

REGULATORY IMPACT STATEMENT – REGULATIONS TO SUPPORT THE VETERANS' SUPPORT ACT

Agency Disclosure Statement

This Regulatory Impact Statement (RIS) has been prepared by the New Zealand Defence Force (NZDF). It provides a regulatory impact analysis of the regulations to support commencement of the Veterans' Support Act (the Act). The RIS does not address regulations for Scheme Two and for the Veterans' Independence Programme. As those parts of the Act do not come into force until one year later, the regulations required to support them will be considered at a later date.

Cabinet and Ministers have previously made decisions about the Act, including how some matters are to be addressed in regulations under the Act (e.g., initial amounts and criteria for a number of entitlements). The Act itself contains further constraints (e.g., initial amounts for the Veteran's Pension and criteria for many entitlements). These decisions influence the range of practical options for the regulations. The options for regulations have undergone cost-benefit analysis. Options have also been assessed for consistency with:

- a. the purpose and principles of the Act (i.e., providing veterans, their spouses and partners, their children, and their dependants with fair entitlements; promoting equal treatment of equal claims; taking a benevolent approach to claims); and
- b. the objectives of the regulations (e.g., achieving clarity and certainty through reduction of discretion; maximising flexibility in administration of entitlements).



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Overview and Background

1. The Veterans' Support Act (the Act) will establish a new support scheme for veterans of military service to replace the War Pensions Act 1954. The intent of the new Act is to modernise the administrative structure and maintain entitlements for veterans at the current levels.
2. Under the new Act, there will be two new veterans' entitlement schemes that will be administered by a common administrative and decision making structure. Scheme One will cover veterans with qualifying service prior to 1 April 1974, and mirrors many of the provisions of the 1954 Act. It continues the practice of paying a periodic pension to veterans with a service-related impairment and also provides compensation to spouses, children, and dependants of eligible veterans. Scheme Two will cover veterans with qualifying operational service after the introduction of universal accident compensation on 1 April 1974. This scheme will have a greater emphasis on rehabilitation and will be aligned with the entitlements available under the accident compensation legislation. There will also be some common entitlements for all veterans, including a Veterans' Independence Programme.
3. The majority of the Act, including Scheme One, the Veteran's Pension for Scheme One and Scheme Two veterans, and some of the common entitlements, will commence four months post-Royal assent; the remainder of the Act, including Scheme Two and the Veteran's Independence Programme (VIP) will commence one year after the commencement of Scheme One. Regulations for Scheme Two and the VIP will be developed at a later date and are not discussed in this RIS.
4. The Act provides for regulations to prescribe a number of important matters for the operation of the Act, particularly decision-making instruments. The Act could not operate without some of these matters prescribed by regulations, and others are highly desirable. Not regulating is not a viable option in those cases. Other matters (e.g., rehabilitation) do not require regulations at this stage.
5. The regulatory impact analysis requirements do not apply to regulations for the veteran's treatment card, or procedures for the Veterans' Entitlement Appeal Board, Veterans' Advisory Board and Veterans' Health Advisory Panel. These matters are primarily procedural and have no or only minor impacts on businesses, individuals or not-for-profit entities.

Status quo and problem definition

6. The Act proposes a new support scheme for veterans of military service to replace the War Pensions Act 1954 (1954 Act) and the War Pensions Regulations 1956 (1956 Regulations). The Government introduced the Act following a Law Commission review of the current legislation in 2010, which found the current legislation is outdated, unwieldy and no longer fits the needs of the veterans it was intended to serve. The Act will commence in December 2014.

7. As part of the policy decisions for the Act, Cabinet made a number of decisions about the extent of, and criteria for, certain entitlements to be provided under the Act, including:

- a. motor vehicle assistance should be similar to that available under the 1956 Regulations (SOC Min (12) 21/6E para 18, confirmed by CAB Min (12) 35/6 refers);
- b. the funeral grant entitlement should continue to be paid in its present form and the same amount as in the 1954 Act (SOC Min (12) 21/6E para 21, confirmed by CAB Min (12) 35/6 refers);
- c. the retirement lump sum payment initially be set at \$33,000 before tax (SOC Min (12) 21/6G, para 18 and CAB Min (12) 35/6C para 26 refers);
- d. the Children's Pension would be the combination of the Parent's Allowance and Child's Pension payable under the 1954 Act (CAB Min (12) 35/6C para 38 refers);
- e. the war bursaries under the 1954 Act would be retained at their current rates of payment (CAB Min (12) 35/6C para 40 refers); and
- f. indexation adjustments for the disablement pension and the retirement lump sum amount are to be in line with changes in the New Zealand Consumer Price Index (CPI) excluding the cigarettes and tobacco products subgroup, and indexation of the asset threshold for the retirement lump sum is to align with changes in all groups CPI (CAB Min (12) 35/6C, paras 13, 26 & 27 refer).

8. Even where Cabinet did not make specific decisions about entitlements, it did agree a total funding package for the Act based on maintaining Act entitlements comparable to those in the 1954 Act at current levels.

9. The Act itself contains further constraints (e.g., initial amounts for the Veteran's Pension and criteria for the majority of entitlements).

10. The Act provides a range of regulation-making powers to support the Act. Table 1 identifies what regulations may be made under the Act. The Act provides for some issues that can be set either administratively or by regulation. However, other aspects can only be set by regulation. Some matters, for which regulations are contemplated by the Act, may not need to be addressed at this stage.

Table 1: Regulation-making powers under the Act

Area of regulation	Description
1. Review and Appeal matters	<ul style="list-style-type: none"> • Procedure for reviews by Review Officer and Veterans' Service Review Panel • Procedure of the Veterans' Entitlement Appeal Board • Reimbursement of expenses to appellant, witnesses and other participants
2. Advisory bodies	<ul style="list-style-type: none"> • Procedures of the Veterans' Advisory Board • Procedures of the Veterans' Health Advisory Panel

Area of regulation	Description
3. Decision making instruments	<ul style="list-style-type: none"> • Australian statements of principle (SOP's) adopted under Act • Conclusively Presumed Conditions (conditions that must be treated as service related if veteran exposed to specific events during service or served at specified times or in specified deployments) • Paired Organs (for which organs loss of use of one paired organ presumed to affect other organ of the pair)
4. Financial entitlements and related matters	<ul style="list-style-type: none"> • Disablement Pension (amount based on assessed degree of impairment) • Surviving Spouse or Partner Pension amount • Children's Pension amount • Dependant's Pension (amount; income and asset test) • Children's Bursary amounts • Veteran's Pensions amounts • Veteran's Pension payments on death • Retirement lump sum (amount; asset thresholds and assessment criteria) • Motor vehicle assistance (define severe and total lower body mobility; amounts; criteria; frequency) • Funeral expenses (maximum rate for funeral grant; maximum rates for transportation of veteran who dies in hospital) • Burial plaques and headstones cost (circumstances and amount) • Indexation (formula for movements in Consumers Price index date on which adjustments will be made) • Provision of financial advice for certain lump sum entitlements • Assessing whole-person impairment
5. Treatment and related matters	<ul style="list-style-type: none"> • Costs associated with treatment • Travel costs associated with treatment • Aids and appliances • Hearing aid battery allowance • Payment for services provided by assessors • Definition of treatment provider • Veterans' treatment card
6. Rehabilitation	<ul style="list-style-type: none"> • Payment amounts for rehabilitation entitlements and ancillary services
7. Miscellaneous matters	<ul style="list-style-type: none"> • Determining who other than the claimant may be authorised to be paid entitlements (on claimant's behalf)

11. The regulatory impact analysis requirements do not apply to the following areas of regulations, which are purely procedural and have no or only minor impacts on businesses, individuals or not-for-profit entities:

- a. veterans' treatment cards to advise treatment providers what conditions are accepted by Veterans' Affairs New Zealand (VANZ) for the cost of treatment;

- b. procedures for reviews by Review Officers and Veterans' Service Review Panel and procedure of the Veterans' Entitlement Appeal Board; and
- c. procedures of the advisory bodies.

12. This regulatory impact statement assesses whether prescribing regulations is required for each of the remaining matters and, if so, what the regulations should prescribe.

Objectives

13. Some of the regulation-making powers must be used in order for the Act to operate. Other regulation-making powers may not be necessary for the Act's operations, but they may enhance it. In these circumstances, it is important to consider the objectives of regulating.

14. Some regulations will have specific objectives, which will be noted in the discussion of those regulations. However, the following objectives are common to all of the regulations:

- a. **Clarity, certainty and transparency** – regulation clearly sets out the scope of, and criteria for, entitlements and allows for easier administration of claims and services;
- b. **Balance and proportionality** – regulation and compliance costs should be proportionate to the risk; the regulations should find the right balance between certainty and flexibility; and
- c. **Effectiveness** – the regulations should be implementable and effective.

Options and impact analysis

15. The Act requires use of secondary legislation as an implementation tool for administering the decision-making instruments (e.g., presumptive conditions) and some entitlements (e.g., rates of pensions and bursaries) established by the primary legislation.

16. While the Act in some instances requires regulations (e.g., the rates for the disablement pension, surviving spouse or partner pension, children's pension, children's bursary, dependant's pension and veteran's pension), in other instances the Act merely allows for regulations, which allows for consideration of non-regulatory options (e.g., payment for assessors' services; costs of treatment and rehabilitation).

17. The populations most impacted by the regulations are:

- a. veterans and their spouses/partners, children and other dependants; and
- b. providers of services to veterans and other claimants on behalf of VANZ.

18. Whether prescribing regulations is necessary, desirable or not required for the time being differs for each of the regulation-making powers.

19. Similarly, the extent to which the identified populations are impacted by regulatory choices also differs for each regulation-making power.

Review and appeal matters – appeal costs

20. The Act provides the ability to prescribe the costs and travelling expenses for appellants, witnesses and other participants in an appeal. VANZ currently manages these costs through operational policy and has not identified a need to regulate limits on these entitlements. The Appeal Board will be able to determine reasonable expenses appropriate to the particular circumstances of each case. Therefore, regulations are not necessary.

Decision-making instruments

21. The Act provides for decision-making instruments to assist in determining whether a veteran's condition, illness, injury or death is related to their service. Some decision-making tools, such as lists of conclusively presumed conditions, are used under the 1954 Act, and this will continue. Others, such as the paired organs list and the adoption of Australian Statements of Principles (SoPs), are new. These decision-making instruments are integral to the operation of the Act as intended by Parliament, in order to reduce discretion and provide greater consistency of decisions and transparency in the decision-making process. These regulations are therefore necessary.

22. It is proposed that regulations continue the current conclusively presumed conditions, and adopt all the Australian SoPs as at the commencement of the Act. It is also proposed that the following be specified as paired organs: adrenal glands, breasts, ears, eyes, kidneys, lungs, ovaries and testicles.

23. The Act requires the Minister for Veterans' Affairs to consult with the Veterans' Health Advisory Panel (Advisory Panel) before recommending that regulations be made for decision-making instruments. As the Act provides for establishment of the Advisory Panel immediately following enactment, in principle decisions on these regulations will be sought from Cabinet, subject to completing the required consultation with the Panel. Cabinet will be asked to delegate to the Minister of Veterans' Affairs and the Minister of Defence the power to agree jointly on any changes to the decision-making instruments resulting from consultation with the Advisory Panel.

Financial entitlements and related matters

24. Financial entitlements concern various monetary entitlements, including pensions and lump sums. The majority of the financial entitlements require the amounts to be set in regulation; for the dependant's pensions and retirement lump sum, an asset test for these entitlements must also be prescribed. Regulations for these matters are therefore necessary.

Entitlements

25. As indicated above, Cabinet has previously made decisions as to the initial amounts of some of these entitlements (e.g., retirement lump sum; funeral grants). Even where Cabinet did not decide specific rates, it agreed a total funding package

for the Act based on maintaining Act entitlements comparable to those in the 1954 Act at current levels. And the Act sets the initial rates for the Veteran's Pension, which is to be paid at the same rates as New Zealand superannuation.

26. Entitlement amounts to be regulated are:

- a. **disablement pension** – This pension for veterans who have suffered disablement from a service-related injury or illness replaces the comparable War Disablement Pension (WDP) under the 1954 Act. The rates for this pension were increased by 5% on 1 April 2013. The Act requires regulations to set different rates of pension depending on the extent of impairment.

The 1954 Act WDP is paid for impairment from 5% upward, with different rates set at 5% increments. Multiple impairments determined using the AMA Guides are combined under the WDP by simply adding them together, which can result in impairment ratings of over 100%. In cases of severe impairment only, a WDP can be paid above the 100% impairment rate, up to a maximum amount. Within the WDP scale there are three key thresholds:

- (1) 70% is the threshold for additional entitlements linked to the veteran's pension (lump sum payments on death and the veteran's pension for a spouse), the surviving spouse pension, the children's pension and the dependant's pension;
- (2) 100% is the threshold for the 1954 Act recreational travel concession and allowance for an attendant to assist the veteran; and
- (3) 160% impairment receives the maximum rate payable.

Cabinet agreed to replace the cumulative disability payment scale with a scale based on assessment of the percentage of whole-person impairment (refer SOC Min (12) 21/6C confirmed by CAB Min (12) 35/6). For veterans with only one impairment, the two methods result in the same impairment rating; however, for veterans with several impairments, the combined impairment rating under the AMA Guides will be less than the cumulative approach under the 1954 Act. Therefore, any impairment rating under the AMA Guides cannot be considered exactly equivalent to a specific WDP rating in all circumstances.

The Act includes a disablement pension impairment rating of 52%, to provide eligibility for the same entitlements as the first key WDP threshold of 70%. The 52% impairment level was considered to be the impairment level most closely aligned to the existing WDP level. For the other two key WDP thresholds, it is proposed that the equivalent disablement pension impairment levels should be 75% and 85%, respectively. Of the options considered, these key impairment threshold levels provide an appropriate level of equivalence with existing WDP levels, while being fiscally responsible. The maximum rate (85%) is broadly equivalent to the maximum impairment level for ACC lump sums for permanent impairment (80%).

It is proposed that the disablement pension payment rates based on the extent of impairment should be as follows:

Impairment rating (%)	Weekly payment rate (\$)
5-7	10.85
8-12	21.70
13-17	32.54
18-22	43.39
23-25	54.24
26-30	65.09
31-32	75.93
33-37	86.78
38-41	97.63
42-47	108.48
48-49	119.32
50	130.17
51	141.02
52-54	151.87
55-57	162.71
58-61	173.56
62-66	184.41
67	195.26
68-74	206.10
75	216.95
76	227.80
77	238.65
78	249.49
79	260.34
80	271.19
81	292.88
82	314.58
83	336.27
84	357.97
85-100	381.83

No veterans in receipt of a WDP will be disadvantaged, as the Act protects their existing rates of payment. 32% of veterans will receive a higher rate of payment than would have been paid under the 1954 Act. This will include a small number of veterans who will meet the new key threshold of 75%, despite not meeting the equivalent 100% WDP threshold. 16% of veterans will receive a lower rate of payment than would have been available. The remaining 52% of veterans will have no change.

The proposed scale results from a more accurate assessment of the implications of the disablement pension than the advice to Cabinet in

2012, but has costs not included in the funding previously approved. These costs are shown in the following table:

		FY 2014/15 (\$M)	FY 2015/16 (\$M)	FY 2016/17 (\$M)	FY 2017/18 (\$M)	FY 2018/19 (\$M)
Current WDP recipients	Incremental pension cost	0.059	0.636	0.444	0.104	(0.278)
	Additional allowances	0.004	0.013	0.020	0.027	0.033
Applicants without prior WDP entitlement	Incremental pension cost	0	0	0	0	0
	Additional allowances	0.005	0.020	0.034	0.048	0.062
Total incremental cost		0.068	0.669	0.498	0.179	(0.183)
Notes:						
1. Costs for WDP recipients moving to a disablement pension are based on an anticipated 1,200 reviews that result in overall higher expenditure under the disablement pension.						
2. Costs for applicants without prior WDP entitlement are based on an anticipated 250 successful applicants per year.						

The anticipated impact from calibrating the present scale to the proposed scale is approximately \$1.231 million additional spending over the next five years. This represents about 0.3% of the total expected spending on War Disablement Pensions over the next four years.

The Budget 2014 estimates assumed a start date of 1 July 2014 for Scheme One and 1 July 2015 for Scheme Two. With a deferral to December 2014 and December 2015, costs are expected to reduce in the first year of implementation by about \$1.5 million for Scheme One and by nearly \$3.0 million for Scheme Two. This total of \$4.5 million forecast savings will be reforecast at the Half Yearly Economic Forecast Update 2014 and accommodate the additional cost of \$1.231 million. Therefore can be met within present baselines without any impact on operating balances.

- b. **surviving spouse or partner pension** – This pension replaces a comparable existing pension under the 1954 Act. Therefore, the rate for this pension is proposed to be the rate of the current 1954 Act pension, \$160.04 a week for a spouse or partner who is not caring for a dependent child of the veteran. The other two rates payable under the 1954 Act for a surviving spouse or partner represent a parent allowance – one rate for the first child and a second rate for any subsequent child. Under the Act, the rate of the parent allowance for the first child is to be combined with the child pension rate paid under the 1954 Act to form the rate paid for the new children's pension (CAB Min (12) 35/6C para 38 refers). The second rate of parent allowance for subsequent children has not been retained under the Act. The rates for this pension were increased by 5% on 1 April 2013.

- c. **children's pension** – Consistent with Cabinet's decision that the children's pension would combine the parent's allowance and the child pension, it is proposed that the rate for the children's pension should be based on a combination of the first child rate of the parent allowance (currently \$161.84 a week) and the rate of the child pension paid in other cases (currently \$9.54 a week) paid under the 1954 Act. This will result in a single rate of \$171.38 per week for the children's pension.
- d. **dependant's pension** – The Act requires that the maximum rate for the dependant's pension must not exceed the rate for the surviving spouse or partner pension. The dependant's pension is continued from the 1954 Act, where its maximum rate is the same as that for surviving spouses or partners. Given the benevolent nature of the Act, reducing this pension is not a viable option. Therefore, it is proposed that the dependant's pension continue to have a maximum rate of \$160.04 per week.
- e. **children's bursary** – This entitlement replaces the war bursary under the 1954 Act. It provides annual payments for study at secondary school or tertiary institution for certain eligible children of veterans. The current bursary includes standard rates, and higher rates for orphans, children who are not under the control of their surviving parent, and children of recipients of the veteran's pension, as set out below:

Schedule 6 of the 1956 Regulations (at 12 March 2014)

Categories	Full-time students of institutions as defined in section 159(1) of the Education Act 1989	Part-time students of such institutions	Secondary school students
(1) Rates for <ul style="list-style-type: none"> a child pension paid under section 40 of the War Pensions Act 1954 the children of veteran's in receipt of a veteran's pension 	\$1074.78	\$226.41	\$905.75
(2) Rates in other cases	\$537.36	\$226.41	\$452.84

While Cabinet agreed that the war bursaries under the 1954 Act would be retained at their current rates of payment, there is an inconsistency with the current rates. There is no higher rate for part-time tertiary study, although there is for full-time tertiary and secondary school study. Therefore, it is proposed that the existing rates are retained, but that a higher part-time tertiary rate is introduced (in addition to the standard rate) set at \$452.82 a year, which is double the standard rate. This maintains the same relativity between the standard and higher rates across all the types of bursaries. The rates of the children's bursaries should be set in regulations as follows:

Category	Full-time tertiary students	Part-time tertiary students	Full-time Year 9 to 13 students
(a) Rates for: <ul style="list-style-type: none"> a child pension paid under section 40 of the 1954 Act the children of veteran's in receipt of a veteran's pension 	\$1074.78	\$452.82	\$905.75
(b) Rates for : <ul style="list-style-type: none"> recipients of the children's pension children of the recipients of weekly income compensation (scheme one) 	\$537.36	\$226.41	\$452.84

<ul style="list-style-type: none"> children entitled to "rates in other cases" under Schedule 6 of the War Pensions Regulations 1956 			
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- f. **veteran's pension lump sum payments on death** – These payments are carried over from the 1954 Act. They are currently paid at a rate of \$5,791.47 for the death of a veteran; \$4,416.16 for the death of a veteran's spouse or partner; and \$14,602.73 for veterans who, before 1 April 1990, received a war veteran's allowance under the 1954 Act. It is proposed that these rates are continued.

27. Some entitlements may be regulated but are not required to be. In particular:

- a. **motor vehicle assistance** – Regulations are desirable to set out the scope of, and criteria for, this entitlement consistent with Cabinet's decision that motor vehicle assistance should be similar to that available under the 1956 Regulations (SOC Min (12) 21/6E para 18, confirmed by CAB Min (12) 35/6 refers). The current eligibility criteria do not directly or easily correspond to the Act. Currently, motor vehicle assistance is linked to receipt of a disablement pension and a specific percentage of disablement for severe lower body mobility. Under the Act, eligibility for motor vehicle assistance is not linked to receipt of a disablement pension, but to severe or total lower body mobility impairment. Also, disablement will be assessed using a new, whole-person impairment scale. While this scale is more robust and fair across different types of impairment, it cannot be used effectively to assess eligibility for motor vehicle assistance on the same basis as currently.

Therefore, it is proposed that total lower body impairment is defined as paraplegia, amputation of both legs, or total or near total and permanent loss of function to the lower extremity affecting mobility. And it is proposed that severe lower body impairment is defined as amputation of a lower limb or severe and permanent loss of function to the lower extremity affecting mobility. These definitions will provide eligibility for motor vehicle assistance in as close a manner as possible to the current entitlement. The rates and availability of assistance will be set as currently; that is, \$18,580.73 for total lower body impairment, available on a five yearly basis depending on continued need for assistance; and \$8,361.87 for severe lower body impairment, provided on a one-off basis. Currently, a veteran who is awarded a motor vehicle grant may be eligible for a fitting grant when an assessment determines that the veteran is unable to drive the vehicle without having special driving controls fitted. It is proposed to continue providing a fitting grant, set at a maximum amount of \$3,000, which reflects actual costs paid by VANZ over the last five years.

- b. **maximum rates for transportation of veteran who dies in hospital** – The Act provides for two maximum rates, dependent on whether the veteran is to be buried or cremated in the same locality where they die, with a higher rate payable for a greater distance. However, in both cases, VANZ is responsible for paying only the reasonable cost in the individual circumstances. Veterans' families have not claimed additional costs for the transportation of a body in recent years, so there is currently no

operational policy about maximum amounts payable. Therefore, regulations for this assistance are desirable to provide clarity and minimise the potential risk of these costs. It is proposed that the maximum rates for transportation of a body are set at \$650 within the same locality and \$1,300 for a greater distance. These amounts are appropriate as they are less than the maximum funeral grant but still provide a significant contribution.

- c. **burial plaques and headstones** – This entitlement is currently handled operationally, and VANZ has not encountered any significant problems or complaints with this approach. Regulations for this entitlement are not required nor desirable at this time.

Dependant's Pension asset test

28. The Act requires that regulations provide for VANZ to take into account a dependant's economic position. The regulations must include the criteria to be taken into account, including property and income, and may include different rates for different types of economic circumstances. It is proposed that the pension is reduced, dollar for dollar, for all annual income above 50% of the pension rate. This is the income test used for the orphans' benefit and unsupported child's benefit under the Social Security Act 1964. Income will include income received by a spouse or partner and benefits paid under the Social Security Act 1964. The assets of a dependant will be assessed to determine their income or potential income from assets, but there will be no additional assessment of assets only.

29. The Social Security Act 1964 and associated regulations recognise that some income and assets should be exempt from means assessments, and take account of people who deprive themselves of assets (e.g., by gifting assets to others). It is proposed that the assessment of a dependant's economic circumstances will address the same issues by drawing on provisions for Social Security Act 1964 benefits. This will ensure that dependants are treated fairly and in a manner consistent with existing government practice.

30. Exempt income will include a dependant's pension paid to a spouse or partner, and exempt assets will include a home the dependant lives in and a car for personal use. This acknowledges that a dependant cannot readily use the value of their home or vehicle as a source of income. Other exemptions will include household furniture, personal belongings such as clothing and jewellery, specific ex gratia payments, lump sum payments under the Veterans' Support Act, payments to victims of crime, and other exemptions drawn from provisions for Social Security Act 1964 benefits.

31. An assessment of whether a dependant has deprived themselves of income or assets will not consider any gifts or other deprivation before the death of the veteran, or before the veteran became entitled to a disablement pension or war disablement pension at the specified level of impairment. A dependant who made a gift before a veteran's death or impairment should not be disadvantaged because of an impact on their economic circumstances they could not anticipate.

32. This assessment of economic circumstances is fair and benevolent in relation to the purpose of the dependant's pension, which is to provide income support for

people who were financially dependent on a veteran. An alternative option would be to include a test of assets only, in addition to income. However, that option is not favoured. It would be unreasonably harsh and potentially counter-productive to require a veteran's dependant to dispose of assets and use them to meet weekly costs. It would also simply delay eligibility for the pension. The preferred option of an income test (including income from assets) will reduce or stop the dependant's pension for people who have high value non-exempt assets.

Retirement Lump Sum asset test

33. Eligibility for the retirement lump sum must be subject to an asset test. Cabinet agreed that the asset test would follow guidelines of \$150,000 for a couple, not including the value of a house or vehicle, or \$250,000, including the value of a house or vehicle, for a single veteran or couple [CAB Min (12) 35/6C and SOC Min (12) 21/6G refer]. These guidelines were based on the assessment used for the residential care subsidy under the Social Security Act 1964, but set at a slightly higher level to reflect the benevolence shown to veterans.

34. Following further consideration, it is proposed that the rates threshold agreed to by Cabinet is too low. These rates do not adequately follow the principle of benevolence that underpins this legislation. It is therefore proposed that the threshold for a couple be increased to \$300,000, not including the value of a house or vehicle, or \$500,000, including the value of a house or vehicle, for a single veteran or a couple. This proposed change to the threshold ensures it remains robust in light of contemporary and potential future increases in the cost of home ownership without causing disadvantage to veterans in future years.

35. The revised thresholds have a low risk of a minor additional fiscal impact. Indicative costing for the retirement lump sum up to 2017/18 was prepared on the basis that one veteran would not pass the asset test as previously decided by Cabinet, from 18 who may be eligible. This was based on an assumption that a small number of veterans would not pass the asset test. It is possible that this veteran may now fall within the proposed threshold. The fiscal impact of this proposal is difficult to forecast, because VANZ does not hold information on the assets held by veterans and assumptions based on the general population are also unreliable, given this small group of veterans.

36. It is proposed that additional details for asset test regulations will be drawn from the legislation for the residential care subsidy. These details include but are not limited to, the definition of an asset (as any asset capable of being realised), setting out exempt assets, consideration of deprivation of assets and assessing the value of land. Using these existing Ministry of Social Development approaches will ensure that veterans are treated fairly, and in a manner consistent with existing government practice, for all types of assets.

Indexation

37. A range of entitlements under the 1954 Act are increased annually through Orders-in-Council or amendment to regulations, based on movements in the New Zealand Consumers Price Index (CPI) excluding cigarettes and tobacco products.

38. The Act requires that many of the entitlements be adjusted annually based on a prescribed formula to reflect movements in relation to the CPI or any group or subgroup within the Index. Therefore, these regulations are necessary. There is one entitlement where indexation is proposed but not required – the hearing aid battery allowance. This is one area where there is the option not to regulate, but regulation is desirable, so that VANZ can continue its existing practice of making annual increases.

39. As indicated earlier, Cabinet has agreed that CPI indexation for certain Scheme One entitlements will exclude the cigarettes and tobacco subgroup, and that the retirement lump sum asset test will be adjusted against the all groups CPI (including the cigarettes and tobacco subgroup). For those Scheme One entitlements not covered by this previous Cabinet decision, it is proposed that they also be indexed using the CPI excluding the cigarettes and tobacco subgroup. This is consistent with Cabinet's previous decision and current practice under the 1954 Act. It is also proposed that, as currently, indexation occur on 1 April, cannot result in a decrease in entitlements and is not limited to a minimum change in the CPI.

40. This approach differs from ACC indexation, which uses the all groups CPI, occurs on 1 July each year, allows for the reduction of amounts, and requires a minimum CPI movement. As Scheme Two indexation is likely to align more closely with the ACC Scheme, there are likely to be differences between Scheme One and Scheme Two indexation. However, on balance, consistency of Scheme One indexation with the 1954 Act is preferred, as one of the principles underlying the Act is that no veteran is to be worse off under the Act than under the current Act.

Financial advice

41. The Act requires VANZ to provide or meet the cost of financial advice from an authorised financial adviser when a lump sum payment is equal to or greater than the prescribed amount for the following entitlements:

- a. a Scheme Two veteran who receives a lump sum payment for permanent impairment;
- b. a Scheme Two weekly compensation for surviving spouse or partner recipient who chooses to have the payment aggregated; or
- c. any other entitlement specified in regulations.

42. This assistance is intended to ensure that veterans and other claimants who receive significant lump sum payments have effective advice on the best way to invest this for their future and are enabled to make informed financial decisions.

43. There are several entitlements available in both Schemes that provide a lump sum payment. Consideration was given to extending access to recipients of other kinds of lump sum entitlements under the Act, including:

- a. Scheme One surviving spouse or partner pension recipients who enter a new relationship and choose to aggregate or 'lump sum' their remaining entitlement of two years' worth of pension;

- b. Scheme One veterans with a terminal, service-related illness who have the option to aggregate or 'lump sum' a year's worth of their disablement pension;
- c. Scheme Two Survivor's grants paid to dependants (surviving spouses or partners, children and other dependants); and
- d. common entitlement for veteran's retirement lump sums.

44. The cost of extending this entitlement to these groups would be approximately \$132,000 per annum for all of the additional entitlements. This estimate is based on a minimum lump sum threshold of \$10,000 so as to allow Scheme Two children who received the survivor's grant of \$10,000 to access the financial advice. At this stage, the fiscal impact of contributing to the cost of seeking financial advice for recipients of other kinds of lump sum entitlements – particularly at this relatively low threshold amount – is considered to outweigh the possible benefits of doing so. Therefore, regulations are not desirable to extend the entitlement for financial advice to any of these other groups due to the fiscal implications at this time. However, this issue can be considered again when regulations for Scheme Two are developed.

Assessment of whole-person impairment

45. The Act allows regulations to specify a tool for assessing whole-person impairment for the purpose of determining the appropriate rate of Scheme One disablement pension (and Scheme Two independence allowance and lump sums for permanent impairment). It is proposed that the assessment tool initially adopted is the fourth edition of the American Medical Association's Guides to the Evaluation of Permanent Impairment (AMA Guides).

46. The Act also requires regulations for the assessment of impairment for veterans who transfer from a war disablement pension under the 1954 Act to a disablement pension under the Act. It is proposed that the assessment tool for these veterans will be the same tool as used for assessing other veterans' impairment. This will ensure that all veterans are assessed in a consistent way.

47. This proposal will be simple to implement and will use established assessment practices. The fourth edition of the AMA Guides is already used by VANZ operationally.

48. Continuing to define impairment operationally is not a favoured option. Regulations for impairment assessment are required for those veterans who transfer from a 1954 Act war disablement pension. Regulations are not required under the Act for other veterans, but an operational approach would create a risk of inconsistency as well as being less transparent.

49. After the Veterans' Health Advisory Panel is established, it will be asked to consider whether a supplement to the AMA Guides is required. Options for a supplement include the existing ACC User Handbook to the AMA Guides, a veteran-specific supplement, or a combination of both these options. The referral to the Veterans' Health Advisory Panel will note any particular areas where VANZ has

identified that an additional supplement might be beneficial. VANZ has already identified that the assessment of hearing loss using the AMA Guides may have limitations, and that the assessment of mental and behavioural conditions merits further consideration. Referral to the Veterans' Health Advisory Panel will provide a clinically expert and independent process to consider the need for a supplement, and will ensure that any improvements can be introduced in time for the start of Scheme Two.

50. Veterans will not have the benefit of recommendations from the Veterans' Health Advisory Panel during the first year of the Bill, which may affect entitlements for some veterans. However, veterans who receive a war disablement pension under the 1954 Act and transfer to a disablement pension under the Act cannot receive a reduction in their existing pension payments. Veterans who receive a disablement pension also have the opportunity to be reassessed within two years if VANZ considers that their impairment has changed by 10% or more. Reassessments after two years do not require this 10% change. Therefore, any potential negative impacts on specific groups of veterans can be mitigated over time.

51. The alternative option would be to prescribe an additional supplement at this stage, but engaging the Veterans' Health Advisory Panel will provide the best process to determine the need for a supplement, and using existing assessment practices is the most appropriate option at this time.

Treatment and related matters

52. As under the 1954 Act, VANZ is responsible for paying or contributing towards paying the cost of treatment and associated costs (e.g., travel, aids and appliances) of a veteran's injury or illness if the injury or illness is service-related. However, VANZ is not responsible for paying or contributing to the cost of treatment and associated costs where the provision of that treatment is being funded or provided elsewhere.

Treatment costs

53. The Act contains a number of requirements and criteria regarding VANZ responsibility for payment of treatment and associated costs (e.g, prior approval; treatment must be necessary, appropriate and of the quality required to treat the particular condition). The Act also provides that regulations may stipulate limits on the cost of paying or contributing to treatment, ancillary services related to treatment, travel costs associated with treatment, the provision of aids and appliances, and payments to assessors for their services.

54. VANZ currently manages these costs through operational policy and has not identified a need to regulate limits on these entitlements. Therefore, regulations are not necessary.

Hearing aid battery allowance

55. The exception to this is regulations for the hearing aid battery allowance. In June 1997 the hearing aid battery allowance was introduced operationally under the 1954 Act and is administered by operational policy. Under the Act, regulations may provide for this entitlement. These regulations are highly desirable to ensure the

hearing aid battery allowance continues to be paid and to provide transparency and certainty about this entitlement. Providing for the hearing aid battery allowance in regulations, rather than operationally, will not have any adverse regulatory impact on veterans.

Definition of treatment provider

56. In addition, the Act provides for regulations to define treatment providers for the purposes of being paid for providing treatment to veterans. This is in addition to those already listed in the Act's definition of treatment provider, all of which are registered health professionals under the Health Practitioners Competence Assurance Act 2003.

57. Four provider types are included in the definition of treatment provider in the Accident Compensation Act 2001 (AC Act) – acupuncturist, audiologist, counsellor and speech therapist – that are not currently in the Act's definition. These provider types should be added to the Act's definition of treatment provider.

58. The definitions for acupuncturist, audiologist and speech therapist should be the same as those in the AC Act. These definitions include membership of designated professional bodies, and, in the case of acupuncturists, suitable qualifications. The definitions are brief, easy to implement, and consistent with existing ACC practice.

59. The definition of counsellor should be:

- a. a health professional registered under the Health Practitioners Competence Assurance Act 2003 with counselling in their scope of practice; or
- b. a provider recognised by ACC as a counsellor (in regulations, contracts or other funding arrangements).

60. This definition recognises the wide range of backgrounds and varying degrees of training, skills and experience in the counselling profession (eg, social workers, psychotherapists, psychologists and psychiatrists). It also gives assurance that counsellors providing services to veterans have appropriate training, skills, experience, professional standards and accountability.

61. Prescribing regulations for treatment providers who may provide services to veterans and who do not come under the Health Practitioners Competence Assurance Act 2003 may incur some additional compliance costs for those treatment providers. Adding these four treatment provider types with these definitions ensures comparability of requirements and entitlements with ACC and provides assurance of providers' professionalism and quality, with minimal compliance and administrative costs or risks (compared with, for example, VANZ-specific registration or contracting). These regulations are desirable.

Rehabilitation

62. The Act sets out in detail the way VANZ must make rehabilitation decisions. For example, it sets out the key types of social rehabilitation entitlements and the particular issues VANZ must consider for each type. Similar detailed requirements in

the Accident Compensation Act 2001 have operated with limited additional regulation. Regulations are not necessary at this stage.

Miscellaneous matters

63. The Act provides for regulations in relation to a miscellaneous matter, namely payment to persons other than claimant. The Act requires that generally entitlements are to be provided only to the veteran or other claimant, with some specific exceptions (e.g., to the claimant's estate). Regulations can be made providing for others who may be authorised to be paid entitlements on the claimant's behalf. VANZ has discussed with ACC their experience in administering similar legislative provisions without regulations. ACC's experience has been that regulations are not needed. Therefore, regulations are not necessary at this stage.

Preferred option

64. The preferred option is to prescribe through regulations only the following matters:

- a. decision-making instruments (applicable Australian Statements of Principles, conclusively presumed conditions and paired organs)
- b. financial entitlements and related matters, including
 - i. pensions, bursaries and lump sums;
 - ii. motor vehicle assistance;
 - iii. funeral grants;
 - iv. maximum rates for transportation of a veteran who dies in hospital;
 - v. dependant's pension income and asset test;
 - vi. retirement lump sum asset test;
 - vii. indexation of entitlements; and
 - viii. assessment of whole-person impairment
- c. treatment and related matters, including
 - i. hearing aid battery allowance; and
 - ii. definition of a treatment provider (acupuncturist, audiologist, counsellor, and speech therapist).

65. The prescribed amounts proposed for the financial entitlements are intended to comply with Cabinet's agreement to a total funding package for the Act based on maintaining Act entitlements comparable to those in the 1954 Act at current levels. The proposed asset tests will ensure that dependants and veterans are treated fairly, benevolently and in a manner consistent with existing government practice.

66. Other matters will not be regulated at this time. In particular, regulations are not desirable at this time to extend the entitlement for financial advice for recipients of lump sum entitlements other than those already specified in the Act, as the fiscal impact is considered to outweigh the possible benefits.

Consultation

67. The public were consulted on the proposed regulations from 12 March - 13 April 2014. The process included newspaper advertisements and letters to stakeholders such as the Royal New Zealand Returned and Services' Association (RSA), regional RSAs, health professionals' colleges, and individuals and groups who made submissions on the Act. A total of 39 submissions were received, of which eight were received from Departments. Key comments included:

- a. veteran's pension should be increased;
- b. disablement pension amount may be insulting to veterans;
- c. retirement lump sum should be increased; it should be available to any living veteran on disability pension who retired early and should be \$10,000 for each year of early retirement;
- d. retirement lump sum asset thresholds should be increased and the list of deemed assets should not be exhaustive;
- e. funeral grant should be increased; and
- f. indexation of entitlements should be at twice the rate of CPI.

68. Government departments have also been consulted on the proposed regulations, including in particular the Ministry of Social Development, ACC, the Treasury and Inland Revenue.

69. As discussed in paragraph 23, the Minister of Veterans' Affairs will consult with the Veteran's Health Advisory Panel before finalising the regulations for decision making instruments.

Conclusion and recommendations

70. The Act could not operate without certain regulations – there is no viable non-regulatory option. Other regulations are highly desirable to ensure the Act works as effectively as possible, and to provide certainty and transparency for veterans and other claimants, as well as for providers of treatment to veterans.

Implementation plan

71. The regulations will come into effect with the commencement of the Act, if enacted. The Act contains transitional provisions (e.g., relating to protection of existing 1954 Act entitlements at current levels).

72. The implementation of the regulations is linked to the implementation of the Act and the wider implementation plan that has been developed for the new legislation. The regulations provide the parameters within which VANZ must operate

its operational policy. Significant work has been done to develop the new internal policy and processes that will be required in order for the new entitlements to be administered effectively. Communication with veterans has also been identified as an integral part of the implementation plan to ensure that veterans will be fully informed of the changes arising from the introduction of the new legislation and regulations.

Monitoring, evaluation and review

73. At this stage a framework to monitor and evaluate the effectiveness of the regulations for Scheme One is in development, including appropriate performance indicators.

74. The process will involve a regular review including assessing the impact of known and unforeseen issues. The review process may involve the Veteran's Advisory Board.

75. An important aspect of operating the regulations will be to ensure that the operating policy and processes are compliant with both the overall Act and the regulations, and that they remain responsive to the changing needs of the veteran population. To achieve this it is intended that the regulations be reviewed on a regular basis. Monitoring is planned not just of the regulations, but also of the effectiveness of non-regulatory solutions, in those areas where regulation-making powers have not been used.