

HON MEKA WHAITIRI, MINISTER FOR VETERANS

Veterans' Support Amendment Regulations (No 6) 2021

January 2022

This publication provides papers associated with updates to the Statements of Principles proposed in line with changes made in Australia between July and November 2021.

The pack comprises the following documents:

- December 2021 Cabinet Legislation Committee Minute of Decision *Veterans' Support Amendment Regulations (No 6) 2021* [LEG-21-MIN-0223]; and
- The associated Cabinet Paper *Amendment to Veterans' Support Regulations 2014: Statements of Principles and Accepted Late-Onset Conditions* [LEG-21-SUB-0223].

This pack has been released on the New Zealand Defence Force website, available at: www.nzdf.mil.nz/nzdf/search-our-libraries/documents/?document-type=Official+information&sort=relevance.

No information has been withheld.



Cabinet Legislation Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Veterans' Support Amendment Regulations (No 6) 2021

Portfolio **Veterans**

On 16 December 2021, the Cabinet Legislation Committee:

- 1 **noted** that in accordance with section 23 of the Veterans' Support Act 2014, the Minister for Veterans has approved the revocation and replacement of 26 Statements of Principles relating to conditions that may be causally connected to a veteran's qualifying service.
- 2 **noted** that the Minister for Veterans has approved the addition of four accepted late-onset conditions in Schedule 2A of the Veterans' Support Regulations 2014 which were derived from Statements of Principles introduced since 2018 and which meet the requirements of accepted late-onset conditions in section 7 of the Veterans' Support Act 2014.
- 3 **noted** that in March 2016, Cabinet authorised the Minister for Veterans to revise the Statements of Principles that assess veterans' claims to entitlements, to provide a fairer assessment of entitlements using updated medical and scientific advice [SOC-16-MIN-0018];
- 4 **noted** that the Veterans' Support Amendment Regulations (No 6) 2021 give effect to the decisions referred to above.
- 5 **authorised** the submission to the Executive Council of the Veterans' Support Amendment Regulations (No 6) 2021 [PCO 24302/2.0];
- 6 **noted** that the Amendment Regulations come into force on 20 January 2022.

Rebecca Davies
Committee Secretary

Present:

Hon Chris Hipkins (Chair)
Hon Andrew Little
Hon Poto Williams
Hon Kris Faafoi
Hon Kiri Allan
Hon Meka Whaitiri
Kieran McAnulty MP

Officials present from:

Office of the Prime Minister
Officials Committee for LEG

AMENDMENT TO VETERANS' SUPPORT REGULATIONS 2014: STATEMENTS OF PRINCIPLES AND ACCEPTED LATE-ONSET CONDITIONS

Proposal

1. This paper seeks agreement to the amendment of Schedule 1 and Schedule 2A of the Veterans' Support Regulations 2014 (the Regulations).
2. Schedule 1 lists the Australian Statements of Principles that apply for the purposes of the Veterans' Support Act 2014 (the Act). Amendment is required to revoke 26 Statements of Principles, replacing them with 26 Statements of Principles.
3. Schedule 2A lists accepted-late onset conditions that apply for the Act. Of the conditions newly introduced into Schedule 1 since 2018, four are required to be added to the Schedule 2A list as they are deemed to meet the definition of accepted late-onset conditions in section 7 of the Veterans' Support Act 2014.

Background

4. In deciding claims for entitlements under the Veterans' Support Act 2014 (the Act), Veterans' Affairs must assess whether a veteran's medical condition is linked to qualifying service. Statements of Principles are one of the mechanisms under the Act for establishing this causal link. They have been specifically developed for the most commonly claimed conditions that are service-related.
5. The Statements of Principles are determined by the Australian Government Repatriation Medical Authority (RMA) and are regularly reviewed and amended. New Statements of Principles are introduced based on medical-scientific evidence linking the condition to service.
6. A Veterans' Affairs representative (a medical practitioner) attends the RMA meetings as an "attending expert". The representative provides input into the RMA's assessment of the medical-scientific evidence and on the proposed revisions to the Statements of Principles and introduction of any new Statements of Principles.
7. New Zealand adopted the Statements of Principles under Schedule 1 of the Regulations. In accordance with section 23 of the Act, I must decide if the Australian revocations and replacements and the new Statements of Principles should apply in New Zealand based upon advice from Veterans' Affairs and the independent Veterans' Health Advisory Panel.
8. Cabinet previously authorised [CAB-16-MIN-0131] that the Minister for Veterans will issue instructions to the Parliamentary Counsel Office to draft amendments to Schedule 1 of the Regulations to effect revisions to the Statements of Principles, without further reference to the then Cabinet Social Policy Committee, unless a significant issue relating to the Statements of Principles revisions arises.
9. Accepted late-onset conditions are another mechanism under the Act for establishing a link between a veteran's service and their illness or injury. This mechanism is applied only to veterans whose qualifying operational service took place after 1 April 1974 (Scheme Two). Its purpose was to ensure that families of veterans whose death was the result of a late-onset malignancy or other physical illness, or a mental disorder,

receive entitlements under the Act. It was deemed that if accepted late-onset conditions were not defined, the family of a veteran whose death was caused by an event that occurred during qualifying operational service 10 or more years prior to the onset of illness may not be covered as causality would be difficult to establish over this time period.

10. The original list of accepted late-onset conditions was based on identifying which conditions were covered by Statements of Principles and then, of those, which had one or more late-onset causative factors.
11. I must approve changes to accepted late-onset conditions as these are specified in regulations.

Proposed Regulatory Amendment to revise Statements of Principles and add four accepted late-onset conditions

12. In July, September, and November 2021, Australia repealed and replaced 26 Statements of Principles. I have decided, on the basis of advice from Veterans' Affairs and the Veterans' Health Advisory Panel, that the changes to the Statements of Principles are based upon sound medical-scientific evidence, that they can be linked to a veteran's qualifying service and that they are suitable for use in New Zealand. None of the replacement Statements of Principles will make it significantly harder or easier to link a veteran's condition to service or are likely to result in significantly higher numbers of successful or failed claims. The Statements of Principles in question are listed in Annex A.
13. Accepted late-onset conditions are derived from the Statements of Principles. The list of these conditions first came into force in December 2015. Since 2018 eight new Statements of Principles covering four conditions have been introduced which meet the requirements for accepted late-onset conditions set out in section 7 of the Veterans' Support Act 2014 and therefore need to be added to the list of accepted late-onset conditions at Schedule 2A of the Veterans' Support Regulations 2014. The four conditions are: *mesenteric panniculitis*, *pure red cell aplasia*, *transverse myelitis*, and *hypogonadism*. These additions will not make it significantly harder or easier to link a veteran's condition to service or result in significantly higher numbers of successful or failed claims.
14. Any changes to a Statement of Principles, through amendment, revocation (repeal) or new introduction, and the addition of accepted late-onset conditions will not impact on any entitlement or service that has previously been granted under the Act.

Timing and 28-day rule

15. It is intended that the Veterans' Support Amendment Regulations (No 6) 2021 will come into force on 20 January 2021, thus complying with the 28-day rule.

Compliance

16. The proposed amendment to the Regulations to replace Schedules 1 and 2A complies with each of the following:
 - 16.1. the principles of the Treaty of Waitangi;
 - 16.2. the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;

- 16.3. the principles and guidelines set out in the Privacy Act 2020;
- 16.4. the relevant international standards and obligations; and
- 16.5. the Legislation Design and Advisory Committee Guidelines (2021) which are maintained by the Legislation Design and Advisory Committee.

17. In accordance with section 23 of the Act, before reaching my decision that the 26 Statements of Principles should be revoked and replaced and applied in New Zealand, I received reports from Veterans' Affairs and independent advice from the Veterans' Health Advisory Panel. Both recommended the adoption of the proposed changes.

Regulations Review Committee

18. There are no grounds for the Regulations Review Committee to draw this regulation amendment to the attention of the House under Standing Order 327.

Certification by Parliamentary Counsel

19. The draft Amendment Regulations have been certified by the Parliamentary Counsel Office as being in order for submission to Cabinet.

Financial Implications

20. The impact of the new accepted late-onset conditions *mesenteric panniculitis, pure red cell aplasia, transverse myelitis, and hypogonadism* is not expected to affect the overall Crown liability relating to veteran entitlements.

Impact Analysis

21. The Regulatory Impact Analysis Team at the Treasury has determined that the regulatory proposals in this paper are exempt from the requirement to provide a Regulatory Impact Statement on the basis that they have no, or minor, impacts on businesses, individuals or not-for-profit entities.

Publicity

22. Veterans' Affairs will publish the changes on its website.

Proactive Release

23. I intend to release this paper in full.

Consultation

24. The Treasury and the Ministry of Social Development were consulted in the course of developing the policy and the amended Schedules 1 and 2A of the Regulations.

Recommendations

25. I recommend that the Cabinet Legislation Committee:

- 1. **Note** that in accordance with section 23 of the Veterans' Support Act 2014 I have approved the revocation and replacement of 26 Statements of Principles relating to conditions that may be causally connected to a veteran's qualifying service.
- 2. **Note** that I have approved the addition of four accepted late-onset conditions in Schedule 2A of the Veterans' Support Regulations 2014 which were derived from Statements of Principles introduced since 2018 and which meet the requirements of accepted late-onset conditions in section 7 of the Veterans' Support Act 2014.

3. **Note** that Cabinet authorised [CAB-16-MIN-0131] the Minister for Veterans to instruct the Parliamentary Counsel Office to amend Schedule 1 of the Veterans' Support Regulations 2014 to effect revisions to the Statements of Principles without further reference to the then Cabinet Social Policy Committee.
4. **Note** that the amendment of the Veterans' Support Regulations 2014 gives effect to the decisions referred to in recommendations 1 and 2 above.
5. **Agree** that the amended Regulations will come into force on 20 January 2021, thus complying with the 28-day rule.
6. **Authorise** the submission to the Executive Council of the Veterans' Support Amendment Regulations (No 6) 2021.

Authorised for lodgement

Hon Meka Whaitiri
Minister for Veterans

Date:

Annex:

- A. List of Statements of Principles for Possible Application in New Zealand by amendment of Schedule 1 of the Veterans' Support Regulations 2014

**LIST OF STATEMENTS OF PRINCIPLES FOR POSSIBLE APPLICATION IN NEW ZEALAND BY
AMENDMENT OF SCHEDULE 1 OF THE VETERANS' SUPPORT REGULATIONS 2014**

Note: Each condition has two Statements of Principles. The Reasonable Hypothesis version of the Statement of Principles is applied when the veteran's condition is presumed to have arisen due to qualifying operational service. The Balance of Probabilities version of the Statement of Principles is applied when the veteran's condition is presumed to have arisen due to qualifying routine service.

Condition	Statement of Principles Number	
	Reasonable Hypothesis	Balance of Probabilities
familial adenomatous polyposis	77/2021 Replacing 39/2013.	78/2021 Replacing 40/2013.
solar keratosis	79/2021 Replacing 73/2012.	80/2021 Replacing 74/2012.
fibrosing interstitial lung disease	85/2021 Replacing 53/2013.	86/2021 Replacing 54/2013.
polycythaemia vera	87/2021 Replacing 11/2013.	88/2021 Replacing 12/2013.
primary myelofibrosis	89/2021 Replacing 17/2013.	90/2021 Replacing 18/2013.
essential thrombocythaemia	91/2021 Replacing 15/2013.	92/2021 Replacing 16/2013.
carpal tunnel syndrome	93/2021 Replacing 7/2013.	94/2021 Replacing 8/2013.
myeloma	95/2021 Replacing 69/2012.	96/2021 Replacing 70/2012.
dental pulp and periapical disease	99/2021 Replacing 3/2014. Name has changed from "dental pulp and apical disease".	100/2021 Replacing 4/2014. Name has changed from "dental pulp and apical disease".
chronic gastritis and chronic gastropathy	101/2021 Replacing 25/2013.	102/2021 Replacing 26/2013.
malignant neoplasm of the pancreas	103/2021 Replacing 73/2013.	104/2021 Replacing 74/2013.

Condition	Statement of Principles Number	
	Reasonable Hypothesis	Balance of Probabilities
chronic fatigue syndrome	105/2021 Replacing 11/2014.	106/2021 Replacing 12/2014.
fibromyalgia	107/2021 Replacing 13/2014.	108/2021 Replacing 14/2014.

Proactively Released by the Minister for Veterans

Veterans' Support Amendment Regulations (No 6) 2021

Order in Council

At Wellington this day of 2021

Present:
in Council

These regulations are made under section 265 of the Veterans' Support Act 2014—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister for Veterans made in accordance with section 23 of that Act.

Contents

	Page
1 Title	2
2 Commencement	2
3 Principal regulations	2
4 Schedule 1 amended	2
5 Schedule 2A amended	2
Schedule 1	3
Schedule 1 amended	
Schedule 2	5
Schedule 2A amended	

Regulations

1 Title

These regulations are the Veterans' Support Amendment Regulations (No 6) 2021.

2 Commencement

These regulations come into force on 20 January 2022.

3 Principal regulations

These regulations amend the Veterans' Support Regulations 2014.

4 Schedule 1 amended

Amend Schedule 1 as set out in Schedule 1 of these regulations.

5 Schedule 2A amended

Amend Schedule 2A as set out in Schedule 2 of these regulations.

Schedule 1
Schedule 1 amended

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In the item relating to carpal tunnel syndrome,—

- (a) replace “7/2013” with “93/2021”; and
- (b) replace “8/2013” with “94/2021”.

In the item relating to chronic fatigue syndrome,—

- (a) replace “11/2014” with “105/2021”; and
- (b) replace “12/2014” with “106/2021”.

In the item relating to chronic gastritis and chronic gastropathy,—

- (a) replace “25/2013” with “101/2021”; and
- (b) replace “26/2013” with “102/2021”.

Replace the item relating to dental pulp and apical disease with:

dental pulp and periapical disease	99/2021	100/2021
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In the item relating to essential thrombocythaemia,—

- (a) replace “15/2013” with “91/2021”; and
- (b) replace “16/2013” with “92/2021”.

In the item relating to familial adenomatous polyposis,—

- (a) replace “39/2013” with “77/2021”; and
- (b) replace “40/2013” with “78/2021”.

In the item relating to fibromyalgia,—

- (a) replace “13/2014” with “107/2021”; and
- (b) replace “14/2014” with “108/2021”.

In the item relating to fibrosing interstitial lung disease,—

- (a) replace “53/2013” with “85/2021”; and
- (b) replace “54/2013” with “86/2021”.

In the item relating to malignant neoplasm of the pancreas,—

- (a) replace “73/2013” with “103/2021”; and
- (b) replace “74/2013” with “104/2021”.

In the item relating to myeloma,—

- (a) replace “69/2012” with “95/2021”; and
- (b) replace “70/2012” with “96/2021”.

In the item relating to polycythaemia vera,—

- (a) replace “11/2013” with “87/2021”; and
- (b) replace “12/2013” with “88/2021”.

In the item relating to primary myelofibrosis,—

- (a) replace “17/2013” with “89/2021”; and
- (b) replace “18/2013” with “90/2021”.

In the item relating to solar keratosis,—

- (a) replace “73/2012” with “79/2021”; and
- (b) replace “74/2012” with “80/2021”.

Proactively Released by the Minister for Veterans

Schedule 2

Schedule 2A amended

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Insert in their appropriate alphabetical order:

hypogonadism
mesenteric panniculitis
pure red cell aplasia
transverse myelitis

Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 20 January 2022, amend the Veterans' Support Regulations 2014 (the **principal regulations**).

Regulation 4 and Schedule 1 amend Schedule 1 of the principal regulations, which lists the Australian statements of principles (the **statements**) that apply to specified medical conditions for the purposes of the Veterans' Support Act 2014 (the **Act**). The amendments—

- replace the name of the condition dental pulp and apical disease in order to reflect the statements (the new name is dental pulp and periapical disease);
- update references to the statements.

Regulation 5 and Schedule 2 amend Schedule 2A of the principal regulations, which lists accepted late-onset conditions for the purposes of the definition of accepted late-onset condition in section 7 of the Act. The amendment inserts 4 new accepted late-onset conditions (hypogonadism, mesenteric panniculitis, pure red cell aplasia, and transverse myelitis).

Issued under the authority of the Legislation Act 2019.

Date of notification in *Gazette*:

These regulations are administered by the New Zealand Defence Force.