



Cabinet Legislation Committee

Minute of Decision

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Veterans' Support Amendment Bill (No 2): Approval for Introduction

Portfolio **Veterans**

On 17 March 2020, the Cabinet Legislation Committee, having been authorised by the Prime Minister to have Power to Act:

- 1 **noted** that the Veterans Support Amendment Bill (No 2):
 - 1.1 responds to recommendations arising from the review of the Veterans Support Act 2014 undertaken by Professor Ron Paterson;
 - 1.2 provides discretion for the responsible Minister, for security or operational reasons, to declare operations to be Qualifying Operational Service without the requirement for those operations to be gazetted;
 - 1.3 implements additional changes that address minor technical issues;
- 2 **agreed** that the definition of 'child' in the Veterans' Support Act be extended to include a child for whom the veteran is a guardian, and a grandchild or whangai child of the veteran, if the veteran has acted as a parent or guardian of the child;
- 3 **agreed** that section 170 of the Veterans Support Act be amended to change the requirement to specify rates of Veteran's Pension and abatement rates in regulations made under section 265, to a requirement to specify rates in a notice published on the Veterans' Affairs website or in any other manner that Veterans' Affairs thinks appropriate;
- 4 **noted** that the Veterans' Support Amendment Bill (No 2) holds a be given a category 2 priority on the 2020 Legislation Programme (must be passed in 2020);
- 5 **approved** for introduction the Veterans' Support Amendment Bill (No 2) [PCO 22644], subject to the approval of the government caucuses and sufficient support in the House;
- 6 **agreed** that the Veterans' Support Amendment Bill (No 2):
 - 6.1 be introduced as soon as practicable;
 - 6.2 have its first reading in the week of 7 April 2020;
- 7 **agreed** that the Veterans' Support Amendment Bill (No 2) be:
 - 7.1.1 referred to the Social Services and Community Committee for consideration, to be reported by June 2020;

7.1.2 passed before the House rises on 6 August 2020;

8 s.9(2)(f)(iv)

Gerrard Carter
Committee Secretary

Present:

Rt Hon Winston Peters
Hon Chris Hipkins (Chair)
Hon Andrew Little
Hon Stuart Nash
Hon Iain Lees-Galloway
Hon Jenny Salesa
Hon Damien O'Connor
Hon Kris Faafoi
Hon Ron Mark
Hon Julie Ann Genter
Michael Wood MP (Senior Government Whip)

Officials present from:

Office of the Prime Minister
Officials Committee for LEG

Hard-copy distribution:

Minister for Veterans

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Chair
Cabinet Legislation Committee

VETERANS' SUPPORT AMENDMENT BILL: APPROVAL FOR INTRODUCTION

Proposal

1. I seek Cabinet approval to introduce legislation that will amend the Veterans' Support Act 2014 (the Act) to implement policy proposals approved by Cabinet on 4 November 2019 [CAB-19-MIN-0566], including:
 - 1.1. implementing proposals arising from the Paterson report into the operation of the Veterans' Support Act 2014; and
 - 1.2. providing for the responsible Minister to be given discretion, for security or operational reasons, to declare operations to be Qualifying Operational Service without the requirement for those operations to be gazetted.
2. I also ask Cabinet to note that, in line with law reform powers for Ministers to approve minor or technical (fix up) amendments while a bill is being drafted, I have authorised the following:
 - 2.1. a revised definition of "child" from that proposed in the 4 November Cabinet paper, to avoid potential negative consequences, while still addressing the spirit and intent of the Paterson report proposal for a modernised definition; and
 - 2.2. amendment to section 170 of the Act to align the process for setting Veteran's Pension rates and abatement rates with the process for setting the rates of all other entitlements in the Act.
3. A draft bill accompanies this paper. I am seeking a category 2 priority for the bill to be passed in 2020. I am seeking approval to introduce the bill in the week beginning 23 March 2020, and for First Reading to take place in the sitting week beginning 7 April 2020. I am also seeking approval for an accelerated passage of the bill through its stages, with a Select Committee report back date of 22 June 2020, so that it can be passed before the House rises on 6 August 2020.

Executive summary

4. Following his review of the operation of the Act in 2017, Professor Ron Paterson delivered a report (the Paterson report) in March 2018. The review involved widespread consultation with veterans and groups representing veterans. There is considerable expectation among the veterans' community that progress will be made in implementing proposals contained in the report.
5. The Veterans' Support Amendment Bill 2020 will legislate proposals arising from the Paterson report which are part of a Short-Term Improvements Programme. This was approved by Cabinet on 4 November 2019 and includes

a series of changes that will provide immediate improvements in fairness and equity for veterans.

6. The bill will also provide for the responsible Minister to be given discretion, for security or operational reasons, to declare operations to be Qualifying Operational Service without the requirement for those operations to be gazetted.
7. The bill also contains a change to the definition of “child” that was outlined in the 4 November Cabinet paper to avoid potential negative consequences while addressing the spirit and intent of the Paterson Report proposal for a modernised definition.
8. In addition, the bill will align the process for setting adjustments in the rates of Veteran’s Pension (and abatement rates that apply) with the process applying for adjustments in all other Veterans’ Support entitlements. While the criteria for adjusting Veteran’s Pension rates will continue to be set in legislation, amendment to section 170 will change the requirement to specify rates in “regulations” to a requirement to specify rates in “a notice published on the Veterans’ Affairs website or in any other manner Veterans’ Affairs thinks appropriate”.
9. The bill has been consulted with Labour, New Zealand First and the Green Party. It will be consulted with the Opposition following consideration by the Cabinet Legislation Committee. The Leader of the House has been consulted on the parliamentary stages.

Background

10. The Veterans’ Support Act was passed in 2014 with multi-party support. It replaced the War Pensions Act 1954.
11. Section 282 of the Veterans’ Support Act 2014 required the operation of the Act to be reviewed as soon as practicable after the second anniversary of the commencement of Part 3 (Scheme One). It required consideration of any amendments that are necessary or desirable and required the Minister to present a copy of the report to the House of Representatives.
12. Professor Ron Paterson was commissioned to undertake the review. He consulted widely with the veterans’ community and interested parties and in March 2018 delivered *Warrant of fitness - An independent review of the Veterans’ Support Act 2014*. The Paterson report contained 64 recommendations. There is considerable expectation amongst the veterans’ community that progress will be made in implementing Paterson report recommendations.
13. A two-stage approach is being employed to address outstanding Paterson report recommendations. The Short-Term Improvements Programme (2019/20) addresses priorities for veterans and will provide immediate improvements in fairness and equity. The Programme focuses on:
 - 13.1. improving access to services for veterans;

- 13.2. improving support for veterans' families;
- 13.3. end of life support for veterans and their families; and
- 13.4. removing unfair provisions of the Act.
14. A Medium-Term Improvements Programme, beginning in late 2020, will address more complex issues and provide sufficient time for a more thorough revision of the Act as required.
15. As well as the proposals which respond directly to the Paterson report, Cabinet also approved a proposal for the responsible Minister to have discretion, for reasons of national or operational security, to declare a deployment to be qualifying operational service without the need to publish a gazette notice.
16. Following Cabinet policy approval, Veterans' Affairs has been working with the Office of the Parliamentary Counsel to prepare the draft amendment bill. This process has identified some additional minor technical changes that would be desirable to include in the bill. These concern a change to the definition of "child" from that proposed in the 4 November Cabinet paper; and a change to align the process for setting Veteran's Pension rates and abatement rates with the process for setting the rates of all other Veterans' Support entitlements.

Policy

17. Cabinet policy approval for the Short-Term Improvements Programme was given on 4 November 2019 [CAB-19-MIN-0566]. The relevant recommendations in relation to the legislative impacts are as follows. Cabinet:

3	noted that all of the proposals contained in the Short-Term Improvements Programme would require amendment to the Veterans' Support Act 2014 and/or regulations;
4	<p>noted that 13 proposals included in the Short-Term Improvements Programme respond to the Paterson Report and relate to:</p> <p>4.1 giving Veterans' Affairs the ability to fund private mental health services until eligibility for public services is established;</p> <p>4.2 giving Veterans' Affairs the ability to fund treatment and rehabilitation services when a veteran is imprisoned;</p> <p>4.3 extending services access to families;</p> <p>4.4 modernising legislative definitions;</p> <p>4.5 extending the Children's Bursary;</p> <p>4.6 abolishing the five-year restriction on child-care assistance;</p> <p>4.7 continuing Veterans' Independence Programme support (VIP Services) when a veteran goes into care;</p> <p>4.8 easing access to Surviving Spouse or partner pension s.9(2)(f)(iv)</p> <p>4.9 extending grace periods on death;</p> <p>4.10 improving recognition of psychological illness;</p> <p>4.11 allowing discretion to consider entitlement after brief AWO or minor offending;</p> <p>4.12 supporting spouses and families of imprisoned veterans; and</p>

	4.13 improving decision making.
5	noted that, in addition, approval is sought for legislative provision for the responsible Minister to be given discretion, for security or operational reasons, to declare operations to be Qualifying Operational Service without the requirement for those operations to be gazetted;
6	agreed that the proposals in paragraphs 4 and 5 above be approved for inclusion in a Veterans' Support Amendment Bill to be introduced in 2020;
11	agreed to add the veterans' Support Amendment Bill to the 2019 Legislation Programme with a category 5 priority (instructions to the parliamentary Counsel Office in 2019);
12	noted that the Minister for Veterans will submit a bid seeking agreement to add the Veterans' Support Amendment Bill to the 2020 Legislation Programme with a category 2 priority (to be passed in 2020)
13	noted that, following Cabinet agreement to progress legislative change, drafting instructions will be sent to the Parliamentary Counsel Office requesting that a draft bill to amend the veterans' Support Act 2014 be prepared for introduction by 1 April 2020.

18. s.9(2)(f)(iv)

19. In line with law reform powers that allow Ministers to approve minor or technical (fix up) amendments or to correct errors or omissions while a bill is being drafted, I have authorised the following:

19.1. A change to the definition of "child". During the drafting it became evident that a straightforward adoption of the prescription outlined in the Cabinet paper to align the definition of "child" with that contained in the Oranga Tamariki Act 1989 could have negative unintended consequences. To achieve the spirit and intent of the Paterson report for a more modern definition, I have agreed that the term "child" be extended to include a child for whom the veteran is a guardian, and a grandchild or whangai child of the veteran, if the veteran has acted as a parent or guardian of the child.

19.2. An amendment to section 170 of the Act to change the requirement to specify rates of Veteran's Pension and abatement rates in regulations under section 265, to a requirement to specify rates in a notice published on the Veterans' Affairs website or in any other manner Veterans' Affairs thinks appropriate. This change will bring the process for Veteran's Pensions into alignment with the process required for all other Veterans' Support entitlements.

20. These changes will not affect other legislation and any fiscal affect will be minimal.

Compliance

21. The Bill complies with each of the following:
 - 21.1. The principles of the Treaty of Waitangi.
 - 21.2. The rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.
 - 21.3. The disclosure statement requirements (a disclosure statement has been prepared and accompanies this paper).
 - 21.4. The principles and guidelines set out in the Privacy Act 1993.
 - 21.5. Relevant international standards and obligations.
 - 21.6. The Legislation Guidelines (2018) published by the Legislation Design and Advisory Committee.
22. The bill has been submitted to the Ministry of Justice for a Bill of Rights Act (BORA) review. BORA advice is confidential until it has been considered by the Attorney General. Veterans' Affairs is confident that, because the provisions in the bill simply improve existing entitlements that are already contained in the Veterans' Support Act 2014, they are consistent with the Bill Of Rights Act.

Consultation

23. Professor Paterson consulted widely on matters covered in this bill during his review, via public meetings and a submission process. The review received 700 personal submissions and 200 written submissions.
24. There has been departmental consultation on matters covered in this bill with the Department of Prime Minister and Cabinet, the Parliamentary Counsel Office, the Treasury, the Ministry of Business, Innovation and Employment, the Accident Compensation Corporation, the Ministry of Health, the Ministry of Social Development, the Department of Corrections and Te Puni Kokiri.
25. The bill was not referred to the Legislation Design and Advisory Committee for advice. The proposed changes are simple amendments to current legislation.
26. It is not proposed to release an exposure draft of the bill for consultation before it is introduced in light of the significant consultation that has already occurred in relation to proposals that will be addressed in the bill.
27. The bill has been consulted with Labour, New Zealand First and the Green Party. It will be consulted with the Opposition following

consideration by the Cabinet Legislation Committee. The Leader of the House has been consulted on the parliamentary stages.

Binding on the Crown

28. Section 5 of the Veterans' Support Act 2014 confirms that the Act binds the Crown, and as such the amendments in the Bill will also be binding.

Creating new agencies or amending law relating to existing agencies

29. Not applicable.

Allocation of decision making powers

30. The bill does not allocate decision making powers between the executive, the courts, or tribunals.

Associated regulations

31. The bill does not include any provisions for regulations to be included in the Veterans' Support Act 2014.

Other instruments

32. The bill does not include any provision empowering the making of other instruments that are deemed to be legislative instruments or disallowable instruments (or both).

Definition of Minister/department

33. The bill makes no changes to the definitions of Minister or department.

Financial Implications

34. On 4 November Cabinet [CAB-19-MIN-0566] approved changes to appropriations to give effect to the six policy decisions that require minor additional funding and agreed that the expenses incurred as a result, be charged against the Between Budget contingency established as part of Budget 2019.
35. On 4 November Cabinet was advised that adopting more contemporary legislative definitions was expected to have minimal impact on cost given the low numbers of children of veterans. The paper noted that a 10 percent increase in numbers would increase costs by around \$50,000 and that any impact would be reflected in BORE appropriation, Veterans Support Entitlement. As a result, Cabinet approved Between-Budget-Contingency funding for the proposal. While the proposed definition of "child" has altered from that described in the text of the 4 November paper, it is not considered likely to impact on take-up or cost. As a result no change is required to the BORE appropriation to reflect the change in the definition.

36. s.9(2)(f)(iv)

Impact analysis

37. The Regulatory Quality Team at the Treasury assessed the proposals contained in the Short-term Improvements Programme. s.9(2)(f)(iv)

Certification by Parliamentary Counsel

38. The bill has been drafted and certified by the Parliamentary Counsel Office in anticipation of Cabinet's approval.

Commencement of legislation

39. The amendment will come into force on the day after the date of Royal assent.

Parliamentary stages

40. I am seeking approval to introduce the bill in the week beginning 23 March 2020, and for First Reading to take place in the sitting week beginning 7 April 2020. I am also seeking approval for an accelerated passage of the bill through its stages, with a Select Committee report back date of 22 June 2020, so that it can be passed before the House rises on 6 August 2020. I propose that the bill be referred to the Social Services and Community Select Committee.

Publicity

41. There is wide interest in the New Zealand veteran community in legislative change to give effect to recommendations of the Paterson report. Should Cabinet agree to the introduction in the week beginning 23 March 2020, I will release a media statement announcing the content of the bill.

Proactive Release

42. I intend to release this paper, and the 4 November Cabinet paper "Review of Veterans' Support Act 2014: Response to Paterson Report" [CAB-19-MIN-0566] in full, apart from any legally privileged material, or other redactions as required under the Official Information Act 1982.

Gender and disability implications

43. The proposed amendments are policy neutral and do not have any gender or disability implications.

Recommendations

44. I recommend that the Committee:

- a. **note** that the Veterans Support Amendment Bill 2020:
 - i. responds to recommendations arising from the review of the Veterans Support Act 2014 undertaken by Professor Ron Paterson;
 - ii. provides discretion for the responsible Minister, for security or operational reasons, to declare operations to be Qualifying Operational Service without the requirement for those operations to be gazetted; and
 - iii. implements additional changes that address minor technical issues;
- b. **agree** that the definition of "child" in the Veterans' Support Act 2014 be extended to include a child for whom the veteran is a guardian, and a grandchild or whangai child of the veteran, if the veteran has acted as a parent or guardian of the child;
- c. **agree** that section 170 of the Veterans Support Act 2014 be amended to change the requirement to specify rates of Veteran's Pension and abatement rates in regulations made under section 265, to a requirement to specify rates in a notice published on the Veterans' Affairs website or in any other manner that Veterans' Affairs thinks appropriate;
- d. **agree** that the Veterans' Support Amendment Bill 2020 be given a category 2 priority on the legislative programme (must be passed in 2020);
- e. **approve** for introduction the Veterans' Support Amendment Bill 2020;
- f. **agree** that the Veterans' Support Amendment Bill 2020 be introduced in the week beginning 23 March 2020, with First Reading to take place in the sitting week beginning 7 April 2020;
- g. **agree** that the Veterans' Support Amendment Bill 2020:
 - i. be referred to the Social Services and Community committee for consideration;
 - ii. have a Select Committee report back date of 22 June 2020; and
 - iii. be passed before the House rises on 6 August 2020

h. s.9(2)(f)(iv)

Authorised for lodgement

Hon Ron Mark
Minister for Veterans

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