



# Veterans' Support Amendment Act 2020

Public Act 2020 No 54  
Date of assent 6 August 2020  
Commencement see section 2

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**The Parliament of New Zealand enacts as follows:****1 Title**

This Act is the Veterans' Support Amendment Act 2020.

**2 Commencement**

This Act comes into force on 1 October 2020.

**3 Principal Act**

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

**Part 1****Amendments to purpose, interpretation, and related provisions****4 Section 3 amended (Purpose)**

Replace section 3(1)(c) with:

- (c) entitlements and support for eligible spouses, partners, children, and dependants of veterans with service-related injuries or illnesses and for other persons who provide non-professional support to those veterans.

**5 Section 7 amended (Interpretation)**

(1) In section 7, definition of **child**, replace paragraph (b) with:

- (b) includes—
  - (i) an adopted child of the veteran; and
  - (ii) a child of whom the veteran is or has been a guardian; and
  - (iii) a grandchild or a whāngai of the veteran in relation to whom the veteran acts or has acted as a parent or a guardian; and

(2) In section 7, definition of **child**,—

- (a) paragraph (c)(i), replace “was” with “has been”; and
- (b) paragraph (c)(ii), replace “acted” with “acts or has acted”.

(3) In section 7, replace the definition of **other claimants** with:

**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) spouses or partners of veterans; and
- (c) children of veterans; and
- (d) dependants of veterans; and

(e) persons (other than the spouse or partner, or a child or dependant, of the veteran) who provide non-professional support to veterans for the purposes of section 107

(4) In section 7, definition of **veteran**, after paragraph (a), insert:

(aa) a member of the armed forces who took part in qualifying routine service before 1 April 1974; or

(5) In section 7, insert in their appropriate alphabetical order:

**counselling** means counselling that is provided by—

(a) a health practitioner under the Health Practitioners Competence Assurance Act 2003 and that is within the practitioner's scope of practice under that Act; or

(b) a person who is recognised by the Accident Compensation Corporation as a counsellor for the purposes of the Accident Compensation Act 2001

**guardian** has the same meaning as in section 15 of the Care of Children Act 2004

**home**—

(a) means residential premises in which the veteran lives and that are owned, rented, or otherwise lawfully occupied by the veteran or the veteran's parent, guardian, spouse, or partner; and

(b) includes residential premises in which the veteran proposes to live after they are built and that will be owned, rented, or otherwise lawfully occupied by the veteran or the veteran's parent, guardian, spouse, or partner; and

(c) includes any other premises in which the veteran lives and for which the veteran is solely responsible for home maintenance; but

(d) does not include any hotel or motel, or any hospital, hostel, rest home, or other institution

**long-term residential care** has the same meaning as in section 11 of the Residential Care and Disability Support Services Act 2018

**whāngai** means a child adopted by the veteran in accordance with Māori custom

## 6 Section 8 replaced (Meaning of different types of service)

Replace section 8 with:

### 8 Meanings of different types of service

(1) This section defines the different types of service referred to in this Act.

(2) In this Act, unless the context otherwise requires,—

**qualifying operational service** means—

- (a) service on any deployment treated as a war or emergency for the purposes of the War Pensions Act 1954; or
- (b) service on any deployment declared to be operational service under section 9

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

**qualifying service** means—

- (a) qualifying operational service; or
- (b) qualifying routine service.

**7 Section 9 amended (Declarations that deployments are operational service)**

- (1) In section 9(3), (5), and (5C), delete “, by notice in the *Gazette*,”.
- (2) After section 9(5E), insert:
  - (5F) VANZ must publish the making or amending of a declaration—
    - (a) on an Internet site maintained by or on behalf of VANZ; and
    - (b) in any other manner that VANZ thinks appropriate to bring the matter to the attention of claimants and the general public.
  - (5G) VANZ is not required to publish the making or amending of a declaration if satisfied that there are reasons of operational or national security not to publish.

**8 Section 10 amended (Functions to be performed and powers to be exercised in accordance with certain principles)**

Replace section 10(b)(i) with:

- (i) the principle of providing fair entitlements to veterans and other claimants:

**9 Sections 11 to 13 replaced**

Replace sections 11 to 13 with:

**11 Information to claimant**

- (1) VANZ must keep a veteran or other claimant who makes a claim for an entitlement under this Act up to date on the progress of the claim.
- (2) Without limiting subsection (1), VANZ must,—
  - (a) within 7 working days after receiving a claim, inform the veteran or other claimant that the claim has been received; and
  - (b) notify the veteran or other claimant, in accordance with subsection (3), of VANZ’s decision on the claim.
- (3) Notification of a decision must—

- (a) be given as soon as practicable after VANZ makes the decision; and
- (b) be in writing; and
- (c) include the reason for the decision; and
- (d) inform the veteran or other claimant of—
  - (i) their rights of review under subpart 2 of Part 7; and
  - (ii) in the case of a claim for a veteran's pension, their right of appeal under section 175(1); and
- (e) be given in time to allow the veteran or other claimant to exercise those rights.

## **12 Performance of functions and exercise of powers**

- (1) VANZ must perform its functions and exercise its powers—
  - (a) on reasonable grounds; and
  - (b) in a timely manner.
- (2) In complying with subsection (1), VANZ must have regard to the following:
  - (a) the requirements of this Act;
  - (b) the nature of the function or power;
  - (c) all the circumstances.
- (3) Without limiting subsection (1)(b), VANZ must ensure that a decision on a claim for an entitlement under this Act is made as soon as practicable after receiving the claim.

## **Part 2**

### **Amendments to other provisions**

#### **10 Section 27 amended (Responsibility of veteran or other claimant to assist in establishing and maintaining entitlements)**

- (1) In section 27(1), after “A veteran”, insert “or other claimant”.
- (2) In section 27(1)(b), delete “veteran’s”.

#### **11 Section 28 amended (Circumstances that exclude or limit entitlements)**

- (1) After section 28(1), insert:
  - (1A) Despite subsection (1), VANZ may provide entitlements that would otherwise be excluded by subsection (1)(a) or (b) if VANZ is satisfied on reasonable grounds that, in the circumstances, the exclusion would be unfair to the veteran (for example, because the desertion or absence without leave was brief or the offence was minor in nature).
- (2) In section 28(2), replace “subsection (1)(c) and (d)” with “subsection (1)(c) or (d)”.

- (3) After section 28(2)(a), insert:
- (aa) the injury or illness is itself a psychological condition (for example, alcohol use disorder) that was attributed to or aggravated by the experiences of the veteran during qualifying operational service; or

## 12 Section 29 replaced (Disentitlement during imprisonment)

Replace section 29 with:

### 29 Limited entitlements during imprisonment of veteran

- (1) While a veteran is a prisoner in any prison, VANZ—
- (a) may continue to provide to the veteran entitlements under subparts 2 and 3 of Part 5 that were being provided to the veteran before the veteran became a prisoner; but
  - (b) must not provide any other entitlements under Part 3, 4, or 5 to the veteran.
- (2) Entitlements of other claimants are not affected by the imprisonment of the veteran.
- (3) While a claimant other than the veteran is a prisoner in any prison, VANZ must not provide, or continue to provide, any entitlements under Part 3, 4, or 5 to the claimant.
- (4) In this section,—
- prison** means—
- (a) a prison within the meaning of section 3(1) of the Corrections Act 2004; or
  - (b) a service prison within the meaning of section 2(1) of the Armed Forces Discipline Act 1971; or
  - (c) an overseas prison
- prisoner** means,—
- (a) for a prison referred to in paragraph (a) of the definition of prison, a prisoner within the meaning of section 3(1) of the Corrections Act 2004; or
  - (b) for a prison referred to in paragraph (b) of that definition, a service prisoner within the meaning of section 2(1) of the Armed Forces Discipline Act 1971; or
  - (c) for a prison referred to in paragraph (c) of that definition, a person for the time being in legal custody in that prison.

## 13 Section 31 amended (Indexation of certain entitlements in relation to New Zealand Consumers Price Index)

Replace section 31(1)(j) and (k) with:

- (j) the maximum amount payable for funeral expenses for—

- (i) a veteran who had undertaken qualifying operational service; or
  - (ii) a veteran whose death was a service-related death (section 153):
- (k) the maximum amount payable under Scheme One for funeral expenses for other veterans (section 154):

#### **14 Section 66 replaced (Surviving spouse or partner pension)**

Replace section 66 with:

##### **66 Surviving spouse or partner pension**

- (1) A spouse or partner of a deceased veteran is entitled, in accordance with this section, to a surviving spouse or partner pension at a rate specified in regulations made under section 265.
- (2) This section applies if—
  - (a) the veteran had undertaken qualifying operational service; or
  - (b) the veteran's death was a service-related death; or
  - (c) 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
  - (d) VANZ considers that, had the veteran not died, the veteran would have been eligible to receive a pension specified in paragraph (c) (to the extent of impairment specified) had he or she applied for it immediately before his or her death.
- (3) This section 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.
- (4) Despite subsection (3), this section applies if the circumstances described in that subsection occurred principally because of the health, imprisonment, or employment obligations of the veteran or the claimant.

#### **15 Section 81 amended (Entitlement to children's bursary)**

After section 81(1)(b), insert:

- (c) if the child resides overseas, study overseas that is equivalent to the study described in paragraph (a) or (b).

#### **16 New section 101A inserted (Entitlement to compensation ceases 28 days after veteran's death)**

After section 101, insert:



**101A Entitlement to compensation ceases 28 days after veteran's death**

When a veteran who is receiving weekly compensation dies, the entitlement to the compensation ceases at the end of the 28th day after the date on which the veteran dies.

**17 Section 107 amended (Treatment)**

- (1) After section 107(1), insert:
- (1A) In addition, VANZ is responsible for paying or contributing towards paying the cost of treatment in the form of counselling for—
- (a) the spouse or partner or any child or dependant of the veteran; or
  - (b) a person (other than the veteran's spouse, partner, child, or dependant) who provides non-professional support to the veteran.
- (1B) VANZ must pay or contribute under subsection (1A) if VANZ is satisfied that—
- (a) the veteran has an injury or illness that is service-related; and
  - (b) a need for counselling arises from that injury or illness.
- (2) In section 107(2)(a) and (c), delete "veteran's".

**18 Section 108 amended (Extent to which VANZ responsible for paying or contributing to cost of treatment)**

After section 108(2), insert:

- (3) In addition, in making a decision about a claim for payment or a contribution under section 107(1A), VANZ must also take into account whether the claimant has a need for counselling arising from the veteran's injury or illness.

**19 New section 108A inserted (Urgent treatment of mental injury or illness)**

After section 108, insert:

**108A Urgent treatment of mental injury or illness**

- (1) This section applies if—
- (a) an application has been made for payment or contribution towards payment of the costs of treatment of a veteran's injury or illness under this subpart; and
  - (b) the treatment is or includes treatment for mental injury or illness; and
  - (c) VANZ has not completed its consideration of the application; and
  - (d) VANZ is satisfied that a delay in the provision of treatment for the mental injury or illness until the application is decided may have an adverse effect on the veteran.

- (2) Despite not having completed its consideration of the application, VANZ may pay or contribute towards paying the cost of treatment for the mental injury or illness.
- (3) Before deciding what treatment it will pay for or contribute towards paying for, VANZ must take into account the matters specified in section 108(2) (and, when applicable, section 108(3)).

**20 Section 110 amended (Application for additional treatment)**

- (1) Replace section 110(1) with:
  - (1) This section applies if VANZ is paying or contributing towards paying the cost of treatment under this subpart.
  - (2) In section 110(2), replace “veteran” with “person receiving the treatment”.

**21 Section 118 amended (Assessment of needs and content of individual rehabilitation plan)**

After section 118(2)(a), insert:

- (aa) identify any support given to the veteran by the veteran’s spouse or partner, any child or dependant of the veteran, or any other person who provides non-professional support to the veteran, and the needs of any of those persons in relation to the support they give; and

**22 Section 139 amended (Purpose of programme)**

Repeal section 139(2).

**23 Section 143 amended (Surviving spouse or partner)**

Replace section 143(3) and (4) with:

- (3) Subsection (2) does not apply to a spouse or partner who is receiving services and support under section 143A.

**24 New section 143A inserted (Spouse or partner of veteran in long-term residential care)**

After section 143, insert:

**143A Spouse or partner of veteran in long-term residential care**

- (1) This section applies to the spouse or partner of a veteran who—
  - (a) is receiving or is entitled to services and support under the programme; and
  - (b) goes into long-term residential care.
- (2) The veteran’s spouse or partner is entitled to services and support under the programme, to the same extent as the veteran was entitled, for 12 months after the veteran goes into long-term residential care.

- (3) The veteran's spouse or partner continues to be entitled to services and support under subsection (2) if the veteran dies within 12 months after going into long-term residential care.

**25 Section 152 replaced (Application)**

Replace section 152 with:

**152 Application**

- (1) Section 153 applies in relation to the death of a veteran if—
  - (a) the veteran had undertaken qualifying operational service; or
  - (b) the veteran's death was a service-related death.
- (2) Section 154 applies to the death of other veterans (Scheme One only).

**26 Section 153 amended (Funeral expenses if death due to qualifying service)**

Replace the heading to section 153 with “**Funeral expenses: veterans with qualifying operational service or service-related death**”.

**27 Section 154 amended (Funeral expenses if death not due to qualifying service)**

- (1) Replace the heading to section 154 with “**Funeral expenses: other deceased veterans (Scheme One only)**”.
- (2) In section 154(1), replace “whose death is not attributable to qualifying service” with “to whom section 153 does not apply”.
- (3) Repeal section 154(2)(a)(ii) and (b)(ii).

**28 Section 170 amended (Annual adjustment of rates of veteran's pension)**

- (1) In section 170(1), replace “regulations made under section 265” with “a notice published by VANZ in accordance with this section”.
- (2) In section 170(7), replace “Any regulations made in accordance with subsection (1)” with “For the purposes of subsection (1), the notice”.
- (3) Replace section 170(7)(c) with:
  - (c) comes into force, or is to be treated as having come into force, on 1 April of the calendar year in which it is made, and applies to veterans' pensions on and after that date:
  - (d) must be published—
    - (i) on an Internet site maintained by or on behalf of VANZ; and
    - (ii) in any other manner that VANZ thinks appropriate to bring the adjustments to the attention of claimants and the general public.

**29 Section 173 amended (Entitlement to veteran's pension for spouses or partners of persons in long-term residential care in hospital or rest home)**

- (1) In the heading to section 173, delete “in hospital or rest home”.
- (2) In section 173(1)(a), delete “in a hospital or rest home”.

**30 Section 205 amended (VANZ may reconsider decision)**

- (1) In section 205(2), replace “Subsection (3)” with “This section”.
- (2) In section 205(3), before “VANZ may reconsider”, insert “Without limiting subsection (1),”.
- (3) After section 205(3)(c), insert:
  - (d) VANZ receives new information and, if that information had been received before the decision was made, it would have materially affected the decision.

**31 Section 265 amended (Regulations)**

Repeal section 265(1)(29).

**32 Schedule 1 amended**

In Schedule 1, after Part 4, insert:

**Part 5**  
**Provision relating to Veterans' Support Amendment Act 2020**

**22 Transitional ITOs as tertiary education organisations**

- (1) This Part applies during the transition period.
- (2) Despite the definition of tertiary education organisation in section 81(5), a transitional ITO must also be treated as a tertiary education organisation for the purposes of section 81(1)(b).
- (3) In this clause, **transitional ITO** and **transition period** have the same meanings as in clause 42 of Schedule 1 of the Education and Training Act 2020.

**33 Schedule 2 amended**

- (1) In Schedule 2, clause 7, repeal the definition of **home**.
- (2) In Schedule 2, replace clause 66(2)(a) with:
  - (a) a date determined by VANZ, at its discretion, having regard to the matters set out in subclause (2A); and
- (3) In Schedule 2, clause 66(2)(b), replace “on the date” with “the date”.
- (4) In Schedule 2, after clause 66(2), insert:
  - (2A) For the purposes of subclause (2)(a), VANZ must have regard to—

- (a) whether the surviving parent or carer of the veteran's child is employed; and
  - (b) whether the surviving parent or carer of the child has a new spouse or partner; and
  - (c) the number of the veteran's children; and
  - (d) where the child or children live, including the accessibility of organised child care; and
  - (e) other relevant circumstances of the family.
- (5) In Schedule 2, repeal clause 66(4) and (5).

### Legislative history

20 March 2020	Introduction (Bill 232–1)
27 May 2020	First reading and referral to Social Services and Community Committee
21 July 2020	Reported from Social Services and Community Committee (Bill 232–2)
30 July 2020	Second reading, committee of the whole House, third reading
6 August 2020	Royal assent

This Act is administered by Veterans' Affairs New Zealand.