

Regulatory Impact Statement

Amendment to Veterans' Support Regulations 2014: Revocation of 22 Statements of Principles, and Addition of 20 Replacement and Two New Statements of Principles

This Regulatory Impact Statement has been prepared by Veterans' Affairs.

It provides an analysis of the costs and benefits of:

- a. revoking 22 Statements of Principles;
- b. adopting 20 replacement Statements of Principles; and
- c. adopting two new Statements of Principles

under the Veterans' Support Regulations 2014 made under section 265 of the Veterans' Support Act 2014.

The analysis includes expert advice from the independent Veterans' Health Advisory Panel on the grounds for the revocations and adoption in New Zealand of these Statements of Principles. The Veterans' Health Advisory Panel is established under section 254 of the Veterans' Support Act.

The proposed replacement Statements of Principles were determined by the independent Australian Repatriation Medical Authority in the light of sound medical-scientific evidence that has become available in the intervening years since the previous versions of the Statements of Principles were established. The new Statements of Principles were determined based on medical-scientific evidence that the condition they cover can be linked to veterans' service.

Under Australian law all Statements of Principles are subject to review by the Australian Repatriation Medical Authority within a period of ten years, but are in practise reviewed every 7 years or less. Any Australian amendment to or revocation of an existing Statement of Principles, or addition of a new Statement of Principles, must be considered for adoption in New Zealand by the Minister of Veterans' Affairs on advice from Veterans' Affairs and by the independent Veterans' Health Advisory Panel as set out in section 23 of the Veterans' Support Act 2014.

Both Veterans' Affairs and the Veterans' Health Advisory Panel have recommended that the 20 replacement and two new Statements of Principles be adopted in New Zealand on the grounds that:

- a. the replacement and two new Statements of Principles concerned are based on sound medical-scientific evidence and New Zealand veterans should benefit from this;
- b. none of the Statements of Principles have been changed in a way that will make it significantly harder or easier to link the veteran's condition to service;
- c. the changes are unlikely to result in significantly higher numbers of successful or failed claims;
- d. the replacement and new Statements of Principles are suitable for use in New Zealand.

The amendment of the Veterans' Support Regulations 2014 to apply the proposed replacement and new Statements of Principles would not impair veterans' rights and benefits unnecessarily given the objective, and will not override fundamental common law principles.

Jacki Couchman
Head of Veterans' Affairs
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Veterans' Affairs' Regulatory Role

1. In accordance with sections 23 and 24 of the Veterans' Support Act 2014, Veterans' Affairs has direct responsibility for the regulatory functions relating to the revocation, amendment and introduction of new Statements of Principles in Schedule 1 of the Veterans' Support Regulations 2014.
2. The Veterans' Support Regulations came into force on 7 December 2014. From that date any illness, injury or death for which a claim is made for veterans' entitlements may be tested for attribution to the veteran's qualifying service against the Statements of Principles relevant to that condition. If the veteran's condition meets any of the determining factors listed in the Statement of Principles, the claim will be accepted. The purpose of the Statements of Principles was to provide a transparent and consistent approach to decision-making.
3. The Statements of Principles are determined by the independent Australian Repatriation Medical Authority and are reviewed at least every ten years, though most often earlier in practise. They are based on scientific, epidemiological and medical international research, human studies and other relevant factors.
4. New Zealand adopted the Australian Statements of Principles when the Veterans' Support Act 2014 and Veterans' Support Regulations 2014 came into force. Their adoption was based on Law Commission recommendations, New Zealand Defence Force review, and advice from the independent Veterans' Health Advisory Panel established under the Act.
5. For Veterans' Affairs to ensure that the assessment of the causation or aggravation of a veteran's injury, illness or death is based on up to date and relevant medical-scientific analysis, it needs to ensure that the Statements of Principles are, as in Australia, regularly reviewed.

Review of the Statements of Principles

6. The Australian Repatriation Medical Authority is of the view that there is sound medical-scientific evidence that indicates that the condition arachnoid cyst can be related to veterans' qualifying service and Australia has adopted two new Statements of Principles regarding the condition.
7. The Australian Repatriation Medical Authority has also reviewed 22 Statements of Principles regarding 11 conditions and has made significant amendments to them to reflect new medical-scientific evidence, to the extent that replacement Statements of Principles were required. The amendments included changes to many of the factors which causally connect the conditions to service and changes to the definitions of some of the conditions or of aspects of the factors. In the case of two Statements of Principles on the condition familial hypertrophic cardiomyopathy, Australia has revoked them and absorbed them into the replacement Statements of Principles on the condition of cardiomyopathy.
8. Veterans' Affairs and the Veterans' Health Advisory Panel have reviewed the replacement and new Australian Statements of Principles, as required under section 23 of the Veterans' Support Act 2014, and provided the following advice to the Minister of Veterans' Affairs which he has accepted:

- a. the replacement and two new Statements of Principles concerned are based on sound medical-scientific evidence and New Zealand veterans should benefit from this;
- b. none of the replacement Statements of Principles have been changed in a way that will make it significantly harder or easier to link the veteran's condition to service;
- c. the changes are unlikely to result in significantly higher numbers of successful or failed claims; and
- d. the replacement and two new Statements of Principles are suitable for use in New Zealand.

Problem Statement

9. There are no problems with amending and adopting the replacement and new Statements of Principles that have emerged in the cost/benefit analysis. Veterans' Affairs' cost/benefit analysis shows that adoption of the replacement and new Statements of Principles would benefit veterans in that they are based on up to date and sound medical-scientific advice. At the same time Veterans' Affairs would be providing a fairer assessment of veterans' claims to entitlements.

Objective

10. The objective of the proposal is to ensure that Veterans' Affairs' assessment of the causation and attribution of a veteran's injury, illness or death is based on relevant, sound medical-scientific analysis.

Options and Impact Analysis

11. Non-adoption and adoption of the replacement and new Australian Statement of Principles were considered. As noted in paragraph 9 above, application in New Zealand of the proposed changes was considered to benefit veterans in that they are based on up to date and sound medical-scientific advice. At the same time Veterans' Affairs would be providing a fairer assessment of veterans' claims to entitlements. Not applying the proposed changes was considered to be not feasible in light of these benefits.
12. Any changes to a Statement of Principles, either through amendment or revocation, will not impact on any entitlement or service that has previously been granted under the Veterans' Support Act 2014.

Impact of adoption of the new Statements of Principles

13. Ongoing administrative changes to individual Statements of Principles will not impact on the overall forecast for Vote Defence Force.
14. The Statements of Principles are one of a number of mechanisms under the Act for determining causal link of a medical condition to service, as agreed by Cabinet in 2012. They have been specifically developed for the most commonly claimed conditions that may be service-related. Each Statement of Principles contains a list of different factors with clearly defined parameters (e.g. duration of exposure, type and duration of activity, related medical conditions) which, based on scientific-medical evidence, link the condition to a veteran's service. A veteran only needs to meet one of the factors to establish a connection to service.
15. The Statements of Principles provide a framework and clear parameters for streamlined, transparent, consistent, fair and equitable decision-making based on sound scientific-medical evidence for linking medical conditions to service. The Vote Defence Force BoRE is not forecast on any of the more than 600 current individual Statements of Principles and their over 300 related medical conditions. Rather, the forecast is predicated for example on wider changes in the average rate of entitlements over time and on wider significant medical groupings such as hearing-related cost changes over time.

Consultation

16. The Treasury and the Ministry of Social Development have been consulted on the replacement, new and revoked Statements of Principles.

Conclusions and Recommendations

17. The revocation and replacement of the 22 Statement of Principles with 20 Statements of Principles and introduction of two new Statements of Principles regarding arachnoid cyst will provide benefits to both veterans and to Veterans' Affairs in the assessment of veterans' claims for entitlements due to their sound medical-scientific basis and relevance.
18. It is recommended that the revocation of 22 Statements of Principles and adoption of their 20 replacements and the introduction of two new Statements of Principles be adopted as proposed.

Implementation

19. The revised Veterans' Support Regulations 2014 will be implemented through Veterans' Affairs' existing entitlement claims assessment system, and will involve no new processes or increases in compliance costs for claimants under the Veterans Support Act 2014 or for veterans claiming entitlements.

20. Affected parties will receive notification of the changes, which are proposed to come into effect when the Regulation have been amended and Gazetted. Veterans' Affairs will keep stakeholders informed of the changes through its website and publications and regular communications with veterans and their representative associations.

Monitoring and review

21. Veterans' Affairs will continue to monitor and review the Australian Statements of Principles as required under the Veterans' Support Act 2014 to ensure that the Statements of Principles adopted under New Zealand's Veterans' Support Regulations 2014 are kept up to date and are relevant to New Zealand veterans. The Veterans' Support Act 2014 is to be reviewed two years after its implementation in December 2014 and this review will include reporting on the operation of the Statements of Principles.