of earnings to which the veteran would have been entitled at the end of 5 weeks of incapacity, had he or she lived but been totally incapacitated.

(5) Subclause (2) is subject to clause 62.

(6) VANZ must not cancel or suspend the surviving spouse's or partner's weekly compensation—

(a) because the spouse or partner marries, enters into a civil union, or enters into a de facto relationship; or

(b) because of the age that the veteran would have reached if he or she had not died.

(7) The surviving spouse or partner ceases to be entitled to weekly compensation on the latest of—

(a) the end of 5 consecutive years from the date on which it first became payable:

(b) the surviving spouse or partner ceasing to have the care of all of the children who are under the age of 18 years:

(c) the youngest of the children of the deceased who is in the care of the surviving spouse or partner turning 18 years:

(d) the surviving spouse or partner ceasing to have the care of all other dependants of the deceased veteran who were in the surviving spouse's or partner's care.

Compare: 2001 No 49 Schedule 1 cl 66

55 Surviving spouse or partner may choose to convert weekly compensation to aggregated payment or payments

(1) A surviving spouse or partner may choose to convert an entitlement to weekly compensation under clause 54 to 1 or more aggregated payments.

(2) VANZ must, if requested by the spouse or partner, provide the spouse or partner with actuarial calculations of any options specified by the spouse or partner for aggregating the spouse's entitlement under clause 54.

(3) The spouse or partner must not specify an option under subclause (2) involving 2 or more payments unless the payments are to be made at 6-monthly intervals.

(4) A spouse or partner converts his or her entitlement to weekly compensation under clause 54 to aggregated payments by giving VANZ notice in writing of the option the spouse or partner has chosen.

(5) If VANZ provides aggregated payments to a spouse or partner in accordance with the option chosen by the spouse or partner, VANZ must not provide weekly compensation to the spouse or partner under clause 54.

Compare: 2001 No 49 Schedule 1 cl 67

56 Relationship between surviving spouse's or partner's weekly compensation and New Zealand superannuation

(1) Subclause (2) applies to a surviving spouse or partner who—

(a) is entitled to weekly compensation immediately before reaching the New Zealand superannuation qualification age; and

(b) has been entitled to it for 12 months or longer before reaching that age.

(2) Such a surviving spouse or partner is entitled to the weekly compensation if he or she makes an election to be entitled to it, rather than to New Zealand superannuation.

(3) Subclauses (4) and (5) apply to a surviving spouse or partner who becomes entitled to weekly compensation—

(a) within 12 months before reaching New Zealand superannuation qualification age; or

(b) on or after reaching the New Zealand superannuation qualification age.

(4) Such a surviving spouse or partner is entitled to the weekly compensation for a period of 12 months following the later of—

(a) the date of reaching the New Zealand superannuation qualification age; or

(b) the date of entitlement to weekly compensation.

(5) The surviving spouse or partner then continues to be entitled to the weekly compensation if he or she makes an election to be entitled to it, rather than to New Zealand superannuation.

(6) Nothing in this clause entitles a surviving spouse or partner to weekly compensation if he or she is not otherwise entitled to it under this schedule.

Compare: 2001 No 49 Schedule 1 cl 68

57 Election for purposes of clause 56

(1) A surviving spouse or partner must make an election under clause 56(2) or (5) within the period that is the latest of the following:

(a) within 1 month before the date on which the election would take effect; or

(b) within 1 month after the surviving spouse or partner has been notified of the amount of the weekly compensation by VANZ, the reviewer, or the Appeal Board, whichever is applicable in the surviving spouse's or partner's case; or

(c) before 1 month before the surviving spouse or partner reaches the New Zealand superannuation qualification age.

(2) VANZ may allow a surviving spouse or partner to exercise or revoke an election under clause 56(2) or (5) after the period specified in subclause (1) has ended, but only if VANZ is satisfied that the surviving spouse's or partner's circumstances have changed significantly since the end of the period.

Compare: 2001 No 49 Schedule 1 cl 69

58 Weekly compensation for child

(1) VANZ is responsible for paying weekly compensation to a child of a deceased veteran.

(2) Compensation payable under this clause is payable from the date of the veteran's death at the rate of 20% of the compensation for loss of earnings to which the veteran would have been entitled at the end of 5 weeks of incapacity, had he or she lived but been totally incapacitated.

(3) If there is more than 1 child, the compensation payable under subclause (2) must be divided equally among the children.

(4) If the spouse or partner of a deceased veteran dies, subclause (2) applies as if the reference to 20% were a reference to 80%.

(5) Subclause (2) is subject to clause 62.

(6) VANZ must not cancel or suspend the child's weekly compensation because of the age that the veteran would have reached if he or she had not died.

(7) The child ceases to be entitled to weekly compensation on the later of—

(a) the end of the calendar year in which the child turns 18 years; or

(b) if the child is in full-time study at a place of education, the earliest of ceasing the study, completing the study, or turning 23 years.

Compare: 2001 No 49 Schedule 1 cl 70

59 Weekly compensation for other dependants

(1) VANZ is responsible for paying weekly compensation to any other dependant of a deceased veteran.

(2) Compensation payable under this clause is payable from the date of the veteran's death at the rate of 20% of—

(a) the compensation for loss of earnings to which the veteran would have been entitled at the end of 5 weeks of incapacity, had he or she lived but been totally incapacitated; or

(b) the compensation for loss of potential earning capacity to which the veteran would have been entitled at the end of 6 months of incapacity, had he or she lived but been totally incapacitated.

(3) Subclause (2) is subject to clause 62.

(4) VANZ must not cancel or suspend the other dependant's weekly compensation because of the age that the veteran would have reached if he or she had not died.

(5) The other dependant ceases to be entitled to weekly compensation on the earlier of the following:

(a) the other dependant has or will have, over a period of 12 months, average earnings per week greater than the rate specified under clause 37(3):

(b) if clause 60 applies to the other dependant, the event occurs under that clause that ends the other dependant's entitlement to weekly compensation.

Compare: 2001 No 49 Schedule 1 cl 71

60 Relationship between other dependant's weekly compensation and New Zealand superannuation

(1) Subclause (2) applies to any other dependant who—

(a) is entitled to weekly compensation immediately before reaching the New Zealand superannuation qualification age; and

(b) has been entitled to it for 24 months or longer before reaching that age.

(2) Such a dependant loses his or her entitlement to weekly compensation on reaching that age.

(3) Subclauses (4) and (5) apply to any other dependant who becomes entitled to weekly compensation 12 months or more, but less than 24 months, before reaching the New Zealand superannuation qualification age.

(4) Such a dependant is entitled to weekly compensation for 24 months from the date of entitlement to the compensation.

(5) However, the other dependant's entitlement to the compensation is dependent on his or her making an election to be entitled to the compensation, rather than to New Zealand superannuation, after reaching the New Zealand superannuation qualification age.

(6) Subclauses (7) and (8) apply to any other dependant who becomes entitled to weekly compensation—

(a) within 12 months before reaching the New Zealand superannuation qualification age; or

(b) on or after reaching the New Zealand superannuation qualification age.

(7) Such a dependant is entitled to the weekly compensation for a period of 12 months following the later of—

(a) the date of reaching the New Zealand superannuation qualification age; or

(b) the date of entitlement to weekly compensation.

(8) The other dependant is then entitled to the weekly compensation for the next 12 months, if he or she makes an election to be entitled to the compensation, rather than to New Zealand superannuation, for those next 12 months.

(9) Nothing in this clause entitles any other dependant to weekly compensation if he or she is not otherwise entitled to it under this schedule.

Compare: 2001 No 49 Schedule 1 cl 72

61 Election for purposes of clause 60

(1) The other dependant must make an election under clause 60(5) or (8) within the period that is the latest of the following:

(a) within 1 month before the date on which the election would take effect; or

(b) within 1 month after the other dependant has been notified of the amount of the weekly compensation by VANZ, the reviewer, or the Appeal Board, whichever is applicable in the other dependant's case; or

(c) before 1 month before the other dependant reaches New Zealand superannuation qualification age.

(2) VANZ may allow any other dependant to exercise or revoke an election under clause 60(5) or (8) after the period specified in subclause (1) has ended, but only if VANZ is satisfied that the other dependant's circumstances have changed significantly since the end of the period.

Compare: 2001 No 49 Schedule 1 cl 73

62 Maximum payments

(1) The total amount of weekly compensation payable under clauses 54 to 61 must not exceed the weekly compensation for loss of earnings to which the veteran would have been entitled at the end of 5 weeks of incapacity, had he or she lived but been totally incapacitated.

(2) VANZ may reduce all weekly compensation calculated under those clauses pro rata, and may readjust it from time to time, if VANZ considers the reduction and readjustment is necessary for the purposes of subclause (1).

Compare: 2001 No 49 Schedule 1 cl 74

63 Spouse or partner status or dependency arising after date of injury or illness

(1) VANZ is responsible for providing entitlements to a person who—

(a) becomes the spouse or partner or a dependant of the veteran after the date on which the veteran suffered injury or illness; and

(b) is the spouse or partner or a dependant of the veteran at the date of the veteran's death as a result of injury or illness for which he or she has entitlements under this Act.

(2) Subclause (1) is subject to subclause (3).

(3) VANZ is not responsible under subclause (1) if VANZ decides, on reasonable grounds, that the main purpose of the person in becoming a spouse or partner or dependant was to qualify for entitlements.

Compare: 2001 No 49 Schedule 1 cl 75

Child care payments

64 Child care payments for children of deceased veteran

(1) VANZ is responsible for paying a child of a deceased veteran a payment for child care on receiving a written application for it by or on behalf of the child.

(2) The amount of any weekly entitlement to payment for child care per child is set by regulations made under section 265, and different amounts may be set according to the number of children of the deceased veteran.

(3) VANZ is not responsible for any administration costs incurred by or on behalf of the child in purchasing child care.

(4) Adjustments to the amounts set for the purposes of subclause (2) must be made in the manner provided in section 31.

Compare: 2001 No 49 Schedule 1 cl 76

65 Extent to which child care payments payable under this Part and under Accident Compensation Act 2001

(1) Child care payments are not payable under this Part in respect of a deceased veteran's children if child care payments are payable under the Accident Compensation Act 2001 in respect of the children.

(2) However, child care payments are payable under this Part to the extent that there is a difference between the child care payments payable under this Part and the child care payments payable under the Accident Compensation Act 2001 in respect of deceased claimants under that Act.

66 Duration of child care payments

(1) VANZ is responsible for making payments for child care on and from the date of death of the deceased veteran.

(2) The child ceases to be entitled to child care payments on the earlier of—

(a) 5 years after the date on which the entitlement started; or

(b) on the date on which—

(i) the child turns 14 years; or

(ii) if the child is older and needs child care because of his or her physical or mental condition, the child ceases to need child care.

(3) A child who, immediately before the deceased veteran's death, was entitled to payments for child care because of the death of another deceased veteran has no entitlement for the subsequent death.

(4) However, VANZ must start counting the 5-year period referred to in subclause (2)(a) at the date of the subsequent death.

(5) This clause applies despite anything in this schedule.

Compare: 2001 No 49 Schedule 1 cl 77

67 Child care payments made to caregiver

(1) VANZ must make, on behalf of the child, every payment for child care to a person who is responsible for arranging for the child's care.

(2) VANZ is not under an obligation to see to the application of any money paid to any person under subclause (1), and is not liable to the child in respect of any such payment.

Compare: 2001 No 49 Schedule 1 cl 78

Schedule 3
Specified Pacific countries

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American Samoa
Cook Islands
Federated States of Micronesia
Fiji
French Polynesia
Guam
Kiribati
Marshall Islands
Nauru
New Caledonia
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Northern Mariana Islands
Palau
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Pitcairn Island
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Solomon Islands
Tokelau
Tonga
Tuvalu
Vanuatu
Wallis and Futuna

Schedule 4
Consequential amendments

s 278

Part 1
Amendments to Social Security Act 1964

Section 3

In section 3(1), definition of **benefit**, paragraph (b)(i), replace "Part 6 of the War Pensions Act 1954" with "Part 6 of the Veterans' Support Act 2014".

In section 3(1), definition of **income**, paragraph (f)(i), replace "Part 6 of the War Pensions Act 1954" with "Part 6 of the Veterans' Support Act 2014".

In section 3(1), definition of **income**, paragraph (f)(ii), replace "the War Pensions Act 1954" with "the Veterans' Support Act 2014".

In section 3(1), definition of **income**, paragraph (f)(iii), replace "Part 2 or Part 4 or Part 5 of the War Pensions Act 1954" with "the Veterans' Support Act 2014".

In section 3(1), definition of **income-tested benefit**, replace paragraph (f) with:

> (f) New Zealand superannuation payable at the appropriate rate in clause 2 of Schedule 1 of the New Zealand Superannuation and Retirement Income Act 2001 or a veteran's pension payable under Part 6 of the Veterans' Support Act 2014 if the pension is subject to abatement under section 171 of that Act:

In section 3(1), definition of **veteran's pension**, replace "Part 6 of the War Pensions Act 1954" with "Part 6 of the Veterans' Support Act 2014".

In section 3(3), replace "Part 6 of the War Pensions Act 1954" with "Part 6 of the Veterans' Support Act 2014".

Section 5

In section 5(1), delete "Part 6 of the War Pensions Act 1954".

Section 10B

In section 10B(1)(l), replace "section 70 of the War Pensions Act 1954" with "section 164 of the Veterans' Support Act 2014".

Section 11

In section 11(2)(a), replace "Part 6 of the War Pensions Act 1954" with "Part 6 of the Veterans' Support Act 2014".

In section 11(2)(f), replace "Part 6 of the War Pensions Act 1954" with "Part 6 of the Veterans' Support Act 2014".

Section 12I

In section 12I(1), delete "and section 16A of the War Pensions Act 1954".

Section 12J

In section 12J(1)(c), delete "or Part 6 of the War Pensions Act 1954".

After section 12J(1)(ca), insert:

> (cb) Part 6 of the Veterans' Support Act 2014, subject to section 175(2) of that Act; or

In section 12J(2)(d), replace "section 70 of the War Pensions Act 1954" with "section 164 of the Veterans' Support Act 2014".

Section 39D

In section 39D(b), replace "War Pensions Act 1954, apart from a child's war pension or a war orphan's pension" with "Veterans' Support Act 2014, apart from a children's pension".

Section 61DA

In section 61DA(a), after "2001", insert "or subpart 8 of Part 5 of the Veterans' Support Act 2014".

In section 61DA(b), replace "section 74A of the War Pensions Act 1954" with "section 174 of the Veterans' Support Act 2014".

In section 61DA(c), replace "under regulation 45 of the War Pensions Regulations 1956, or an analogous payment," with "under Part 5 of the Veterans' Support Act 2014".

Section 64

In section 64(1), replace "Part 6 of the War Pensions Act 1954" with "Part 6 of the Veterans' Support Act 2014".

In section 64(2A), replace "Part 6 of the War Pensions Act 1954" with "Part 6 of the Veterans' Support Act 2014".

Section 69C

In section 69C(4), replace "war disablement pension under the War Pensions Act 1954" with "disablement pension under Part 3, or an entitlement under Part 4, of the Veterans' Support Act 2014".

Section 69FA

In section 69FA(1), definition of **income**, replace paragraph (a)(ii) with:

> (ii) the Veterans' Support Act 2014 (other than a disablement pension under Part 3 of that Act); and

Section 69G

In section 69G, replace "Part 6 of the War Pensions Act 1954" with "Part 6 of the Veterans' Support Act 2014" in each place.

Section 69H

In section 69H, replace "Part 6 of the War Pensions Act 1954" with "Part 6 of the Veterans' Support Act 2014" in each place.

Section 70

In section 70, replace "Part 6 of the War Pensions Act 1954" with "Part 6 of the Veterans' Support Act 2014" in each place.

In section 70(1), replace "under the War Pensions Act 1954" with "under the Veterans' Support Act 2014" in each place.

In section 70(1B), replace "section 74J of the War Pensions Act 1954" with "section 182 of the Veterans' Support Act 2014".

Section 71

In section 71(1), replace "Part 6 of the War Pensions Act 1954" with "Part 6 of the Veterans' Support Act 2014".

Section 71A

In section 71A(1), replace "section 74D of the War Pensions Act 1954" with "section 171 of the Veterans' Support Act 2014".

Section 72

In the heading to section 72, delete "**war**".

In section 72(b), replace "War Pensions Act 1954" with "the Veterans' Support Act 2014".

In section 72(b)(ia), replace "Part 6 of that Act" with "Part 6 of that Act".

Replace section 72(b)(ii) with:

> (ii) a surviving spouse or partner pension under Part 3 of the Veterans' Support Act 2014; or

In section 72(b), delete "provided also that, if a mother's allowance is payable to a widow under the War Pensions Act 1954, the rate of benefit shall not exceed the benefit that could be paid to that widow if she had no dependent child or children:".

In section 72(b), replace "child's pension under section 36, section 62, or section 65 of the War Pensions Act 1954" with "children's pension under section 72 of the Veterans' Support Act 2014".

Section 74

In section 74(1), replace "Part 6 of the War Pensions Act 1954" with "Part 6 of the Veterans' Support Act 2014".

Section 74A

In section 74A(5), replace "Part 6 of the War Pensions Act 1954" with "Part 6 of the Veterans' Support Act 2014".

Section 77

In section 77(1)(d), replace "sections 74E to 74T of the War Pensions Act 1954" with "sections 176 to 196 of the Veterans' Support Act 2014".

In section 77(9)(b), replace "Part 6 of the War Pensions Act 1954" with "Part 6 of the Veterans' Support Act 2014".

Section 80

In section 80(1), replace "Part 6 of the War Pensions Act 1954" with "Part 6 of the Veterans' Support Act 2014".

Section 85A

In section 85A(f), replace "Part 6 of the War Pensions Act 1954" with "Part 6 of the Veterans' Support Act 2014".

Section 86

In section 86(2), replace "Part 6 of the War Pensions Act 1954" with "Part 6 of the Veterans' Support Act 2014".

Section 127

In section 127(a), replace "Part 6 of the War Pensions Act 1954" with "Part 6 of the Veterans' Support Act 2014".

Section 157

In section 157, definition of **specified beneficiary**, paragraph (d), replace "paid at a rate specified in clause 2 of Schedule 11 of the War Pensions Act 1954" with "at the relationship (partner not receiving superannuation or pension) rate or the relationship (partner not receiving superannuation or pension) legacy rate (as defined in section 158 of the Veterans' Support Act 2014)".

Schedule 3A

In Schedule 3A, clause 2, replace "War Pensions Act 1954" with "Veterans' Support Act 2014".

Part 2
Amendments to other Acts

Child Support Act 1991 (1991 No 142)

In section 131, replace "Part 6 of the War Pensions Act 1954" with "Part 6 of the Veterans' Support Act 2014".

Child Support Act 1991 (1991 No 142)—*continued*

In section 240(2)(d), replace "Secretary for War Pensions" with "General Manager of Veterans' Affairs New Zealand".

In section 240(2)(d), replace "Part 6 of the War Pensions Act 1954" with "Part 6 of the Veterans' Support Act 2014".

In section 263(2)(b)(iii), replace "Part 6 of the War Pensions Act 1954" with "Part 6 of the Veterans' Support Act 2014".

Child Support Amendment Act 2013 (2013 No 12)

In section 38, new section 129(4)(c), replace "Part 6 of the War Pensions Act 1954" with "Part 6 of the Veterans' Support Act 2014".

Crown Proceedings Act 1950 (1950 No 54)

Repeal section 9(1) to (2A).

Defence Act 1990 (1990 No 28)

In section 46, replace "War Pensions Act 1954" with "Veterans' Support Act 2014".

In section 80(1), replace "War Pensions Act 1954" with "Veterans' Support Act 2014".

District Courts Act 1947 (1947 No 16)

In section 84F, definition of **salary or wages**, after paragraph (b), insert:

(ba) weekly income compensation under subpart 4 of Part 3 of the Veterans' Support Act 2014 or weekly compensation under subpart 5 of Part 4 of that Act:

Health Research Council Act 1990 (1990 No 68)

Repeal section 51.

Housing Restructuring and Tenancy Matters Act 1992 (1992 No 76)

In Schedule 2, clause 9(a)(ii), replace "Part 6 of the War Pensions Act 1954" with "Part 6 of the Veterans' Support Act 2014".

Income Tax Act 2007 (2007 No 97)

After section CF 1(2)(h), insert:

(i) a payment of weekly compensation made under subpart 5 of Part 4 of the Veterans' Support Act 2014.

In section CW 28(1)(a), replace "War Pensions Act 1954, other than" with "Veterans' Support Act 2014 (including a lump sum paid pursuant to an election under section 53(1)(b) of that Act), other than weekly compensation paid under subpart 5 of Part 4 of that Act or".

After section CW 34(2)(c), insert:

Income Tax Act 2007 (2007 No 97)—*continued*

(d) an impairment payment made under subpart 4 of Part 4 of the Veterans' Support Act 2014.

In section MA 5, replace "person appointed under section 61A of the Defence Act 1990 for the purposes of the War Pensions Act 1954" with "General Manager of Veterans' Affairs New Zealand appointed under section 200(1) of the Veterans' Support Act 2014".

In section MA 7(2)(d), replace "Accident Compensation Corporation" with "Accident Compensation Corporation, Veterans' Affairs New Zealand, or both,".

In section MA 7(3), replace "an accident compensation earnings-related payment" with "an accident compensation earnings-related payment, weekly income compensation under subpart 4 of Part 3 of the Veterans' Support Act 2014 or weekly compensation under subpart 5 of Part 4 of that Act, or both,".

In section MB 13(2)(m), replace "War Pensions Act 1954" with "Veterans' Support Act 2014".

In section MC 6(a), replace "a parent's allowance under section 32(2) of the War Pensions Act 1954" with "a parent's allowance continued by clause 3 of Schedule 1 of the Veterans' Support Act 2014 or a children's pension under section 72 or 75 of that Act".

In section MC 6(b)(iii), after "a parent's allowance", insert "or a children's pension".

Replace section MD 8(c), with:

(c) a parent's allowance continued by clause 3 of Schedule 1 of the Veterans' Support Act 2014 or a children's pension under section 72 or 75 of that Act.

After section RD 5(1)(b)(iii), insert:

(iv) weekly income compensation under subpart 4 of Part 3 of the Veterans' Support Act 2014 or weekly compensation under subpart 5 of Part 4 of that Act; and

In section RD 5(6)(bb), replace "section 74J(2)(b) of the War Pensions Act 1954" with "section 182 of the Veterans' Support Act 2014".

In section YA 1, definition of **portable veteran's pension**, replace paragraphs (a) and (b) with:

(a) section 182(1)(a) of the Veterans' Support Act 2014, or under section 182(1)(b) where the pensioner is residing in a country to which section 181(a) of that Act applies; or

(b) section 191 of the Veterans' Support Act 2014; or

In section YA 1, definition of **veteran's pension**, replace "Part 6 of the War Pensions Act 1954" with "Part 6 of the Veterans' Support Act 2014".

Official Information Act 1982 (1982 No 156)

In Schedule 1, repeal the item relating to the War Pensions Advisory Board.

Public Audit Act 2001 (2001 No 10)

In Schedule 2, repeal the item relating to the War Pensions Advisory Board.

In Schedule 2, insert in its appropriate alphabetical order "Veterans' Medical Research Trust Fund".

Public Bodies Contracts Act 1959 (1959 No 98)

In Schedule 1, Part 2, repeal the item relating to the War Pensions Advisory Board.

Rates Rebate Act 1973 (1973 No 5)

In section 2(1), definition of **income**, paragraph (d)(vii), replace "Part 6 of the War Pensions Act 1954" with "Part 6 of the Veterans' Support Act 2014".

Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990 (1990 No 26)

In section 2(2), replace "section 2 of the War Pensions Act 1954" with "section 7 of the Veterans' Support Act 2014".

In section 19(1)(b), replace "Part 6 of the War Pensions Act 1954" with "Part 6 of the Veterans' Support Act 2014".

Part 3
Amendments to legislative instruments

Court of Appeal Fees Regulations 2001 (SR 2001/309)

In regulation 5(3)(b)(ii), replace "War Pensions Act 1954" with "Veterans' Support Act 2014".

Customs and Excise Regulations 1996 (SR 1996/232)

In regulation 81A(2)(b)(ii), replace "War Pensions Act 1954" with "Veterans' Support Act 2014".

District Courts Fees Regulations 2009 (SR 2009/318)

In regulation 5(3)(b)(ii), replace "War Pensions Act 1954" with "Veterans' Support Act 2014".

Family Courts Fees Regulations 2009 (SR 2009/88)

In regulation 7(3)(b)(ii), replace "War Pensions Act 1954" with "Veterans' Support Act 2014".

Health Entitlement Cards Regulations 1993 (SR 1993/169)

After regulation 8(1)(a), insert:

Health Entitlement Cards Regulations 1993 (SR 1993/169)—*continued*

(ab) a person who is receiving weekly income compensation under subpart 4 of Part 3 of the Veterans' Support Act 2014 or weekly compensation under subpart 5 of Part 4 of that Act:

In regulation 8(1)(d)(v), replace "War Pensions Act 1954" with "Veterans' Support Act 2014".

In regulation 8(1)(d)(vi), replace "section 74(2) of the War Pensions Act 1954" with "section 172(2)(b) or (c) of the Veterans' Support Act 2014".

After regulation 8(1)(d)(vi), insert:

(vii) does not receive weekly income compensation under subpart 4 of Part 3 of the Veterans' Support Act 2014 or weekly compensation under subpart 5 of Part 4 of that Act:

After regulation 8(3), insert:

(3A) However, subclause (3) does not apply to the spouse or partner of a beneficiary who is eligible for a community services card in accordance with subclause (1)(a)(vii), unless the beneficiary is a veteran to whom section 162(1) of the Veterans' Support Act 2014 applies.

High Court Fees Regulations 2013 (SR 2013/226)

In regulation 19(b)(ii), replace "War Pensions Act 1954" with "Veterans' Support Act 2014".

Income Tax (Social Assistance Suspensory Loans) Order 1995 (SR 1995/79)

In the Schedule, clause 3, replace "the Secretary for War Pensions under Part 9 of the War Pensions Regulations 1956" with "the General Manager of Veterans' Affairs New Zealand under Part 5 of the Veterans' Support Act 2014".

Social Security (Debt Recovery Suspension) Regulations 2007 (SR 2007/86)

Replace regulation 12(4) with:

(4) In this regulation, **specified rate** means the appropriate rate—

(a) set out in clause 2 of Schedule 1 of the New Zealand Superannuation and Retirement Income Act 2001; or

(b) specified in section 169(2) of the Veterans' Support Act 2014.

Social Security (Effect on Benefit of Warrant to Arrest—Excluded Beneficiaries) Regulations 2013 (SR 2013/249)

In regulation 9(1)(b), replace "section 74J of the War Pensions Act 1954" with "section 182 of the Veterans' Support Act 2014".

In regulation 9(2)(b), replace "section 74O of the War Pensions Act 1954" with "section 191 of the Veterans' Support Act 2014".

Social Security (Period of Income Assessment) Regulations 1996 (SR 1996/128)

In the Schedule, clause 1, replace "any rate set out in clause 2 of Schedule 11 of the War Pensions Act 1954 or in respect of any rate set out in clause 1 of that schedule in the case of a veteran's pension that is subject to abatement under section 74D of that Act" with "any rate specified in section 169(2) of the Veterans' Support Act 2014 that is subject to abatement under section 171 of that Act".

Social Security (SuperGold Card) Regulations 2007 (SR 2007/209)

In regulation 6(1)(e), replace "section 70(1)(a) of the War Pensions Act 1954" with "section 161(1)(a) of the Veterans' Support Act 2014".

In regulation 8, replace paragraphs (c) and (d) with:

(c) is under the age of 65 years, and is receiving veteran's pension payments payable under Part 6 of the Veterans' Support Act 2014 pursuant to an election made by his or her spouse or partner under section 172(2) of that Act; or

(d) is under the age of 65 years, and is receiving a veteran's pension under section 164 of the Veterans' Support Act 2014.

Social Security (Temporary Additional Support) Regulations 2005 (SR 2005/334)

In regulation 4, definition of **net rate**, paragraph (a), replace "Schedule 11 of the War Pensions Act 1954" with "the regulations specifying rates of veteran's pension under section 169 of the Veterans' Support Act 2014".

In regulation 4, definition of **standard tax**, replace "section 74C of the War Pensions Act 1954" with "section 170 of the Veterans' Support Act 2014".

In regulation 6(1)(a), replace "War Pensions Act 1954" with "Veterans' Support Act 2014".

In Schedule 1, replace clause 3(d) with:

(d) any pension or allowance payable under the Veterans' Support Act 2014:

In Schedule 1, clause 3(e), replace "War Pensions Act 1954" with "Veterans' Support Act 2014".

Social Welfare (Reciprocity with Australia) Order 2002 (SR 2002/119)

In regulation 4(1)(aa), replace "Part 6 of the War Pensions Act 1954" with "Part 6 of the Veterans' Support Act 2014".

Social Welfare (Reciprocity with Canada) Order 1996 (SR 1996/178)

In regulation 3(2)(aa), replace "Part 6 of the War Pensions Act 1954" with "Part 6 of the Veterans' Support Act 2014".

Social Welfare (Reciprocity with Denmark) Order 1997 (SR 1997/135)

In regulation 3(2)(aa), replace "Part 6 of the War Pensions Act 1954" with "Part 6 of the Veterans' Support Act 2014".

Social Welfare (Reciprocity with Ireland) Order 1993 (SR 1993/251)

In regulation 2(2), replace "Part 6 of the War Pensions Act 1954" with "Part 6 of the Veterans' Support Act 2014".

Social Welfare (Reciprocity with Jersey and Guernsey) Order 1995 (SR 1995/44)

In regulation 2(2), replace "Part 6 of the War Pensions Act 1954" with "Part 6 of the Veterans' Support Act 2014".

Social Welfare (Reciprocity with the Hellenic Republic) Order 1993 (SR 1993/347)

In regulation 2(2), replace "Part 6 of the War Pensions Act 1954" with "Part 6 of the Veterans' Support Act 2014".

Social Welfare (Reciprocity with the United Kingdom) Order 1990 (SR 1990/85)

In regulation 2(2), replace "Part 6 of the War Pensions Act 1954" with "Part 6 of the Veterans' Support Act 2014".

Student Allowances Regulations 1998 (SR 1998/277)

In regulation 2(1), definition of **supported child**, paragraph (c)(iii), replace "War Pensions Act 1954" with "Veterans' Support Act 2014".

In regulation 13(2)(b), replace "War Pensions Act 1954" with "Veterans' Support Act 2014".

Supreme Court Fees Regulations 2003 (SR 2003/359)

In regulation 5(3)(b)(ii), replace "War Pensions Act 1954" with "Veterans' Support Act 2014".

Taxation Review Authorities Regulations 1998 (SR 1998/460)

In regulation 10A(3)(b)(ii), replace "War Pensions Act 1954" with "Veterans' Support Act 2014".

War Pensions (Arrangement with Australia) Regulations 1967 (SR 1967/42)

In regulation 2, replace "section 56A of the War Pensions Act 1954 (as inserted by section 3 of the War Pensions Amendment Act 1966)" with "section 280 of the Veterans' Support Act 2014".

Reprints notes

1 General

This is a reprint of the Veterans' Support Act 2014 that incorporates all the amendments to that Act as at the date of the last amendment to it.

2 Legal status

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 Editorial and format changes

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also http://www.pco.parliament.govt.nz/editorial-conventions/.

4 Amendments incorporated in this reprint

Social Assistance (Portability to Cook Islands, Niue, and Tokelau) Act 2015 (2015 No 61): subpart 2

Social Security Amendment Act 2015 (2015 No 41): section 12

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