

**Reprint
as at 7 December 2014**



**War Pensions Amendment Act
2009**

Public Act 2009 No 41
Date of assent 27 October 2009
Commencement see section 2

War Pensions Amendment Act 2009: repealed, on 7 December 2014, pursuant to section 276 of the Veterans' Support Act 2014 (2014 No 56).

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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.

9 Saving 7

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the War Pensions Amendment Act 2009.

2 Commencement

This Act comes into force on a date to be appointed by the Governor-General by Order in Council.

Section 2: War Pensions Amendment Act 2009 brought into force, on 5 January 2010, by the War Pensions Amendment Act 2009 Commencement Order 2009 (SR 2009/357).

3 Principal Act amended

This Act amends the War Pensions Act 1954.

4 Effect of absence from New Zealand on veteran's pension

Section 74E is amended by omitting “74M or section”.

5 First 26 weeks of certain temporary absences

Section 74F is amended by inserting “(other than a person who is receiving a veteran's pension overseas under section 74J)” after “a person”.

6 New sections 74J to 74JB substituted

Section 74J is repealed and the following sections are substituted:

“74J Payment overseas of veteran's pension

“(1) This subsection—

“(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 (Transitional Provisions) 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 was—

- “(i) intending to reside for a period longer than 26 weeks in a country (or any 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 74N(1)); or
 - “(ii) intending to travel for a period longer than 26 weeks, but not intending to reside in any country other than New Zealand.
- “(2) A person to whom subsection (1) applies is entitled to be paid a veteran’s pension at the appropriate rate specified in subsection (6)—
- “(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 any 2 or more countries) to which subsection (1) applies, but not intending to reside for a period longer than 52 weeks in a specified Pacific country (within the meaning of section 74N(1)), until he or she—
 - “(i) begins to reside in a country that is not a country to which subsection (1) applies; or
 - “(ii) begins to reside in New Zealand again; or
 - “(iii) begins to receive a veteran’s pension otherwise than under this section; and
 - “(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 subsection (1) applies; or
 - “(ii) returns to New Zealand.
- “(3) For the purposes only of subsection (2)(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.
- “(4) Except to the extent provided by paragraphs (a)(i) and (b)(i) of subsection (2), 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.
- “(5) Subsection (4) is for the avoidance of doubt.
- “(6) The rates referred to in subsection (2) are,—
- “(a) for a single person, a rate that is a proportion (calculated under section 74JA(1)) of the amount stated in clause 1(b) of Schedule 11:
 - “(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 74JA(1)) of the amount stated in clause 1(c) of that schedule.
- “(7) If section 74D applies to a person for whom an amount is specified by subsection (6), the calculation under section 74JA(1) of the proportion of it he or she is entitled to be paid must be made in respect of that amount after it has been abated under that section.
- “(8) This section is subject to section 74JB.

“74JA Calculation of amount of veteran’s pension payable overseas

- “(1) The proportion referred to in sections 74J(6) and (7) 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 by 540 the total calculated under paragraph (c).
- “(2) In the determination for the purposes of subsection (1) of 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 (by virtue of section 79(1)(a) of the Social Security Act 1964) deemed to have been resident in New Zealand; or
 - “(d) any period of absence from New Zealand while, as the spouse or partner of a person deemed by section 79(1)(a) of the Social Security Act 1964 to have been resident in New Zealand, the person was also (by virtue of section 79(1)(b) of the Social Security Act 1964) deemed to have been resident in New Zealand.
- “(3) Subsection (2) applies to a period of absence only if the Secretary is satisfied that during it the person concerned remained ordinarily resident in New Zealand.
- “(4) Subsection (2)(b) applies to a period of absence only if the Secretary is satisfied that the person concerned either was born in New Zealand or—

- “(a) in the case of a person to whom subsection (2)(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 (2)(b)(ii) applies, was ordinarily resident in New Zealand immediately before leaving New Zealand to accompany or join his or her spouse or partner.

“74JB Entitlement

A person is not entitled to be paid a veteran’s pension under section 74J unless he or she—

- “(a) has made an application for the payment of a veteran’s pension under that section stating either (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 receive a veteran’s pension on that day; or
 - “(ii) will become entitled to receive a veteran’s pension before he or she leaves New Zealand.”

7 Relationship with other benefit provisions

- (1) Section 74M(1) and (2) are repealed.
- (2) Section 74M(3) is amended by inserting “living alone payment,” after “receive any”.
- (3) Section 74M(4) is amended by omitting “80” and substituting “80BD”.
- (4) Section 74M(5) is amended by omitting “75” and substituting “69G to 69I, 70, 74(1)(a), 75, 76, 77, and 82(7)”.

8 Social Security Act 1964 consequentially amended

Section 70 of the Social Security Act 1964 is consequentially amended by inserting the following subsection after subsection (1A) (as inserted by section 9 of the New Zealand Superannuation and Retirement Income Amendment Act 2009):

“(1B) Subsection (1) does not apply to a veteran’s pension payable overseas under section 74J of the War Pensions Act 1954.”

9 Saving

- (1) This subsection applies to a person who, immediately before the commencement of section 6, was entitled to be paid a veteran’s pension under section 74J of the principal Act, between—
 - (a) that commencement; and
 - (b) the time he or she ceases to be entitled to be paid a veteran’s pension under that section.
 - (2) While subsection (1) applies to a person, he or she is entitled to be paid a veteran’s pension at the higher of the following rates:
 - (a) the rate at which he or she was entitled to be paid immediately before the commencement of section 6;
 - (b) the rate at which he or she became entitled to be paid on that commencement.
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Reprints notes

1 *General*

This is a reprint of the War Pensions Amendment Act 2009 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*

Veterans' Support Act 2014 (2014 No 56): section 276

War Pensions Amendment Act 2009 Commencement Order 2009 (SR 2009/357)
