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## Changes to Veteran's Pension

### Background

The Veterans' Support Act 2014 was passed on 7 August 2014. While Veterans' Affairs New Zealand (Veterans' Affairs) is the lead agency for veterans, MSD administers the Veteran's Pension on behalf of Veterans' Affairs.

There are a few changes that will affect MSD clients when the Act comes into effect on 7 December 2014.

More people will become entitled to a Veteran's Pension and a new compensation payment will be available for veterans under the age of 65.

Information will be updated on Senior's website as

it becomes available.

[Go to the Senior's website](#)

[Read more on the Veterans' Support Act changes](#)

Information is also on the Work and Income website where the majority of information on the Veteran's Pension is located. Relevant Work and Income web pages are currently under review and will be updated by 7 December 2014.

[Read more about the Veteran's Pension on the Work and Income website](#)

### Veterans' Affairs website

The Veterans' Affairs website has been refreshed and will be updated regularly as information becomes available. This includes detailed fact sheets for specific client groups and frequently asked questions.

[Go to the Veterans' Affairs website](#)

[Read the FAQs on the Veterans' Affairs website](#)

## Conflicts of interest

No member of the Benefits Review Committee can hear a case if he or she has:

- a direct financial or personal interest in the outcome
- had any prior involvement in the case
- some personal connection with the applicant, presenter or witness(es) – apart from working relationships
- a personal prejudice for or against a person(s) involved in the case
- pre-decided the case and come to it with a closed mind.

If any of these criteria apply the BRC member (including community representatives) must disqualify him or herself from the hearing.

It is important that panel members consider any small contact with the applicant when considering disqualification. This may cause difficulties in service centres in isolated areas; however it is important that the integrity of the BRC process is maintained.

The applicant can object to any member being part of the Benefits Review Committee, by stating the reasons for his or her objection. If grounds are found for disqualification, or there is an issue with a particular panel member that will interfere with the process of natural justice, the panel member objected to is usually replaced. The Applicant would usually discuss this with the Benefits Review Co-ordinator.

## Chairperson

Section 10A of the Social Security Act 1964 does not specify that there will be a chairperson of the Benefits Review Committee. However it is a good practice for the committee to identify someone to take the lead in organising the committee, explaining the hearing process to all attendees and ensuring the final decision report is completed within the appropriate timeframes.

The chairperson should be chosen only when the three panel members come together. A community representative can also be the chairperson. The chair does not necessarily have to write up the report in HIYA, as one of the Ministry panellists can complete this task.

The role of chair is extremely important as they can play a pivotal role in ensuring that a fair and impartial decision is reached. The chairperson "sets the scene" for the hearing. A checklist (attached) has been developed to assist the chairperson with this role, providing a guide for introductions and for the process throughout the hearing.

## QA before signing off report of the BRC

When the report is sent to the other panel members for signoff the panel members are responsible for checking the report. If a panel member believes an area has not been sufficiently covered in the report or that it is not a fair representation of the events of the hearing and the decision made, they do not sign it off until the appropriate amendments have been made.

If one panel member disagrees with the decision it is important that this and the reasons for the dissention are recorded. The final report is sent to the applicant and a copy to the Ministry with a covering letter.

If the report to the BRC contains errors then the BRC needs to ensure that these are corrected, these errors will automatically transfer into the report of the BRC if you copy and paste from the report to the BRC.

The exception being the case for the Ministry, this is Ministry's case and should the panel notice grammatical errors then they need to ensure those are corrected but should the wrong law and policy be applied to the facts of the case the BRC should make comments about this in their findings. All three panel members are responsible for the content of the report, if this contains errors then this reflects on the Panel.

The material for post hearing procedures is attached.

## Reminder to reconsider the full situation when decisions are reviewed

When the BRC reconsiders a decision, the full situation needs to be reexamined.

For example, a client seeking to review the decision not to include gym membership in their Disability Allowance costs. We need to review all of the allowable costs that make up the rate that Disability Allowance is being paid at. So the decision under review is the rate of Disability Allowance not the decision to exclude gym membership from the allowable costs.

This way of looking at reviews of decision was clarified by the Supreme Court when they were considering the Arbuthnot case.

The Arbuthnot decision clarified how the BRC is to consider a review of decision.

An explanation of the implications of the Supreme Court Decision on the Benefits Review Committee process is attached.

## Information for trespassed clients

The Work and Income website has detailed information for trespassed clients.

[Read more about information for trespassed clients](#)

# Happy Holidays

The RCR Team would like to thank you for your hard work this year and wish you all a safe and happy holiday with your families.

We look forward to working with you in 2015.

## For more details contact

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## Attached Resources

<http://www.msd.govt.nz/what-we-can-do/seniorcitizens/entitlements/veterans-support-act-2014-changes-to-veterans-pension.html>

# Veterans' Support Act 2014 - Changes to Veteran's Pension

## Background

The Veterans' Support Act 2014 was passed on 7 August 2014. While Veterans' Affairs New Zealand (Veterans' Affairs) is the lead agency for veterans, MSD administers the Veteran's Pension on behalf of Veterans' Affairs.

There are a few changes that will affect MSD clients when the Act comes into effect on 7 December 2014.

More people will become entitled to a Veteran's Pension and a new compensation payment will be available for veterans under the age of 65.

## How will the new Act affect MSD clients from 7 December 2014?

**(a) If you're 65+ currently receiving a Veteran's Pension, nothing will change.**

You won't be affected by the new legislation. Your entitlement to a Veteran's Pension remains the same and you will continue to be paid at the current rate.

**(b) If you're under 65 currently receiving a Veteran's Pension, you may qualify for the new weekly income compensation payment.**

If you qualify, you can choose to change to the new compensation payment administered by Veterans' Affairs or stay on a Veteran's Pension.

### (c) If you're under 65 currently receiving a benefit from MSD, have qualifying service and meet the disablement criteria...

You may now qualify for a Veteran's Weekly Income Compensation. If you're currently receiving a benefit from us, and you would like to test your eligibility for Veteran's Weekly Income Compensation (administered by Veterans' Affairs), you need to contact Veterans' Affairs. Their contact details are at the bottom of the page.

### (d) If you're 65+ and have qualifying operational service, you may now qualify for a Veteran's Pension.

If you're currently getting NZ Super AND have a Veteran's SuperGold card (poppy card)...

You may be entitled to a Veteran's Pension because you have qualifying operational service, confirmed when you received your poppy card.

If you are currently receiving NZ Super, and you qualify for a Veteran's Pension under the new Act, you can choose to transfer from your current payment to a Veteran's Pension:

If you're currently getting NZ Super from us...

You may be entitled to a Veteran's Pension if you have qualifying operational service. Your service needs to be verified by Veterans' Affairs.

If you want to stay on NZ Super you don't need to do anything.

You can stay on NZ Super and nothing will change.

If you want to change from from NZ Super to Veteran's Pension:

- You will continue to receive the same payments each fortnight
- You'll get a new Veteran's SuperGold Card with automatic entitlement to a Community Services Card (if you don't already have one). This card can help you with health costs.
- There are other advantages for changing if you have service-related disablement at a certain level, assessed by Veterans' Affairs.

To help you make your decision, there is a table below that shows what you can get if you change from NZ Super to Veteran's Pension, depending on your circumstances.

	What do I get if I transfer to a Veteran's Pension?			
	Veteran has qualifying service and disablement rating over threshold*		Veteran has qualifying service only	
Entitlement	Veteran	Partner/Spouse	Veteran	Partner/Spouse
Payments not reduced if hospitalised for 13 weeks or more	✓	✓	✓	✗
Automatic Community Services Card	✓	✓	✓	✗
Veterans SuperGold Card (Poppy card)	✓	✗	✓	✗
Lump Sum on Death payment	✓	✓	✗	✗

\*Disablement rating is based on Whole Person Impairment threshold of 52% or more as determined by Veterans' Affairs from 7 December 2014. Alternatively veterans who receive a War Disablement Pension of 70% or more are also eligible.

To change to a Veteran's Pension you need to complete a 'Transfer to Veteran's Pension' form. You can contact us for a transfer form (see section on Application forms below) or the forms will be available on our website in early December. Note: You can apply from 7 December 2014 when the Veterans' Support Act Act comes into effect.

### Questions about changing to a Veteran's Pension

My service-related disablement has already been assessed, how do I find out my disablement rating?

If your service-related disablement has already been assessed, we will contact Veterans' Affairs on your behalf to confirm your disablement rating. There will be a place in the transfer form to give us your permission to share this information.

How do I get assessed for service-related disablement?

Service related disablement is assessed by Veterans' Affairs. If you would like to be assessed for service-related disablement you will need to contact Veterans' Affairs. Their contact details are listed at the end of this page.

Can I send my transfer form in before 7 December?

Yes you can. As the Veterans' Support Act does not come into effect until 7 December, we will hold your application and process it after this date. You can contact us for a transfer form (see section on Application forms below) or the forms will be available on our website in early December.

How long will it take to change me to a Veteran's Pension?

Your application will be processed as soon as possible. You will continue to receive your regular NZ Super payments while this is being done. Because the Veteran's Pension is paid at the same rate as NZ Super, you will not notice any change to your payment when you are transferred to a Veteran's Pension. If you don't already have Community Services Card entitlement included in your Veteran's SuperGold Card, a new card will be sent to you.

I already have a Veteran SuperGold Card (with Community Services Card) and I don't have service-related disablement. Why would I change to a Veteran's Pension?

You don't need to change. The Veteran's Pension and Veteran's SuperGold Card is a way of recognising your service.

Where can I get more information about the new Act?

More information is on the Veterans' Affairs website, including Frequently Asked Questions. Go to [www.veteransaffairs.mil.nz](http://www.veteransaffairs.mil.nz)

The Ministry of Social Development (MSD) administers the Veteran's Pension on behalf of Veterans' Affairs.

If you're not receiving any payments from us...

And think you may qualify for a Veteran's Pension, complete the Veteran's Pension application form and post it to the Veteran's Pension Centre. You can apply from 7 December 2014 when the Veterans' Support Act Act comes into effect.



## Application forms

- To transfer to a Veteran's Pension from NZ Super or a benefit, you need to complete a 'Transfer to Veteran's Pension' form.  
Contact us to send a form to you. Either email us at [veteranspension@msd.govt.nz](mailto:veteranspension@msd.govt.nz) or call 0800 650 656.
- To apply for a Veteran's Pension, you need to complete a [Veteran's Pension application](#) or [Veteran's Pension partner application](#)  
You can also contact us to send a form to you. Either email us at [veteranspension@msd.govt.nz](mailto:veteranspension@msd.govt.nz) or call 0800 650 656.

**Note:** You can only apply from 7 December 2014 when the Veterans' Support Act comes into effect.

Post your completed form to the Veteran's Pension Centre, PO Box 5515, Wellington 6145

## Frequently Asked Questions

Frequently asked questions about the Veterans' Support Act are on the Veterans' Affairs website.

[Go to the FAQs on the Veterans' Affairs website](#)

## Contact details for more information

**Contact MSD** for information about the Veteran's Pension:

- Visit: [www.seniors.msd.govt.nz](http://www.seniors.msd.govt.nz)
- Email: [veteranspension@msd.govt.nz](mailto:veteranspension@msd.govt.nz)
- Call Freephone: 0800 650 656, Monday to Friday 8am-5pm
- Veteran's Pension Centre, PO Box 5515, Wellington 6145

**Contact Veterans' Affairs** for information about service-related disablement, the weekly income compensation payment, the new Act or policy for veterans:

- Visit: [www.veteransaffairs.mil.nz](http://www.veteransaffairs.mil.nz)
- Email: [veterans@nzdf.mil.nz](mailto:veterans@nzdf.mil.nz)
- Call Freephone: 0800 483 8372 (0800 4 VETERAN)
- Veterans' Affairs New Zealand, PO Box 5146, Wellington 6145

URL: <http://www.veteransaffairs.mil.nz/for-veterans/veterans-support-act-2014/veterans-support-act-2014-frequently-asked-questions/>

# Veterans' Support Act 2014: Frequently Asked Questions

Why is the current legislation changing?

The War Pensions Act 1954 (also referred to as 'the 1954 Act') was passed 60 years ago and is out-dated.

While the provisions of the 1954 Act generally meet the needs of older veterans, they do not meet the needs of the new generation of veterans. To make the legislation responsive to the needs of both older and contemporary veterans it needed to be replaced with modern legislation.

The Veterans' Support Act 2014 ('the 2014 Act') was passed following a Law Commission Review of the 1954 Act. The new legislation will continue to provide financial and other support for veterans and their families, along with a new focus on rehabilitation.

Will the service eligibility criteria change?

No. The 2014 Act contains the same service eligibility criteria as in the 1954 Act, which means that all deployments currently covered under the 1954 Act will retain coverage under the new legislation.

No veteran will have their current entitlements reduced by the new legislation, rather many veterans and their family members will benefit from increased entitlements, care, and support.

When will the new legislation be implemented?

The 2014 Act received Royal assent on 7 August 2014 and much of the Act, including 'Scheme One', it commenced on 7 December 2014. 'Scheme Two' of the 2014 Act will commence on 7 December 2015.

Why are there two veterans' entitlement schemes under the new legislation?

The new legislation contains two new veterans' entitlement schemes, Scheme One and Scheme Two.

Scheme One will commence on 7 December 2014, and covers veterans who served from the Second World War through to, and including, the Vietnam War. For the first year of the new Act, all new claims, covering all periods of service, will be determined under Scheme One.

Scheme One entitlements will continue to be based on those currently available under the 1954 Act. This continues the practice of paying a periodic pension to veterans with a service-related impairment and also provides entitlements for veterans' spouses/partners and children/dependants.

Scheme Two will commence on 7 December 2015, and will cover veterans with qualifying operational service since 1 April 1974. These entitlements will be closely aligned with those available through ACC, but with additional support that recognises the special service provided to New Zealand by our veterans.

Will the new legislation continue to be as benevolent as the 1954 Act?

Yes. Our commitment to the principle of benevolence has been preserved from the 1954 Act. In practice this means that all claims will continue to be determined on the merits of the claim and not on technicalities, legal forms or legal rules of evidence.

How will I know what entitlements I have under the new legislation?

We have a new set of [fact sheets](#) providing information about entitlements and a special edition of Veterans' Affairs News will also be published in December, focusing on what the changes will mean for veterans and their families.

I have previously had a claim declined under the War Pensions Act 1954. Can I apply again under the new legislation?

Yes. If you wish to test your eligibility for a previously declined injury, illness, or condition, you will need to apply for a Disablement Pension. This will mean that if you currently receive a War Disablement Pension, you will be automatically transferred to a Disablement Pension for any currently accepted disablements.

If it has been less than six months since you were notified of the decline of your application, you also have a right of review under the 1954 Act. You will need to complete the Review Application Form, clearly detailing the reasons for seeking a review and attaching any evidence not previously provided (such as medical reports and other relevant documentation) which supports your request. Application forms can be requested from Veterans' Affairs.

As a veteran currently living overseas, will I still be eligible for entitlements and services under the new legislation?

You are still eligible for the majority of entitlements and services provided by Veterans' Affairs if you live overseas. The Travel Concession is not available to veterans living overseas.

The Veteran's Pension is payable overseas in certain situations. Veterans living in countries that have a reciprocal social security agreement with New Zealand may be able to apply for the Veteran's Pension from that country (including Australia, Canada, Denmark, Greece, Ireland, Jersey and Guernsey, Malta, and the Netherlands).

Where can I find more information about the new legislation?

The Veterans' Affairs website will be regularly updated, so there is publicly available information for those who need it. The 2014 Act is also available in full for the public to view on the New Zealand Legislation website [www.legislation.govt.nz](http://www.legislation.govt.nz) (external link) .

You can also [contact us](#) directly.

How do I apply for the entitlements and services available under the new legislation?

For the majority of entitlements and services, you must complete an application form and provide all required supporting evidence. Application forms will be available on the website [www.veteransaffairs.mil.nz/](http://www.veteransaffairs.mil.nz/) (external link) , or can be requested from Veterans' Affairs before the legislation commences in December 2014.

The form then needs to be sent to Veterans' Affairs at:

Veterans' Affairs  
PO Box 9448  
Hamilton 3240

The 1954 Act continues to apply to all war pension entitlements until the new legislation commences on 7 December 2014.

## Scheme One – from WWII to the Vietnam War

Will I have the same Case Manager?

Yes.

What are the Statements of Principles and how will they be used in the decision-making process?

The 2014 Act introduces the Statements of Principles (SoPs) as a decision-making tool to assess applications. The SoPs list the factors that must be established for a veteran's injury, illness or condition to be recognised as service-related. Only one factor needs to be met in order to establish that an injury, illness or condition is service-related. The adoption of the SOPs significantly reduces the amount of discretion used by decision makers, which will ensure greater transparency and consistency in decision-making.

The SoPs were developed in Australia by independent statutory authority, the Repatriation Medical Authority, and are based on extensive investigation of medical literature and research available worldwide. SoPs are available on the [Repatriation Medical Authority \(RMA\)](#) (external link) website.

Will a veteran still receive a Treatment Card and will there be any changes to the way this operates?

Yes. Treatment Cards will still be provided to veterans who receive a Disablement Pension or War Disablement Pension and will still be used by veterans to access treatment services.

What happens to Section 23 under the new legislation?

The additional pension payments currently payable under section 23 of the 1954 Act have been incorporated into the Disablement Pension payment scale of the 2014 Act.

Veterans receiving a War Disablement Pension who have been granted an additional pension payment under section 23 will continue to receive that payment rate. No increases can occur to the grandparented additional pension.

I currently receive a War Disablement Pension. How will I be affected?

Your current entitlements will not be reduced. If you are receiving a war disablement pension your entitlements, will continue as per usual. However, if you apply for a review of an accepted condition or apply for a new condition, you will be transferred to a Disablement Pension and your application will be determined using a new decision-making process under the new Act.

How will my Disablement Pension application be assessed under the new decision-making process?

Veterans' Affairs will still use the American Medical Association guides (AMA guides) to determine the rates of impairment. However, under the new legislation, the rates for disability will then be converted into a whole-person impairment rating of up to 100%.

This is different to the current process where disability ratings are not converted but are added cumulatively for each condition meaning veterans with multiple impairments can have a disability rating of more than 100%.

Will the new decision-making process make it more difficult to qualify for a Disablement Pension?

No. The new process will enhance the consistency and transparency of the decision-making process for everyone.

What happens if my Disablement Pension application is accepted?

You will transfer to a Disablement Pension and may also be entitled to rehabilitation support and services where appropriate. For example, if you are eligible for a temporary Disablement Pension, you must also participate in a tailored rehabilitation plan unless you are unable to due to your service-related injury or illness.

What happens if my Disablement Pension application is declined?

Any application for a new condition or reassessment of an accepted disability will result in a transfer from a War Disablement Pension to a Disablement Pension. You will still retain the right to apply for a review of a declined claim to the Review Officer within 6 months of being notified of the decision.

Will the rate at which my pension is paid change?

The pension will continue to be adjusted each year to take into account changes in the Consumer Price Index (CPI). No veteran will have their current entitlements reduced under the new legislation.

I do not currently receive a War Disablement Pension. What happens if I apply for a pension before the new legislation is introduced?

The 1954 Act continues to apply to all war pension entitlements until the new legislation commences on 7 December 2014.

I currently receive an allowance, grant, loan or concession. Will there be any changes to my entitlement/s?

These entitlements will continue if they have been granted prior to 7 December 2014.

During the first year of the 2014 Act, new applicants will also have access to these entitlements, with the exception of veterans who are eligible for a recurring motor vehicle loan. If you are eligible for a recurring motor vehicle loan, your qualifying disablement is retained, however, you will be subject to the other eligibility criteria for a motor vehicle grant under the new legislation.

From 7 December 2015, a veterans' independence programme will be introduced which will update some existing allowances. Veterans who were granted entitlements between 7 December 2014 and 7 December 2015 will transition onto the veterans' independence programme, and will receive no less support than they did previously.

I am under 65 and currently receive a Veteran's Pension. If I am eligible, what is the major benefit of transferring to the weekly income compensation?

Weekly income compensation will be paid to eligible veterans at 80% of the gross average weekly wage and will be significantly higher than the rate of the Veteran's Pension. As this is paid at a significantly higher rate than the current couple's rate for the Veteran's Pension, it will be paid to you only. Your spouse cannot be included in this payment.

If you receive weekly income compensation, you will also be entitled to rehabilitation support and services and must participate in a tailored rehabilitation plan unless you are unable to due to your injury or illness.

If you are able to return to part-time paid employment, your weekly income compensation will be abated. If you are able to return to full-time employment, you will no longer be entitled to weekly income compensation.

What if I don't want to transfer from the Veteran's Pension to weekly income compensation?

You don't have to. If you choose not to transfer you will retain your Veteran's Pension under 65 entitlement. If you have a spouse or partner, you can also choose to remain on the Veteran's Pension if you wish to keep your partner included in your pension payment.

What if I don't want to transfer from the Veteran's Pension to weekly income compensation, and then change my mind?

You may transfer whenever you choose.

If I transfer from the Veteran's Pension to weekly income compensation, can I change back at a later date?

No. It is a one-time only decision to change to weekly income compensation payments.

I am over 65 and currently receive a Veteran's Pension. How will I be affected by the new legislation?

You won't be. Under the 2014 Act your entitlement to a Veteran's Pension remains the same and you will continue to be paid at the current rate.

I currently receive New Zealand Superannuation and a War Disablement Pension of less than 70%. How will I be affected by the new legislation?

Under the 2014 Act you can choose to transfer to the Veteran's Pension instead of the New Zealand Superannuation, and continue to receive your War Disablement Pension. The Veteran's Pension is a payment for veterans who have reached the qualifying age for New Zealand Superannuation. Veterans receiving Veteran's Pension are automatically entitled to a Community Services Card.

The Veteran's Pension is administered by the Ministry of Social Development and further information including eligibility criteria, rate of payment, and how to apply can be found on their website [www.seniors.ms.govt.nz](http://www.seniors.ms.govt.nz).

My spouse or partner does not qualify for New Zealand Superannuation or a Veteran's Pension; if I decide to transfer to the Veteran's Pension can I include my spouse or partner in my pension payments?

Whether you can include your partner or spouse depends on certain criteria. The Veteran's Pension is administered by the Ministry of Social Development and further information including eligibility criteria, rate of payment, and how to apply can be found on their website [www.seniors.ms.govt.nz](http://www.seniors.ms.govt.nz).

Is it possible for a veteran's spouse or partner, who qualifies for New Zealand Superannuation, to be granted a Veteran's Pension?

Yes. A veteran's spouse or partner who qualifies for New Zealand Superannuation can be granted a Veteran's Pension if the veteran:

- qualifies for New Zealand Superannuation and
- has qualifying operational service and
- has a War Disablement Pension of 70% or more or a Disablement Pension of 52% or more.

The spouse or partner of a deceased veteran will also qualify for a Veteran's Pension if the veteran (had he or she still been alive) would have met the above criteria.

The spouse or partner may also qualify if the veteran either:

- had been granted a Veteran's Pension under the 1954 Act and died before 7 December 2014 or
- dies on or after 7 December 2014 and at the time of death was entitled to receive a Veteran's Pension by reason of infirmity under the Veterans' Support Act 2014.

Again, to be eligible for a Veteran's Pension, the spouse or partner must qualify for New Zealand Superannuation.

Is the Veteran's Pension Lump Sum Payment (payable through the Ministry of Social Development) still available? If so, what is the criteria to receive this?

Yes. The Veteran's Pension Lump Sum Payment will still be available under the 2014 Act and the eligibility criteria will not change. If a veteran receives a War Disablement Pension of 70% or more, or a Disablement Pension of 52% or more, a Veteran's Pension Lump Sum Payment may be made to their surviving spouse, partner or any dependent children in the unfortunate

event of their death (if the recipient ordinarily lives in New Zealand). If a veteran survives a spouse or partner who has been granted a Veteran's Pension and ordinarily lives in New Zealand, they may receive a Veteran's Pension Lump Sum Payment.

I currently receive a Surviving Spouse Pension. How will I be affected by the new legislation?

You won't be. Under the 2014 Act, your entitlement to a Surviving Spouse Pension remains the same and will continue to be paid at the current rate.

I currently receive a parent allowance. Will this continue under the new legislation?

The parent allowance will no longer be paid if you have children eligible for a Children's Pension.

Instead, the first child rate of the parent allowance will be added to the current standard child pension rate and will be paid to each child who qualifies for a Children's Pension. This provides a significant increase in payment to those receiving this pension.

I currently receive a Children's Pension. How will I be affected?

You will automatically become entitled to the increased rate of Children's Pension.

Will educational bursaries continue?

Yes. Currently known as 'War Bursaries', these will continue as 'Children's Bursaries' under the new legislation.

Are there any new lump sum payments available under the new legislation?

Yes. Two new lump sum payments will be available under the 2014 Act.

- Terminal lump sum payment: If you are diagnosed with a terminal service-related condition, you can choose to suspend your Disablement Pension or War Disablement Pension for 12 months, and receive a one-off lump sum payment equivalent to 12 months' worth of the pension paid at the maximum rate.
- Retirement lump sum payment: If you have had difficulty saving for your retirement, this will give a boost to your savings. You must have received some form of veterans' income compensation for at least 10 years prior to reaching the New Zealand Superannuation qualifying age (currently 65). There is also an asset test for this payment because the purpose of the payment is to assist those who have had reduced ability to save for retirement.

What happens if a Terminal Lump Sum Payment has been made and the veteran dies before the 12 month period ends?

In the unfortunate event that the veteran dies before the 12-month period ends, there will be no expectation for repayment of any of the lump sum payment.

**What happens if a Terminal Lump Sum Payment has been made and the veteran is still alive after 12 months?**

If the veteran survives the 12-month period, their Disablement Pension or War Disablement Pension will resume at the maximum rate payable. The veteran will not be eligible to apply for another Terminal Lump Sum Payment.





Are payments cancelled immediately after I die?

No. The 2014 Act will allow payments to continue for up to 28 days after a person dies. The person's family still needs to inform Veterans' Affairs of the death, but these 28 days give the family a little time to do this.

Under the 1954 Act, payments are cancelled on the day after a person dies.

## **Scheme Two – focused on veterans with qualifying operational service performed on or after 1 April 1974 and their families**

How are the Scheme Two entitlements aligned with those available through ACC?

Scheme Two focuses on rehabilitation. Entitlements are aligned with those available through ACC with additional support provided by Veterans' Affairs to recognise the service that a veteran has given to New Zealand.

ACC impairment compensation is paid in two different forms – either a periodic payment or a lump sum, depending on when the injury occurred. Scheme Two impairment compensation will be paid in the same form as the ACC payment but at a rate higher than that paid by ACC. If a veteran's claim is not accepted by ACC, Veterans' Affairs will pay the full amount. If a veteran is eligible for ACC payments, Veterans' Affairs will top up the ACC payment.

What are the rates of payment in this scheme?

The rates are based on the ACC rates, but paid at a higher rate to recognise the contributions made by veterans. As an example – if you suffer a permanent impairment you may be eligible for a lump sum payment under the Accident Compensation Act. If so, you will also be eligible for an additional 20% payment under the Veterans' Support Act.

I am currently serving. What provision does the new legislation include for my spouse and children?

Scheme Two will provide a lump sum payment to the spouse and children of a veteran who is killed whilst on qualifying operational service. It will also provide a portion of their income which is paid as weekly compensation.

In addition, Scheme Two may provide vocational assistance for your spouse or partner in the event that you suffer a service-related illness or injury and are unable to work.

## **Common to both schemes**

How long will it take to process an application under the 2014 Act?

Veterans' Affairs will decide whether to accept or decline a claim no longer than 30 working days after receiving the completed application.

Will there be any changes in eligibility for the Veteran's Pension?

Yes. If you have eligible service you will now be able to receive a Veteran's Pension and automatically be entitled to a Community Services Card.

The Veteran's Pension will continue to be administered by the Ministry of Social Development on behalf of Veterans' Affairs and will be paid at the current rates.

Will the Veteran's Pension be payable to veterans who are over 65 and live outside New Zealand?

Yes. The residency criteria that apply to both the Veteran's Pension and New Zealand Superannuation will not change. Under the 2014 Act, eligible veterans who wish to leave New Zealand to live in another country can still be paid a Veteran's Pension.

I am receiving a War Disablement Pension. If I remain on that or if I transfer to a Disablement Pension will there be any changes to the treatment I can receive?

No. Treatment will continue to be provided in the same manner as it is currently.

As a veteran, can I be eligible for assistance under Scheme One and Two?

Yes. If you have qualifying service under Scheme One and qualifying operational service under Scheme Two, you may be eligible for assistance under both schemes.

I currently receive a War Disablement Pension. What scheme will I be covered by if I make a claim for another condition?

In the first year of the 2014 Act, all new claims will be determined under Scheme One. Once Scheme Two is implemented on 7 December 2015, future claims will be treated in one of two ways:

- If the claim relates to service up to and including the Vietnam War, it will be covered by Scheme One.
- If the claim relates to service after 1 April 1974, it will be covered by Scheme Two.

# Chairperson's Guide

Please note that this guide is based on a process where the Ministry will present their case first. This does not restrict the way in which a committee may choose to run their hearing in any way.

- Ensure all of the panel are happy with and clear about the chosen process.
- Collect the applicant and the Ministry presenter from the waiting area.
- Introduce self and advise that you will be fulfilling the role of chairperson
- Introduce all of the other panel members as well as anyone else in the room. Sometimes panellists, particularly community representatives prefer to introduce themselves and should be given this opportunity.
- Introduction (explain):
  - *This hearing is convened in terms of Section 10A of the Social Security Act 1964.*

*Section 10A outlines the following requirements of this Committee:*

- *It will be made up of 1 community rep and 2 officers of the Ministry*
- *the community rep will represent the interests of the community*
- *the two officers of the Ministry will be objective and have had no involvement in any way with the decision being reviewed*
- *the committee will have a fresh look at the decision and ensure a fair and impartial outcome.*

*The process is:*

- *independent and less formal than a court hearing*
- *no one is under oath, but I ask that we all enter into the spirit of the hearing so that the committee is able to make a fair and reasonable decision*
- *the Ministry will present their case first and then the applicant will have an opportunity to explain their reasons for the review*
- *the committee may ask questions of both parties. All questions are to go through the chairperson.*

When you begin:

- invite the Ministry to go first
- ask whether the papers have been read and understood. If so there will be no need for a verbatim account. An overview of the Summary of Facts and the Case for the Ministry will probably be sufficient. If the applicant is not familiar with the content it is suggested the presenter go into more detail and ensures their material is presented in such a way that non-Ministry staff will have a clear understanding
- invite the applicant to advise the committee why they are reviewing the decision.

Invite the panel to ask any questions. This is the opportunity to seek clarification of any points that have been raised in the hearing. This may be for the benefit of anyone at the hearing.

When concluding:

- ask: *Any closing comments?*
- advise: *No verbal decision will be made. A written decision will be provided as soon as practicable, usually within five working days.*
- advise: *If you are not satisfied with the outcome of the committee's decision you have the right of appeal to the Social Security Appeal Authority. Further details of this will be provided with the written decision.*

***Remember:***

***Keep it friendly***

***It's the applicant's review***

***Make sure the applicant feels as though they been heard***

# Implications of the Supreme Court Decision on the Benefits Review Committee process

08 November 2007.

The purpose of this news update is to explain the impact of the Supreme Court decision in *Arbuthnot v Chief Executive of The Department of Work and Income* [19 July 2007] on the Review of Decision/Benefit Review Committee processes.

## Summary

The judgment confirmed the Ministry's existing position and clarified a number of issues which are important to the way Reviews of Decisions and Benefit Review Committees (BRC) are administered:

- The scope of a review relates to the result the Ministry came to, rather than the conclusions reached by the Ministry which led to that result.
- It is important to correctly identify the decision under review in reports so that reviewing managers and BRC's know the scope of what they can consider. They are not limited to the issues raised by the client but must consider whether the Ministry's decision was right.
- The Court clarified that a BRC functions as an administrative body rather than a judicial one and is intended to act in the place of the Chief Executive (CE).
- Generally, the decision of a BRC will bind the CE. It will be extremely rare for the Ministry to consider overturning a BRC decision. Such cases must be referred to the BRC team for advice.

## Discussion

- The judgment confirms that a review relates to the final outcome that the decision maker came to, rather than the individual factors considered by the decision maker which led to that outcome.

For example a client lodges a review of decision about his car hire purchase payments not being included as an allowable cost for the assessment of his Temporary Additional Support (TAS). The client is not reviewing *'the decision not to include the hire purchase payments as an allowable cost'* because the outcome of that decision is the rate of payment and therefore he is reviewing *'the decision to pay TAS at the rate of \$x.xx from 25 February 2007'*.

- Neither the client nor the Ministry can narrow the scope of a review by saying they only want to review certain aspects, such as the inclusion of the hire purchase payments in TAS. It will always be helpful to identify what issues are in contention, but what is being reviewed remains the actual decision made, not the individual determinations that led to that decision. That is, the BRC has jurisdiction to consider whether the decision was right - it is not limited to considering one aspect of the decision in isolation.

- The Court confirmed that the BRC is an administrative body that acts in the place of the CE. A decision made by the BRC has the same standing as one made personally by the CE. The reason the CE cannot appeal a BRC's decision is because the BRC effectively acts in his place. He cannot appeal his own decisions.
- Generally the decisions of a BRC will bind the Ministry. The Court recognised that the CE could use his power of review to reconsider a BRC decision. However, the Court gave guidance on when such a review would be appropriate. The Court held that beneficiaries are entitled to expect the Ministry's decisions, once made, will not be disturbed without very good reason.
- The Court held that, in a case like Mr Arbuthnot's, to resolve an inconsistency between a BRC decision and a later Appeal Authority decision, the CE would be entitled to review the benefit going forward. However, where payments have been made following a BRC decision it will seldom be appropriate to carry out a retrospective review
- Given this guidance it will be extremely rare for the Ministry to consider overturning a BRC decision. Such cases must be referred to the BRC team for advice.

## Outcome

This decision should not fundamentally change the way in which the BRC process is conducted. However, it does clarify the legal basis under which Benefit Review Committees operate.

<http://www.workandincome.govt.nz/individuals/brochures/information-for-trespassed-clients.html>

## Information for trespassed clients

Information if you've been served a notice that you've been trespassed from one or more Ministry of Social Development offices.

[Download this information as a factsheet \(PDF 151.52KB\).](#)

If you have been served a notice that you've been trespassed from one or more Ministry of Social Development offices, you are unable to deal personally with the Ministry of Social Development staff in those offices while it is in effect. You may like to use an agent and/or an advocate to help you continue to work with us.

You can have both an agent and an advocate. For example you may have an agent who fills in forms for you, and an advocate who sees you get all the assistance you're entitled to.

### Appointing an agent

An agent is someone who can act on your behalf. For example, to apply for financial assistance, update your details or receive your mail. You're responsible for choosing your agent and deciding what they can or can't do. Your agent can be a person or an organisation. Whoever you choose as your agent must agree to act on your behalf.

If you want to appoint an agent to act on your behalf, you and your agent will be asked to fill out an Appointment of Agent application form, available on Work and Income's website or by calling the contact centre and having one sent to you.

The appointment of agent process gives you confidence around the privacy and security of your personal information and allows you to decide what your agent can and can't do on your behalf.

You can change or stop your arrangement with your agent at any time by contacting the Ministry of Social Development (Work and Income, Senior Services or StudyLink). You should also let your agent know that you no longer want them to act for you.

### Using an advocate

An advocate is someone independent of the Ministry of Social Development who knows and understands the benefit system, your rights and obligations. An advocate can work with us to see that you get all the assistance you're entitled to. They can help explain your situation in meetings with us.

There is information on finding an advocate over the page.



## Finding an advocate

Contact a Citizens Advice Bureau or Community Law Centre near you for contact details of advocates in your area.

[Citizens Advice Bureau](#)

or call 0800 367 222

[Community Law](#)

or look in your local phone book.

[Benefit advice from MSD](#)

Ministry of Social Development's website also has contact details for free legal and benefit advice (by region)

If you have trouble finding someone to act as an advocate Kay Brereton currently provides an independent advocacy and brokerage service to trespassed clients. This service is available until 31 May 2015. Kay is an experienced benefit advocate, well versed in Work and Income policies, systems and law. She will work with you to create a way for you to communicate with Work and Income and other parts of the Ministry while your trespass notice is in place, and help with any issues you may have about assistance available to you.

- Kay Brereton
  - email: [K4advocacy@ruralnet.co.nz](mailto:K4advocacy@ruralnet.co.nz) or
  - text your name and a contact number to: 021 266 2001 (please note this number cannot receive calls)

## For more information

If you need more information contact the Ministry of Social Development (Work and Income, Senior Services or StudyLink).

- [www.msd.govt.nz](http://www.msd.govt.nz)
- Work and Income: 800 559 009
- Senior Services: 0800 552 002
- StudyLink: 0800 88 99 00