

**Reprint
as at 1 April 2010**



War Pensions Act 1954

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Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

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An Act to consolidate and amend the law relating to war pensions and allowances

1 Short Title

This Act may be cited as the War Pensions Act 1954.

Compare: 1943 No 22 s 1

1A Application of Act

Except as provided in subsection (5) of section 19 or Part 6, the provisions of this Act shall not apply to any member of the Armed Forces of New Zealand within the meaning of the Accident Compensation Act 1972 in respect of service as such a member.

Section 1A: inserted, on 1 April 1974, by section 2(1) of the War Pensions Amendment Act 1973 (1973 No 33).

Section 1A: amended, on 15 April 2003, by section 3 of the War Pensions Amendment Act 2003 (2003 No 18).

Section 1A: amended, on 1 April 1990, by section 15(1) of the Social Welfare (Transitional Provisions) Act 1990 (1990 No 26).

2 Interpretation

(1) In this Act, unless the context otherwise requires,—

Advisory Board means the War Pensions Advisory Board established under section 5A

Appeal Board means a War Pensions Appeal Board established under this Act

child, in relation to any member of the forces, means a child under the age of 16 years; and includes a step-child

claims panel means a war pensions claims panel maintained by the Secretary under section 15(1)

Department means, subject to any enactment, the New Zealand Defence Force (as defined in section 2(1) of the Defence Act 1990)

dependant, in relation to a member of the defence force, means—

- (a) any person who is wholly or primarily dependent on the member for financial support and who ordinarily resides with the member and who—
 - (i) is related to the member or is within any class of persons specified as dependent persons in guidelines issued by the Secretary; and
 - (ii) is within any class of persons specified as financially dependent persons in guidelines issued by the Secretary:
- (b) any person who is under the care of that member as a consequence of that person's inability to live independently of the member for reasons of—
 - (i) disability; or
 - (ii) illness; or
 - (iii) advanced age

dependent child, in relation to a member of the forces or any other person claiming a pension or allowance under this Act, means a child who is being cared for as a member of the family of the member of the forces or other such person

medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of medicine

member of the Emergency Reserve Corps means any person who was at any time a member of the Emergency Reserve Corps established under the Emergency Reserve Corps Regulations 1941

member of the family, in relation to a family that includes a member of the forces, means—

- (a) any person who is related to the member:
- (b) any person who belongs to the same whanau or other culturally recognised family group:
- (c) any person within a class of persons specified as members of a family in guidelines issued by the Secretary

member of the forces means any person who is or has at any time been a member of any of Her Majesty's forces established

in New Zealand, whether before or after the commencement of this Act

member of the forces means a member of the defence force

member of the mercantile marine means any person who is or has at any time been the master or any other officer or the pilot or any member of the crew of—

- (a) any ship that is for the time being on New Zealand articles; or
- (b) any ship that is engaged in trading exclusively in New Zealand waters but is not on articles; or
- (c) any ship that is for the time being owned and operated by the New Zealand Government or by any Harbour Board

Minister means, subject to any enactment, the Minister who is, with the authority of the Prime Minister, for the time being responsible for the administration of this Act

official or employee of the Department includes a member of the New Zealand Defence Force

partner means civil union partner or de facto partner

pay period, in relation to any class of pension or allowance under this Act means a period of 4 complete weeks commencing on such date as the Secretary determines from time to time

Secretary means the Secretary for War Pensions; and includes any person for the time being authorised to exercise or perform any of the powers, duties, or functions of the Secretary

spouse, in relation to a member of the forces who is married, means the person to whom the member is married.

- (2) Terms defined in this section in relation to a member of the forces have corresponding meanings, with any necessary modifications, when used in this Act in relation to persons other than members of the forces.

Compare: 1940 No 24 s 2; 1943 No 22 ss 2, 19(3), 35(1), (2), 54; 1949 No 26 s 3

Section 2(1) **Advisory Board**: inserted, on 1 April 1989, by section 2(2) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 2(1) **Board**: repealed, on 1 April 1989, by section 2(1) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 2(1) **child**: amended, on 1 January 1970, by section 12(2) of the Status of Children Act 1969 (1969 No 18).

Section 2(1) **claims panel**: substituted, on 1 July 1999, by section 8 of the Veterans' Affairs Act 1999 (1999 No 76).

Section 2(1) **Department**: substituted, on 1 July 1999, by section 8 of the Veterans' Affairs Act 1999 (1999 No 76).

Section 2(1) **dependant**: substituted, on 15 December 2001, by section 3(1) of the War Pensions Amendment Act 2001 (2001 No 97).

Section 2(1) **dependent child**: substituted, on 1 April 1991, by section 2(1) of the War Pensions Amendment Act 1991 (1991 No 2).

Section 2(1) **medical practitioner**: inserted, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 2(1) **member of the family**: substituted, on 15 December 2001, by section 3(1) of the War Pensions Amendment Act 2001 (2001 No 97).

Section 2(1) **member of the forces** second definition: inserted, on 15 December 2001, by section 3(2) of the War Pensions Amendment Act 2001 (2001 No 97).

Section 2(1) **Minister**: substituted, on 1 July 1999, by section 8 of the Veterans' Affairs Act 1999 (1999 No 76).

Section 2(1) **official or employee of the Department**: inserted, on 1 July 1999, by section 8 of the Veterans' Affairs Act 1999 (1999 No 76).

Section 2(1) **partner**: substituted, on 26 April 2005, by section 3 of the War Pensions Amendment Act 2005 (2005 No 24).

Section 2(1) **pay period**: inserted, on 1 February 1961, by section 7(2) of the War Pensions Amendment Act 1960 (1960 No 14).

Section 2(1) **relationship**: repealed, on 26 April 2005, by section 3 of the War Pensions Amendment Act 2005 (2005 No 24).

Section 2(1) **spouse**: added, on 15 December 2001, by section 3(2) of the War Pensions Amendment Act 2001 (2001 No 97).

Section 2(1) **war service pension**: repealed, on 1 April 1990, by section 15(2) of the Social Welfare (Transitional Provisions) Act 1990 (1990 No 26).

3 Act divided into Parts

The following provisions of this Act are divided into Parts as follows:

Part 1—Administration. (Sections 4 to 18.)

Part 1A—War Pensions Medical Research Trust. (Sections 18A to 18S.)

Part 2—War pensions. (Sections 19 to 56A.)

Part 4—Mercantile marine pensions. (Sections 62 to 64.)

Part 5—Emergency Reserve Corps pensions. (Sections 65 and 66.)

Part 6—Veterans’ pensions. (Sections 67 to 74W.)

Part 7—General provisions. (Sections 75A to 97.)

Section 3 Part 1A: inserted, on 1 April 1971, by section 3(a) of the War Pensions Amendment Act (No 2) 1970 (1970 No 125).

Section 3 Part 2: amended, on 13 January 1966, pursuant to section 3(1) of the War Pensions Amendment Act 1966 (1966 No 41).

Section 3 Part 3: repealed, on 1 April 1990, by section 15(3) of the Social Welfare (Transitional Provisions) Act 1990 (1990 No 26).

Section 3 Part 5A: repealed, on 1 April 1990, by section 15(3) of the Social Welfare (Transitional Provisions) Act 1990 (1990 No 26).

Section 3 Part 6: substituted, on 15 April 2003, by section 4 of the War Pensions Amendment Act 2003 (2003 No 18).

Section 3 Part 7: amended, on 17 July 1963, pursuant to section 4 of the War Pensions Amendment Act 1963 (1963 No 125).

Part 1

Administration

Appointments

4 Secretary for War Pensions

- (1) For the purposes of this Act, a person must be appointed under section 61A of the Defence Act 1990 as the Secretary for War Pensions.
- (2) The Secretary, acting under the general direction and control of the Minister, shall be charged with the administration of this Act.

Compare: 1943 No 22 s 4

Section 4(1): substituted, on 1 July 1999, by section 8 of the Veterans’ Affairs Act 1999 (1999 No 76).

4A Delegation of Secretary’s powers

- (1) The Secretary may from time to time, either generally or particularly, delegate in writing to any official or employee of the Department such of the Secretary’s powers, functions, and discretions under this Act as the Secretary determines, other than—
 - (a) the powers, functions, and discretions conferred on the Secretary by sections 14(2) to (5), 16(4), 19, 21 to 27, 34, 35, 35A, 48, and 85; and
 - (b) the power of delegation conferred by this subsection.

- (1A) The Secretary may from time to time, either generally or particularly, delegate in writing to the chief executive of any department of the Public Service listed in Schedule 1 of the State Sector Act 1988 such of the Secretary's powers, functions, and discretions under this Act as the Secretary determines, including the power of delegation conferred by this subsection.
- (2) Any delegation under this section may be made to—
- (a) a specified person; or
 - (b) a person of a specified class; or
 - (c) the holder for the time being of a specified office or appointment; or
 - (d) the holders for the time being of offices or appointments of a specified class.
- (3) Subject to any general or special directions given or conditions or restrictions imposed by the Secretary, the person to whom any powers, functions, and discretions are delegated may exercise them in the same manner and with the same effect as if they had been conferred directly by this Act and not by delegation.
- (4) Every person purporting to act pursuant to any delegation under this section shall be presumed to be acting in accordance with its terms in the absence of proof to the contrary.
- (5) A delegation under this section shall not affect the exercise of any power, function, or discretion by the Secretary.
- (6) If the Secretary by whom any delegation under this section is made ceases to hold office, the delegation shall continue to have effect as if made by the Secretary's successor in office.
- (7) Every delegation under this section shall be revocable at will, but any such revocation shall not take effect until it has been communicated to the delegate.
- (8) Nothing in this section or in any delegation made under this section shall limit or affect the provisions of section 5.

Section 4A: inserted, on 1 April 1989, by section 3 of the War Pensions Amendment Act 1988 (1988 No 148).

Section 4A(1)(a): amended, on 1 July 1999, by section 8 of the Veterans' Affairs Act 1999 (1999 No 76).

Section 4A(1A): inserted, on 1 July 1999, by section 8 of the Veterans' Affairs Act 1999 (1999 No 76).

5 Deputy Secretary for War Pensions

- (1) A Deputy Secretary for War Pensions may from time to time be appointed under section 61A of the Defence Act 1990 and, subject to the control of the Secretary, the Deputy Secretary has and may exercise all the powers, duties, and functions of the Secretary.
- (2) On the occurrence from any cause of a vacancy in the office of Secretary (whether by reason of death, resignation, or otherwise), and in case of the absence from duty of the Secretary (from whatsoever cause arising), and so long as any such vacancy or absence continues, the Deputy Secretary shall have and may exercise all the powers, duties, and functions of the Secretary.
- (3) The fact that the Deputy Secretary exercises any power, duty, or function of the Secretary shall be conclusive evidence of his authority to do so.

Section 5(1): substituted, on 1 July 1999, by section 8 of the Veterans' Affairs Act 1999 (1999 No 76).

5A War Pensions Advisory Board

- (1) There is hereby established a board to be called the War Pensions Advisory Board.
- (2) The Advisory Board shall be a body corporate with perpetual succession and a common seal, and may hold real and personal property, and sue and be sued, and do and suffer all such acts and things as bodies corporate may lawfully do and suffer.
- (3) The Advisory Board shall consist of—
 - (a) the Secretary for War Pensions:
 - (b) the National President for the time being of the New Zealand Returned Services' Association (Incorporated):
 - (c) a medical member (who shall be a medical practitioner) appointed by the Minister.

Section 5A: inserted, on 1 April 1989, by section 4 of the War Pensions Amendment Act 1988 (1988 No 148).

Section 5A(3)(b): amended, on 1 July 1999, by section 8 of the Veterans' Affairs Act 1999 (1999 No 76).

Section 5A(3)(c): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

5B Term of office of appointed member

The appointed member of the Advisory Board shall hold office during the Minister's pleasure, but shall not hold office for a continuous period of more than 3 years without reappointment.

Section 5B: inserted, on 1 April 1989, by section 4 of the War Pensions Amendment Act 1988 (1988 No 148).

5C Extraordinary vacancies

- (1) The appointed member of the Advisory Board may at any time resign by written notice to the Minister.
- (2) The powers of the Advisory Board shall not be affected by any vacancy in its membership.

Section 5C: inserted, on 1 April 1989, by section 4 of the War Pensions Amendment Act 1988 (1988 No 148).

5D Presiding member

- (1) The presiding member of the Advisory Board shall be the Secretary for War Pensions who shall preside at all meetings of the Advisory Board at which he or she is present.
- (2) In the absence of the presiding member from any meeting of the Advisory Board, the person appointed to attend the meeting in the presiding member's place pursuant to section 5E(1) shall be the presiding member for that meeting.
- (3) In the absence from any meeting of both the presiding member and any person appointed to attend the meeting in the presiding member's place, the members present shall appoint one of their number to be the presiding member for that meeting.

Section 5D: inserted, on 1 April 1989, by section 4 of the War Pensions Amendment Act 1988 (1988 No 148).

5E Deputies of members

- (1) The Secretary for War Pensions may appoint any official or employee of the Department to attend any meeting of the Advisory Board in the Secretary's place.
- (2) The National President of the New Zealand Returned Services' Association (Incorporated) may appoint an officer or the chief executive officer of that association to attend any meeting of the Advisory Board in the place of the National President.

- (3) The Minister may from time to time appoint a deputy for the medical member, who shall be a medical practitioner; and the person appointed shall hold office at the Minister's pleasure and may act in place of the medical member for whom he or she is the deputy while that member is unable to attend any meeting of the Advisory Board.
- (4) Every person appointed under this section to deputise for a member of the Advisory Board, while so acting, shall be deemed to be a member of the Advisory Board; and the fact that any deputy attends a meeting shall be conclusive proof of the deputy's authority to do so.

Section 5E: inserted, on 1 April 1989, by section 4 of the War Pensions Amendment Act 1988 (1988 No 148).

Section 5E(2): amended, on 1 July 1999, by section 8 of the Veterans' Affairs Act 1999 (1999 No 76).

Section 5E(3): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

5F Meetings of Advisory Board

- (1) Meetings of the Advisory Board shall be held at such times and places as the Advisory Board or the presiding member may from time to time appoint.
- (2) At any meeting of the Advisory Board the quorum shall be 2 members.
- (3) Every matter to be decided at a meeting of the Advisory Board shall be determined by a majority of the votes of the members present and voting on it.
- (4) At any meeting of the Advisory Board the person for the time being acting as the presiding member shall have a deliberative vote and, if the voting is equal, shall also have a casting vote.
- (5) Subject to this Act and to the rules of the Advisory Board, the Advisory Board may regulate its own procedure.

Section 5F: inserted, on 1 April 1989, by section 4 of the War Pensions Amendment Act 1988 (1988 No 148).

5G Administrative services

All secretarial and administrative services required for the purposes of the Advisory Board shall be supplied by the Department.

Section 5G: inserted, on 1 April 1989, by section 4 of the War Pensions Amendment Act 1988 (1988 No 148).

5H Fees and travelling allowances

- (1) The Advisory Board is hereby declared to be a statutory board within the meaning of the Fees and Travelling Allowances Act 1951.
- (2) There may be paid to the members of the Advisory Board (other than officials and employees of the Department), out of a Crown Bank Account, from money appropriated by Parliament for the purpose, remuneration by way of fees, salary, or allowances, and travelling allowances and expenses, in accordance with the Fees and Travelling Allowances Act 1951; and that Act shall apply accordingly.

Section 5H: inserted, on 1 April 1989, by section 4 of the War Pensions Amendment Act 1988 (1988 No 148).

Section 5H(2): amended, on 25 January 2005, pursuant to section 83(7) of the Public Finance Act 1989 (1989 No 44).

5I Functions of Advisory Board

The Advisory Board shall have the following powers and functions:

- (a) on its own initiative or at the request of the Minister to advise the Minister on policies to be applied in respect of war pensions and allowances:
- (b) to approve guidelines for the determination and assessment of war pensions to be used by medical examiners and claims panels:
- (c) generally to consider and advise on any other matter which assists the administration of war pensions or that the Minister refers to it:
- (d) to administer the War Pensions Medical Research Trust Fund established under section 18I:
- (e) to consider applications for payments from the War Pensions Medical Research Trust Fund, and to determine the persons to whom grants, awards, or fellowships are to be made under section 18L:
- (f) such other powers and functions as may be conferred or imposed on it by this Act or any other enactment:
- (g) to make rules for the conduct of its own business.

Section 5I: inserted, on 1 April 1989, by section 4 of the War Pensions Amendment Act 1988 (1988 No 148).

6 War Pensions Boards

[Repealed]

Section 6: repealed, on 1 April 1989, by section 5(1) of the War Pensions Amendment Act 1988 (1988 No 148).

7 Chairman of War Pensions Board

[Repealed]

Section 7: repealed, on 1 April 1989, by section 5(1) of the War Pensions Amendment Act 1988 (1988 No 148).

8 War Pensions Appeal Boards

- (1) For the purposes of this Act there shall be such number of War Pensions Appeal Boards as the Minister thinks fit.
- (2) A War Pensions Appeal Board shall consist of not more than 4 members, who shall be appointed by the Minister and shall hold office during his pleasure:
provided that no member of an Appeal Board shall hold office for a continuous period of more than 3 years without reappointment.
- (3) Two members of each Appeal Board shall be medical practitioners and one of those members shall be appointed as a representative of the members of the forces on the nomination of the New Zealand Returned Services' Association (Incorporated).
- (4) Each Appeal Board shall be distinguished by such distinctive name as the Minister thinks fit.
- (5) Except as provided in subsections (6) and (7), all members of an Appeal Board shall be present at the hearing of any appeal under this Act from any decision of the Secretary.
- (6) At the hearing of an appeal lodged under section 16(1)(c), the Chairman of the Appeal Board, 1 medical practitioner appointed under subsection (3), and the member appointed as a representative of the members of the forces under the said subsection, shall constitute a quorum.

(7) *[Repealed]*

- (8) The decision of a majority of the members present at a sitting of the Appeal Board shall be the decision of the Board. If the said members are equally divided in opinion, the decision of the Chairman shall be the decision of the Appeal Board.

Compare: 1943 No 22 s 8; 1947 No 60 s 72

Section 8(2): amended, on 14 November 1973, by section 3(1) of the War Pensions Amendment Act 1973 (1973 No 33).

Section 8(3): substituted, on 1 April 1989, by section 6(1) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 8(3): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 8(5): amended, on 1 April 1989, by section 6(2)(a) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 8(5): amended, on 14 November 1973, by section 3(3) of the War Pensions Amendment Act 1973 (1973 No 33).

Section 8(6): added, on 14 November 1973, by section 3(4) of the War Pensions Amendment Act 1973 (1973 No 33).

Section 8(6): amended, on 1 April 1989, by section 6(2)(b) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 8(7): repealed, on 15 April 2003, by section 5 of the War Pensions Amendment Act 2003 (2003 No 18).

Section 8(8): added, on 14 November 1973, by section 3(4) of the War Pensions Amendment Act 1973 (1973 No 33).

9 Chairman of Appeal Board

One of the members of each Appeal Board shall be appointed by the Minister to be the Chairman thereof and shall hold office as Chairman during the pleasure of the Minister.

Compare: 1943 No 22 s 9

10 Deputy members

- (1) The Minister may from time to time appoint a person to be the deputy of any member of any Appeal Board.
- (2) Any person appointed as deputy of a member appointed as the representative of the members of the forces shall be nominated in the same manner as that member, and the deputy of a member being a medical practitioner shall also be a medical practitioner.
- (3) The deputy of any member shall have authority to act as a member of the Board in the event of the absence from any

meeting of the Board of the member whose deputy he is, and shall in that event have all the powers of that member.

Compare: 1943 No 22 s 6

Section 10(1): amended, on 1 April 1989, by section 5(2)(b) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 10(2): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 10(3): amended, on 1 April 1989, by section 5(2)(c) of the War Pensions Amendment Act 1988 (1988 No 148).

11 Appointments on nomination of NZRSA (Inc)

- (1) For the purpose of appointing any member of any Appeal Board who is required by this Act to be nominated by the New Zealand Returned Services' Association (Incorporated), the Minister may require that Association to submit more than 1 but not more than 3 nominations, and on receipt of those nominations the Minister may appoint such one of the persons so nominated as he thinks fit.
- (2) In the event of the Association failing for more than 2 months to submit to the Minister the names of the required number of nominees, the Minister may temporarily appoint such person as he thinks fit (whether nominated by the Association or not) to act as a member of the Board until the vacancy is filled in accordance with subsection (1).

Compare: SR 1945/159 r 4

Section 11(1): amended, on 1 April 1989, by section 5(2)(d) of the War Pensions Amendment Act 1988 (1988 No 148).

12 Remuneration and travelling expenses

There shall be paid to the members of any Appeal Board remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly as if every such Board were a statutory Board within the meaning of that Act.

Section 12: amended, on 1 April 1989, by section 5(2)(e) of the War Pensions Amendment Act 1988 (1988 No 148).

13 Application of Commissions of Inquiry Act 1908

For the purpose of carrying out their several functions under this Act, the Secretary and the Appeal Boards shall be deemed to be Commissions appointed under the Commissions of Inquiry Act 1908, and, subject to the provisions of this Act and of any regulations made under this Act, all the provisions of that Act shall apply accordingly.

Section 13: amended, on 1 April 1989, by section 5(2)(f) of the War Pensions Amendment Act 1988 (1988 No 148).

Procedure in respect of claims for pensions

14 Claims for war pensions or allowances

- (1) All claims for or in respect of pensions or allowances under this Act shall be made in writing.
- (2) A claimant for a pension for death or disablement of a member of the forces allegedly caused by or attributable to or aggravated by service may be required by the Secretary, if it is appropriate to the circumstances of the case, to produce a medical report from the claimant's or, as the case may be, the deceased member of the force's own medical practitioner which sets out with particularity the nature of the condition from which the deceased member of the forces died, or which occasions the claimant's disability.
- (3) As soon as practicable after receiving a claim under this section, the Secretary shall consider it and may either—
 - (a) grant a pension or allowance in accordance with the provisions of this Act; or
 - (b) decline the claim on the grounds that the claimant is not entitled to a pension or allowance under this Act.
- (4) The claimant shall be forthwith advised of the decision to grant or decline the claim, and shall at the same time be supplied with a written explanation of the reason or reasons for the decision.
- (5) If a claimant, whose right of appeal under section 16 against a decision made under subsection (3) of this section has not been exercised and has lapsed, satisfies the Secretary that, because of additional evidence becoming available or for any other reason, it is desirable in the interests of justice that the

claim should be reconsidered, the Secretary shall accept from the claimant a fresh claim; and any such claim shall be dealt with in accordance with section 15E.

Section 14: substituted, on 1 April 1989, by section 7(1) of the War Pensions Amendment Act 1988 (1988 No 148).

Delegation of powers of War Pensions Boards
[Repealed]

Heading: repealed, on 1 April 1989, pursuant to section 7(1) of the War Pensions Amendment Act 1988 (1988 No 148).

15 District claims panels

- (1) The Secretary must maintain a sufficient number of war pensions claims panels.
- (1A) Despite subsection (1), the Secretary may not alter the number of claims panels unless the Secretary has consulted with the National Executive Committee of the New Zealand Returned Services' Association (Incorporated).
- (2) Each claims panel consists of—
 - (a) a person who—
 - (i) is an official or employee of the Department and is appointed from time to time by the Secretary; or
 - (ii) is an official or employee of a department of the public service listed in Schedule 1 of the State Sector Act 1988 and is appointed from time to time by the chief executive of that department after consultation with the Secretary; and
 - (b) a person appointed from time to time by the Secretary on the nomination of the National Executive Committee of the New Zealand Returned Services' Association (Incorporated).
- (2A) A claims panel may, on or after 1 October 1999, allow a person nominated by a claimant to participate as the claimant's advocate in the consideration of the claim by the panel, if the members of the panel consider that the person nominated is sufficiently qualified, by reason of his or her training and experience, to participate in the consideration of the claim.

- (2B) A person who is allowed under subsection (2A) to participate as the claimant's advocate in the consideration of a claim is not a member of the claims panel, and is not part of the panel for the purposes of section 15B(2) to (4).
- (3) There may be paid to the member of the claims panel appointed under subsection (2)(b), out of a Crown Bank Account from money appropriated by Parliament for the purpose, remuneration by way of fees, salary, or allowances, and travelling allowances and expenses, in accordance with the Fees and Travelling Allowances Act 1951 as if the panel were a statutory board within the meaning of that Act; and that Act shall apply accordingly.

Section 15: substituted, on 1 April 1989, by section 7(1) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 15(1): substituted, on 1 July 1999, by section 8 of the Veterans' Affairs Act 1999 (1999 No 76).

Section 15(1A): inserted, on 1 July 1999, by section 8 of the Veterans' Affairs Act 1999 (1999 No 76).

Section 15(2): substituted, on 1 July 1999, by section 8 of the Veterans' Affairs Act 1999 (1999 No 76).

Section 15(2A): inserted, on 1 July 1999, by section 8 of the Veterans' Affairs Act 1999 (1999 No 76).

Section 15(2B): inserted, on 1 July 1999, by section 8 of the Veterans' Affairs Act 1999 (1999 No 76).

Section 15(3): amended, on 25 January 2005, pursuant to section 83(7) of the Public Finance Act 1989 (1989 No 44).

15A Delegation of Secretary's powers to claims panels and national review officers

- (1) The Secretary may from time to time, either generally or particularly, delegate in writing to any claims panel, or national review officer appointed under section 15C, such of the Secretary's powers, functions, and discretions under sections 14(2) to (4), 19, 21 to 27, 34, 35, 35A, 48, and 66A and (in the case of a delegation to a national review officer) sections 14(5), 16(4), and 85 as the Secretary determines.
- (2) Subject to any general or special directions given or conditions or restrictions imposed by the Secretary, the claims panel or national review officer to which or to whom any powers, functions, and discretions are delegated may exercise them in the

same manner and with the same effect as if they had been conferred directly by this Act and not by delegation.

- (3) Every claims panel or national review officer purporting to act pursuant to any delegation under this section shall be presumed to be acting in accordance with its terms in the absence of proof to the contrary.
- (4) A delegation under this section shall not affect the exercise of any power, function, or discretion by the Secretary.
- (5) If the Secretary by whom any delegation under this section is made ceases to hold office, the delegation shall continue to have effect as if made by the Secretary's successor in office.
- (6) Every delegation under this section to a specified claims panel shall continue to have effect notwithstanding any change in the membership of the panel.
- (7) Every delegation under this section shall be revocable at will, but any such revocation shall not take effect until it has been communicated to the delegate.
- (8) Nothing in this section or in any delegation made under this section shall limit or affect the provisions of section 5.

Section 15A: inserted, on 1 April 1989, by section 7(1) of the War Pensions Amendment Act 1988 (1988 No 148).

15B Consideration of claims, etc, by district claims panel

- (1) Where a claims panel is to consider any claim pursuant to a delegation under section 15A—
 - (a) every provision of this Act relating to claims for war pensions or allowances, so far as it is relevant to the claim, shall, with the necessary modifications, apply to and in respect of the consideration and determination of the claim:
 - (b) the claims panel may require the claimant to undergo such medical examinations or assessments as may be reasonably necessary to enable the claims panel to consider the claim fairly:
 - (c) the claims panel may require the claimant to attend and give evidence before the panel in support of the claim, and may accept evidence in person from the claimant or any other person whom the claimant wishes to present in support of the claim:

- (d) the claimant shall have the right to make written submissions to the claims panel in support of the claim.
- (2) Every decision of a claims panel shall be unanimous.
- (3) If there is no unanimity between the members of a claims panel on any claim, each member shall make a written record of the member's opinion and the reasons for that opinion.
- (4) Where subsection (3) applies, the claim, together with each member's written opinion on the claim and all other relevant information, shall be forwarded to a national review officer appointed under section 15C for consideration.

Section 15B: inserted, on 1 April 1989, by section 7(1) of the War Pensions Amendment Act 1988 (1988 No 148).

15C National review officers

The Secretary may from time to time appoint 1 or more officials or employees of the Department to be a national review officer.

Section 15C: inserted, on 1 April 1989, by section 7(1) of the War Pensions Amendment Act 1988 (1988 No 148).

15D Review of decisions of district claims panel, etc

- (1) Any claimant who is dissatisfied with the decision of any claims panel may, within 6 months after being notified of the decision, apply to a national review officer for the decision to be reviewed.
- (2) On receiving an application under subsection (1) or on receiving written opinions pursuant to section 15B(4), the national review officer shall review the decision or consider the claim, as the case may require.
- (3) On reviewing a decision following an application under subsection (1), the national review officer may, in accordance with this Act,—
 - (a) confirm the decision; or
 - (b) amend or reverse the decision; or
 - (c) make such other decision as is appropriate to the circumstances of the case.
- (4) On considering a claim forwarded under section 15B(4), the national review officer, after taking into account the opinions

of the members of the claims panel, shall consider the claim and make a decision on it.

- (5) The provisions of section 15B(1)(a) to (d), with the necessary modifications, shall apply in respect of the review of a decision and the consideration of a claim by a national review officer under this section.
- (6) If a national review officer requires a claimant to attend and give evidence in support of a claim, and the claimant or a person authorised by the claimant to represent the claimant does so, the Secretary, out of money appropriated by Parliament for the purpose, shall pay the actual and reasonable travelling and accommodation expenses (if any) incurred by the claimant or representative.

Section 15D: inserted, on 1 April 1989, by section 7(1) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 15D(1): amended, on 1 April 1990, by section 39 of the Social Welfare (Transitional Provisions) Act 1990 (1990 No 26).

15E National review officer to determine whether fresh application on grounds of additional evidence should be accepted

- (1) If an application for reconsideration of a claim is received under section 14(5) or section 16(4), the Secretary or a national review officer (if authorised to do so pursuant to a delegation) shall determine, in accordance with whichever of those subsections is applicable, whether the fresh application should be accepted.
- (2) If a fresh claim is accepted under subsection (1), the Secretary or national review officer, as the case may be, shall refer the claim to the appropriate claims panel for consideration and decision; and in considering and deciding on the fresh claim it shall be dealt with in all respects as if it were an original claim.

Section 15E: inserted, on 1 April 1989, by section 7(1) of the War Pensions Amendment Act 1988 (1988 No 148).

Appeals

16 Appeals to War Pensions Appeal Board

- (1) Within 6 months after the date on which any decision of the Secretary or a national review officer (whether made before or

after the commencement of this Act) has been communicated to him, the claimant, by notice in writing posted or delivered to the Secretary, may appeal from the decision in so far as it consists of—

- (a) the rejection of any claim for a pension in respect of the disablement or death of a member of the forces on the ground that the disablement or death was not attributable to his service as a member of the forces or that the condition that resulted in his disablement or death was not aggravated by that service; or
 - (b) the assessment of a pension granted to any member of the forces in so far as the assessment is based on medical grounds; or
 - (c) the assessment of any additional pension for severe disablement under section 23.
- (2) On receipt of any such appeal the Secretary shall submit the appeal to a War Pensions Appeal Board, which may confirm the decision or may, in accordance with the provisions of this Act, grant or refuse to grant a pension, or increase or reduce the rate of any pension, or terminate any pension.
 - (3) Any decision of an Appeal Board may be made retrospective if and to such extent as that Board thinks fit.
 - (4) The decision of an Appeal Board shall be final and conclusive: provided that, if at any time a claimant whose appeal has been determined satisfies the Secretary that by reason of additional evidence becoming available or for any other reason whatsoever it is desirable in the interests of justice that his claim should be reconsidered, the Secretary shall accept from him a fresh claim and any such claim shall be dealt with in all respects as if it were an original application for a pension.
 - (5) If any person has the right to apply for the review of any decision pursuant to section 15D, an Appeal Board shall not consider an appeal against the decision under this section until a national review officer has completed a review of the decision.
 - (6) The Appeal Board shall not make a decision in respect of an appeal brought against any decision made under section 23 unless it has first obtained and considered a report on the general

circumstances of the appellant made by a social worker or a welfare officer employed by the New Zealand Returned Services' Association (Incorporated).

Compare: 1943 No 22 s 13; SR 1945/159 r 31(3)

Section 16 heading: amended, on 1 April 1989, by section 8 of the War Pensions Amendment Act 1988 (1988 No 148).

Section 16(1): amended, on 1 April 1989, by section 8(1)(a) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 16(1)(b): amended, on 14 November 1973, by section 4(1) of the War Pensions Amendment Act 1973 (1973 No 33).

Section 16(1)(c): added, on 14 November 1973, by section 4(2) of the War Pensions Amendment Act 1973 (1973 No 33).

Section 16(2): amended, on 1 April 1989, by section 8(1)(b) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 16(4) proviso: amended, on 1 April 1989, by section 8(1)(c) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 16(5): added, on 1 April 1989, by section 8(2) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 16(6): added, on 1 April 1989, by section 8(2) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 16(6): amended, on 1 October 1998, by section 11 of the Employment Services and Income Support (Integrated Administration) Act 1998 (1998 No 96).

16A Appeals to Social Security Appeal Authority

- (1) An appeal shall lie to the Social Security Appeal Authority against any decision or determination of the Secretary under—
 - (a) *[Repealed]*
 - (b) sections 78 and 78A, 81, 83, 84 (except in relation to pensions granted under Parts 2, 4, and 5), 84A, 86, 87, 87A, 89, and 90—

other than a decision or determination in respect of which an appeal lies to a War Pensions Appeal Board.
- (2) Sections 12A to 12R of the Social Security Act 1964 shall, with the necessary modifications, apply in respect of every appeal under this section, and for that purpose every reference in those sections to the chief executive of the department shall be read as a reference to the Secretary.
- (3) If any person has the right to apply for the review of any decision pursuant to section 15D, the Social Security Appeal Authority shall not consider an appeal against the decision under

this section until a national review officer has completed a review of the decision.

Section 16A: inserted, on 1 May 1974, by section 5(1) of the War Pensions Amendment Act 1973 (1973 No 33).

Section 16A(1): amended, on 1 April 1989, by section 9(1) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 16A(1)(a): repealed, on 1 July 1999, by section 8 of the Veterans' Affairs Act 1999 (1999 No 76).

Section 16A(1)(b): amended, on 15 December 2001, by section 4 of the War Pensions Amendment Act 2001 (2001 No 97).

Section 16A(1)(b): amended, on 1 July 1999, by section 8 of the Veterans' Affairs Act 1999 (1999 No 76).

Section 16A(1)(b): amended, on 10 October 1975, by section 2 of the War Pensions Amendment Act 1975 (1975 No 124).

Section 16A(2): amended, on 1 October 1998, by section 11 of the Employment Services and Income Support (Integrated Administration) Act 1998 (1998 No 96).

Section 16A(2): amended, on 1 April 1989, by section 9(2)(b) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 16A(3): added, on 1 April 1989, by section 9(3) of the War Pensions Amendment Act 1988 (1988 No 148).

*Presumptions to operate in favour of claimants
for pensions*

17 Presumption that disablement or death attributable to service

- (1) Where any claim for a pension under this Act is made by or in respect of a member of the forces who, on attesting for service or at any time thereafter, was medically graded as fit for service with the forces, the medical grading shall, except as otherwise provided in this section, be accepted as conclusive proof of the absolute physical and mental fitness of the member at the time of that grading, subject only to any physical or mental conditions qualifying that absolute fitness that may be specifically recorded in the medical record made at the time of the medical grading:

provided that the foregoing provisions of this subsection shall not apply if the medical grading of the member has been altered by a competent authority within 2 months after he has been actually attached to the forces for service therein but before he has been

subjected to any conditions that have in fact prejudicially affected his physical or mental fitness or to any conditions that may be regarded as having possibly or probably so affected his physical or mental fitness, and the member has been officially informed of the alteration of his grading within 3 months after he has been so attached to the forces for service therein.

- (2) The foregoing presumption in favour of the claimant based on the medical grading of the member shall not operate in any case where it is proved that the member failed to reveal to the medical examiners, after proper inquiry made of him, any material facts in relation to his physical or mental health or history, or where it is proved that by reason of any false statement, non-disclosure, or misrepresentation he was erroneously graded.
- (3) In any case in which the foregoing presumption in favour of the claimant does not for any reason apply or is not sufficient to establish his claim, the claimant shall be entitled to produce to the Secretary or an Appeal Board, as the case may be, any evidence (whether strictly legal evidence or not) to show that the condition that resulted in the disablement or death of the member was possibly or probably attributable to or aggravated by his service with the forces in connection with any war or emergency, and if any reasonable evidence to that effect is produced there shall thereby be established a presumption that that condition was in fact attributable to or aggravated by the service of the member, and that presumption may be rebutted only by evidence that satisfies the Secretary or Appeal Board that the condition was not so attributable or aggravated but was due entirely to other causes.
- (4) Where any member of the forces has suffered the loss of, or the permanent loss of the use of, one of any paired organs of the body, and that loss is held to be attributable to his service, the subsequent loss or impairment of the efficiency of the other corresponding organ (from whatever cause arising) shall be conclusively presumed to be attributable to his service.

Compare: 1943 No 22 s 14

Section 17(3): amended, on 1 April 1989, by section 5(2)(g) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 17(3): amended, on 1 April 1989, by section 5(2)(h) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 17(3): amended, on 1 November 1976, by section 2 of the War Pensions Amendment Act 1976 (1976 No 41).

*Rules to be observed by Boards in determining
claims*

**18 Boards not bound by rules of evidence, but must
determine all claims in accordance with their merits**

- (1) In determining, in relation to any claim for a pension under this Act made by a member of the forces in respect of his disablement or made by any other person in respect of the disablement or death of a member, whether the disablement or death of the member was attributable to his service as a member or whether the condition that resulted in his disablement or death was aggravated by that service, the Secretary or an Appeal Board, as the case may be, shall decide in accordance with substantial justice and the merits of the case, and shall not be bound by any technicalities or legal forms or rules of evidence.
- (2) In the application of the general rule formulated in subsection (1) the following particular rules shall apply—
 - (a) in no case shall there be on the claimant any onus of proving that the disablement or death on which the claim is based was in fact attributable to the service of the member or that the condition that resulted in the disablement or death of the member was aggravated by his service:
 - (b) the claimant shall be given the full benefit of the presumptions in his favour provided for in section 17:
 - (c) the Secretary or an Appeal Board, as the case may be, shall be entitled to draw and shall draw from all the circumstances of the case, from evidence furnished, and from medical opinions submitted to the Secretary or Appeal Board, all reasonable inferences in favour of the claimant, and the claimant shall, in every case, be given the benefit of any doubt as to the existence of any fact, matter, cause, or circumstance that would be favourable to him.

Compare: 1943 No 22 s 15

Section 18(1): amended, on 1 April 1989, by section 5(2)(g) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 18(2)(c): amended, on 1 April 1989, by section 5(2)(g) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 18(2)(c): amended, on 1 April 1989, by section 5(2)(h) of the War Pensions Amendment Act 1988 (1988 No 148).

Part 1A

War Pensions Medical Research Trust

Part 1A: inserted, on 12 December 1968, by section 2 of the War Pensions Amendment Act 1968 (1968 No 56).

18A Interpretation

In this Part, unless the context otherwise requires,—

Fund means the War Pensions Medical Research Trust Fund established under section 18I.

Section 18A: inserted, on 12 December 1968, by section 2 of the War Pensions Amendment Act 1968 (1968 No 56).

Section 18A **Board**: repealed, on 1 April 1989, by section 10(1)(a) of the War Pensions Amendment Act 1988 (1988 No 148).

18B War Pensions Medical Research Trust Board

[Repealed]

Section 18B: repealed, on 1 April 1989, by section 10(1)(b) of the War Pensions Amendment Act 1988 (1988 No 148).

18C Membership of Board

[Repealed]

Section 18C: repealed, on 1 April 1989, by section 10(1)(b) of the War Pensions Amendment Act 1988 (1988 No 148).

18D Extraordinary vacancies

[Repealed]

Section 18D: repealed, on 1 April 1989, by section 10(1)(b) of the War Pensions Amendment Act 1988 (1988 No 148).

18E Meetings of Board

[Repealed]

Section 18E: repealed, on 1 April 1989, by section 10(1)(b) of the War Pensions Amendment Act 1988 (1988 No 148).

18F Power to make rules

[Repealed]

Section 18F: repealed, on 1 April 1989, by section 10(1)(b) of the War Pensions Amendment Act 1988 (1988 No 148).

18G Functions and powers of Board

[Repealed]

Section 18G: repealed, on 1 April 1989, by section 10(1)(b) of the War Pensions Amendment Act 1988 (1988 No 148).

18H Secretary to Board and other staff

[Repealed]

Section 18H: repealed, on 1 April 1989, by section 10(1)(b) of the War Pensions Amendment Act 1988 (1988 No 148).

18I War Pensions Medical Research Trust Fund

There is hereby established a fund to be known as the War Pensions Medical Research Trust Fund which shall comprise all money paid into it under section 85(2)(e) and all grants, donations, or gifts made to or vested in the Fund together with any income received from any source whatsoever.

Section 18I: inserted, on 12 December 1968, by section 2 of the War Pensions Amendment Act 1968 (1968 No 56).

Section 18I: amended, on 1 April 1989, by section 10(1)(c) of the War Pensions Amendment Act 1988 (1988 No 148).

18J Capital and income of Fund

- (1) The capital of the Fund shall consist of—
 - (a) all money paid into the Fund pursuant to section 85(2)(e):
 - (b) all money paid into the Fund by way of grants, donations, or gifts:
 - (c) all property held by or on behalf of the Advisory Board under this Part:
 - (d) all money derived from the sale of any property held by or on behalf of the Advisory Board under this Part:
 - (e) all income transferred to capital under subsection (3).
- (2) The income of the Fund shall consist of—
 - (a) all income derived from the investment of money by or on behalf of the Advisory Board under section 18K:

- (b) all income derived from the administration of property held by or on behalf of the Advisory Board:
 - (c) all money derived from the leasing of land:
 - (d) all other money not forming part of the capital of the Fund.
- (3) Any income of the Fund not for the time being required for expenditure under section 18L may, in the discretion of the Advisory Board, be transferred to the capital of the Fund, whether or not the income has been invested under subsection (2) of section 18K.

Section 18J: inserted, on 12 December 1968, by section 2 of the War Pensions Amendment Act 1968 (1968 No 56).

Section 18J(1)(a): amended, on 1 April 1989, by section 10(1)(d) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 18J(1)(c): amended, on 1 April 1989, by section 10(1)(e) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 18J(1)(d): amended, on 1 April 1989, by section 10(1)(e) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 18J(2)(a): amended, on 1 April 1989, by section 10(1)(e) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 18J(2)(b): amended, on 1 April 1989, by section 10(1)(e) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 18J(3): amended, on 1 April 1989, by section 10(1)(e) of the War Pensions Amendment Act 1988 (1988 No 148).

18K Powers of investment

- (1) Any money, being capital of the Fund within the meaning of subsection (1) of section 18J, held by or on behalf of the Advisory Board shall from time to time be invested in any securities in which trust funds may be invested by trustees in accordance with the Trustee Act 1956 or in accordance with any other statutory authority or in such other manner as the Advisory Board, with the approval of the Minister, may determine:
- provided that, notwithstanding any rule of law or equity to the contrary, the Advisory Board shall not be obliged to convert any securities that are the subject of a gift to the Fund and that are not securities in which the Advisory Board may invest money pursuant to this subsection.

- (2) Any money, being income of the Advisory Board within the meaning of subsection (2) of section 18J, may, in the discretion of the Advisory Board, from time to time be invested in any manner authorised for the investment of capital under subsection (1).

Section 18K: inserted, on 12 December 1968, by section 2 of the War Pensions Amendment Act 1968 (1968 No 56).

Section 18K(1): amended, on 1 April 1989, by section 10(1)(e) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 18K(1) proviso: amended, on 1 April 1989, by section 10(1)(e) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 18K(2): amended, on 1 April 1989, by section 10(1)(e) of the War Pensions Amendment Act 1988 (1988 No 148).

18L Authorised expenditure

- (1) Subject to the provisions of this Part, the Advisory Board may apply the income of the Fund in such manner as the Advisory Board thinks fit for all or any of the following purposes:
- (a) the making of grants or awards for the purpose of medical research into mental disorders, or other fields of medical research beneficial to former members of the forces;
 - (b) the provision of fellowships to qualified persons who will, in the Advisory Board's opinion, contribute to such research;
 - (c) the costs incurred in the administration of the Fund.
- (2) If at any time the income of the Fund is insufficient for the purposes of subsection (1) the Advisory Board may, to the extent of the insufficiency, use the capital of the Fund for those purposes.
- (3) No person shall be qualified to receive a fellowship under paragraph (b) of subsection (1) unless he is—
- (a) ordinarily resident in New Zealand; or
 - (b) a person resident outside New Zealand who will, in the Advisory Board's opinion, fulfil the purpose for which the fellowship is granted by means of a visit or the extension of a visit to New Zealand.

Section 18L: inserted, on 12 December 1968, by section 2 of the War Pensions Amendment Act 1968 (1968 No 56).

Section 18L(1): amended, on 1 April 1989, by section 10(1)(e) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 18L(1)(b): amended, on 1 April 1989, by section 10(1)(f) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 18L(2): amended, on 1 April 1989, by section 10(1)(e) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 18L(3)(b): amended, on 1 April 1989, by section 10(1)(f) of the War Pensions Amendment Act 1988 (1988 No 148).

18M Conditions of grants, awards, and fellowships

- (1) The conditions of tenure of every grant, award, and fellowship shall be determined by the Advisory Board.
- (2) Every grant, award, and fellowship shall be of such value as the Advisory Board determines; and the Advisory Board may, in its discretion, renew or extend any grant, award, or fellowship, with or without modification in value or conditions of tenure.

Section 18M: inserted, on 12 December 1968, by section 2 of the War Pensions Amendment Act 1968 (1968 No 56).

Section 18M(1): amended, on 1 April 1989, by section 10(1)(e) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 18M(2): amended, on 1 April 1989, by section 10(1)(e) of the War Pensions Amendment Act 1988 (1988 No 148).

18N Money to be paid into bank

- (1) All money received by the Advisory Board or by an employee of the Department on behalf of the Advisory Board shall as soon as practicable after its receipt be paid into such bank account or accounts of the Advisory Board as the Advisory Board from time to time determines.
- (2) No such money shall be withdrawn from the bank except by cheque signed by an employee of the Department approved for the purpose by the Advisory Board and countersigned by another such employee or by a member of the Advisory Board approved for the purpose by the Advisory Board.

Section 18N: substituted, on 1 April 1989, by section 10(2) of the War Pensions Amendment Act 1988 (1988 No 148).

18O Accounts

- (1) The Advisory Board must at all times keep full and correct records and accounts of all its financial transactions and of its assets and liabilities.
- (1A) The Advisory Board is a public entity as defined in section 4 of the Public Audit Act 2001 and, in accordance with that Act, the Auditor-General is its auditor.
- (2) As soon as practicable after the end of each financial year ending with 31 March, the Advisory Board shall cause to be prepared and submitted to the Auditor-General full and true statements and accounts of all money, both capital and income, received and expended, and of all its income and expenditure, in that year, with a statement of financial position at the end of that year.

Section 18O: inserted, on 12 December 1968, by section 2 of the War Pensions Amendment Act 1968 (1968 No 56).

Section 18O(1): substituted, on 1 July 2001, by section 53 of the Public Audit Act 2001 (2001 No 10).

Section 18O(1A): inserted, on 1 July 2001, by section 53 of the Public Audit Act 2001 (2001 No 10).

Section 18O(2): amended, on 1 July 2001, pursuant to section 52 of the Public Audit Act 2001 (2001 No 10).

Section 18O(2): amended, on 1 October 1997, pursuant to section 6(1) of the Financial Reporting Amendment Act 1997 (1997 No 17).

Section 18O(2): amended, on 1 April 1989, by section 10(1)(e) of the War Pensions Amendment Act 1988 (1988 No 148).

18P Purposes of Fund declared to be charitable purposes

The purposes for which the Fund is established are hereby declared to be charitable purposes.

Section 18P: inserted, on 12 December 1968, by section 2 of the War Pensions Amendment Act 1968 (1968 No 56).

18Q Travelling allowances

[Repealed]

Section 18Q: repealed, on 1 April 1989, by section 10(1)(b) of the War Pensions Amendment Act 1988 (1988 No 148).

18R Members of Advisory Board not personally liable

No member of the Advisory Board shall be personally liable for any act done or default made by the Advisory Board in good faith in the course of the operations of the Advisory Board.

Section 18R: inserted, on 12 December 1968, by section 2 of the War Pensions Amendment Act 1968 (1968 No 56).

Section 18R heading: amended, on 1 April 1989, by section 10(1)(e) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 18R: amended, on 1 April 1989, by section 10(1)(e) of the War Pensions Amendment Act 1988 (1988 No 148).

18S Contracts of Board

[Repealed]

Section 18S: repealed, on 1 April 1989, by section 10(1)(b) of the War Pensions Amendment Act 1988 (1988 No 148).

Part 2**War pensions***Grounds for payment of pensions***19 General provisions as to grounds for payment of pensions**

- (1) Subject to the provisions of this Act, pensions in respect of the disablement or death of any member of the forces (whether occurring before or after the commencement of this Act) shall be payable under this Part to the member and his dependants (in the case of his disablement) or to the dependants of the member (in the case of his death) in any of the following cases, namely:
- (a) in any case where the disablement or death of the member occurred while he was on service overseas as a member of the forces in connection with any war in which Her Majesty was then engaged, or in connection with any emergency, whether arising out of the obligations undertaken by New Zealand in the Charter of the United Nations or otherwise:
 - (b) in any case where the disablement or death of the member is attributable to his service in New Zealand or overseas:

- (c) in any case where the condition that resulted in the disablement or death of the member was aggravated by his service in New Zealand or overseas:
provided that, except with the approval of the Minister, no pension shall be payable under this Part in respect of the disablement or death of any member if, at the date of his disablement or death, he was a deserter from the forces or was absent without leave and was not in receipt of continuous pay as a member of the forces:
provided also that where any claim for a pension is made by a member in respect of his disablement the Secretary or an Appeal Board, as the case may be, may decline to grant a pension or may grant a pension at a reduced rate in any case where the Secretary or Appeal Board is satisfied on reasonable evidence that the disablement of the member is attributable in whole or in part to his wilful misconduct during his period of service.
- (2) In any case to which paragraph (a) of subsection (1) applies, the disablement or death of the member, as the case may be, shall for the purposes of this Act be deemed to be attributable to his service as a member of the forces.
- (3) Nothing in this section shall apply to a spouse or partner of a member of the forces who is in receipt of a disablement pension payable under this Part in respect of any period of service which commenced on or after 3 September 1939, unless the member or the spouse or partner of the member, as the case may be, is entitled to make an election under section 66L to receive a war service pension and has not made such an election.
- (4) Notwithstanding anything in subsection (3), if any person is, on 1 April 1971, in receipt of a pension payable under subsection (1) as the wife of a disabled person, and is not entitled to make an election under section 66L, the pension may, so long as the person remains otherwise qualified, continue to be paid to that person.
- (5) If the disablement or death of a member of the Armed Forces of New Zealand within the meaning of the Accident Compen-

sation Act 1982 occurred while he was serving (whether in New Zealand or elsewhere) as such a member in connection with a war or emergency, or is attributable to such service, or if the condition that resulted in the disablement or death of such a member was aggravated by such service, the disablement or death of the member, as the case may be, shall be deemed to be attributable to service as a member of the forces within the meaning of this Act, and the provisions of this Act shall apply accordingly.

Compare: 1943 No 22 ss 17, 25

Section 19(1) second proviso: amended, on 1 April 1989, by section 5(2)(g) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 19(1) second proviso: amended, on 1 April 1989, by section 5(2)(h) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 19(3): added, on 1 April 1971, by section 4 of the War Pensions Amendment Act (No 2) 1970 (1970 No 125).

Section 19(3): amended, on 15 December 2001, by section 5 of the War Pensions Amendment Act 2001 (2001 No 97).

Section 19(4): added, on 1 April 1971, by section 4 of the War Pensions Amendment Act (No 2) 1970 (1970 No 125).

Section 19(5): added, on 1 April 1974, by section 6(1) of the War Pensions Amendment Act 1973 (1973 No 33).

Pensions for disabled members of the forces

20 Maximum rate of pensions for total disablement

Except as otherwise expressly provided in this Part, the rate of the pension payable to a member of the forces in respect of his total disablement shall not exceed the appropriate rate specified in Schedule 1.

Compare: 1940 No 24 s 5(a); 1943 No 22 ss 19(1)(a), (2)(a), 57(a), (b); 1946 No 17 s 2(3); 1949 No 25 ss 2, 8(a), (b); 1951 No 23 s 2; 1951 No 24 s 2

21 Rates of pensions for disablement resulting from certain major disabilities

- (1) Where the disablement of any member of the forces is due in whole or in part to any one of the disabilities specified in Schedule 9, the rate of the pension payable to the member in respect of his disablement shall, if and so long as he is a bona fide resident of New Zealand, not be less than the appropriate

percentage of the maximum rate of pension for total disablement specified in that schedule.

- (2) Where the disablement of the member is due, in whole or in part, to any 2 or more of the disabilities specified as aforesaid, the minimum rate of the pension payable to the member shall, if and so long as he is a bona fide resident of New Zealand, be ascertained by adding together the appropriate percentages in Schedule 9 in relation to those disabilities:

provided that in no case shall a pension be payable by virtue of this subsection at a rate in excess of the maximum rate that would be payable to him in respect of his total disablement:

provided also that where in the said schedule the percentage of full pension payable for a specified disability involving multiple losses differs from the sum of the percentages specified for the separate losses, the former shall be the appropriate percentage.

Compare: 1943 No 22 s 20(1), (2)

Section 21(2) second proviso: added, on 25 October 1963, by section 8 of the War Pensions Amendment Act 1963 (1963 No 125).

22 Rates of pensions in other cases of disablement

Subject to the provisions of section 21, the rates of the pension payable to any member of the forces in respect of his partial disablement shall be such lower rates than those payable in respect of total disablement as may in each case be determined by the Secretary, regard being had in every such case to the nature and extent of the disablement.

Compare: 1940 No 24 s 6; 1943 No 22 ss 21, 58

Section 22: amended, on 1 April 1989, by section 5(2)(g) of the War Pensions Amendment Act 1988 (1988 No 148).

23 Additional pension in certain cases of severe disablement

- (1) This section applies to every case where a member of the forces—

- (a) is suffering from total blindness; or
- (b) is suffering from 2 or more serious disabilities (whether specified in Schedule 9 or not); or

- (c) is totally disabled and is permanently bedridden or, if not permanently bedridden, is, in the opinion of the Secretary, so restricted in his activities and pursuits that he is prevented from engaging in normal social and recreational activities—
and a pension for total disablement in respect of such blindness, disabilities, or disablement is for the time being payable under section 19(1).
- (2) Notwithstanding anything in this Part, in any case to which this section applies the Secretary may, in the Secretary's discretion, increase the rate of the pension that would otherwise be payable to the member in respect of his disablement by not more than the appropriate rate specified in Schedule 1.
- (3) Notwithstanding anything in this Part but subject to subsection (4), if a person receiving an additional pension under this section is of or over the age of 60 years, that person shall be entitled to be paid, in addition to the total amount payable under section 19 and subsection (2), a further amount equal to 10% of that total amount.
- (4) In each case entitlement to the further amount provided for in subsection (3) shall commence on the earliest date that the Secretary considers practicable, being a date not earlier than the date of commencement of the pay period during which this subsection came into force or during which the pensioner attained the age of 60 years, whichever is the later.

Compare: 1943 No 22 ss 19(4), (5), 20(3); 1951 No 23 ss 4, 12

Section 23(1): substituted, on 1 November 1976, by section 3 of the War Pensions Amendment Act 1976 (1976 No 41).

Section 23(1)(c): amended, on 1 April 1989, by section 5(2)(g) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 23(2): amended, on 1 April 1989, by section 5(2)(i) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 23(3): added, on 16 June 1986, by section 3 of the War Pensions Amendment Act 1986 (1986 No 20).

Section 23(4): added, on 16 June 1986, by section 3 of the War Pensions Amendment Act 1986 (1986 No 20).

24 Pensions may be temporary or permanent

Any pension granted under this Part to a member of the forces in respect of his total or partial disablement shall be a tempor-

any pension or a permanent pension according to whether the disablement of the member is of a temporary or a permanent character:

provided that where, in the opinion of the Secretary, any permanent disablement has not reached its final condition a temporary pension may be granted in respect thereof, and the temporary pension so granted shall, subject to its review in accordance with section 26, continue in force until a permanent pension is granted.

Compare: 1943 No 22 s 22

Section 24 proviso: amended, on 1 April 1989, by section 5(2)(g) of the War Pensions Amendment Act 1988 (1988 No 148).

25 Rate of pension to be determined by reference to nature of disablement

- (1) Except as provided in subsection (2), no account shall be taken of the income or property of the claimant or of any other person in considering a claim by any member of the forces for a pension in respect of his disablement, but the claim shall be determined solely by reference to the nature and extent of the disablement.
- (2) In any case where the disablement of the member is attributable solely to his service in New Zealand or is attributable solely to his service out of New Zealand otherwise than in connection with any war, the Secretary may, in the Secretary's discretion, in determining the rate of any pension payable to the member in respect of his disablement, take into account any amount paid or payable to him by any person as compensation or damages. In any case where the disablement of a member is attributable solely to his service in New Zealand or elsewhere otherwise than in connection with any war, the Secretary may, in the Secretary's discretion, also take into account, in determining the rate of his pension, any amount paid or payable to him by way of pension, retiring allowance, compensation, or otherwise out of any public moneys or out of any government superannuation fund.

Compare: 1943 No 22 s 23

Section 25(2): amended, on 1 April 1989, by section 5(2)(i) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 25(2): amended, on 1 April 1989, by section 5(2)(j) of the War Pensions Amendment Act 1988 (1988 No 148).

26 Review of pensions

- (1) Except in any case to which subsection (2) of section 25 applies, a permanent pension granted under this Part to any member of the forces shall not thereafter be reduced unless it is conclusively established, beyond any possibility of doubt, that the disablement in respect of which it was granted has in fact proved to be temporary, either to the full extent thereof or in 1 or more of its essential characteristics.
- (2) Subject to subsection (1), any pension granted under this Part to any member of the forces may from time to time and at any time be reviewed by the Secretary. On the review of any pension in accordance with this subsection the Secretary, having regard to any change that may have taken place in relation to his disablement in the physical or mental condition of the member since the pension was granted or was last reviewed, as the case may be, may terminate the pension or, within the limits prescribed by this Act, may increase or reduce the rate thereof.

Compare: 1943 No 22 s 24

Section 26(2): amended, on 1 April 1989, by section 5(2)(g) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 26(2): amended, on 1 April 1989, by section 5(2)(k) of the War Pensions Amendment Act 1988 (1988 No 148).

27 Disabled member may be required to undergo medical treatment

If the Secretary is satisfied, on the advice of not less than 2 medical practitioners having special experience in like cases, that any member of the forces who is in receipt of or is entitled to a pension under this Part should, in his own interests, undergo medical or curative treatment, whether in a hospital or elsewhere, the Secretary may reduce by not more than one-half thereof the amount of the pension to which the member would be otherwise entitled if and so long as the member, without good and sufficient cause, refuses or wilfully fails to undergo such treatment.

Compare: 1943 No 22 s 39(1)

Section 27: amended, on 1 April 1989, by section 5(2)(g) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 27: amended, on 1 April 1989, by section 5(2)(o) of the War Pensions Amendment Act 1988 (1988 No 148).

28 Clothing allowance in case of loss of limbs, etc

- (1) In addition to the amount of pension payable to any member of the forces in accordance with the foregoing provisions of this Part, a special allowance for wear and tear on the clothing or footwear, or soiling of the clothing, of the member at not more than the appropriate rate specified in Schedule 1 may be paid as follows:
- (a) to any member who has suffered the loss in whole or in part of 2 limbs:
 - (b) to any member who has suffered the loss in whole or in part of a leg:
 - (c) to any member who has suffered the loss in whole or in part of an arm:
 - (d) to any member who is obliged to use any mechanical or other appliance (other than an artificial leg or artificial arm):
 - (e) to any member who is suffering from a disability which causes or leads to soiling of his clothing.
- (2) Any allowance granted under this section shall be included in and deemed part of the pension of the member.

Compare: 1943 No 22 s 41; 1951 No 23 s 8

Section 28(1): amended (with effect from 1 October 1983), on 7 December 1983, by section 2(1) of the War Pensions Amendment Act 1983 (1983 No 58).

Section 28(1)(e): added (with effect from 1 October 1983), on 7 December 1983, by section 2(2) of the War Pensions Amendment Act 1983 (1983 No 58).

29 Allowance for services of attendant in certain cases

- (1) If, with respect to any member of the forces who is in receipt of a pension under this Part in respect of his total disablement, the Secretary is satisfied that the services of an attendant are indispensable the Secretary may, in the Secretary's discretion, grant an allowance in respect of the services of an attendant at a rate not exceeding the appropriate rate specified in Schedule 2.

- (2) In special cases the Secretary may, in the Secretary's discretion, extend the provisions of subsection (1) to apply to the case of any member who is in receipt of a pension in respect of his partial disablement.
- (3) Any allowance under this section may be paid, in whole or in part, to the attendant or may be paid to the member in respect of the additional expenses incurred by him. Any allowance paid to a member under this section shall not be deemed to form part of his pension.

Compare: 1943 No 22 s 40; 1951 No 23 s 7

Section 29(1): amended, on 1 April 1989, by section 5(3)(a) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 29(2): amended, on 1 April 1989, by section 5(3)(b) of the War Pensions Amendment Act 1988 (1988 No 148).

29A Additional payment where decoration awarded

- (1) Any member of the forces who has been awarded a decoration in respect of any period of service which commenced on or after 3 September 1939 may be paid an annuity, allowance, or addition to his pension, as the case may be, at such rate and in accordance with such conditions as may be prescribed. Different rates may be so prescribed in respect of different decorations.
- (2) In this section the term **decoration** means such awards for gallantry granted by the Sovereign as are declared by the Governor-General, by Order in Council, to be decorations for the purposes of this section.
- (3) Without limiting the power to make regulations conferred by section 96, regulations may be made under that section prescribing the rates of annuities, allowances, or additions to pensions payable, and the conditions under which they are payable, and providing for such other matters as may be necessary to give full effect to the provisions of this section.

Section 29A: inserted, on 1 July 1966, by section 2(1) of the War Pensions Amendment Act 1966 (1966 No 41).

Pensions for wives of disabled members

[Repealed]

Heading: repealed, on 1 April 1990, pursuant to section 15(4) of the Social Welfare (Transitional Provisions) Act 1990 (1990 No 26).

30 Maximum rates of pensions for wives of disabled members of forces

[Repealed]

Section 30: repealed, on 1 April 1990, by section 15(4) of the Social Welfare (Transitional Provisions) Act 1990 (1990 No 26).

31 Economic position of disabled member to be considered in determining rate of pension for wife

[Repealed]

Section 31: repealed, on 1 April 1990, by section 15(4) of the Social Welfare (Transitional Provisions) Act 1990 (1990 No 26).

31A Lump sum payment on death of wife of economic pensioner

[Repealed]

Section 31A: repealed, on 1 April 1990, by section 15(4) of the Social Welfare (Transitional Provisions) Act 1990 (1990 No 26).

*Pensions for surviving spouses or surviving
partners of deceased members*

Heading: substituted, on 1 April 1989, by section 11(1) of the War Pensions Amendment Act 1988 (1988 No 148).

Heading: amended, on 15 December 2001, by section 6 of the War Pensions Amendment Act 2001 (2001 No 97).

32 Maximum rates of surviving spouses' and surviving partners' pensions

- (1) Except as provided in subsection (2), the rate of the pension payable to the surviving spouse or surviving partner of a deceased member of the forces in respect of his or her death shall not exceed the appropriate rate specified in Schedule 4.
- (2) Where the surviving spouse or surviving partner has a child or children of the member dependent upon him or her the Secretary may, in the Secretary's discretion, increase the pension otherwise payable to the surviving spouse or surviving partner by a parent's allowance at a rate not exceeding the appropriate rate specified in the said Schedule 4.
- (3) A parent's allowance in respect of any child—
 - (a) shall commence on such day as the Secretary determines, being not earlier than the first day of the pay period in which the child is born:
 - (b) where the child is over the age of 16 years, may be granted or continued, as if the child had not attained that age, during any period during which a pension is payable to or on behalf of the child in accordance with section 43:
 - (c) in the event of the death of the child, shall continue to such day as the Secretary determines, being not later than the end of the second pay period following the pay period in which the child dies.

Section 32: substituted, on 1 April 1989, by section 11(1) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 32 heading: amended, on 15 December 2001, by section 7(1) of the War Pensions Amendment Act 2001 (2001 No 97).

Section 32(1): amended, on 15 December 2001, by section 7(2) of the War Pensions Amendment Act 2001 (2001 No 97).

Section 32(2): amended, on 15 December 2001, by section 7(2) of the War Pensions Amendment Act 2001 (2001 No 97).

33 Rate of pension for surviving spouse or surviving partner who is a bona fide resident of New Zealand

Except as otherwise provided in this Act, the rate of the pension payable to the surviving spouse or surviving partner of a deceased member of the forces in respect of his or her death shall, if and so long as she or he is a bona fide resident of New Zealand, be the maximum appropriate rate prescribed in Schedule 4.

Section 33: substituted, on 1 April 1989, by section 11(1) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 33 heading: amended, on 15 December 2001, by section 8(1) of the War Pensions Amendment Act 2001 (2001 No 97).

Section 33: amended, on 15 December 2001, by section 8(2) of the War Pensions Amendment Act 2001 (2001 No 97).

34 Surviving spouse or surviving partner not entitled to pension in certain cases

Despite anything to the contrary in this Act, the surviving spouse or surviving partner of a member of the forces is not entitled to a pension in respect of the member's death if—

- (a) the death of the member occurred within 1 year after the marriage or entry into the civil union or de facto relationship; and
- (b) at the date of the marriage or entry into the civil union or de facto relationship the member had not, in the opinion of the Secretary, a reasonable expectation of surviving for at least 1 year.

Section 34: substituted, on 15 December 2001, by section 9 of the War Pensions Amendment Act 2001 (2001 No 97).

Section 34(a): substituted, on 26 April 2005, by section 3 of the War Pensions Amendment Act 2005 (2005 No 24).

Section 34(b): substituted, on 26 April 2005, by section 3 of the War Pensions Amendment Act 2005 (2005 No 24).

35 Pensions to surviving spouses or surviving partners to cease on remarriage, entry into civil union, or commencement of de facto relationship

- (1) A pension payable to the surviving spouse or surviving partner of a member of the forces must cease on his or her remarriage or entry into a civil union or de facto relationship.

- (2) Despite anything to the contrary in subsection (1), on the surviving spouse's or surviving partner's remarriage or entry into a civil union or a de facto relationship while in receipt of a pension under this Part, the Secretary may, in the Secretary's discretion,—
- (a) continue the pension at any rate, not exceeding the maximum rate of pension payable to a surviving spouse or surviving partner, and for any period, not exceeding 2 years, that the Secretary thinks fit;
 - (b) review, at any time, a pension continued under paragraph (a).
- (3) In any case to which subsection (2) applies, the Secretary may, in the Secretary's discretion, instead of continuing the pension, pay to the surviving spouse or surviving partner a lump sum gratuity not exceeding 2 years' pension.
- (4) For the purposes of this Act and any other enactment, a pension payable to a person under subsection (2) is deemed to be a pension payable to the surviving spouse or surviving partner of a member of the forces.

Section 35: substituted, on 26 April 2005, by section 3 of the War Pensions Amendment Act 2005 (2005 No 24).

35A Reinstatement of surviving spouse's or surviving partner's pension

- (1) Despite anything in section 35, if a pension payable to the surviving spouse or the surviving partner of a member of the forces has ceased under that section because of remarriage or entry into a civil union or a de facto relationship, and that remarriage or civil union or de facto relationship has subsequently terminated or irreconcilably broken down within 5 years after the date of remarriage or entry into a civil union or a de facto relationship, the Secretary may, in the Secretary's discretion, reinstate the pension previously payable.
- (2) The rate of any pension reinstated under subsection (1) is the appropriate rate specified in Schedule 4 as if the pension had been granted under section 32.

Section 35A: substituted, on 15 December 2001, by section 9 of the War Pensions Amendment Act 2001 (2001 No 97).

Section 35A(1): substituted, on 26 April 2005, by section 3 of the War Pensions Amendment Act 2005 (2005 No 24).

Pensions for children of disabled and deceased members

36 Maximum rates of children's pensions

- (1) Except as otherwise expressly provided in this Part, the rate of the pension payable to or on behalf of each child in respect of the total disablement or death of a member of the forces shall not exceed the appropriate rate specified in Schedule 5.
- (2) In the case of the partial disablement of a member the rate shall be such lower rate than that payable in respect of total disablement as may in each case be determined by the Secretary, regard being had in every such case to the nature and extent of the disablement.

Compare: 1940 No 24 ss 4(a), 5(b), 6; 1943 No 22 ss 18(1)(b), (2)(a), 19(1)(c), (2)(b), 21, 56(1)(a), (2)(a), 57(d), 58; 1946 No 17 ss 2(2), 4(1), (2); 1946 No 18 s 2(2); 1949 No 25 s 2; 1951 No 23 ss 2, 3; 1951 No 24 s 2

Section 36(2): amended, on 1 April 1989, by section 5(2)(g) of the War Pensions Amendment Act 1988 (1988 No 148).

37 Child not entitled to pension in certain cases

Notwithstanding anything to the contrary in this Act, the Secretary may, in the Secretary's discretion, refuse to grant a pension to or on behalf of a child of a member of the forces in any case where the parent of the child would, as the surviving spouse or surviving partner of the member, be debarred by section 34 from obtaining a pension in respect of the member's death.

Compare: 1943 No 22 s 29(2)

Section 37: amended, on 15 December 2001, by section 10(a) of the War Pensions Amendment Act 2001 (2001 No 97).

Section 37: amended, on 15 December 2001, by section 10(b) of the War Pensions Amendment Act 2001 (2001 No 97).

Section 37: amended, on 15 December 2001, by section 10(c) of the War Pensions Amendment Act 2001 (2001 No 97).

Section 37: amended, on 1 April 1989, by section 5(2)(i) of the War Pensions Amendment Act 1988 (1988 No 148).

38 Board may terminate pension where family benefit payable

[Repealed]

Section 38: repealed, on 1 July 1999, by section 8 of the Veterans' Affairs Act 1999 (1999 No 76).

39 Economic position of disabled member to be considered in determining rate of pension for children

- (1) In determining a claim for a pension under this Part made by or on behalf of any child of a member of the forces in respect of his total or partial disablement, regard shall be had to the property, income, and general economic circumstances of the member, except in the case of a member who is in receipt of a pension for total blindness.
- (2) Except as provided in subsection (1), no account shall be taken of the income or property of the claimant or of any other person in determining any such claim.
- (3) Any pension to which this section applies (not being a pension granted in respect of the total blindness of a member) may be at any time reviewed by the Secretary in the event of any change in the economic circumstances of the member, and, on the review of any pension in accordance with this section, the Secretary may terminate the pension, or, within the limits prescribed by this Act, may increase or reduce the rate thereof.

Compare: 1943 No 22 s 30

Section 39(3): amended, on 1 April 1989, by section 5(2)(g) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 39(3): amended, on 1 April 1989, by section 5(2)(k) of the War Pensions Amendment Act 1988 (1988 No 148).

40 Increased pensions for children in certain cases

Notwithstanding anything to the contrary in this Part,—

- (a) the rate of the pension payable to or on behalf of a child whose parents are dead shall be a rate not exceeding the appropriate rate specified in Schedule 5:
- (b) the rate of the pension payable to or on behalf of a child of a deceased member of the forces where the child is not under the control of its parent shall be such rate not exceeding the appropriate rate specified in Schedule

5 as the Secretary, in the Secretary's discretion, may determine.

Compare: 1943 No 22 s 31; 1951 No 23 s 5

Section 40(b): amended, on 15 December 2001, by section 11 of the War Pensions Amendment Act 2001 (2001 No 97).

Section 40(b): amended, on 1 April 1989, by section 5(2)(l) of the War Pensions Amendment Act 1988 (1988 No 148).

41 Children whose parents are not married

[Repealed]

Section 41: repealed, on 15 December 2001, by section 12 of the War Pensions Amendment Act 2001 (2001 No 97).

42 Child not to receive pension in respect of more than 1 parent

Notwithstanding anything to the contrary in this Act, a pension in respect of the disablement or death of any member of the forces shall not be payable to or on behalf of any child of the member for any period for which a pension under this Act is payable to or on behalf of the same child in respect of the disablement or death of any other person.

Compare: 1943 No 22 s 32(5)

43 Duration of pensions for children

- (1) A pension granted to or on behalf of a child of a member of the forces in respect of his disablement or death shall commence on such day as the Secretary determines, being not earlier than the first day of the pay period in which the child is born.
- (2) Save as provided in this section, a pension granted to or on behalf of a child of a member of the forces in respect of his disablement or death shall not continue after the end of the pay period in which the child has attained the age of 16 years.
- (3) *[Repealed]*
- (4) A pension granted to or on behalf of any child suffering from any mental or physical infirmity may be continued for any period while the infirmity continues.
- (5) The Secretary may, for the purpose of assisting in the further education of any child, continue for such period as it thinks fit a pension granted to or on behalf of that child.

- (6) Notwithstanding anything to the contrary in the foregoing provisions of this Act, a pension may be granted to or on behalf of any child who has attained the age of 16 years or more at any time when, if a pension had been already granted, it could be continued in force pursuant to the foregoing provisions of this section.
- (7) Notwithstanding anything to the contrary in section 85, where a child to whom or on whose behalf a pension has been granted under this Act dies, the pension shall continue to the end of the pay period in which the child dies, and the amount (if any) unpaid on the date of the death of the child shall be paid to the person to whom the pension was payable on that date, or, in the discretion of the Secretary, to such other person as the Board thinks fit.

Compare: 1943 No 22 s 33; 1949 No 25 s 5

Section 43(1): amended, on 1 April 1989, by section 5(2)(k) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 43(1): amended, on 1 February 1961, by section 7(2) of the War Pensions Amendment Act 1960 (1960 No 14).

Section 43(2): amended, on 1 February 1961, by section 7(2) of the War Pensions Amendment Act 1960 (1960 No 14).

Section 43(3): repealed, on 15 December 2001, by section 13 of the War Pensions Amendment Act 2001 (2001 No 97).

Section 43(5): amended, on 1 April 1989, by section 5(2)(g) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 43(7): amended, on 1 April 1989, by section 5(2)(g) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 43(7): amended, on 1 February 1961, by section 7(2) of the War Pensions Amendment Act 1960 (1960 No 14).

Pensions for other dependants

44 Maximum rates of pensions for dependants other than spouses, partners, and children

The rates of pension payable to any dependant of a disabled or deceased member of the forces (other than his or her spouse, partner, or child) must not exceed the maximum rate of pension prescribed for the spouse or partner, as the case may be, of a member of the same rank or rating.

Section 44: substituted, on 15 December 2001, by section 14 of the War Pensions Amendment Act 2001 (2001 No 97).

45 Pensions to unmarried females to cease on marriage

[Repealed]

Section 45: repealed, on 15 December 2001, by section 15 of the War Pensions Amendment Act 2001 (2001 No 97).

46 Economic position of dependant to be considered in determining rate of pension

- (1) In determining the rate of pension payable to any dependant of a member of the forces, other than the spouse or partner, or surviving spouse or surviving partner, or a child of the member, the Secretary shall, to such extent as in any case the Secretary deems proper and equitable, take into account the property and income from all sources of the claimant and any other relevant factors of economic significance.
- (2) Any pension to which this section applies may be at any time reviewed by the Secretary in the event of any change in the property or income or general economic circumstances of the dependant, and, on the review of any pension in accordance with this section, the Secretary may terminate the pension or, within the limits prescribed by this Act, may increase or reduce the rate thereof.

Compare: 1943 No 22 s 37

Section 46(1): amended, on 15 December 2001, by section 16 of the War Pensions Amendment Act 2001 (2001 No 97).

Section 46(1): amended, on 1 April 1989, by section 5(2)(g) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 46(1): amended, on 1 April 1989, by section 5(2)(o) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 46(2): amended, on 1 April 1989, by section 5(2)(g) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 46(2): amended, on 1 April 1989, by section 5(2)(k) of the War Pensions Amendment Act 1988 (1988 No 148).

Miscellaneous provisions as to pensions for dependants

47 Increased pensions to spouse or partner and children of member in receipt of economic pension

Notwithstanding anything to the contrary in this Part, where, pursuant to Part 3, an economic pension is granted to any member of the forces who is in receipt of a pension under this Part

in respect of his partial disablement, the Secretary may, in the Secretary's discretion, increase the rate of the pension payable under this Part to the spouse or partner or to any child or children of the member to a rate not exceeding the maximum rate of pension that could be granted to the claimant in respect of the total disablement of the member.

Compare: 1943 No 22 s 53

Section 47 heading: amended, on 15 December 2001, by section 17(1) of the War Pensions Amendment Act 2001 (2001 No 97).

Section 47: amended, on 15 December 2001, by section 17(2) of the War Pensions Amendment Act 2001 (2001 No 97).

Section 47: amended, on 1 April 1989, by section 5(2)(i) of the War Pensions Amendment Act 1988 (1988 No 148).

48 Pension to surviving spouse, surviving partner, or child of deceased member whose death not attributable to service

Notwithstanding anything in this Act, where any member of the forces has died, whether before or after the commencement of this section, from any cause not attributable to his or her service as a member of the forces, and—

- (a) at the date of his or her death the member was in receipt of a permanent pension under this Part at a rate not less than 70% of the maximum rate of pension that would be payable in respect of his or her total disablement; or
- (b) at the date of his or her death the member was not in receipt of such a pension, but the Secretary is of the opinion that, if he or she had not died, he or she could have been granted a permanent pension at a rate not less than 70% of that maximum rate,—

the Secretary may, in the Secretary's discretion, grant a pension to or on behalf of the surviving spouse, surviving partner, or any dependent child or dependent children of the member in all respects as if the death of the member were attributable to his or her service.

Section 48: substituted, on 1 April 1989, by section 12 of the War Pensions Amendment Act 1988 (1988 No 148).

Section 48 heading: amended, on 15 December 2001, by section 18(1) of the War Pensions Amendment Act 2001 (2001 No 97).

Section 48: amended, on 15 December 2001, by section 18(2) of the War Pensions Amendment Act 2001 (2001 No 97).

49 Pensions to dependants in respect of disablement of member to cease on his death

- (1) All pensions granted to the dependants of a member of the forces in respect of his disablement shall be terminated by the death of the member, but nothing herein shall affect the right of any such dependant to apply for and be granted a pension in accordance with this Act in respect of the death of the member.
- (2) Notwithstanding anything to the contrary in subsection (1), the Secretary may, in the Secretary's discretion, continue for a period, expiring not later than the end of the pay period next after the pay period in which a member of the forces has died, any pension theretofore granted in respect of his disablement to or on behalf of any dependant of the member and current at the date of his death.
- (3) If any pension, allowance, or benefit payable out of public money is granted to the dependant, to take effect during the aforesaid period, the amount of any pension paid or approved for payment under this section may, notwithstanding anything to the contrary in any other Act, be taken into account in determining the amount of that other pension, allowance, or benefit to be paid in respect of the same period.

Compare: 1943 No 22 s 43

Section 49(2): amended, on 1 April 1989, by section 5(2)(i) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 49(2): amended, on 1 February 1961, by section 7(2) of the War Pensions Amendment Act 1960 (1960 No 14).

Increased pensions for member of forces and dependants

50 Increased pensions while member undergoing medical treatment

If, for the purpose of undergoing any medical, surgical, or curative treatment, it is necessary, in the opinion of the Secretary, that a partially disabled member of the forces should be obliged to live away from home or be absent from work for 1 or more days in any week, the Secretary may increase the rates of the pensions payable to that member and his dependants or any of them in respect of the period of that treatment, but so that the total amount payable shall not in any case exceed the

amount that would be payable in the case of the total disablement of the member.

Compare: 1943 No 22 s 39(2)

Section 50: amended, on 1 April 1989, by section 5(2)(g) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 50: amended, on 1 April 1989, by section 5(2)(k) of the War Pensions Amendment Act 1988 (1988 No 148).

Pensions for persons other than dependants

51 Pensions for guardians of parentless children

- (1) The Secretary may, in the Secretary's discretion, grant a pension under this Part in respect of the death of a member of the forces to any person who satisfies the Secretary that he or she has the control and care of any child or children of that member in respect of whom a pension is payable.
- (2) The rate of a pension under this section shall not in any case exceed the maximum rate of pension payable to the spouse or partner of a member of the forces.
- (3) A pension under this section shall, unless sooner terminated, cease as soon as the person in receipt thereof has not the control and care of any child of the member in respect of whom a pension is payable.

Compare: 1943 No 22 s 36; 1951 No 23 s 6

Section 51 heading: amended, on 15 December 2001, by section 19(1) of the War Pensions Amendment Act 2001 (2001 No 97).

Section 51(1): amended, on 15 December 2001, by section 19(2)(a) of the War Pensions Amendment Act 2001 (2001 No 97).

Section 51(1): amended, on 15 December 2001, by section 19(2)(b) of the War Pensions Amendment Act 2001 (2001 No 97).

Section 51(1): amended, on 1 April 1989, by section 5(2)(i) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 51(1): amended, on 1 April 1989, by section 5(2)(k) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 51(2): amended, on 15 December 2001, by section 19(2)(c) of the War Pensions Amendment Act 2001 (2001 No 97).

52 Pensions for other persons

- (1) The Secretary may, in the Secretary's discretion, grant a pension under this Part in respect of the disablement or death of a member of the forces to any person, not being a dependant

of that member within the meaning of this Act, if the claimant for a pension under this section satisfies the Secretary that he has suffered material loss of income or property by reason of the disablement or death of the member and that he has not adequate means of support.

- (2) The rate of a pension granted under this section shall not in any case exceed the maximum rate of pension prescribed for the spouse or partner, or surviving spouse or surviving partner, as the case may be, of a member of the same rank or rating.

Compare: 1943 No 22 s 45

Section 52(1): amended, on 1 April 1989, by section 5(2)(i) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 52(1): amended, on 1 April 1989, by section 5(2)(k) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 52(2): amended, on 15 December 2001, by section 20 of the War Pensions Amendment Act 2001 (2001 No 97).

53 Economic position of claimant to be considered in determining rate of pension

- (1) In determining the rate of pension payable to any claimant for a pension under section 51 or section 52, the Secretary shall, to such extent as in any case the Secretary deems proper and equitable, take into account the property and income from all sources of the claimant and any other relevant factors of economic significance.
- (2) Any pension to which this section applies may be at any time reviewed by the Secretary and on any such review the Secretary may terminate the pension, or, within the limits prescribed by this Act, may increase or reduce the rate thereof.

Compare: 1943 No 22 s 37

Section 53(1): amended, on 1 April 1989, by section 5(2)(k) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 53(1): amended, on 1 April 1989, by section 5(2)(o) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 53(2): amended, on 1 April 1989, by section 5(2)(g) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 53(2): amended, on 1 April 1989, by section 5(2)(k) of the War Pensions Amendment Act 1988 (1988 No 148).

*Extension of this Part to cover special cases***54 Members of forces officially reported as missing**

- (1) Pensions under this Part shall be payable in respect of a member of the forces who is officially reported as missing in the same manner in all respects as if the member had died in the course of his service on the date on which he was reported missing.
- (2) In the event of the member being subsequently reported as dead, the Secretary shall make inquiries as to the cause of death and shall either confirm the payment of the pension or terminate the pension according to whether or not a pension is payable in accordance with the foregoing provisions of this Act.
- (3) In the event of the member being subsequently reported as living, all pensions under this section, together with any economic pensions under Part 3, shall be terminated and the amount theretofore paid by way of pension to any person may, with the approval of the Minister, be recovered from the accumulated pay of the member or be recovered from the recipient as a debt due to the Crown.

Compare: 1943 No 22 s 38

Section 54(2): amended, on 1 April 1989, by section 5(2)(g) of the War Pensions Amendment Act 1988 (1988 No 148).

55 Service otherwise than as member of forces

- (1) The Secretary, with the approval of the Minister, may grant a pension under this Part in respect of the disablement or death of any person who, being a bona fide resident of New Zealand at the commencement of his service, served overseas in connection with any war or emergency otherwise than as a member of the forces, and in respect of his service was in receipt of pay from the New Zealand Government.
- (2) Pensions under this section shall be payable to persons of the same classes and in the same cases and manner in all respects as if they were pensions payable to members of the forces or their dependants or other persons under the foregoing provisions of this Part.
- (3) No pension shall be granted under this section at a rate in excess of the rate that would be payable in accordance with the

foregoing provisions of this Part in respect of the disablement or death of a member of the forces.

- (4) Nothing in this section shall apply in respect of service on or after the date of commencement of section 63 of the Accident Compensation Act 1972.

Compare: 1943 No 22 s 46

Section 55(1): amended, on 1 April 1989, by section 5(2)(g) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 55(4): added, on 14 November 1973, by section 7 of the War Pensions Amendment Act 1973 (1973 No 33).

56 Service as member of other Commonwealth forces

- (1) Subject to the provisions of this section, the Secretary may, in the Secretary's discretion, grant a pension under this Part in respect of the disablement or death of any person who, being a bona fide resident of New Zealand at the commencement of his service, served in connection with any war or emergency as a member of any forces established in any country of the Commonwealth (other than New Zealand) and whose death is attributable to or whose disablement is attributable to or has been aggravated by that service.
- (2) Where any claimant for a pension under this section in respect of the disablement or death of a member of the forces of any country of the Commonwealth (other than New Zealand) is in receipt of a pension from the government of that country in respect of the member's disablement or death, the Secretary may, in the Secretary's discretion, accept the disablement or death as attributable to the member's service in those forces.
- (3) No pension shall be payable under this section to or in respect of a member of any forces while the claimant or pensioner is not actually resident in New Zealand.
- (4) No pension shall be granted under this section at such a rate that the aggregate rate of the pensions payable in respect of the disablement or death of the member (including any overseas pension) shall exceed the aggregate rate of the pensions that would have been payable if the member in respect of whose disablement or death the pension is granted had been a member of the New Zealand forces.

- (5) The provisions of section 48 shall apply with respect to the surviving spouse, surviving partner, or a child of a deceased member of any forces to which this section applies as if—
- (a) that member were a member of Her Majesty's forces established in New Zealand; and
 - (b) any pension or part thereof received by that member from the government of any country of the Commonwealth (other than New Zealand) which in the opinion of the Board is in respect of his permanent disablement were a permanent pension under this Part.

Compare: 1943 No 22 s 47; 1951 No 23 s 13

Section 56(1): amended, on 1 April 1989, by section 5(2)(i) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 56(2): amended, on 1 April 1989, by section 5(2)(i) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 56(5): added, on 13 September 1961, by section 2(2) of the War Pensions Amendment Act 1961 (1961 No 7).

Section 56(5): amended, on 15 December 2001, by section 21 of the War Pensions Amendment Act 2001 (2001 No 97).

56A Arrangements with other countries for payment of pensions, etc

- (1) The Minister may from time to time enter into arrangements with the appropriate authority in any other country providing that the appropriate department of State of that country shall act in that country as agent for the Department for any purpose under this Act, and that the Department shall act in New Zealand as agent for that department of State for any purpose under any analogous Act of that country.
- (2) There shall be paid out of a Crown Bank Account, from money appropriated by Parliament for the purpose, all money required to be expended by the Minister or the Department for the purpose of carrying into effect any arrangement entered into pursuant to this section.
- (3) Without limiting the power to make regulations conferred by section 96, there may be made under that section such regulations as may be necessary to give full effect to the provisions of this section and to any arrangement entered into by the Minister pursuant to this section.

- (4) Any regulations made in accordance with subsection (3) may, so far as they relate to any particular arrangement, be made to come into force on the date on which the arrangement was entered into, notwithstanding that that date was before the date of the making of the regulations.

Section 56A: inserted, on 13 January 1966, by section 3(1) of the War Pensions Amendment Act 1966 (1966 No 41).

Section 56A(2): amended, on 25 January 2005, pursuant to section 83(7) of the Public Finance Act 1989 (1989 No 44).

Part 3 **Economic pensions**

[Repealed]

Part 3: repealed, on 1 April 1990, by section 15(4) of the Social Welfare (Transitional Provisions) Act 1990 (1990 No 26).

57 Economic pension defined

[Repealed]

Section 57: repealed, on 1 April 1990, by section 15(4) of the Social Welfare (Transitional Provisions) Act 1990 (1990 No 26).

58 Classes of persons entitled to claim economic pension

[Repealed]

Section 58: repealed, on 1 April 1990, by section 15(4) of the Social Welfare (Transitional Provisions) Act 1990 (1990 No 26).

59 Grant of economic pensions to be in discretion of War Pensions Board

[Repealed]

Section 59: repealed, on 1 April 1990, by section 15(4) of the Social Welfare (Transitional Provisions) Act 1990 (1990 No 26).

60 Maximum rates of economic pensions

[Repealed]

Section 60: repealed, on 1 April 1990, by section 15(4) of the Social Welfare (Transitional Provisions) Act 1990 (1990 No 26).

**61 Special provisions where claimant refuses to accept
suitable employment***[Repealed]*

Section 61: repealed, on 1 April 1990, by section 15(4) of the Social Welfare (Transitional Provisions) Act 1990 (1990 No 26).

61A Lump sum payment on death of economic pensioner*[Repealed]*

Section 61A: repealed, on 1 April 1990, by section 15(4) of the Social Welfare (Transitional Provisions) Act 1990 (1990 No 26).

Part 4

Mercantile marine pensions

**62 Pensions for members of mercantile marine and their
dependants in respect of disablement or death resulting
from Second World War**

- (1) Subject to the provisions of this Act, pensions and allowances in respect of the disablement or death of any member of the mercantile marine shall be payable under this Part to the member and his dependants (in the case of his disablement) or to the dependants of the member (in the case of his death) in any of the following cases, namely:
 - (a) in any case where the disablement or death of the member occurred in the course of his employment or engagement as a member of the mercantile marine, and is directly attributable to the Second World War:
 - (b) in any case where the death of the member has occurred after the termination of his employment or engagement as a member of the mercantile marine, and is attributable to a disablement which occurred in the course of that employment or engagement and which is directly attributable to the Second World War:
provided that no pension shall be payable under this Part in respect of the disablement or death of any member if in respect of the same disablement or of his death any pension is payable under Part 2 or Part 5.
- (2) Save as expressly provided in this Part, all the provisions of this Act (except Part 5) shall, as far as they are applicable and

with the necessary modifications, apply with respect to pensions and allowances under this Part as if members of the mercantile marine were members of the forces and, in any case to which section 63 applies, as if members of the mercantile marine of any other Commonwealth country were members of the forces of that country.

- (3) Nothing in this section shall apply to the spouse or partner of a member of the mercantile marine who is in receipt of a pension payable under subsection (1) in respect of any period of employment or engagement with the mercantile marine which commenced on or after 3 September 1939, unless the member or the spouse or partner of the member, as the case may be, is entitled to make an election under section 66L to receive a war service pension and has not made such an election.
- (4) Notwithstanding anything in subsection (3), if any person is, on 1 April 1971, in receipt of a pension under subsection (1) as the wife of a disabled person, and is not entitled to make an election under section 66L, the pension may, as long as the person remains otherwise qualified, continue to be paid to that person.

Compare: 1940 No 24 s 3; 1946 No 18 s 2(2)

Section 62(2): amended, on 15 April 2003, by section 6 of the War Pensions Amendment Act 2003 (2003 No 18).

Section 62(3): added, on 1 April 1971, by section 7 of the War Pensions Amendment Act (No 2) 1970 (1970 No 125).

Section 62(3): amended, on 15 December 2001, by section 22 of the War Pensions Amendment Act 2001 (2001 No 97).

Section 62(4): added, on 1 April 1971, by section 7 of the War Pensions Amendment Act (No 2) 1970 (1970 No 125).

63 Service as member of other Commonwealth mercantile marine

- (1) Subject to the provisions of this section, the Secretary may, in the Secretary's discretion, grant a pension or allowance under this Part in respect of the disablement or death of any person who, being a bona fide resident of New Zealand at the commencement of his employment or engagement, served as a member of the mercantile marine of any country of the Commonwealth (other than New Zealand) in any of the following cases, namely:

- (a) in any case where the disablement or death of the person occurred in the course of his employment or engagement as a member of that mercantile marine, and is directly attributable to the Second World War:
 - (b) in any case where the death of the person has occurred after the termination of his employment or engagement as a member of that mercantile marine, and is attributable to a disablement which occurred in the course of that employment or engagement and which is directly attributable to the Second World War.
- (2) Where any claimant for a pension or allowance under this section in respect of the disablement or death of a member of the mercantile marine of any country of the Commonwealth (other than New Zealand) is in receipt of a pension or allowance from the government of that country in respect of the member's disablement or death, the Secretary may, in the Secretary's discretion, accept the disablement or death as having occurred in the course of that employment or engagement or, as the case may be, accept the death as being attributable to a disablement which occurred in the course of that employment or engagement.
- (3) No pension or allowance shall be payable under this section to or in respect of a member of any mercantile marine while the claimant or pensioner is not actually resident in New Zealand.
- (4) No pension or allowance shall be granted under this section at such a rate that the aggregate rate of the pensions and allowances payable in respect of the disablement or death of the member (including any overseas pension or allowance) shall exceed the aggregate rate of the pensions and allowances that would have been payable if the member in respect of whose disablement or death the pension or allowance is granted had been a member of the New Zealand mercantile marine.
- (5) Nothing in this section shall apply to the spouse or partner of any person who is in receipt of a pension payable under subsection (1) in respect of any period of employment or engagement with the mercantile marine of any country of the Commonwealth (other than New Zealand) which commenced on or after 3 September 1939, unless the member or the spouse or partner of the member, as the case may be, is entitled to make

an election under section 66L to receive a war service pension and has not made such an election.

- (6) Notwithstanding anything in subsection (5), if any person is, on 1 April 1971, in receipt of a pension under subsection (1) as the wife of a disabled person, and is not entitled to make an election under section 66L, the pension may, as long as the person remains otherwise qualified, continue to be paid to that person.

Compare: 1943 No 21 s 3

Section 63(1): amended, on 1 April 1989, by section 5(2)(i) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 63(2): amended, on 1 April 1989, by section 5(2)(i) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 63(5): added, on 1 April 1971, by section 8 of the War Pensions Amendment Act (No 2) 1970 (1970 No 125).

Section 63(5): amended, on 15 December 2001, by section 23 of the War Pensions Amendment Act 2001 (2001 No 97).

Section 63(6): added, on 1 April 1971, by section 8 of the War Pensions Amendment Act (No 2) 1970 (1970 No 125).

64 Compensation or damages not payable if pension payable

No person shall be entitled to claim any compensation or damages in respect of the disablement or death of any member of the mercantile marine if in respect of that disablement or death he is entitled to claim a pension or allowance under this Part.

Compare: 1940 No 24 s 10

Part 5

Emergency Reserve Corps pensions

65 Pensions for members of Emergency Reserve Corps and their dependants in respect of disablement or death attributable to their service

- (1) Subject to the provisions of this Act, pensions and allowances in respect of the disablement or death of any member of the Emergency Reserve Corps shall be payable under this Part to the member and his dependants (in the case of his disablement) or to the dependants of the member (in the case of his death) in any of the following cases, namely:

- (a) in any case where the disablement or death of the member occurred in the course of his service as a member of the Emergency Reserve Corps, and is directly attributable to that service:
 - (b) in any case where the death of the member has occurred after the termination of his service as a member of the Emergency Reserve Corps, and is attributable to a disablement which occurred in the course of that service and which is directly attributable to that service:
provided that no pension shall be payable under this Part in respect of the disablement or death of any member if in respect of the same disablement or his death any pension is payable under Part 2 or Part 4.
- (2) Save as expressly provided in this Part, all the provisions of this Act (except Part 4) shall, as far as they are applicable and with the necessary modifications, apply with respect to pensions and allowances under this Part as if members of the Emergency Reserve Corps were members of the forces.
- (3) Nothing in this section shall apply to the spouse or partner of a member of the Emergency Reserve Corps who is in receipt of a pension under subsection (1) in respect of any period of service with the Emergency Reserve Corps which commenced on or after 3 September 1939, unless the spouse or partner of the member is entitled to make an election under section 66L to receive a war service pension and has not made such an election.
- (4) Notwithstanding anything in subsection (3), if the wife of any member of the Emergency Reserve Corps is, on 1 April 1971, in receipt of a pension in respect of his disablement, and is not entitled to make an election under section 66L, the pension may, so long as she remains otherwise qualified, continue to be paid to the wife.

Compare: 1943 No 22 s 55; 1946 No 17 s 4; 1949 No 25 s 8; 1951 No 23 s 10

Section 65(2): amended, on 15 April 2003, by section 7 of the War Pensions Amendment Act 2003 (2003 No 18).

Section 65(3): added, on 1 April 1971, by section 9(2) of the War Pensions Amendment Act (No 2) 1970 (1970 No 125).

Section 65(3): amended, on 15 December 2001, by section 24 of the War Pensions Amendment Act 2001 (2001 No 97).

Section 65(4): added, on 1 April 1971, by section 9(2) of the War Pensions Amendment Act (No 2) 1970 (1970 No 125).

66 Compensation or damages may be taken into account in assessing rates of pensions

The Secretary may, in determining the rate of any pension payable in respect of the disablement or death of any member of the Emergency Reserve Corps, take into account any amounts paid or payable to or on behalf of the claimant by any person as compensation or damages in respect of that disablement or death, or may terminate any pension or reduce the rate thereof on account of the receipt of any such compensation or damages.

Compare: 1943 No 22 s 59

Section 66: amended, on 1 April 1989, by section 5(2)(g) of the War Pensions Amendment Act 1988 (1988 No 148).

Part 5A
War service pensions

[Repealed]

Part 5A: repealed, on 1 April 1990, by section 15(4) of the Social Welfare (Transitional Provisions) Act 1990 (1990 No 26).

66A Serviceman defined

[Repealed]

Section 66A: repealed, on 1 April 1990, by section 15(4) of the Social Welfare (Transitional Provisions) Act 1990 (1990 No 26).

66B War service pensions

[Repealed]

Section 66B: repealed, on 1 April 1990, by section 15(4) of the Social Welfare (Transitional Provisions) Act 1990 (1990 No 26).

66C Appeal from decisions of War Pensions Board

[Repealed]

Section 66C: repealed, on 1 April 1990, by section 15(4) of the Social Welfare (Transitional Provisions) Act 1990 (1990 No 26).

66D Residential qualifications for war service pension*[Repealed]*

Section 66D: repealed, on 1 April 1990, by section 15(4) of the Social Welfare (Transitional Provisions) Act 1990 (1990 No 26).

66E Rates of war service pension*[Repealed]*

Section 66E: repealed, on 1 April 1990, by section 15(4) of the Social Welfare (Transitional Provisions) Act 1990 (1990 No 26).

66F Age supplement where war service pensioner or wife has attained age of 65 years*[Repealed]*

Section 66F: repealed, on 1 April 1990, by section 15(4) of the Social Welfare (Transitional Provisions) Act 1990 (1990 No 26).

66G Apportionment of pensions in certain cases*[Repealed]*

Section 66G: repealed, on 1 April 1990, by section 15(4) of the Social Welfare (Transitional Provisions) Act 1990 (1990 No 26).

66H Forfeiture of pensions of inmates of institutions*[Repealed]*

Section 66H: repealed, on 1 April 1990, by section 15(4) of the Social Welfare (Transitional Provisions) Act 1990 (1990 No 26).

66I Review of pensions*[Repealed]*

Section 66I: repealed, on 1 April 1990, by section 15(4) of the Social Welfare (Transitional Provisions) Act 1990 (1990 No 26).

66J Continuation of payment after death of serviceman*[Repealed]*

Section 66J: repealed, on 1 April 1990, by section 15(4) of the Social Welfare (Transitional Provisions) Act 1990 (1990 No 26).

66K Continuation of payment after death of wife*[Repealed]*

Section 66K: repealed, on 1 April 1990, by section 15(4) of the Social Welfare (Transitional Provisions) Act 1990 (1990 No 26).

66L Election to receive war service pension in certain cases

[Repealed]

Section 66L: repealed, on 1 April 1990, by section 15(4) of the Social Welfare (Transitional Provisions) Act 1990 (1990 No 26).

66M War service pensioners may elect to receive national superannuation

[Repealed]

Section 66M: repealed, on 1 April 1990, by section 15(4) of the Social Welfare (Transitional Provisions) Act 1990 (1990 No 26).

**Part 6
Veterans' pensions**

Part 6: substituted, on 15 April 2003, by section 8 of the War Pensions Amendment Act 2003 (2003 No 18).

67 Interpretation

- (1) In this Part and in Schedules 11 to 13, unless the context otherwise requires,—

Department means the New Zealand Defence Force (as defined in section 2(1) of the Defence Act 1990)

dependent child, in relation to any person, means a child—

- (a) whose care is primarily the responsibility of that person; and
- (b) who is being maintained as a member of that person's family; and
- (c) who is financially dependent on that person; and
- (d) who is not a child in respect of whom payments are being made under section 363 of the Children, Young Persons, and Their Families Act 1989

employment income means any salary, wage, allowance, bonus, gratuity, extra salary, compensation for loss of office or employment, emolument (of whatever kind), or other benefit in money, for, or in connection with, the employment or service of the person; and—

- (a) includes—
 - (i) subject to paragraph (b), any expenditure on account of an employee (within the meaning of section YA 1 of the Income Tax Act 2007); and

- (ii) any benefit of a kind referred to in section CE 1(d) of the Income Tax Act 2007; and
 - (iii) in the case of a person who, in the relevant period, has been provided, in respect of any office or position held by the person, with board or lodging, or the use of a house or quarters, or has been paid an allowance instead of being provided with board or lodging, or with the use of a house or quarters, the value of those benefits (and the value of the benefits is to be determined, in the case of a dispute, by the Secretary); but
- (b) does not include any employer's superannuation contribution (within the meaning of section YA 1 of the Income Tax Act 2007)

income has the same meaning as in section 3(1) of the Social Security Act 1964

Income Test 3 means that the applicable rate of veterans' pension must be reduced by 70 cents for every \$1 of the combined income of the person in receipt of a veteran's pension and his or her spouse or civil union partner or de facto partner in excess of \$80 per week

New Zealand superannuation means New Zealand superannuation paid or payable under the New Zealand Superannuation and Retirement Income Act 2001

ordinarily resident, in relation to any person, does not include being unlawfully resident in New Zealand

partner has the same meaning as in section 3(1) of the Social Security Act 1964

Secretary means the Secretary for War Pensions; and includes any person for the time being authorised to exercise or perform any of the powers, duties, or functions of the Secretary

single means not married or in a civil union or a de facto relationship

spouse means the husband or wife of an applicant or person in receipt of a veteran's pension, as the case may require.

- (2) Unless the context otherwise requires, any word or expression used in this Part or in Schedules 11 to 13, but not defined in

this Part, has the same meaning as it has in section 2 of this Act or in section 3(1) of the Social Security Act 1964.

Compare: 1990 No 26 s 2

Section 67: substituted, on 15 April 2003, by section 8 of the War Pensions Amendment Act 2003 (2003 No 18).

Section 67(1) **employment income** paragraph (a)(i): amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Section 67(1) **employment income** paragraph (a)(ii): amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Section 67(1) **employment income** paragraph (a)(ii): amended, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

Section 67(1) **employment income** paragraph (b): amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Section 67(1) **employment income** paragraph (b): amended, on 1 April 2005, by section YA 2 of the Income Tax Act 2004 (2004 No 35).

Section 67(1) **Income Test 3**: amended, on 1 April 2007, by section 5 of the War Pensions Amendment Act 2005 (2005 No 24).

Section 67(1) **Income Test 3**: amended, on 26 April 2005, by section 3 of the War Pensions Amendment Act 2005 (2005 No 24).

Section 67(1) **New Zealand superannuation**: amended, on 21 April 2005, by section 9(1) of the New Zealand Superannuation and Retirement Income Amendment Act 2005 (2005 No 42).

Section 67(1) **partner**: inserted, on 1 July 2006, by section 4 of the War Pensions Amendment Act 2006 (2006 No 32).

Section 67(1) **single**: substituted, on 1 April 2007, by section 5 of the War Pensions Amendment Act 2005 (2005 No 24).

68 Administration of veterans' pensions

- (1) This Part is administered by the Department.
- (2) Nothing in the other Parts of this Act or the War Pensions Regulations 1956 applies to this Part or affect the administration of veterans' pensions, except as otherwise expressly provided in this Part.
- (3) In the application of any of the provisions of the Social Welfare (Transitional Provisions) Act 1990 or of the Social Security Act 1964 relating to veterans' pensions or the payment of veterans' pensions, references to the chief executive and department must be read, respectively, as references to the Secretary and to the Department.

- (4) Nothing in subsection (3) requires the Secretary to issue a separate code of conduct under section 11B of the Social Security Act 1964 for the purposes of the administration of this Part.
- (5) If a requirement is made under section 11 of the Social Security Act 1964 relating to a veteran's pension, the code of conduct issued under section 11B of that Act by the chief executive of the department for the time being responsible for administration of that Act applies—
 - (a) to the Secretary as if the Secretary were the chief executive of the department; and
 - (b) to every officer or employee of the Department engaged in the administration of veterans' pensions as if they were officials or employees of the department.

Compare: 1990 No 26 s 2A

Section 68: substituted, on 15 April 2003, by section 8 of the War Pensions Amendment Act 2003 (2003 No 18).

69 Delegation of Secretary's powers

- (1) The Secretary may, either generally or particularly, delegate to the chief executive of the department for the time being responsible for the administration of the Social Security Act 1964 any of the Secretary's powers, functions, and discretions under—
 - (a) sections 70 to 74B; and
 - (b) any other provision in this Part or the Social Security Act 1964 or the Social Welfare (Transitional Provisions) Act 1990 that relates to the payment of veterans' pensions.
- (2) The provisions of sections 41 and 42 of the State Sector Act 1988 apply to every delegation made under subsection (1) as if that delegation were made under section 41 of that Act.

Compare: 1990 No 26 s 2B

Section 69: substituted, on 15 April 2003, by section 8 of the War Pensions Amendment Act 2003 (2003 No 18).

Entitlement

Heading: inserted, on 15 April 2003, by section 8 of the War Pensions Amendment Act 2003 (2003 No 18).

70 Entitlement to veteran's pension

- (1) Subject to this Part and to the Social Security Act 1964, a person is entitled to receive a veteran's pension if,—
 - (a) in any war or emergency in which New Zealand forces have served, that person either—
 - (i) served as a member of the forces, a member of the mercantile marine, or a member of the Emergency Reserve Corps; or
 - (ii) served as a member of the forces or as a member of the mercantile marine of any Commonwealth country (other than New Zealand) outside that Commonwealth country, and was ordinarily resident in New Zealand at the commencement of that war or emergency; and
 - (b) that person either—
 - (i) has attained the age at which he or she is entitled to receive New Zealand superannuation if otherwise qualified to receive it and is qualified to receive a pension under Part 2, Part 4, or Part 5 at a rate of not less than 70% of the maximum rate of pension that would be payable for total disablement; or
 - (ii) because of any mental or physical infirmity is, in the Secretary's opinion, prevented from undertaking employment and, because of that infirmity, is likely to be prevented from undertaking employment permanently or for a substantial period.
- (2) If a person is entitled to receive a veteran's pension on account of his or her own service, or would have been entitled to receive it had he or she been alive, the spouse or civil union partner or de facto partner of that person is entitled to receive a veteran's pension in the spouse's or civil union partner's or de facto partner's own right if the spouse or civil union partner or de facto partner has attained the age at which he or she

would be entitled to receive New Zealand superannuation if otherwise qualified to receive it.

- (3) A person is not entitled to receive a veteran's pension if he or she has at any time been in receipt of New Zealand superannuation unless he or she—
- (a) is qualified to receive a pension under Part 2, Part 4, or Part 5 at a rate of not less than 70% of the maximum rate of pension that would be payable for total disablement; or
 - (b) had elected to receive New Zealand superannuation under section 66M (as inserted by section 4 of the War Pensions Amendment Act 1986) and either,—
 - (i) before 1 April 1990, sent a written request to the Secretary to forgo national superannuation paid or payable under the Social Security Act 1964 and to receive instead a war service pension; or
 - (ii) on or after 1 April 1990, sent or sends a written request to the Secretary to forgo New Zealand superannuation and to receive instead a veteran's pension.
- (4) In subsection (3), **New Zealand superannuation** means—
- (a) New Zealand superannuation paid or payable under the New Zealand Superannuation and Retirement Income Act 2001; or
 - (b) New Zealand superannuation paid or payable under the Social Welfare (Transitional Provisions) Act 1990 before the commencement of the New Zealand Superannuation and Retirement Income Act 2001; or
 - (c) national superannuation or guaranteed retirement income paid or payable, before 1 April 1994, under the Social Welfare (Transitional Provisions) Act 1990; or
 - (d) national superannuation paid or payable, before 1 April 1990, under the Social Security Act 1964.

Compare: 1990 No 26 s 8

Section 70: substituted, on 15 April 2003, by section 8 of the War Pensions Amendment Act 2003 (2003 No 18).

Section 70(2): amended, on 1 April 2007, by section 5 of the War Pensions Amendment Act 2005 (2005 No 24).

Section 70(2): amended, on 26 April 2005, by section 3 of the War Pensions Amendment Act 2005 (2005 No 24).

Section 70(4)(a): amended, on 21 April 2005, by section 9(1) of the New Zealand Superannuation and Retirement Income Amendment Act 2005 (2005 No 42).

Section 70(4)(b): amended, on 21 April 2005, by section 9(1) of the New Zealand Superannuation and Retirement Income Amendment Act 2005 (2005 No 42).

70A Service in connection with any emergency

If any question arises as to whether or not any member of the forces while on service was serving in connection with an emergency for the purposes of this Part, that question must be referred to and be decided by the Minister (as defined in section 2(1)).

Section 70A: inserted, on 15 April 2003, by section 8 of the War Pensions Amendment Act 2003 (2003 No 18).

71 Veteran's ability to earn employment income

- (1) This section applies to a person who—
- (a) is in receipt of a veteran's pension; and
 - (b) qualified to receive that pension under either—
 - (i) section 70(1)(b)(ii); or
 - (ii) section 8(1)(b)(ii) of the Social Welfare (Transitional Provisions) Act 1990 (as in force immediately before the commencement of this Part); and
 - (c) has not attained the age at which he or she would be entitled to receive New Zealand superannuation if otherwise qualified to receive it.
- (2) A person to whom this section applies will not cease to be entitled to receive a veteran's pension merely because that person, at any time, is no longer prevented from undertaking employment because of a mental or physical infirmity.
- (3) This section applies despite section 70(1)(b)(ii), but is subject to section 74D.

Section 71: substituted, on 15 April 2003, by section 8 of the War Pensions Amendment Act 2003 (2003 No 18).

72 Medical examination of applicant for veteran's pension

- (1) The Secretary, in his or her discretion, may require any applicant for a veteran's pension or any person in receipt of a veteran's pension to submit himself or herself to a medical practi-

tioner nominated by the Secretary for the purpose of a medical examination.

- (2) The medical practitioner must certify—
 - (a) whether, in his or her opinion, the applicant or person in receipt of a veteran's pension is prevented from undertaking employment as a result of a mental or physical infirmity; and
 - (b) the estimated duration of that condition.
- (3) The medical practitioner must state the grounds upon which his or her opinion is founded.

Compare: 1990 No 26 s 9

Section 72: substituted, on 15 April 2003, by section 8 of the War Pensions Amendment Act 2003 (2003 No 18).

73 Commencement of veteran's pension

- (1) A veteran's pension commences on the later of—
 - (a) the date on which the applicant became entitled to receive it; or
 - (b) the date on which the Department received the application for it.
- (2) Despite subsection (1), a person's application for a veteran's pension is deemed to have been received on 1 April 1990 if—
 - (a) the person applied or applies for the veteran's pension after 6 March 1995; and
 - (b) the service qualifying that person for a veteran's pension under section 70(1)(a) was solely with the Japan section of the Second New Zealand Expeditionary Force on or after 14 August 1945 and before 28 April 1952.
- (3) Nothing in subsection (2) limits section 70(3).
- (4) This section is subject to section 80AA of the Social Security Act 1964.

Compare: 1990 No 26 s 10

Section 73: substituted, on 15 April 2003, by section 8 of the War Pensions Amendment Act 2003 (2003 No 18).

Section 73(4): added, on 2 July 2007, by section 12(2) of the Social Security Amendment Act 2007 (2007 No 20).

74 Rates of veterans' pensions

- (1) The rate of a veteran's pension is the appropriate rate specified in Schedule 11.
- (2) A person who is married or in a civil union or in a de facto relationship and whose spouse or civil union partner or de facto partner is not entitled to receive a veteran's pension may elect to receive the appropriate rate specified in either clause 1 or 2 of that schedule.
- (3) However, an election to receive a veteran's pension under clause 2 of Schedule 11 does not take effect until the employment has ceased if—
 - (a) that spouse or civil union partner or de facto partner is or was in employment under a contract of service; and
 - (b) the combined income of the person who is married or in a civil union or in a de facto relationship and his or her spouse or civil union partner or de facto partner, during that employment, is or was enough to prevent receipt of a veteran's pension under clause 2 of that schedule.
- (4) A person who has made an election under subsection (2) may change that election.

Compare: 1990 No 26 s 11

Section 74: substituted, on 15 April 2003, by section 8 of the War Pensions Amendment Act 2003 (2003 No 18).

Section 74(2): amended, on 1 April 2007, by section 5 of the War Pensions Amendment Act 2005 (2005 No 24).

Section 74(2): amended, on 26 April 2005, by section 3 of the War Pensions Amendment Act 2005 (2005 No 24).

Section 74(3)(a): amended, on 1 April 2007, by section 5 of the War Pensions Amendment Act 2005 (2005 No 24).

Section 74(3)(a): amended, on 26 April 2005, by section 3 of the War Pensions Amendment Act 2005 (2005 No 24).

Section 74(3)(b): amended, on 1 April 2007, by section 5 of the War Pensions Amendment Act 2005 (2005 No 24).

Section 74(3)(b): amended, on 26 April 2005, by section 3 of the War Pensions Amendment Act 2005 (2005 No 24).

74A Lump sum payments on death

On the death of any person who is ordinarily resident in New Zealand on the date of death and who is in receipt of a veteran's pension on that date, or on the death of the spouse or

civil union partner or de facto partner of that person, the appropriate amount specified in Schedule 12 is payable to the surviving spouse, surviving civil union partner or surviving de facto partner, or dependent child of the person who died.

Compare: 1990 No 26 s 12

Section 74A: inserted, on 15 April 2003, by section 8 of the War Pensions Amendment Act 2003 (2003 No 18).

Section 74A: amended, on 1 April 2007, by section 5 of the War Pensions Amendment Act 2005 (2005 No 24).

Section 74A: amended, on 26 April 2005, by section 3 of the War Pensions Amendment Act 2005 (2005 No 24).

74B Persons formerly receiving certain pensions or allowance entitled to veteran's pension

- (1) Despite section 70(1), every person who, immediately before 1 April 1990, was entitled to receive an economic pension or a wife's pension or a war veteran's allowance or a war service pension is entitled to receive a veteran's pension under this Part.
- (2) Subclause (1) is subject to section 70(3).

Compare: 1990 No 26 s 13

Section 74B: inserted, on 15 April 2003, by section 8 of the War Pensions Amendment Act 2003 (2003 No 18).

74BA Entitlement to veteran's pension for spouses or partners of persons in long-term residential care in hospital or rest home

- (1) This section applies to any person—
 - (a) who is not in long-term residential care and whose spouse or partner is in long-term residential care in a hospital or rest home, whether or not the spouse or partner is a resident assessed as requiring care (within the meaning of section 136 of the Social Security Act 1964); and
 - (b) who is in receipt of a veteran's pension, or whose spouse or partner is in receipt of a veteran's pension.
- (2) A person to whom this section applies is entitled to receive a veteran's pension at the rate payable to a person who is single—

- (a) stated in clause 1(a) of Schedule 11, if the person has been granted a living alone payment under section 74U; or
 - (b) stated in clause 1(b) of Schedule 11, if the person has not been granted a living alone payment under section 74U.
 - (3) Any benefit payable to a person to whom this section applies is not subject to abatement in respect of any income of the person that has been included in a means assessment of the person's spouse or partner under Part 4 of the Social Security Act 1964.
- Section 74BA: inserted, on 1 July 2006, by section 5 of the War Pensions Amendment Act 2006 (2006 No 32).

74C Annual adjustment of rates of veterans' pensions

- (1) In this section,—
 - CPI** means the consumers price index-all groups published by Statistics New Zealand
 - earner levy** means the levy payable under section 219(1) and (2) of the Injury Prevention, Rehabilitation, and Compensation Act 2001
 - standard tax** means the amount of tax reckoned on a weekly basis that would be deductible in accordance with tax code "M" specified in section 24B of the Tax Administration Act 1994.
- (2) Subject to subsection (3), the rates of veterans' pensions specified in clauses 1 and 2(b) of Schedule 11 must be adjusted, by Order in Council, as at 1 April each year so that in each case the new rate (after the deduction of standard tax) is the rate at that date (after the deduction of standard tax and before the adjustment under this section is made) adjusted by any percentage movement upwards in the CPI between the CPI for the quarter that ended with 31 December one year before the immediately preceding 31 December and the CPI for the quarter that ended with the immediately preceding 31 December.
- (3) Every Order in Council made under subsection (2) must adjust the annual rates of the veterans' pensions so that the weekly amount (before any abatement under section 74D but after the deduction of standard tax) payable to—

- (a) a couple who are married or in a civil union or in a de facto relationship and who are both qualified to receive a veteran's pension is not less than 65% or more than 72.5% of the average ordinary time weekly earnings (males and females combined) as determined by the last Quarterly Employment Survey of wages published by Statistics New Zealand before 1 March in each year (after the deduction of standard tax and the earner levy payable on those earnings):
 - (b) a single person who has been granted a living alone payment is 65% of the weekly amount of the veteran's pension (before any abatement under section 74D but after the deduction of standard tax) payable to a couple who are married or in a civil union or in a de facto relationship and who are both qualified to receive a veteran's pension:
 - (c) a single person who has not been granted a living alone payment is 60% of the weekly amount of the veteran's pension (before any abatement under section 74D but after the deduction of standard tax) payable to a couple who are married or in a civil union or in a de facto relationship and who are both qualified to receive a veteran's pension.
- (4) Every Order in Council made under subsection (2) must adjust the annual rates of the veterans' pensions so that the rate of the veteran's pension specified in clause 2(b) of Schedule 11 preserves its proportional relationship (before any abatement under section 74D or before any calculation is made under Income Test 3, as the case may be, but after the deduction of standard tax) to the rates specified in clause 1 of that schedule.
 - (5) An adjustment under this section must not reduce the weekly amounts payable under this section.
 - (6) Section 61H(3) to (6) of the Social Security Act 1964 applies to every Order in Council made under subsection (2) as if that Order in Council were made under that section.
 - (7) Every Order in Council made under subsection (2) comes into force, or is to be deemed to come into force, on 1 April of

the calendar year in which it is made, and applies to veterans' pensions payable on and after that date.

Compare: 1990 No 26 s 13A

Section 74C: inserted, on 15 April 2003, by section 8 of the War Pensions Amendment Act 2003 (2003 No 18).

Section 74C(1) **standard tax**: amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Section 74C(3)(a): amended, on 1 April 2007, by section 5 of the War Pensions Amendment Act 2005 (2005 No 24).

Section 74C(3)(a): amended, on 26 April 2005, by section 3 of the War Pensions Amendment Act 2005 (2005 No 24).

Section 74C(3)(b): amended, on 1 April 2007, by section 5 of the War Pensions Amendment Act 2005 (2005 No 24).

Section 74C(3)(b): amended, on 26 April 2005, by section 3 of the War Pensions Amendment Act 2005 (2005 No 24).

Section 74C(3)(c): amended, on 1 April 2007, by section 5 of the War Pensions Amendment Act 2005 (2005 No 24).

Section 74C(3)(c): amended, on 26 April 2005, by section 3 of the War Pensions Amendment Act 2005 (2005 No 24).

74D Abatement

- (1) This section applies to any person in receipt of a veteran's pension who has not attained the age at which he or she would be entitled to receive New Zealand superannuation if otherwise qualified to receive it.
- (2) Income Test 3 does not apply to any person to whom this section applies.
- (3) If a person to whom this section applies receives a veteran's pension at a rate specified in clause 1 of Schedule 11, the Department must, in calculating the veteran's pension payable, reduce the amount of the pension paid and payable by—
 - (a) 30 cents for every \$1 of the employment income derived by the person (before the deduction of income tax) in excess of \$80 per week, but not in excess of \$180 per week; and
 - (b) 70 cents for every \$1 of the employment income derived by the person (before the deduction of income tax) in excess of \$180 per week.
- (4) If a person to whom this section applies receives a veteran's pension at a rate specified in clause 2 of Schedule 11, the De-

partment must, in calculating the veteran's pension payable, reduce the amount of the pension paid and payable by—

- (a) 30 cents for every \$1 of the combined income derived by the person and the person's spouse or civil union partner or de facto partner in excess of \$80 per week, but not in excess of \$180 per week; and
- (b) 70 cents for every \$1 of the combined income derived by the person and the person's spouse or civil union partner or de facto partner in excess of \$180 per week.

Section 74D: inserted, on 15 April 2003, by section 8 of the War Pensions Amendment Act 2003 (2003 No 18).

Section 74D(4)(a): amended, on 1 April 2007, by section 5 of the War Pensions Amendment Act 2005 (2005 No 24).

Section 74D(4)(a): amended, on 26 April 2005, by section 3 of the War Pensions Amendment Act 2005 (2005 No 24).

Section 74D(4)(b): amended, on 1 April 2007, by section 5 of the War Pensions Amendment Act 2005 (2005 No 24).

Section 74D(4)(b): amended, on 26 April 2005, by section 3 of the War Pensions Amendment Act 2005 (2005 No 24).

Payment overseas of veterans' pensions

Heading: inserted, on 15 April 2003, by section 8 of the War Pensions Amendment Act 2003 (2003 No 18).

74E Effect of absence from New Zealand on veteran's pension

A person is not entitled to a veteran's pension while that person is absent from New Zealand, except as provided in sections 74F to 74T or in any agreement or convention adopted under section 19 of the Social Welfare (Transitional Provisions) Act 1990.

Compare: 1990 No 26 s 17A(1)

Section 74E: inserted, on 15 April 2003, by section 8 of the War Pensions Amendment Act 2003 (2003 No 18).

Section 74E: amended, on 5 January 2010, by section 4 of the War Pensions Amendment Act 2009 (2009 No 41).

74F First 26 weeks of certain temporary absences

A veteran's pension that would otherwise be payable to a person (other than a person who is receiving a veteran's pension overseas under section 74J) is payable in respect of the first 26 weeks of any absence from New Zealand if—

- (a) the person's absence does not exceed 30 weeks; or
- (b) the person's absence exceeds 30 weeks and the Secretary is satisfied that the absence beyond 30 weeks is due to circumstances beyond that person's control that he or she could not reasonably have foreseen before departure.

Compare: 1990 No 26 s 17A(2)

Section 74F: inserted, on 15 April 2003, by section 8 of the War Pensions Amendment Act 2003 (2003 No 18).

Section 74F: amended, on 5 January 2010, by section 5 of the War Pensions Amendment Act 2009 (2009 No 41).

74G Absences up to 2 years for medical treatment

The Secretary may, in the Secretary's discretion, pay a veteran's pension to any person who would otherwise be entitled to receive it, but who is absent from New Zealand for any period or periods not exceeding 2 years in total because that person or his or her spouse, civil union partner or de facto partner, dependent child, or sibling is receiving medical treatment overseas for which the Ministry of Health is granting assistance.

Compare: 1990 No 26 s 17A(3)

Section 74G: inserted, on 15 April 2003, by section 8 of the War Pensions Amendment Act 2003 (2003 No 18).

Section 74G: amended, on 1 April 2007, by section 5 of the War Pensions Amendment Act 2005 (2005 No 24).

Section 74G: amended, on 26 April 2005, by section 3 of the War Pensions Amendment Act 2005 (2005 No 24).

74H Absences up to 156 weeks with aid agencies

- (1) The Secretary may pay a veteran's pension to any person who—
 - (a) is otherwise entitled to receive it; and
 - (b) is absent from New Zealand for a period not exceeding 156 weeks; and
 - (c) is engaged, while absent from New Zealand, in full-time voluntary and unpaid humanitarian work for a recognised aid agency that—

- (i) has, as its principal function, the giving of aid and assistance to less advantaged communities in 1 or more other countries; and
 - (ii) has not deprived another person of paid employment to engage the person to do that work on an unpaid basis.
- (2) The chief executive of the Ministry of Foreign Affairs and Trade must determine any question that arises as to whether an aid agency fulfils the qualifications set out in subsection (1).

Compare: 1990 No 26 s 17A(3A), (3B)

Section 74H: inserted, on 15 April 2003, by section 8 of the War Pensions Amendment Act 2003 (2003 No 18).

Section 74H heading: amended, on 1 July 2006, by section 6(1) of the War Pensions Amendment Act 2006 (2006 No 32).

Section 74H(1)(b): amended, on 1 July 2006, by section 6(2) of the War Pensions Amendment Act 2006 (2006 No 32).

74I Date absence commences

If a person who is absent from New Zealand would have become entitled to a veteran's pension during his or her absence but for section 74E, the person's absence must be regarded as having commenced on the day that he or she would have become entitled to a veteran's pension.

Compare: 1990 No 26 s 17A(4)

Section 74I: inserted, on 15 April 2003, by section 8 of the War Pensions Amendment Act 2003 (2003 No 18).

74J Payment overseas of veteran's pension

- (1) This subsection—
 - (a) applies to a country if it is not a country with whose government New Zealand has a reciprocal agreement or convention, in force under section 19 of the Social Welfare (Transitional Provisions) Act 1990, that relates to the veteran's pension; and
 - (b) applies to a person if he or she has left New Zealand at a time when he or she was—
 - (i) intending to reside for a period longer than 26 weeks in a country (or any 2 or more countries) to which this subsection applies, but not intending

- to reside for a period longer than 52 weeks in a specified Pacific country (within the meaning of section 74N(1)); or
 - (ii) intending to travel for a period longer than 26 weeks, but not intending to reside in any country other than New Zealand.
- (2) A person to whom subsection (1) applies is entitled to be paid a veteran's pension at the appropriate rate specified in subsection (6)—
 - (a) in the case of a person who has left New Zealand at a time when he or she was intending to reside for a period longer than 26 weeks in a country (or any 2 or more countries) to which subsection (1) applies, but not intending to reside for a period longer than 52 weeks in a specified Pacific country (within the meaning of section 74N(1)), until he or she—
 - (i) begins to reside in a country that is not a country to which subsection (1) applies; or
 - (ii) begins to reside in New Zealand again; or
 - (iii) begins to receive a veteran's pension otherwise than under this section; and
 - (iv) begins to receive New Zealand superannuation under the New Zealand Superannuation and Retirement Income Act 2001; and
 - (b) in the case of a person who has left New Zealand at a time when he or she was intending to travel for a period longer than 26 weeks, but not intending to reside in any country other than New Zealand, until he or she—
 - (i) begins to reside in a country that is not a country to which subsection (1) applies; or
 - (ii) returns to New Zealand.
- (3) For the purposes only of subsection (2)(b)(ii), a person does not return to New Zealand if—
 - (a) he or she—
 - (i) interrupts his or her overseas travel, and travels to and stays briefly in New Zealand, in order to attend an event (for example, a wedding or funeral) or to visit a person (for example, a sick or injured family member); and then

- (ii) resumes his or her overseas travel; and
- (b) he or she does not while in New Zealand—
 - (i) begin to receive a veteran's pension otherwise than under this section; or
 - (ii) begin to receive New Zealand superannuation under the New Zealand Superannuation and Retirement Income Act 2001.
- (4) Except to the extent provided by paragraphs (a)(i) and (b)(i) of subsection (2), a person does not cease to be entitled to be paid a veteran's pension under that subsection by reason only of changing his or her intentions after leaving New Zealand.
- (5) Subsection (4) is for the avoidance of doubt.
- (6) The rates referred to in subsection (2) are,—
 - (a) for a single person, a rate that is a proportion (calculated under section 74JA(1)) of the amount stated in clause 1(b) of Schedule 11:
 - (b) for a person who is married or in a civil union or in a de facto relationship, a rate that is a proportion (calculated under section 74JA(1)) of the amount stated in clause 1(c) of that schedule.
- (7) If section 74D applies to a person for whom an amount is specified by subsection (6), the calculation under section 74JA(1) of the proportion of it he or she is entitled to be paid must be made in respect of that amount after it has been abated under that section.
- (8) This section is subject to section 74JB.

Section 74J: substituted, on 5 January 2010, by section 6 of the War Pensions Amendment Act 2009 (2009 No 41).

74JA Calculation of amount of veteran's pension payable overseas

- (1) The proportion referred to in sections 74J(6) and (7) is to be calculated by—
 - (a) treating each period during which the person concerned has resided in New Zealand while aged 20 or more and less than 65 as whole calendar months and (where applicable) additional days; and
 - (b) adding the number of additional days (if any), dividing the total by 30, and disregarding any remainder; and

- (c) adding the number of calendar months and the quotient calculated under paragraph (b); and
 - (d) dividing by 540 the total calculated under paragraph (c).
- (2) In the determination for the purposes of subsection (1) of the periods during which a person has resided in New Zealand, no account is to be taken of—
 - (a) any period of absence from New Zealand of a kind described in section 9(1) of the New Zealand Superannuation and Retirement Income Act 2001; or
 - (b) any period of absence from New Zealand—
 - (i) while the person was engaged in missionary work (within the meaning of section 10(4) of the New Zealand Superannuation and Retirement Income Act 2001) as a member of, or on behalf of, any religious body; or
 - (ii) while the person's spouse or partner was engaged in missionary work (within the meaning of section 10(4) of the New Zealand Superannuation and Retirement Income Act 2001) as a member of, or on behalf of, any religious body, and the person was with his or her spouse or partner; or
 - (c) any period of absence from New Zealand while the person was (by virtue of section 79(1)(a) of the Social Security Act 1964) deemed to have been resident in New Zealand; or
 - (d) any period of absence from New Zealand while, as the spouse or partner of a person deemed by section 79(1)(a) of the Social Security Act 1964 to have been resident in New Zealand, the person was also (by virtue of section 79(1)(b) of the Social Security Act 1964) deemed to have been resident in New Zealand.
- (3) Subsection (2) applies to a period of absence only if the Secretary is satisfied that during it the person concerned remained ordinarily resident in New Zealand.
- (4) Subsection (2)(b) applies to a period of absence only if the Secretary is satisfied that the person concerned either was born in New Zealand or—
 - (a) in the case of a person to whom subsection (2)(b)(i) applies, was ordinarily resident in New Zealand immedi-

ately before leaving New Zealand to engage in the missionary work concerned:

- (b) in the case of a person to whom subsection (2)(b)(ii) applies, was ordinarily resident in New Zealand immediately before leaving New Zealand to accompany or join his or her spouse or partner.

Section 74JA: inserted, on 5 January 2010, by section 6 of the War Pensions Amendment Act 2009 (2009 No 41).

74JB Entitlement

A person is not entitled to be paid a veteran's pension under section 74J unless he or she—

- (a) has made an application for the payment of a veteran's pension under that section stating either (as the case may be)—
 - (i) the country or countries in which he or she intends to reside and the period for which he or she intends to reside there; or
 - (ii) the country or countries to and in which he or she intends to travel; and
- (b) is ordinarily resident and present in New Zealand on the day he or she makes the application, and—
 - (i) is entitled to receive a veteran's pension on that day; or
 - (ii) will become entitled to receive a veteran's pension before he or she leaves New Zealand.

Section 74JB: inserted, on 5 January 2010, by section 6 of the War Pensions Amendment Act 2009 (2009 No 41).

74K Applications after leaving New Zealand

- (1) This section applies if a person did not make an application for payment under section 74J while ordinarily resident and present in New Zealand because he or she left New Zealand intending to be absent for 26 weeks or less.
- (2) The Secretary may accept an application for payment in accordance with section 74J if satisfied that the absence for more than 26 weeks is or was due to circumstances beyond the applicant's control that could not reasonably have been foreseen before leaving New Zealand.

- (3) If the Secretary has accepted an application under subsection (2) and, after the applicant left New Zealand, the applicant has been paid any instalment of a veteran's pension in accordance with sections 74F to 74I, no liability to repay any of those instalments arises merely because the applicant fails to return to New Zealand within the period allowed for by those sections.

Compare: 1990 No 26 s 17(3), (5)

Section 74K: inserted, on 15 April 2003, by section 8 of the War Pensions Amendment Act 2003 (2003 No 18).

74L Date of commencement of payment overseas

- (1) The date of commencement of payment overseas of a veteran's pension under section 74J is the first pay day after the date of the applicant's departure from New Zealand.
- (2) However, in the case of an application under section 74K, the date of commencement is the first pay day after the date on which the application was received by the Department.
- (3) Subsection (2) is subject to section 80AA of the Social Security Act 1964.

Compare: 1990 No 26 s 17(4)

Section 74L: inserted, on 15 April 2003, by section 8 of the War Pensions Amendment Act 2003 (2003 No 18).

Section 74L(3): added, on 2 July 2007, by section 12(2) of the Social Security Amendment Act 2007 (2007 No 20).

74M Relationship with other benefit provisions

- (1) *[Repealed]*
- (2) *[Repealed]*
- (3) A person who is receiving a veteran's pension overseas under section 74J is not entitled to receive any living alone payment, supplementary or special benefit, temporary additional support, lump sum payment, or any other assistance under the Social Security Act 1964 or under any welfare programme approved under section 124(1)(d) of that Act.
- (4) Despite the provisions of section 80BD of the Social Security Act 1964, on the death of a person who receives a veteran's pension overseas under section 74J, the benefit terminates on a date to be determined by the Secretary, being a date not more than 4 weeks after the date of death.

- (5) Except as otherwise provided in this section, the provisions of the Social Security Act 1964 (other than sections 69G to 69I, 70, 74(1)(a), 75, 76, 77, and 82(7), 75A, and 76) apply to veterans' pensions being paid overseas under section 74J.

Compare: 1990 No 26 s 17(6)–(9)

Section 74M: inserted, on 15 April 2003, by section 8 of the War Pensions Amendment Act 2003 (2003 No 18).

Section 74M(1): repealed, on 5 January 2010, by section 7(1) of the War Pensions Amendment Act 2009 (2009 No 41).

Section 74M(2): repealed, on 5 January 2010, by section 7(1) of the War Pensions Amendment Act 2009 (2009 No 41).

Section 74M(3): amended, on 5 January 2010, by section 7(2) of the War Pensions Amendment Act 2009 (2009 No 41).

Section 74M(3): amended, on 1 April 2006, by section 21 of the Social Security (Working for Families) Amendment Act 2004 (2004 No 51).

Section 74M(4): amended, on 5 January 2010, by section 7(3) of the War Pensions Amendment Act 2009 (2009 No 41).

Section 74M(5): amended, on 5 January 2010, by section 7(4) of the War Pensions Amendment Act 2009 (2009 No 41).

74N Specified Pacific country

- (1) In sections 74O to 74S, **specified Pacific country** means a country or territory—
- (a) that is listed in Schedule 13; and
 - (b) that is not a country with which New Zealand has a reciprocal agreement in force under section 19 of the Social Welfare (Transitional Provisions) Act 1990 relating to the portability of the veteran's pension.
- (2) The Governor-General may, by Order in Council, amend Schedule 13 by—
- (a) adding the name of any Pacific country or territory; or
 - (b) omitting the former name of a country or territory and substituting its new name.
- (3) The Order in Council must state the date on which it takes effect, which may be a date before the date on which it is made.
- (4) The Order in Council applies to payments of the veteran's pension under section 74O payable on or after the date on which the order takes effect.

- (5) Section 61H(3) to (6) of the Social Security Act 1964 applies to every Order in Council made under subsection (2)(a) as if it had been made under that section.

Compare: 1990 No 26 s 17B

Section 74N: inserted, on 15 April 2003, by section 8 of the War Pensions Amendment Act 2003 (2003 No 18).

74O Entitlement to be paid veteran's pension in specified Pacific country

- (1) A person entitled to receive a veteran's pension is entitled to be paid the benefit in a specified Pacific country at a rate calculated under section 74P if subsection (2) or subsection (3) applies to the person.
- (2) This subsection applies to a person—
- (a) who intends to leave New Zealand to reside for more than 52 weeks in a specified Pacific country; and
 - (b) who is resident and present in New Zealand on the date of his or her application to be paid a veteran's pension in a specified Pacific country; and
 - (c) who—
 - (i) is entitled to receive a veteran's pension on the date of the application; or
 - (ii) will be entitled to receive a veteran's pension before leaving New Zealand; and
 - (d) who is resident in a specified Pacific country when each payment of the veteran's pension is due to be made to him or her.
- (3) This subsection applies to a person—
- (a) who was, immediately before this section came into force, being paid a veteran's pension while resident in a specified Pacific country under section 17BA of the Social Welfare (Transitional Provisions) Act 1990 as it was immediately before that date; and
 - (b) who is resident in a specified Pacific country when each payment of the veteran's pension is due to be made to him or her.

Compare: 1990 No 26 s 17BA

Section 74O: inserted, on 15 April 2003, by section 8 of the War Pensions Amendment Act 2003 (2003 No 18).

74P Rates of payment of veteran's pension payable to people resident in specified Pacific countries

- (1) The rate of veteran's pension payable under section 74O is,—
- (a) in the case of a person who has resided in New Zealand for 20 or more years since turning 20 years, the base rate;
 - (b) in the case of a person who has resided in New Zealand for 10 or more years but fewer than 20 years since turning 20 years, an amount calculated using the following formula:

$$\frac{a \times b}{20}$$

where—

a is the base rate

b is the whole number of years the person has resided in New Zealand since turning 20 years:

- (c) in the case of a person who is resident in a specified Pacific country and was, immediately before this section came into force, being paid a veteran's pension under section 17BA of the Social Welfare (Transitional Provisions) Act 1990 as it was immediately before that date, the higher of—
 - (i) the amount he or she was being paid immediately before that date (subject to abatement under section 74D if that section applies to the person); and
 - (ii) the appropriate amount payable under paragraph (a) or paragraph (b).
- (2) For the purposes of this section, the base rate is,—
- (a) in the case of a single person, the amount stated in clause 1(b) of Schedule 11 (subject to abatement under section 74D if that section applies to the person); and
 - (b) in the case of a person who is married or in a civil union or in a de facto relationship, the amount stated in clause 1(c) of that schedule (subject to abatement under section 74D if that section applies to the person).
- (3) However, if section 70 of the Social Security Act 1964 applies, that amount must be reduced by the amount deducted in accordance with that section.

Compare: 1990 No 26 s 17C

Section 74P: inserted, on 15 April 2003, by section 8 of the War Pensions Amendment Act 2003 (2003 No 18).

Section 74P(2)(b): amended, on 1 April 2007, by section 5 of the War Pensions Amendment Act 2005 (2005 No 24).

Section 74P(2)(b): amended, on 26 April 2005, by section 3 of the War Pensions Amendment Act 2005 (2005 No 24).

74Q Commencement and termination of payments

- (1) The commencement date of payment of a benefit paid under section 74O is,—
- (a) in the case of a person to whom section 74O(2) applies, the first pay day after the date of the person's departure from New Zealand; and
 - (b) in the case of a person to whom section 74O(3) applies, the first pay day after the date on which this section comes into force.
- (2) When a person being paid a benefit under section 74O dies, the benefit terminates on a date to be determined by the Secretary, being a date not more than 4 weeks after the date of death.

Compare: 1990 No 26 s 17D

Section 74Q: inserted, on 15 April 2003, by section 8 of the War Pensions Amendment Act 2003 (2003 No 18).

74R Effect on other benefits

A person being paid a benefit under section 74O is not entitled to receive—

- (a) any supplementary or special benefit, temporary additional support, lump sum payment, payment under a welfare programme approved under section 124(1)(d) of the Social Security Act 1964, or any other assistance under that Act; or
- (b) a living alone payment under section 74U.

Compare: 1990 No 26 s 17E

Section 74R: inserted, on 15 April 2003, by section 8 of the War Pensions Amendment Act 2003 (2003 No 18).

Section 74R(a): amended, on 1 April 2006, by section 21 of the Social Security (Working for Families) Amendment Act 2004 (2004 No 51).

74S Application of this Act and Social Security Act 1964

- (1) Sections 74E to 74M do not apply in respect of a veteran's pension being paid in a specified Pacific country under section 74O.
- (2) The Social Security Act 1964, except sections 74(a), 75, 75A, 76, 77, and 80, applies to a veteran's pension being paid in a specified Pacific country under section 74O.

Compare: 1990 No 26 s 17F

Section 74S: inserted, on 15 April 2003, by section 8 of the War Pensions Amendment Act 2003 (2003 No 18).

74T Certain former economic pensioners may be paid up to the full rate of veteran's pension overseas

Despite sections 74(a) and 77 of the Social Security Act 1964 and sections 74J to 74M of this Act, if, immediately before 1 April 1990, a person residing outside New Zealand was being paid an economic pension under this Act, the Secretary may pay the full rate, or any lesser percentage of the full rate (being not less than 50%), of a veteran's pension to that person while he or she remains a resident outside New Zealand.

Compare: 1990 No 26 s 18

Section 74T: inserted, on 15 April 2003, by section 8 of the War Pensions Amendment Act 2003 (2003 No 18).

74U Living alone payments

- (1) Any single person who receives a veteran's pension and who is living alone in his or her principal place of residence is entitled to receive a living alone payment.
- (2) The living alone payment is included in the appropriate rate specified in clause 1(a) of Schedule 11.
- (3) A person is considered to be living alone only if he or she—
 - (a) occupies a principal place of residence that is referred to in subsection (4); and
 - (b) does not share that residence with any person of, or over the age of, 18 years, other than—
 - (i) a dependent child of or over that age; or
 - (ii) a temporary visitor who stays less than 13 weeks in any period of 26 weeks.
- (4) The principal places of residence are—

- (a) a house or flat; or
 - (b) a boat or craft moored within—
 - (i) the territorial sea of New Zealand or any internal waters of New Zealand, whether or not it is from time to time travelling within that sea or any of those waters; or
 - (ii) any waters within New Zealand, being any lake, estuary, lagoon, river, stream, creek, or other waters, whether or not it is from time to time travelling within any of those waters; or
 - (c) a hotel room, motel unit, room in a licensed boarding-house, or unit of accommodation in a caravan park.
- (5) In this section, **territorial sea of New Zealand** and **internal waters** have the same meanings as in the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977.

Compare: 1990 No 26 s 18A

Section 74U: inserted, on 15 April 2003, by section 8 of the War Pensions Amendment Act 2003 (2003 No 18).

Section 74U(1): amended, on 26 April 2005, by section 3 of the War Pensions Amendment Act 2005 (2005 No 24).

Section 74U(3)(b): amended, on 1 July 2006, by section 7 of the War Pensions Amendment Act 2006 (2006 No 32).

74V Commencement of living alone payments

- (1) Every living alone payment commences on the later of—
 - (a) the date on which the applicant becomes entitled to receive it; or
 - (b) the date on which the application is received.
- (2) However, if an application for a living alone payment is made as a result of the death of the spouse or civil union partner or de facto partner of the applicant, the living alone payment commences on—
 - (a) the date on which the applicant becomes entitled to receive it if the application is received within 28 days after the date of entitlement; or
 - (b) the date on which the application is received if it is received 28 days or more after the date of entitlement.

- (3) This section is subject to section 80AA of the Social Security Act 1964.

Compare: 1990 No 26 s 18B

Section 74V: inserted, on 15 April 2003, by section 8 of the War Pensions Amendment Act 2003 (2003 No 18).

Section 74V(2): amended, on 1 April 2007, by section 5 of the War Pensions Amendment Act 2005 (2005 No 24).

Section 74V(2): amended, on 26 April 2005, by section 3 of the War Pensions Amendment Act 2005 (2005 No 24).

Section 74V(3): added, on 2 July 2007, by section 12(2) of the Social Security Amendment Act 2007 (2007 No 20).

74W Transitional provision for existing veteran's pension entitlements

Every person who, immediately before the commencement of this Part, was entitled to receive a veteran's pension, with or without a living alone payment, under the Social Welfare (Transitional Provisions) Act 1990 is entitled to receive the corresponding entitlements under this Part.

Section 74W: inserted, on 15 April 2003, by section 8 of the War Pensions Amendment Act 2003 (2003 No 18).

75 Lump sum payment on death of wife of war veteran
[Repealed]

Section 75: repealed, on 1 April 1990, by section 15(4) of the Social Welfare (Transitional Provisions) Act 1990 (1990 No 26).

Part 7
General provisions

75A War servicemen's dependants' allowances
[Repealed]

Section 75A: repealed, on 1 April 1990, by section 15(4) of the Social Welfare (Transitional Provisions) Act 1990 (1990 No 26).

75B Additional pension or allowance for dependent children
[Repealed]

Section 75B: repealed, on 1 October 1986, by section 3(1) of the War Pensions Amendment Act (No 3) 1986 (1986 No 70).

75C Rates of pensions, lump sum payments, and allowances may be increased by Order in Council

- (1) The Governor-General may from time to time, by Order in Council, amend—
 - (a) Schedules 1, 2, 4, and 5 by increasing the rate of any pension or allowance set out in those schedules:
 - (ab) Schedule 11 and Schedule 12 by increasing the rate of any pension or lump sum payment set out in those provisions:
 - (b) Schedule 9 by increasing any percentage figure set out in that schedule.
- (2) Every Order in Council made under subsection (1) shall state the date from which it is to have effect (which may be a date before the date on which it was made) and shall apply to pensions, lump sum payments, and allowances payable in respect of the period commencing on the date from which it is to have effect and ending with the day before the date of its revocation by a subsequent Order in Council. Nothing in this subsection shall authorise any payment to be made before the order is made.
- (2A) The Order in Council must, for lump sum payments on death, state that it applies in respect of persons who die on or after the date that is specified in the Order in Council.
- (3) Every Order in Council made under this section and laid before the House of Representatives pursuant to the Regulations (Disallowance) Act 1989 shall expire on the close of the period of 12 months commencing with the date on which it was so laid, except so far as it is expressly validated and confirmed by an Act of Parliament passed before that date.
- (4) Every such Order in Council which is laid before the House of Representatives pursuant to the Regulations (Disallowance) Act 1989, and which has been revoked by a subsequent Order in Council before the close of 31 December in the calendar year following the calendar year during which it was so laid, shall be deemed to be invalid in respect of the period it purported to have effect except so far as it is expressly validated and confirmed in respect of that period by an Act of Parliament passed before that date.

- (5) Every Order in Council made under this section shall have the force of law as if it was enacted by this Act.
- (6) The validity of any Order in Council made under this section shall not be affected by reason only of the repeal of an Act of Parliament validating and confirming it.

Section 75C: substituted, on 19 March 1990, by section 2(1) of the War Pensions Amendment Act 1990 (1990 No 6).

Section 75C heading: amended, on 15 April 2003, by section 9(1) of the War Pensions Amendment Act 2003 (2003 No 18).

Section 75C(1): substituted, on 2 October 1996, by section 2(1) of the War Pensions Amendment Act 1996 (1996 No 156).

Section 75C(1)(ab): inserted, on 15 April 2003, by section 9(2) of the War Pensions Amendment Act 2003 (2003 No 18).

Section 75C(1)(ab): amended, on 1 July 2006, by section 8 of the War Pensions Amendment Act 2006 (2006 No 32).

Section 75C(2): amended, on 15 April 2003, by section 9(3) of the War Pensions Amendment Act 2003 (2003 No 18).

Section 75C(2A): inserted, on 15 April 2003, by section 9(4) of the War Pensions Amendment Act 2003 (2003 No 18).

76 Wives and children of Maoris

[Repealed]

Section 76: repealed, on 15 December 2001, by section 25 of the War Pensions Amendment Act 2001 (2001 No 97).

77 Conjugal status for purposes of pension or allowance

For the purposes of any claim for any pension or allowance under this Act, or of reviewing any pension or allowance already granted, or of determining the rate of any pension or allowance, the Secretary may, in the Secretary's discretion,—

(a) *[Repealed]*

(b) *[Repealed]*

(c) regard as a single person any claimant or pensioner who is married or in a civil union and who is living apart from his or her spouse or civil union partner—

and may, in the Secretary's discretion, grant a pension or allowance, refuse to grant a pension or allowance, or terminate, reduce, or increase any pension or allowance already granted, accordingly.

Section 77: substituted, on 10 October 1975, by section 6 of the War Pensions Amendment Act 1975 (1975 No 124).

Section 77: amended, on 1 April 1989, by section 5(5)(a) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 77: amended, on 1 April 1989, by section 5(5)(c) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 77(a): repealed, on 15 December 2001, by section 26 of the War Pensions Amendment Act 2001 (2001 No 97).

Section 77(b): repealed, on 15 December 2001, by section 26 of the War Pensions Amendment Act 2001 (2001 No 97).

Section 77(c): substituted, on 26 April 2005, by section 3 of the War Pensions Amendment Act 2005 (2005 No 24).

78 Money received for military decorations

In computing the rate of any pension or allowance under this Act, the Secretary shall take no account of any moneys received in respect of any military decoration.

Compare: 1943 No 22 s 70(2)

Section 78: amended, on 1 April 1989, by section 5(2)(g) of the War Pensions Amendment Act 1988 (1988 No 148).

78A Sick benefits received from friendly society

- (1) Where a claimant for a pension or allowance under this Act, or the spouse or the partner of any such claimant, is in receipt of a sick benefit from a friendly society or a like benefit from any other source, the Secretary shall, in computing the rate of any such pension or allowance, take no account of any income up to, in the aggregate, \$2 a week received by way of sick benefit from a friendly society or by way of like benefit from any other source.
- (2) If any question arises as to whether any moneys received or receivable are of a like nature to a sick benefit payable by a friendly society it shall be determined by the Secretary.

Section 78A: inserted, on 13 September 1961, by section 3 of the War Pensions Amendment Act 1961 (1961 No 7).

Section 78A(1): amended, on 15 December 2001, by section 27 of the War Pensions Amendment Act 2001 (2001 No 97).

Section 78A(1): amended, on 1 April 1989, by section 5(2)(k) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 78A(2): amended, on 1 April 1989, by section 5(2)(k) of the War Pensions Amendment Act 1988 (1988 No 148).

78B Exemption of income from former home property*[Repealed]*

Section 78B: repealed, on 1 April 1990, by section 15(4) of the Social Welfare (Transitional Provisions) Act 1990 (1990 No 26).

78C Exemption of income from supplementary assistance*[Repealed]*

Section 78C: repealed, on 1 April 1990, by section 15(4) of the Social Welfare (Transitional Provisions) Act 1990 (1990 No 26).

79 Personal earnings from domestic service in a private home*[Repealed]*

Section 79: repealed, on 14 May 1969, by section 4(1) of the War Pensions Amendment Act 1969 (1969 No 48).

79A Allowable income of persons who have attained 65 years of age*[Repealed]*

Section 79A: treated as repealed, since 1 October 1960, pursuant to section 5(2) of the War Pensions Amendment Act 1960 (1960 No 14).

80 Limitation of claims by persons entitled to 2 or more pensions for disablement of same person

- (1) Where a claim for a pension or allowance under this Act is made in respect of the disablement of any person by a claimant who is then in receipt of a pension or allowance granted in New Zealand under this or any other Act in respect of the disablement of the same person, the rate of the pension (if any) that may be granted to the claimant under this Act shall not exceed the difference between the aggregate of the rates of the pensions and allowances that have been already granted to the claimant and the aggregate of the rates of the maximum pensions and allowances that could be granted to the claimant under this Act if all the claims in respect of the disablement of that person had arisen in respect of 1 occasion only and a pension therefor had been payable in accordance with this Act.
- (2) Except as provided in section 80B, for the purposes of this section, a periodical payment of earnings related compensation

under the Accident Compensation Act 1982 shall be deemed not to be a pension or allowance in respect of disablement.

Compare: 1943 No 22 s 70(1)

Section 80(2): added, on 14 November 1973, by section 13 of the War Pensions Amendment Act 1973 (1973 No 33).

80A Service in connection with any emergency

If any question arises as to whether or not any member of the forces while on service was serving in connection with an emergency for the purposes of any provision of this Act, that question shall be referred to and be decided by the Minister.

Section 80A: inserted, on 24 September 1965, by section 4 of the War Pensions Amendment Act 1965 (1965 No 27).

Section 80A heading: amended, on 14 November 1973, by section 14 of the War Pensions Amendment Act 1973 (1973 No 33).

Section 80A: amended, on 14 November 1973, by section 14 of the War Pensions Amendment Act 1973 (1973 No 33).

80B Special provisions relating to accident compensation

If a person receives or is entitled to receive in respect of himself or his dependants, or if any of his dependants receives or is entitled to receive, compensation under the Accident Compensation Act 1972, the following special provisions shall apply in respect of pensions or allowances under this Act:

- (a) in the case of a pension in respect of disablement or death which occurs while on service during a war or an emergency, or which is attributable to or aggravated by service in a war or emergency, no account shall be taken of any such compensation:
- (b) in the case of any other pension or allowance payable under this Act, the Secretary may, in the Secretary's discretion take into account, in determining the rate of that pension or allowance, the whole or any part of such compensation, having regard to the nature of the compensation and the grounds on which it was authorised.

Section 80B: inserted, on 14 November 1973, by section 15 of the War Pensions Amendment Act 1973 (1973 No 33).

Section 80B(b): amended, on 1 April 1989, by section 5(2)(i) of the War Pensions Amendment Act 1988 (1988 No 148).

81 Rates of pension where overseas pension payable**(1) In this section—**

analogous New Zealand pension means a pension or other periodical allowance under this Act or under the Social Security Act 1964 that is deemed by the Secretary to be analogous to an overseas pension

overseas pension means a pension or other periodical allowance granted elsewhere than in New Zealand.

(2) Notwithstanding anything to the contrary in this Act, where any person entitled to receive a pension or allowance under this Act or the spouse or partner of any such person is for the time being in receipt of an overseas pension, the Secretary may grant the pension or allowance at such rate as the Secretary thinks fit, but so that the aggregate of the rates of that pension or allowance and of the overseas pension (or of so much thereof as is equivalent to the analogous New Zealand pension) shall not, unless the Secretary otherwise determines, exceed the aggregate of the rates of pension or allowance that could be granted if he or she were in receipt of the analogous New Zealand pension.

Compare: 1951 No 23 s 21

Section 81(1) **analogous New Zealand pension**: amended, on 1 April 1989, by section 5(2)(g) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 81(1) **analogous New Zealand pension**: amended, on 1 April 1965, pursuant to section 135(1) of the Social Security Act 1964 (1964 No 136).

Section 81(2): amended, on 15 December 2001, by section 28 of the War Pensions Amendment Act 2001 (2001 No 97).

Section 81(2): amended, on 1 April 1989, by section 5(2)(g) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 81(2): amended, on 1 April 1989, by section 5(2)(k) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 81(2): amended, on 1 April 1989, by section 5(2)(o) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 81(2): amended, on 14 October 1966, by section 4 of the War Pensions Amendment Act 1966 (1966 No 41).

82 Persons receiving superannuation benefit under Social Security Act not to receive certain war pensions and allowances

[Repealed]

Section 82: repealed, on 1 April 1990, by section 15(4) of the Social Welfare (Transitional Provisions) Act 1990 (1990 No 26).

83 Death of claimant for pension

Where any claimant for a pension or allowance under this Act dies before the completion by the Secretary of the investigation of the claim, the Secretary shall continue the investigation and may grant a pension or allowance as if the claimant had not died, and in any such case the provisions of section 85 shall apply as if the claimant had been in receipt of the pension or allowance at the time of his death.

Section 83: amended, on 15 April 2003, by section 10 of the War Pensions Amendment Act 2003 (2003 No 18).

Section 83: amended, on 1 April 1989, by section 5(6) of the War Pensions Amendment Act 1988 (1988 No 148).

84 Date of commencement of pensions

Except as may be otherwise provided in this Act, all pensions and allowances granted thereunder shall be payable as from a date to be fixed in that behalf by the Secretary.

Compare: 1940 No 24 s 8; 1943 No 22 ss 67, 73

Section 84: amended, on 1 April 1989, by section 5(2)(k) of the War Pensions Amendment Act 1988 (1988 No 148).

84A Payment of pensions and allowances

- (1) Every pension or allowance shall be payable by instalments of such number of weeks' pension or allowance on such day or date of the month as the Secretary from time to time determines:

provided that where a temporary pension at a fixed weekly rate has been granted by the Secretary in final settlement of a pension claim, the Secretary may authorise or direct the payment of a lump sum instead of periodical instalments.

- (2) The amount of a weekly instalment of a pension or allowance that is payable at an annual rate shall be ascertained by dividing the annual rate by 52.
- (3) Except as otherwise provided in this Act, every instalment of a pension or allowance shall be paid in such manner and at such place as may be determined from time to time by the Secretary.
Section 84A: substituted, on 16 October 1978, by section 2(1) of the War Pensions Amendment Act 1978 (1978 No 59).
Section 84A(1) proviso: amended, on 1 April 1989, by section 5(2)(k) of the War Pensions Amendment Act 1988 (1988 No 148).
Section 84A(1) proviso: amended, on 1 April 1989, by section 5(2)(m) of the War Pensions Amendment Act 1988 (1988 No 148).

85 Disposition of accrued pension unpaid at date of death

- (1) On the death of any person in receipt of a pension or allowance under this Act, the pension or allowance shall terminate on the date of death.
- (2) Subject to subsection (3), the amount of any pension or allowance unpaid at the date of death may, in the discretion of the Secretary, be paid to all or any of the following in whole or in such shares as the Secretary determines:
 - (a) to or for the benefit of the surviving spouse or surviving partner or any dependent child or dependent children of the deceased, or to any person for the time being caring for and maintaining any such child:
provided that if the deceased is survived by a surviving spouse or surviving partner who was living with him at the date of death, or by a dependent child or children, the entire unpaid amount shall be paid to or for the benefit of the surviving spouse or surviving partner or dependent child or children;
 - (b) to or for the benefit of any person who, in the Secretary's opinion, has been dependent on the deceased;
 - (c) to or for the benefit of any person who, in the Secretary's opinion, has a just entitlement by virtue of having taken care of the pensioner's needs or having provided him with comforts;
 - (d) to the estate of the deceased.

- (e) to the War Pensions Medical Research Trust Fund established under section 18I:
provided that any payment to that Trust Fund shall not be made before the expiry of a period of 6 months after the date of death of the deceased.
- (3) If an appeal has been made under section 85A, the unpaid amount shall be held by the Secretary until the appeal has been determined, and shall then be paid in accordance with the decision of the court.

Section 85: substituted, on 1 November 1976, by section 5 of the War Pensions Amendment Act 1976 (1976 No 41).
Section 85(2): amended, on 1 April 1989, by section 5(2)(g) of the War Pensions Amendment Act 1988 (1988 No 148).
Section 85(2): amended, on 1 April 1989, by section 5(2)(k) of the War Pensions Amendment Act 1988 (1988 No 148).
Section 85(2)(a): amended, on 15 December 2001, by section 29(a) of the War Pensions Amendment Act 2001 (2001 No 97).
Section 85(2)(a) proviso: amended, on 15 December 2001, by section 29(b) of the War Pensions Amendment Act 2001 (2001 No 97).
Section 85(2)(b): amended, on 1 April 1989, by section 5(2)(n) of the War Pensions Amendment Act 1988 (1988 No 148).
Section 85(2)(c): amended, on 1 April 1989, by section 5(2)(n) of the War Pensions Amendment Act 1988 (1988 No 148).

85A Appeal against decision of War Pensions Board

- (1) Any person aggrieved by the decision of the Secretary under section 85 (other than a decision made under the proviso to section 85(2)(a)) may, not later than 3 months after the date of the Secretary's decision, appeal against the decision—
 - (a) if the amount of money claimed by the appellant is more than \$2,000, to the High Court:
 - (b) if the amount of money claimed by the appellant is \$2,000 or less, to a District Court—in section 85 and hereinafter in this section referred to as the court.
- (2) *[Repealed]*
- (3) Every appeal under this section shall be by notice of appeal in writing which shall state the grounds of the appeal.

- (4) Subject to rules of court, every notice of appeal to the High Court shall be lodged with the Registrar of that court at Wellington.
- (5) Either before or immediately after the lodging of the notice of appeal, the appellant shall deliver or send a copy of it to the Secretary.
- (6) The Registrar of the court shall give notice of the time and place fixed for the hearing of the appeal to the appellant and to the Secretary. The Secretary, either personally or by his counsel, shall be entitled to be present and to be heard at the hearing of the appeal.
- (7) On hearing the appeal the court may confirm, modify, or reverse the decision appealed against.
- (8) The Registrar of the court shall transmit to the Secretary a memorandum of the court's decision.
- (9) Every decision of a District Court or High Court under this section shall be final.

Section 85A: inserted, on 12 December 1968, by section 4 of the War Pensions Amendment Act 1968 (1968 No 56).

Section 85A(1): amended, on 1 April 1989, by section 5(2)(g) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 85A(1): amended, on 1 April 1989, by section 5(2)(n) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 85A(1): amended, on 1 November 1976, by section 6(a) of the War Pensions Amendment Act 1976 (1976 No 41).

Section 85A(1): amended, on 1 November 1976, by section 6(b) of the War Pensions Amendment Act 1976 (1976 No 41).

Section 85A(1)(a): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Section 85A(1)(b): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

Section 85A(2): repealed, on 15 August 1991, by section 3(4) of the Judicature Amendment Act 1991 (1991 No 60).

Section 85A(4): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Section 85A(9): amended, on 15 August 1991, by section 3(4) of the Judicature Amendment Act 1991 (1991 No 60).

Section 85A(9): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

86 Payment of pensions out of New Zealand

- (1) Except as provided in this section no pension or allowance under this Act shall be paid in respect of any period during which the claimant or the pensioner is not for the time being in New Zealand.
- (2) Pensions, allowances, and gratuities under this Act, other than allowances and gratuities under Part 6, may, in the discretion of the Secretary, be granted and paid to any member of the forces or of the mercantile marine or of the Emergency Reserve Corps, or to the father, mother, spouse, civil union partner, or surviving spouse or surviving civil union partner or any child of any such member, notwithstanding that the claimant or the person to whom the pension has been granted, as the case may be, may be out of New Zealand.
- (2A) *[Repealed]*
- (2B) *[Repealed]*
- (2C) *[Repealed]*
- (3) Allowances under Part 6 may, in the discretion of the Secretary, be paid in respect of any period during which the person to whom the allowance has been granted is temporarily absent from New Zealand.
- (3A) *[Repealed]*
- (4) For the purposes of this section, persons in respect of whose disablement or death pensions are granted under section 55 shall be deemed to be members of the forces.

Compare: 1943 No 22 s 74; 1948 No 78 s 27

Section 86(2): amended, on 26 April 2005, by section 3 of the War Pensions Amendment Act 2005 (2005 No 24).

Section 86(2): amended, on 1 April 1989, by section 5(2)(g) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 86(2): amended, on 14 October 1966, by section 5(1) of the War Pensions Amendment Act 1966 (1966 No 41).

Section 86(2A): repealed, on 1 April 1990, by section 15(4) of the Social Welfare (Transitional Provisions) Act 1990 (1990 No 26).

Section 86(2B): repealed, on 1 April 1990, by section 15(4) of the Social Welfare (Transitional Provisions) Act 1990 (1990 No 26).

Section 86(2C): repealed, on 1 April 1990, by section 15(4) of the Social Welfare (Transitional Provisions) Act 1990 (1990 No 26).

Section 86(3): amended, on 1 April 1989, by section 5(2)(g) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 86(3A): repealed, on 14 October 1966, by section 5(2) of the War Pensions Amendment Act 1966 (1966 No 41).

87 Refusal or forfeiture of pension in respect of imprisonment

- (1) Notwithstanding anything to the contrary in this Act, the Secretary, in the Secretary's discretion, may refuse to grant a pension or allowance, or may terminate any pension or allowance, or may forfeit, in whole or in part, any instalment or instalments of a pension or allowance, in any case where the claimant or pensioner is undergoing imprisonment or any form of detention in a prison.
- (2) Where any instalment of a pension or allowance that has been granted to any person is forfeited, in whole or in part, under subsection (1), there may, in the discretion of the Secretary, be paid to or on behalf of his or her dependants, or any of them, the whole of the amount or such part thereof as the Secretary thinks fit.

Compare: 1943 No 22 s 75; 1945 No 12 s 4; 1946 No 17 s 7

Section 87 heading: amended, on 10 October 1975, by section 7 of the War Pensions Amendment Act 1975 (1975 No 124).

Section 87(1): amended, on 1 June 2005, by section 206 of the Corrections Act 2004 (2004 No 50).

Section 87(1): amended, on 1 April 1989, by section 5(2)(l) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 87(1): amended, on 10 October 1975, by section 7 of the War Pensions Amendment Act 1975 (1975 No 124).

Section 87(2): amended, on 1 April 1989, by section 5(2)(g) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 87(2): amended, on 1 April 1989, by section 5(2)(k) of the War Pensions Amendment Act 1988 (1988 No 148).

87A Refusal or reduction of pension in certain cases

Where the Secretary, in determining any claim for a pension or allowance under this Act is required to take into account the income or property of the claimant or the spouse or partner of the claimant, the Secretary in the Secretary's discretion may refuse to grant a pension or allowance, or may grant a pension or allowance of a reduced amount, in any case where, in the opinion of the Secretary, the claimant for a pension or allowance, or the spouse or partner of the claimant, has directly or

indirectly deprived himself or herself of any property or income for the purpose of obtaining the grant of a pension or allowance under this Act or an increased rate of a pension or allowance under this Act.

Section 87A: inserted, on 1 October 1958, by section 4 of the War Pensions Amendment Act 1958 (1958 No 45).

Section 87A: amended, on 15 December 2001, by section 30 of the War Pensions Amendment Act 2001 (2001 No 97).

Section 87A: amended, on 1 April 1989, by section 5(7)(a) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 87A: amended, on 1 April 1989, by section 5(7)(b) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 87A: amended, on 1 April 1989, by section 5(7)(c) of the War Pensions Amendment Act 1988 (1988 No 148).

88 Appeals to a Magistrate

[Repealed]

Section 88: repealed, on 10 October 1975, by section 8 of the War Pensions Amendment Act 1975 (1975 No 124).

89 Pensions and allowances absolutely inalienable

- (1) No pension or allowance under this Act shall be capable of being assigned or charged or of passing to any other person by operation of law:

provided that nothing herein shall be construed to prevent the Secretary from authorising, with or without the consent of the person to whom the pension or allowance was granted, the payment of the whole or any portion thereof to any other person for the benefit of the person to whom it was granted or for the benefit of the person's spouse or partner or of any dependent child or dependent children.

- (2) Every person commits an offence and shall be liable on summary conviction to a fine not exceeding \$100 who demands or accepts any certificate or any acknowledgment or undertaking that would constitute a legal or equitable assignment of or charge upon any pension or allowance under this Act if the same were capable of being legally assigned or charged.

Compare: 1943 No 22 s 71

Section 89(1) proviso: amended, on 15 December 2001, by section 31 of the War Pensions Amendment Act 2001 (2001 No 97).

Section 89(1) proviso: amended, on 1 April 1989, by section 5(2)(g) of the War Pensions Amendment Act 1988 (1988 No 148).

90 Recovery of payments made in error

- (1) If any pension or allowance under this Act is granted to any person not entitled thereto or if any instalment of any such pension or allowance is paid to any person not entitled to receive the same or is paid in excess of the proper rate, any amount so paid in error may be recovered at the suit of the Secretary, as a debt due to the Crown by the person to whom it was so paid, or the Secretary may make any necessary adjustments in any instalment or instalments of that or any other pension or allowance thereafter becoming payable.
- (2) Notwithstanding anything to the contrary in this section, the Secretary may, in his discretion, authorise the provisional writing-off of a debt which arose as a result of an error not intentionally contributed to by the debtor if the Secretary is satisfied that the person receiving the amount so paid in error did so in good faith and has so altered his position in reliance on the validity of the payment that it would be inequitable in all the circumstances, including his financial circumstances, to require repayment.

Compare: 1943 No 22 s 80

Section 90(2): added, on 14 November 1973, by section 16 of the War Pensions Amendment Act 1973 (1973 No 33).

91 Pensions not to be taken into account in assessing compensation or damages

Except as may be otherwise provided in this or any other Act, no account shall be taken of any pension or allowance payable under this Act in respect of the disablement or death of any person for the purpose of assessing the amount payable by or to any person, as compensation or damages, in respect of any accident that is or may be the basis of a claim for a pension or allowance under this Act.

Compare: 1943 No 22 s 77

Section 91: amended, on 14 November 1973, by section 17 of the War Pensions Amendment Act 1973 (1973 No 33).

92 Offences

Every person commits an offence against this Act and shall be liable on summary conviction to a fine not exceeding \$200 or to imprisonment for 12 months who—

- (a) makes any false statement to or otherwise misleads or attempts to mislead an Appeal Board, the Secretary, a national review officer, or a claims panel, or any other officer or person concerned in the administration of this Act; or
- (b) whether or not he is a claimant for a pension or allowance under this Act, does not faithfully disclose all particulars properly required to be disclosed by him in relation to any claim; or
- (c) accepts payment of any instalment of any pension or allowance under this Act to which he is not entitled.

Compare: 1943 No 22 s 78

Section 92(a): amended, on 1 April 1989, by section 5(8) of the War Pensions Amendment Act 1988 (1988 No 148).

93 Proceedings for offences

- (1) Notwithstanding anything to the contrary in section 14 of the Summary Proceedings Act 1957, an information for any offence against this Act may be laid at any time within 12 months after the facts alleged in the information have been brought to the knowledge of the person by whom the proceedings are instituted.
- (2) All proceedings for offences against this Act shall be taken before a District Court Judge.

Compare: 1943 No 22 s 79

Section 93(1): amended, on 1 April 1958, pursuant to section 214(1) of the Summary Proceedings Act 1957 (1957 No 87).

Section 93(2): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

94 Money payable out of Crown Bank Account

- (1) There shall from time to time be paid out of a Crown Bank Account, from money appropriated by Parliament for the purpose,—

- (a) all money required to be expended in providing pensions and allowances and making other payments under this Act:
 - (b) all expenditure incurred in the administration of this Act:
 - (c) any money that may be appropriated by Parliament for the purpose of granting supplementary assistance under any welfare programme approved by the Minister.
- (2) Where—
- (a) pursuant to subsection (1) any payment is made out of a Crown Bank Account to any person by way of supplementary assistance; and
 - (b) the payment was obtained by fraud, or the spouse or partner of that person has made any false statement or otherwise misled any officer engaged in the administration of this Act, in relation to his or her income or other personal circumstances, as a result of which the payment was in excess of the amount (if any) that, in the opinion of the Secretary, would otherwise have been paid,—

the provisions of sections 26 and 90, as far as they are applicable and with any modifications, shall apply as if the payment was made by way of pension or allowance under this Act and as if the person to whom the payment was made was a person entitled to a pension or allowance of such amount (if any) as, in the opinion of the Secretary, would have been payable but for the fraud or, as the case may be, the false statement or if that officer had not been misled.

Section 94: substituted, on 13 November 1964, by section 5 of the War Pensions Amendment Act 1964 (1964 No 49).

Section 94 heading: amended, on 1 July 1989, pursuant to section 83(7) of the Public Finance Act 1989 (1989 No 44).

Section 94(1): amended, on 25 January 2005, pursuant to section 83(7) of the Public Finance Act 1989 (1989 No 44).

Section 94(2): amended, on 1 April 1989, by section 5(2)(g) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 94(2)(a): amended, on 25 January 2005, pursuant to section 83(7) of the Public Finance Act 1989 (1989 No 44).

Section 94(2)(b): amended, on 15 December 2001, by section 32 of the War Pensions Amendment Act 2001 (2001 No 97).

Section 94(2)(b): amended, on 1 April 1989, by section 5(2)(g) of the War Pensions Amendment Act 1988 (1988 No 148).

95 Power to extend Parts 4 and 5 to future wars

The Governor-General may, by Order in Council, upon or subject to such conditions as he thinks fit,—

- (a) extend the provisions of Part 4 so as to apply to members or any class of members of the mercantile marine of New Zealand or any other country of the Commonwealth who suffer disablement or death arising out of any future war:
- (b) extend the provisions of Part 5 to apply to members or any class of members of any organisation established by the Government of New Zealand for the purpose of assisting in the preparation and operation of plans for securing the public safety or the defence of New Zealand or the efficient prosecution of any war in which Her Majesty is at any time engaged, or the maintenance of supplies and services essential to the life of the community.

96 Regulations

- (1) The Governor-General may from time to time, by Order in Council, make all such regulations as in his opinion may be necessary or expedient for the purposes of this Act.
- (2) Without limiting the general power hereinbefore conferred, regulations may be made under this section for all or any of the following purposes:
 - (a) prescribing procedure in respect of claims for pensions and allowances, appeals against the decisions of the Secretary, and the payment of pensions and allowances:
 - (b) prescribing fees for the medical examination of claimants and pensioners for the purposes of this Act:
 - (c) providing for medical and surgical treatment of members of the New Zealand or any other Commonwealth forces, the mercantile marine of New Zealand or of any other country of the Commonwealth, and the Emergency Reserve Corps; and for the supply of necessary

- surgical and other appliances and equipment for any such members:
- (d) providing special accommodation for or grants towards the cost of providing special accommodation and furniture for any such members suffering from pulmonary tuberculosis:
 - (e) providing for funeral grants in respect of any such deceased members:
 - (f) providing for payment of travelling expenses and allowances in respect of any such members undergoing medical or surgical examination or treatment, and for the payment of compensation for wages lost as a result of any such examination or treatment, and, in respect of any such member who is unfit to travel, for the payment of the travelling expenses of his next of kin or other person nominated by him in visiting him in hospital:
 - (g) providing for travelling allowances and concessions in respect of any such disabled members and, in cases where the member is unfit to travel alone, in respect of an escort:
 - (h) contributing by way of grants and interest-free loans towards the cost of purchasing motor vehicles for pensioners suffering from serious disabilities, and towards the cost of fitting special controls to any such vehicles:
 - (i) providing for educational bursaries for children of any such member.
- (2A) Any regulations made under subsection (2) may be expressed to have come into force before the date on which they were made.
- (3) *[Repealed]*
Compare: 1943 No 22 s 82
Section 96(2)(a): amended, on 1 April 1989, by section 5(2)(g) of the War Pensions Amendment Act 1988 (1988 No 148).
Section 96(2A): inserted, on 29 September 1981, by section 2(1) of the War Pensions Amendment Act 1981 (1981 No 32).
Section 96(3): repealed, on 19 December 1989, by section 11 of the Regulations (Disallowance) Act 1989 (1989 No 143).

97 Repeals and savings

- (1) The enactments specified in Schedule 10 are hereby repealed.

- (2) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that the repeal of any provision by this Act shall not affect any document made or any thing whatsoever done under the provision so repealed or under any corresponding former provision, and every such document or thing, so far as it is subsisting or in force at the time of the repeal and could have been made or done under this Act, shall continue and have effect as if it had been made or done under the corresponding provision of this Act and as if that provision had been in force when the document was made or the thing was done.
- (3) Notwithstanding anything to the contrary in this Act, where, at the date of the passing of this Act, any person is, by virtue of the provisions of subsections (2) and (3) of section 19 of the War Pensions Amendment Act 1951, in receipt of a pension or allowance to which he would not otherwise be entitled or at a greater rate than that to which he would otherwise be entitled, the Secretary may continue that pension or allowance as if the said section 19 had not been repealed by this section.
- (4) Notwithstanding anything to the contrary in this Act, where, at the date of the passing of this Act, any pension in respect of any child is, by virtue of the provisions of section 5 of the War Pensions Amendment Act 1946, payable at a rate in excess of that provided for in this Act, the Secretary may continue that pension as if the said section 5 had not been repealed by this section.
- (5) The amendments made to the principal Act by the War Pensions Amendment Act 2001 do not confer any entitlement on any person in respect of any period before the commencement of the War Pensions Amendment Act 2001.
- (6) The amendments made to the principal Act by the War Pensions Amendment Act 2001 do not prevent any department from continuing to describe the pension known, before the commencement of the War Pensions Amendment Act 2001, as “the surviving spouse’s pension” by that name after the commencement of that Act—
 - (a) in official forms, computer programs, and other documents; or

- (b) for the purposes of assessment of eligibility and payment; or
- (c) for any other official purpose.

Compare: 1943 No 22 s 83; 1946 No 17 s 5; 1951 No 23 s 19(2), (3)

Section 97(3): amended, on 1 April 1989, by section 5(2)(g) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 97(4): amended, on 1 April 1989, by section 5(2)(g) of the War Pensions Amendment Act 1988 (1988 No 148).

Section 97(5): added, on 15 December 2001, by section 33 of the War Pensions Amendment Act 2001 (2001 No 97).

Section 97(6): added, on 15 December 2001, by section 33 of the War Pensions Amendment Act 2001 (2001 No 97).

Schedule 1

ss 20, 23, 28, 62, 65

Maximum rates of pensions for disabled members

Schedule 1: substituted (with effect from 20 July 1983), on 7 December 1983, by section 7(1) of the War Pensions Amendment Act 1983 (1983 No 58).

Part 1—Members of forces

- | | | |
|---|---|------------------|
| 1 | Under section 20—
in every case | \$191.86 a week. |
| 2 | Under section 23—
in certain cases of severe disablement
(additional pension) | \$115.12 a week. |
| 3 | Under section 28—
clothing allowance (additional pension)
as follows— | |
| | (a) loss of 2 limbs or parts | \$21.40 a week. |
| | (b) loss of leg or part | \$20.65 a week. |
| | (c) loss of arm or part | \$14.96 a week. |
| | (d) use of mechanical appliance, etc | \$14.96 a week. |
| | (e) soiling of clothing | \$14.96 a week. |

Part 2—Members of mercantile marine

- | | | |
|---|---|--|
| 4 | Under section 62—
the same rates as those specified in Part 1. | |
|---|---|--|

Part 3—Members of Emergency Reserve Corps

- | | | |
|---|---|--|
| 5 | Under section 65—
the same rates as those specified in Part 1. | |
|---|---|--|

Schedule 1 item 1: amended, on 1 April 2010, by clause 3(1) of the War Pensions (Rates of Pensions, Lump Sum Payments, and Allowances) Order 2010 (SR 2010/38).

Schedule 1 item 2: amended, on 1 April 2010, by clause 3(1) of the War Pensions (Rates of Pensions, Lump Sum Payments, and Allowances) Order 2010 (SR 2010/38).

Schedule 1 item 3(a): amended, on 1 April 2010, by clause 3(1) of the War Pensions (Rates of Pensions, Lump Sum Payments, and Allowances) Order 2010 (SR 2010/38).

Schedule 1 item 3(b): amended, on 1 April 2010, by clause 3(1) of the War Pensions (Rates of Pensions, Lump Sum Payments, and Allowances) Order 2010 (SR 2010/38).

Schedule 1 item 3(c): amended, on 1 April 2010, by clause 3(1) of the War Pensions (Rates of Pensions, Lump Sum Payments, and Allowances) Order 2010 (SR 2010/38).

Schedule 1 item 3(d): amended, on 1 April 2010, by clause 3(1) of the War Pensions (Rates of Pensions, Lump Sum Payments, and Allowances) Order 2010 (SR 2010/38).

Schedule 1 item 3(e): amended, on 1 April 2010, by clause 3(1) of the War Pensions (Rates of Pensions, Lump Sum Payments, and Allowances) Order 2010 (SR 2010/38).

Schedule 2

ss 29, 62, 65

Maximum rates of allowances for services of attendants for disabled members

Schedule 2: substituted (with effect from 20 July 1983), on 7 December 1983, by section 7(1) of the War Pensions Amendment Act 1983 (1983 No 58).

Part 1—Members of forces

- 1 Under section 29—
in every case \$355.33 a week.

Part 2—Members of mercantile marine

- 2 Under section 62—
the same rate as that specified in Part 1.

Part 3—Members of Emergency Reserve Corps

- 3 Under section 65—
the same rate as that specified in Part 1.

Schedule 2 item 1: amended, on 1 April 2010, by clause 3(1) of the War Pensions (Rates of Pensions, Lump Sum Payments, and Allowances) Order 2010 (SR 2010/38).

Schedule 3

ss 30, 62, 65

Maximum rates of pensions for wives of totally disabled members

[Repealed]

Schedule 3: repealed, on 1 April 1990, by section 15(4) of the Social Welfare (Transitional Provisions) Act 1990 (1990 No 26).

Schedule 4

ss 32, 62, 65

Maximum rates of pensions for surviving spouses or surviving partners of deceased members

Schedule 4: substituted, on 1 October 1986, by section 4(1) of the War Pensions Amendment Act (No 3) 1986 (1986 No 70).

Schedule 4 heading: amended, on 15 December 2001, by section 34(a) of the War Pensions Amendment Act 2001 (2001 No 97).

Schedule 4 heading: amended, on 1 April 1989, pursuant to section 14(1)(a) of the War Pensions Amendment Act 1988 (1988 No 148).

Part 1—Members of forces

- 1 Under section 32(1)—

to the surviving spouse or surviving partner in every case	\$141.52 a week.
--	------------------
- 2 Under section 32(2)—

additional parent's allowance to a surviving spouse or surviving partner—	
(a) on account of first or only dependent child	\$150.27 a week.
(b) on account of each additional dependent child after the first	\$23.93 a week.

Part 2—Members of mercantile marine

- 3 Under section 32(1) as applied by section 62—

the same rate as that specified in clause 1 of Part 1.	
--	--
- 4 Under section 32(2) as applied by section 62—

additional parent's allowance to a surviving spouse or surviving partner with 1 or more dependent child or children	The same rates as those specified in clause 2 of Part 1.
---	--

Part 3—Members of Emergency Reserve Corps

- 5 Under section 32(1) as applied by section 65—

the same rate as that specified in clause 1 of Part 1.	
--	--

6 Under section 32(2) as applied by section 65—

additional parent's allowance to a surviving spouse or surviving partner with 1 or more dependent child or children	The same rates as those specified in clause 2 of Part 1 of this schedule.
---	---

Schedule 4 item 1: amended, on 1 April 2010, by clause 3(1) of the War Pensions (Rates of Pensions, Lump Sum Payments, and Allowances) Order 2010 (SR 2010/38).

Schedule 4 item 1: amended, on 15 December 2001, by section 34(b) of the War Pensions Amendment Act 2001 (2001 No 97).

Schedule 4 item 1: amended, on 1 April 1989, by section 14(1)(a) of the War Pensions Amendment Act 1988 (1988 No 148).

Schedule 4 item 2: amended, on 15 December 2001, by section 34(b) of the War Pensions Amendment Act 2001 (2001 No 97).

Schedule 4 item 2: amended, on 1 April 1989, by section 14(1)(a) of the War Pensions Amendment Act 1988 (1988 No 148).

Schedule 4 item 2: amended, on 1 April 1989, by section 14(1)(b) of the War Pensions Amendment Act 1988 (1988 No 148).

Schedule 4 item 2(a): amended, on 1 April 2010, by clause 3(1) of the War Pensions (Rates of Pensions, Lump Sum Payments, and Allowances) Order 2010 (SR 2010/38).

Schedule 4 item 2(b): amended, on 1 April 2010, by clause 3(1) of the War Pensions (Rates of Pensions, Lump Sum Payments, and Allowances) Order 2010 (SR 2010/38).

Schedule 4 item 4: amended, on 15 December 2001, by section 34(b) of the War Pensions Amendment Act 2001 (2001 No 97).

Schedule 4 item 4: amended, on 1 April 1989, by section 14(1)(a) of the War Pensions Amendment Act 1988 (1988 No 148).

Schedule 4 item 4: amended, on 1 April 1989, by section 14(1)(b) of the War Pensions Amendment Act 1988 (1988 No 148).

Schedule 4 item 6: amended, on 15 December 2001, by section 34(b) of the War Pensions Amendment Act 2001 (2001 No 97).

Schedule 4 item 6: amended, on 1 April 1989, by section 14(1)(a) of the War Pensions Amendment Act 1988 (1988 No 148).

Schedule 4 item 6: amended, on 1 April 1989, by section 14(1)(b) of the War Pensions Amendment Act 1988 (1988 No 148).

Schedule 5

ss 36, 40, 62, 65

**Maximum rates of pensions for children
of disabled and deceased members**

Schedule 5: substituted (with effect from 20 July 1983), on 7 December 1983,
by section 7(1) of the War Pensions Amendment Act 1983 (1983 No 58).

Part 1—Members of forces

- | | | |
|---|---|------------------|
| 1 | Under section 36—

in ordinary cases | \$8.86 a week. |
| 2 | Under section 40—

in certain cases where parents dead, or child not
under control of its mother | \$118.53 a week. |

Part 2—Members of mercantile marine

- | | |
|---|---|
| 3 | Under section 62—

the same rates as those specified in Part 1. |
|---|---|

Part 3—Members of Emergency Reserve Corps

- | | |
|---|---|
| 4 | Under section 65—

the same rates as those specified in Part 1. |
|---|---|

Schedule 5 item 1: amended, on 1 April 2010, by clause 3(1) of the War Pensions (Rates of Pensions, Lump Sum Payments, and Allowances) Order 2010 (SR 2010/38).

Schedule 5 item 2: amended, on 1 April 2010, by clause 3(1) of the War Pensions (Rates of Pensions, Lump Sum Payments, and Allowances) Order 2010 (SR 2010/38).

Schedule 6

ss 59, 60, 62, 65

**Maximum rates of economic pensions and
income exemptions**

[Repealed]

Schedule 6: repealed, on 1 April 1990, by section 15(4) of the Social Welfare (Transitional Provisions) Act 1990 (1990 No 26).

Schedule 7

ss 69, 70, 74

Rates of war veterans' allowances

[Repealed]

Schedule 7: repealed, on 1 April 1990, by section 15(4) of the Social Welfare (Transitional Provisions) Act 1990 (1990 No 26).

Schedule 8

s 79

**Maximum allowable earnings of women
from domestic service**

[Repealed]

Schedule 8: repealed, on 14 May 1969, by section 4(1) of the War Pensions Amendment Act 1969 (1969 No 48).

Schedule 9

s 21

Pensions payable for specific disabilities

Schedule 9: substituted (with effect from 20 July 1983), on 7 December 1983, by section 7(1) of the War Pensions Amendment Act 1983 (1983 No 58).

Nature of disability	Percentage of full pension payable in cases of total disablement
Total blindness	100
Incurable insanity	100
Very severe facial disfigurement	100
Lower limb amputation through hip joint	100
Lower limb amputation through upper third of thigh (if without useful stump)	100
Upper limb amputation (where an artificial arm cannot be fitted with retention of elbow joint function)	100
Lower limb amputation through upper third of thigh (if with useful stump)	90
Permanent loss of speech	90
Upper limb amputation (where an artificial arm can be fitted with retention of elbow joint function), but not beyond all the metacarpo-phalangeal joints	90
Lower limb amputation through knee joint or middle or lower third of thigh	85
Total deafness	100
Severe facial disfigurement	80
Lower limb amputation, but not beyond the tarsometatarsal joint	75
Loss of 1 eye	50
Loss of 4 fingers	50
Loss of 3 fingers	40
Loss of thumb	40
Loss of 2 fingers	25
Loss of index finger of either hand	20

Note to schedule

For the purposes of this schedule, **loss of** and **amputation of** include **permanent loss of the use of**.

Reprinted as at
1 April 2010

War Pensions Act 1954

Schedule 9

Schedule 9 Total deafness: amended, on 9 April 1997, by clause 2 of the War Pensions
(Total Deafness) Order 1997 (SR 1997/49).

Schedule 10

Enactments repealed

s 97

Fees and Travelling Allowances Act 1951 (1951 No 79)*Amendment(s) incorporated in the Act(s).***Finance Act (No 2) 1948 (1948 No 78)***Amendment(s) incorporated in the Act(s).***Finance Act (No 2) 1952 (1952 No 81)***Amendment(s) incorporated in the Act(s).***Statutes Amendment Act 1947 (1947 No 60)***Amendment(s) incorporated in the Act(s).***War Pensions Act 1943 (1943 No 22)****War Pensions Amendment Act 1945 (1945 No 12)****War Pensions Amendment Act 1946 (1946 No 17)****War Pensions Amendment Act 1947 (1947 No 26)****War Pensions Amendment Act 1949 (1949 No 25)****War Pensions Amendment Act 1950 (1950 No 47)****War Pensions Amendment Act 1951 (1951 No 23)****War Pensions and Allowances (Mercantile Marine) Act 1940
(1940 No 24)****War Pensions and Allowances (Mercantile Marine) Amendment
Act 1943 (1943 No 21)****War Pensions and Allowances (Mercantile Marine) Amendment
Act 1946 (1946 No 18)**

**War Pensions and Allowances (Mercantile Marine) Amendment
Act 1949 (1949 No 26)**

**War Pensions and Allowances (Mercantile Marine) Amendment
Act 1951 (1951 No 24)**

Schedule 11

ss 74, 74U

Rates of veterans' pensions

Schedule 11: substituted, on 15 April 2003, by section 11 of the War Pensions Amendment Act 2003 (2003 No 18).

The following rates are before deduction of tax:

		Entitlements under section 70(1)(b)(i) or sec- tion 70(2)	Entitlements under section 70(1)(b)(ii) or sec- tion 71
1	(a) to a single person who has been granted a living alone payment under section 74U	\$373.56 per week	\$373.56 per week, subject to section 74D
	(b) to a single person who has not been granted a living alone payment under section 74U	\$342.58 per week	\$342.58 per week, subject to section 74D
	(c) to a person who is married or in a civil union or in a de facto relationship	\$280.62 per week	\$280.62 per week, subject to section 74D
2	Alternative rate for a person who is married or in a civil union or in a de facto relationship, and whose spouse or civil union partner or de facto partner is not entitled to receive New Zealand superannuation or a veteran's pension—		

	Entitlements under section 70(1)(b)(i) or sec- tion 70(2)	Entitlements under section 70(1)(b)(ii) or sec- tion 71
(a) to a person who is married or in a civil union or in a de facto relationship and who was receiving or had applied for, and was entitled to receive, New Zealand superannuation or a veteran's pension at the alternative rate before 1 October 1991	\$561.24 per week, subject to In-come Test 3, or the rate specified in paragraph (b), whichever is the greater	\$561.24 per week, subject to section 74D, or the rate specified in paragraph (b), whichever is the greater
(b) to any other person who is married or in a civil union or in a de facto relationship	\$531.72 per week, subject to Income Test 3	\$531.72 per week, subject to section 74D

Schedule 11 item 1(a): amended, on 1 April 2010, by clause 4(2) of the War Pensions (Rates of Pensions, Lump Sum Payments, and Allowances) Order 2010 (SR 2010/38).

Schedule 11 item 1(a): amended, on 1 April 2010, by clause 3(1) of the War Pensions (Rates of Pensions, Lump Sum Payments, and Allowances) Order 2010 (SR 2010/38).

Schedule 11 item 1(a): amended, on 26 April 2005, by section 3 of the War Pensions Amendment Act 2005 (2005 No 24).

Schedule 11 item 1(b): amended, on 1 April 2010, by clause 4(2) of the War Pensions (Rates of Pensions, Lump Sum Payments, and Allowances) Order 2010 (SR 2010/38).

Schedule 11 item 1(b): amended, on 1 April 2010, by clause 3(1) of the War Pensions (Rates of Pensions, Lump Sum Payments, and Allowances) Order 2010 (SR 2010/38).

Schedule 11 item 1(b): amended, on 26 April 2005, by section 3 of the War Pensions Amendment Act 2005 (2005 No 24).

Schedule 11 item 1(c): amended, on 1 April 2010, by clause 4(2) of the War Pensions (Rates of Pensions, Lump Sum Payments, and Allowances) Order 2010 (SR 2010/38).

Schedule 11 item 1(c): amended, on 1 April 2010, by clause 3(1) of the War Pensions (Rates of Pensions, Lump Sum Payments, and Allowances) Order 2010 (SR 2010/38).

Schedule 11 item 1(c): amended, on 1 April 2007, by section 5 of the War Pensions Amendment Act 2005 (2005 No 24).

Schedule 11 item 1(c): amended, on 26 April 2005, by section 3 of the War Pensions Amendment Act 2005 (2005 No 24).

Schedule 11 item 2: amended, on 1 April 2007, by section 5 of the War Pensions Amendment Act 2005 (2005 No 24).

Schedule 11 item 2: amended, on 26 April 2005, by section 3 of the War Pensions Amendment Act 2005 (2005 No 24).

Schedule 11 item 2(a): amended, on 1 April 2010, by clause 4(2) of the War Pensions (Rates of Pensions, Lump Sum Payments, and Allowances) Order 2010 (SR 2010/38).

Schedule 11 item 2(a): amended, on 1 April 2010, by clause 3(1) of the War Pensions (Rates of Pensions, Lump Sum Payments, and Allowances) Order 2010 (SR 2010/38).

Schedule 11 item 2(a): amended, on 1 April 2007, by section 5 of the War Pensions Amendment Act 2005 (2005 No 24).

Schedule 11 item 2(a): amended, on 26 April 2005, by section 3 of the War Pensions Amendment Act 2005 (2005 No 24).

Schedule 11 item 2(b): amended, on 1 April 2010, by clause 4(2) of the War Pensions (Rates of Pensions, Lump Sum Payments, and Allowances) Order 2010 (SR 2010/38).

Schedule 11 item 2(b): amended, on 1 April 2010, by clause 3(1) of the War Pensions (Rates of Pensions, Lump Sum Payments, and Allowances) Order 2010 (SR 2010/38).

Schedule 11 item 2(b): amended, on 1 April 2007, by section 5 of the War Pensions Amendment Act 2005 (2005 No 24).

Schedule 11 item 2(b): amended, on 26 April 2005, by section 3 of the War Pensions Amendment Act 2005 (2005 No 24).

Schedule 12

s 74A

Payments on death of veteran or veteran's spouse or civil union partner

Schedule 12: substituted, on 15 April 2003, by section 11 of the War Pensions Amendment Act 2003 (2003 No 18).

Schedule 12 heading: amended, on 26 April 2005, by section 3 of the War Pensions Amendment Act 2005 (2005 No 24).

- | | | | |
|---|------|---|---|
| 1 | (a) | on the death of a person who,— | |
| | (i) | on the date of his or her death, was in receipt of a veteran's pension on account of his or her own service; and | \$13,559.16 to the surviving spouse or surviving civil union partner or surviving de facto partner of that person or, if there is no surviving spouse or surviving civil union partner or surviving de facto partner, to be apportioned equally between any dependent children of that person |
| | (ii) | before 1 April 1990, was in receipt of a war veteran's allowance under the War Pensions Act 1954 | |
| | (b) | on the death of any person who, on the date of his or her death, was in receipt of a veteran's pension on account of his or her own service | \$5,377.59 to the surviving spouse or surviving civil union partner or surviving de facto partner of that person or, if there is no surviving spouse or surviving civil union partner or surviving de facto partner, to be apportioned equally between any dependent children of that person |
| | (c) | on the death of the spouse or civil union partner or de facto partner of any person if that person is receiving a veteran's pension on account of his or her own service and if the spouse or civil union partner or de facto partner was in receipt of a veteran's pension | \$4,100.57 to that person |
| 2 | | There is deductible from any amount payable under clause 1 the amount of any veteran's pension paid or payable in respect of the person who has died following their death. | |

Schedule 12 item 1(a): amended, on 1 April 2010 (applying in respect of persons who die on or after 1 April 2010), by clause 3(1) of the War Pensions (Rates of Pensions, Lump Sum Payments, and Allowances) Order 2010 (SR 2010/38).

Schedule 12 item 1(a): amended, on 1 April 2007, by section 5 of the War Pensions Amendment Act 2005 (2005 No 24).

Schedule 12 item 1(a): amended, on 26 April 2005, by section 3 of the War Pensions Amendment Act 2005 (2005 No 24).

Schedule 12 item 1(b): amended, on 1 April 2010 (applying in respect of persons who die on or after 1 April 2010), by clause 3(1) of the War Pensions (Rates of Pensions, Lump Sum Payments, and Allowances) Order 2010 (SR 2010/38).

Schedule 12 item 1(b): amended, on 1 April 2007, by section 5 of the War Pensions Amendment Act 2005 (2005 No 24).

Schedule 12 item 1(b): amended, on 26 April 2005, by section 3 of the War Pensions Amendment Act 2005 (2005 No 24).

Schedule 12 item 1(c): amended, on 1 April 2010 (applying in respect of persons who die on or after 1 April 2010), by clause 3(1) of the War Pensions (Rates of Pensions, Lump Sum Payments, and Allowances) Order 2010 (SR 2010/38).

Schedule 12 item 1(c): amended, on 1 April 2007, by section 5 of the War Pensions Amendment Act 2005 (2005 No 24).

Schedule 12 item 1(c): amended, on 26 April 2005, by section 3 of the War Pensions Amendment Act 2005 (2005 No 24).

Schedule 13
Specified Pacific countries

s 74N

Schedule 13: added, on 15 April 2003, by section 11 of the War Pensions
Amendment Act 2003 (2003 No 18).

American Samoa
Cook Islands
Federated States of Micronesia
Fiji
French Polynesia
Guam
Kiribati
Marshall Islands
Nauru
New Caledonia
Niue
Northern Mariana Islands
Palau
Papua New Guinea
Pitcairn Island
Samoa
Solomon Islands
Tokelau
Tonga
Tuvalu
Vanuatu
Wallis and Futuna

War Pensions Amendment Act 2005

Public Act 2005 No 24
Date of assent 24 March 2005
Commencement see section 2

1 Title

- (1) This Act is the War Pensions Amendment Act 2005.
- (2) In this Act, the War Pensions Act 1954 is called “the principal Act”.

2 Commencement

- (1) Except as provided in subsection (2), this Act comes into force on 26 April 2005.
- (2) Section 5 comes into force on 1 April 2007.

4 Transitional provision regarding relationships

For the purposes of the principal Act (except Part 6), any person who was, immediately before the commencement of section 3, in a relationship (as that term was defined in section 2(1) of the principal Act immediately before the commencement of section 3) must, on the commencement of section 3, be treated as if he or she is in a de facto relationship.

War Pensions Amendment Act 2006

Public Act 2006 No 32
Date of assent 30 June 2006
Commencement see section 2

1 Title

This Act is the War Pensions Amendment Act 2006.

2 Commencement

- (1) Except as provided in subsection (2), this Act comes into force on 1 July 2006.
- (2) Section 8 comes into force on the day after the date on which this Act receives the Royal assent.

11 Savings provision

- (1) This section applies to a person who, immediately before section 10 comes into force, is entitled under regulation 4 of the Social Security (Long-term Residential Care) Regulations 2005 to receive, and who is receiving, a veteran's pension at the appropriate single rate as provided for by that regulation.
 - (2) A person to whom this section applies is to be treated as a person to whom section 74BA of the War Pensions Act 1954 (as inserted by section 5 of this Act) applies for so long as—
 - (a) the person's spouse or partner continues to be in long-term residential care in a hospital or rest home; and
 - (b) the person is not himself or herself in long-term residential care.
-

War Pensions Amendment Act 2009

Public Act 2009 No 41
Date of assent 27 October 2009
Commencement see section 2

1 Title

This Act is the War Pensions Amendment Act 2009.

2 Commencement

This Act comes into force on a date to be appointed by the Governor-General by Order in Council.

Section 2: War Pensions Amendment Act 2009 brought into force, on 5 January 2010, by the War Pensions Amendment Act 2009 Commencement Order 2009 (SR 2009/357).

9 Saving

- (1) This subsection applies to a person who, immediately before the commencement of section 6, was entitled to be paid a veteran's pension under section 74J of the principal Act, between—
 - (a) that commencement; and
 - (b) the time he or she ceases to be entitled to be paid a veteran's pension under that section.
 - (2) While subsection (1) applies to a person, he or she is entitled to be paid a veteran's pension at the higher of the following rates:
 - (a) the rate at which he or she was entitled to be paid immediately before the commencement of section 6;
 - (b) the rate at which he or she became entitled to be paid on that commencement.
-

Contents

- 1 General
 - 2 Status of reprints
 - 3 How reprints are prepared
 - 4 Changes made under section 17C of the Acts and Regulations Publication Act 1989
 - 5 List of amendments incorporated in this reprint (most recent first)
-

Notes

1 *General*

This is a reprint of the War Pensions Act 1954. The reprint incorporates all the amendments to the Act as at 1 April 2010, as specified in the list of amendments at the end of these notes. Relevant provisions of any amending enactments that have yet to come into force or that contain relevant transitional or savings provisions are also included, after the principal enactment, in chronological order.

2 *Status of reprints*

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 *How reprints are prepared*

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, *see*

<http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 *Changes made under section 17C of the Acts and Regulations Publication Act 1989*

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)
- position of the date of assent (it now appears on the front page of each Act)

- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

**5 *List of amendments incorporated in this reprint
(most recent first)***

War Pensions (Rates of Pensions, Lump Sum Payments, and Allowances) Order 2010 (SR 2010/38)

War Pensions Amendment Act 2009 (2009 No 41)

Income Tax Act 2007 (2007 No 97): section ZA 2(1)

Social Security Amendment Act 2007 (2007 No 20): section 12(2)

War Pensions Amendment Act 2006 (2006 No 32)

New Zealand Superannuation and Retirement Income Amendment Act 2005 (2005 No 42): section 9(1)

War Pensions Amendment Act 2005 (2005 No 24)

Social Security (Working for Families) Amendment Act 2004 (2004 No 51): section 21

Corrections Act 2004 (2004 No 50): section 206

Income Tax Act 2004 (2004 No 35): section YA 2

Health Practitioners Competence Assurance Act 2003 (2003 No 48): section 175(1)

War Pensions Amendment Act 2003 (2003 No 18)
War Pensions Amendment Act 2001 (2001 No 97)
Public Audit Act 2001 (2001 No 10): sections 52, 53
Veterans' Affairs Act 1999 (1999 No 76): section 8
Employment Services and Income Support (Integrated Administration) Act 1998 (1998 No 96): section 11
Financial Reporting Amendment Act 1997 (1997 No 17): section 6(1)
War Pensions (Total Deafness) Order 1997 (SR 1997/49)
War Pensions Amendment Act 1996 (1996 No 156)
Judicature Amendment Act 1991 (1991 No 60): section 3(4)
War Pensions Amendment Act 1991 (1991 No 2)
Social Welfare (Transitional Provisions) Act 1990 (1990 No 26): sections 15(1)–(4), 39
War Pensions Amendment Act 1990 (1990 No 6)
Regulations (Disallowance) Act 1989 (1989 No 143): section 11
Public Finance Act 1989 (1989 No 44): section 83(7)
War Pensions Amendment Act 1988 (1988 No 148)
War Pensions Amendment Act (No 3) 1986 (1986 No 70)
War Pensions Amendment Act 1986 (1986 No 20)
War Pensions Amendment Act 1983 (1983 No 58)
War Pensions Amendment Act 1981 (1981 No 32)
District Courts Amendment Act 1979 (1979 No 125): section 18(2)
Judicature Amendment Act 1979 (1979 No 124): section 12
War Pensions Amendment Act 1978 (1978 No 59)
War Pensions Amendment Act 1976 (1976 No 41)
War Pensions Amendment Act 1975 (1975 No 124)
War Pensions Amendment Act 1973 (1973 No 33)
War Pensions Amendment Act (No 2) 1970 (1970 No 125)
War Pensions Amendment Act 1969 (1969 No 48)
Status of Children Act 1969 (1969 No 18): section 12(2)
War Pensions Amendment Act 1968 (1968 No 56)
War Pensions Amendment Act 1966 (1966 No 41)
War Pensions Amendment Act 1965 (1965 No 27)
Social Security Act 1964 (1964 No 136): section 135(1)
War Pensions Amendment Act 1964 (1964 No 49)
War Pensions Amendment Act 1963 (1963 No 125)
War Pensions Amendment Act 1961 (1961 No 7)
War Pensions Amendment Act 1960 (1960 No 14)
War Pensions Amendment Act 1958 (1958 No 45)
Summary Proceedings Act 1957 (1957 No 87): section 214(1)

Reprinted as at
1 April 2010

War Pensions Act 1954

Notes
