

Veterans' Support Amendment Bill

Government Bill

Explanatory note

General policy statement

The Veterans' Support Act was passed in 2014 and introduced a more modern regime for rehabilitating and supporting veterans who have qualifying operational service.

The 2014 legislation changed the criteria for qualifying operational service. Those now in force cover a broad range of operational and environmental threats. The previous Act had referred only to service in war and emergencies.

Contemporaneous documentation confirms that it was intended that the responsible Minister could make declarations of qualifying operational service before, during, or after deployments. The legislation has been interpreted accordingly, and a number of deployments, which had originally been considered against the criteria that applied under previous legislation, have been reassessed under the new criteria now in place, to ensure equity and consistency for all who have served. Further such assessments are under way.

Advice has now been received which indicates that the interpretation of section 9 could not be stretched to provide jurisdiction to make declarations in respect of historical (retrospective) deployments (ie, deployments that have already ceased). There is also a strong indication that section 9 may apply only to deployments that begin after the date the new legislation commenced.

Since 2015, Ministers have made 14 historical declarations, covering multiple missions and geographical areas. These affect approximately 675 veterans, spouses, and family members (including families of service personnel killed in action).

Work now under way in Veterans' Affairs—and widely promulgated to veterans—is a continuation of this work. The first tranche of the programme has considered 39 deployments in 3 geographical areas. It could result in declarations that would extend entitlements to around 1,600 veterans. There are further tranches to be examined

which would be likely to create additional entitlements for veterans not currently covered by the legislation.

Departmental disclosure statement

The New Zealand Defence Force (Veterans' Affairs) is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2019&no=139>

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 provides that the Bill will come into force on the day after it receives the Royal assent.

Clause 3 provides that the Bill amends the Veterans' Support Act 2014 (the **principal Act**).

Clause 4 amends section 9 of the principal Act. Section 9 provides for the Minister for Veterans to declare that a particular deployment is operational service for the purposes of the principal Act. Currently, section 9 provides for declarations in relation to deployments that are current at the time of the declaration. The amendments to section 9 provide for the making of declarations in relation to ceased deployments (see *new section 9(5A) and (5B)*). A declaration in respect of a deployment that has ceased may be extended (see *new section 9(5C)*). *New section 9(5D) and (5E)* requires the Minister to be satisfied that a declaration in respect of a ceased deployment that replaces another declaration cannot have the effect of reducing the existing entitlements of any person.

Clause 5 provides that no existing declaration made under section 9 is invalid because it is in respect of a deployment that began before the commencement of the Veterans' Support Act 2014 or had ceased when the declaration was made.

Hon Ron Mark

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Veterans' Support Amendment Act **2019**.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent. 5

3 Principal Act

This Act amends the Veterans' Support Act 2014 (the **principal Act**).

4 Section 9 amended (Declarations that deployments are operational service)

After section 9(5), insert:

(5A) The power under subsection (3) includes the power to make a declaration in respect of a deployment that has ceased, whether the deployment began before or after the commencement of this Act. 10

(5B) In relation to any declaration referred to in **subsection (5A)**,—

- (a) the reports referred to in subsections (1) and (2) may be provided at any time; and
- (b) subsection (3) applies with any necessary modifications; and
- (c) subsections (4) and (5) do not apply.
- (5C) The Minister may, by notice in the *Gazette*, extend the period specified under subsection (3)(c) in a declaration referred to in **subsection (5A)** if the Minister is satisfied that the deployment continued to pose a significant risk of harm to members of the deployed force after the expiry of the period. 5
- (5D) **Subsection (5E)** applies in respect of a declaration (a **replacement declaration**) that— 10
- (a) is in respect of a deployment that has ceased; and
- (b) the Minister is satisfied replaces another declaration under this section or a decision under section 70A or 80A of the War Pensions Act 1954 (the **earlier declaration or decision**).
- (5E) Before making a replacement declaration, the Minister must be satisfied that support to which any particular person would, at any time (whenever arising), have been entitled under the Act as a result of the earlier declaration or decision will not be reduced as a result of the making of the replacement declaration. 15
- 5 Validation of declarations made in respect of certain deployments** 20
- No declaration made under section 9(3) of the principal Act before the commencement of this section is invalid only because 1 or more of the following applies to it:
- (a) it is in respect of a deployment that began before the commencement of the principal Act: 25
- (b) it is in respect of a deployment that had, when the declaration was made, ceased:
- (c) a report referred to in section 9(1) or (2) was provided to the Minister in relation to the declaration after the deployment had ceased.