



Te Tira Ahu Ika A Whiro

**VETERANS'
AFFAIRS**
New Zealand

Policy

Surviving Spouse or Partner Pension

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Policy

1. Purpose

- 1.1 This policy provides guidance on administering the *Surviving Spouse or Partner Pension*. This is an entitlement under Scheme One of the Veterans' Support Act 2014 for spouses or **partners** of deceased **veterans**.
- 1.2 It applies whether the claimant lives in New Zealand or overseas, and reflects the following legislation:
- sections 7, 11, 29, 31, 38-9, 66-71, 84; and clause 8 of Schedule 1 of the Veterans' Support Act 2014
 - regulations 16 and 18 of the Veterans' Support Regulations 2014
 - section 110 of the Policing Act 2008.

2. Eligibility

Relationship criteria

- 2.1 At the time of the veteran's death, the claimant must have been:
- living with the veteran in a marriage-type relationship (including supporting their day-to-day welfare); or
 - maintaining a marriage-type relationship, but unable to live together due to either partner's health, employment, or imprisonment.

Section 66 of the Veterans' Support Act 2014

Service criteria

- 2.2 The veteran must have served in one of the following (Scheme One) situations:
- before April 1974
 - with the Civilian Surgical Team based at Qui Nhon Provincial State Hospital, Viet Nam, before 31 March 1975
 - with 41 Squadron RNZAF in Viet Nam, before 21 April 1975.
- 2.3 One of the following must also apply to the veteran:
- Had **qualifying operational service**
 - suffered a **service-related death**
 - was eligible for permanent *Disablement Pension* of at least 52%, or permanent *War Disablement Pension* of at least 70% (i.e. was receiving either entitlement, or could have been granted either entitlement had they applied for it, immediately before death).

Sections 38 and 66 of the Veterans' Support Act 2014

Merchant Navy service

- 2.4 Persons employed in the New Zealand Merchant Navy during the Second World War meet the qualifying operational service eligibility criterion.
- 2.5 Persons employed in a Commonwealth Merchant Navy during the Second World War meet the qualifying operational service eligibility criterion provided they were a bona fide resident of New Zealand at the commencement of that employment.

Police (veteran) service

- 2.6 Persons deployed overseas as New Zealand police officers, on qualifying operational service before April 1974, are veterans. Their surviving spouse/partner may claim based on the qualifying operational service eligibility criterion.

Section 7 [veteran] and Schedule 1 clause 6 of the Veterans' Support Act 2014

Police (non-veteran) service

- 2.7 Past policing legislation provided some police officers, who aren't veterans, access to a *War Disablement Pension* or *Disablement Pension* for injury or illness relating to pre-April 1974 service with the New Zealand Police. These police officers do not meet the qualifying operational service eligibility criterion.
- 2.8 The surviving spouse/partner of such a police officer, who was receiving a *War Disablement Pension* or *Disablement Pension* on date of death, may apply to test their eligibility for a *Surviving Spouse or Partner Pension*.

Section 110 of the Policing Act 2008

Existing entitlement based on Scheme Two service

- 2.9 Spouse/partners of veterans with Scheme Two service can no longer claim this entitlement. But existing entitlements based on Scheme Two service, granted before Scheme Two commenced on 7 December 2015, may continue.

Sections 39, 71, and schedule 1 clause 8, of the Veterans' Support Act 2014

3. Applications

- 3.1 Claims must be made on the relevant form, which sets out information and evidence required. We'll ask for any further information/evidence as needed.
- 3.2 We must acknowledge the claim within 7 **working days** of getting it, keep the claimant updated on progress, make a decision as soon as practicable, and notify the claimant in writing (including providing the reasons for the decision, and advising about the right of review).
- 3.3 A claim received after the claimant's death can't proceed. A claim received, but not resolved, before the claimant's death must be determined on the available information (if granted, payment is to the claimant's estate).

Sections 11 and 67 of the Veterans' Support Act 2014

4. Start of entitlement

- 4.1 Start of entitlement depends on when the application was received. If this was:
- *within 6 months after the veteran's death* — entitlement is from the day after the death
 - *later than that* — entitlement is from the day the application was received.

Section 67 of the Veterans' Support Act 2014

5. Payment

- 5.1 Payment is fortnightly to New Zealand bank accounts, 4-weekly to overseas ones. See our website for current rate, adjusted yearly in line with the Consumers Price Index (All Groups).
- 5.2 Within New Zealand, payment isn't taxed, tested, or affected by overseas entitlements. But other countries may view it as income they tax or include in income tests, so we advise overseas recipients to check with the relevant local agency.

Regulations 16 and 18 of the Veterans' Support Regulations 2014, and CW 28(1) of the Income Tax Act 2007

6. End of entitlement

Surviving Spouse or Partner Pension ends if new relationship starts

- 6.1 *Surviving Spouse or Partner Pension* recipients must tell us if they enter a new relationship: de facto, civil union, or marriage. Entitlement ends when the new relationship starts.
- 6.2 However a new payment may be claimed, equivalent to two years of *Surviving Spouse or Partner Pension*; and paid as either a periodic payment over two years, or a lump sum. Entitlement to this payment is from the day of cessation of the *Surviving Spouse or Partner Pension*.
- 6.3 To claim it, the surviving spouse/partner must complete the form for it, electing either periodic or lump-sum payment, and including:
- full name and birth date of the new partner
 - date the relationship began; date the couple first became emotionally committed; date they first became financially committed
 - any other relevant circumstances, with applicable dates
 - certified copy of marriage / civil union certificate (if applicable).

Section 68 of the Veterans' Support Act 2014

If claim for the new payment is undetermined at claimant's death

6.4 If the claimant dies with their claim received but not resolved, we proceed according to the form of payment elected:

- *lump-sum payment elected* — no payment may be made
- *periodic payment elected* — claim is determined on the available information. If granted, payment is to the claimant's estate but entitlement ends 28 days after death.

Section 70 of the Veterans' Support Act 2014

If new relationship ends within 5 years

6.5 If the new relationship ends within 5 years of its start date, the *Surviving Spouse or Partner Pension* can be reinstated. Application for this must:

- be in writing
- include evidence of when the relationship ended (normally, one or more of death certificate; divorce or official separation notice; evidence of living-alone allowance or separate addresses; statutory declaration).

Section 69 of the Veterans' Support Act 2014

Entitlement ends on imprisonment

6.6 Entitlement ends on the recipient becoming a **prisoner** in a **prison**, but may be reinstated on his/her release.

Section 29 of the Veterans' Support Act 2014

Entitlement ends after death

6.7 On death of the recipient, entitlement ends as follows:

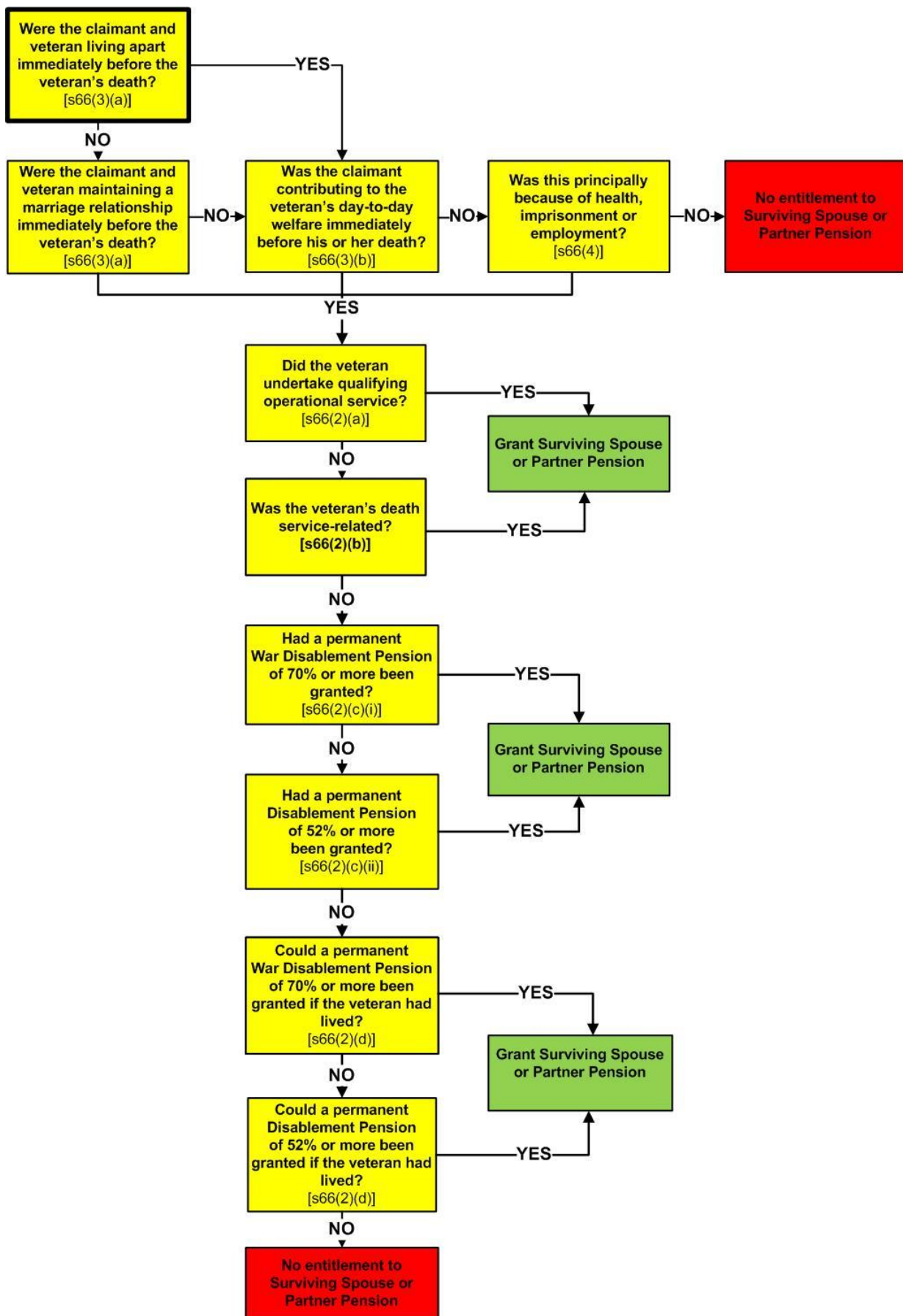
- *Surviving Spouse or Partner Pension* — 28 days after death
- *New Relationship Payment* (periodic 2-year payment) — whichever's earlier of 28 days after death / end of the 2-year period
- *New Relationship Payment* (lump-sum payment) — no repayment required.

Section 70 of the Veterans' Support Act 2014

7. Disagreement and complaints

7.1 If clients disagree with decisions on eligibility, see *Reviews* and *Appeals* policies. If they're dissatisfied with how the entitlement is administered, see *Complaints* policy.

Appendix I: Pathway



Glossary

member of the armed forces [section 7]

Means a person who is or has been a member of the New Zealand armed force raised by the Governor-General on behalf of the Sovereign,—

- (a) whether in New Zealand or elsewhere; and
- (b) whether before or after the passing of this Act.

partner [section 7]

Means a civil union partner or a de facto partner.

[See also section 2D of the Property (Relationships) Act 1976.]

prison [section 29]

Means—

- (a) a prison within the meaning of section 3(1) of the Corrections Act 2004; or
- (b) a service prison within the meaning of section 2(1) of the Armed Forces Discipline Act 1971; or
- (c) an overseas prison.

NB: *Under section (3)(1) of the Corrections Act 2004, prison is defined as follows (note these relate to Corrections prisons and Police jails):*

- (a) means a prison established or deemed to be established under section 32; and
- (b) to avoid doubt, includes any land or building declared to be a prison.

Under section 2(1) of the Armed Forces Discipline Act 1971, service prison is defined as follows

Means a building or part of a building set aside under this Act as a service prison.

prisoner [section 29(3)]

Means,—

- (a) for a prison referred to in **paragraph (a)** of the definition of prison, a prisoner within the meaning of section (3)(1) of the Corrections Act 2004; or
- (b) for a prison referred to in **paragraph (b)** of that definition, a service prisoner within the meaning of section 2(1) of the Armed Forces Discipline Act 1971; or
- (c) for a prison referred to in **paragraph (c)** of that definition, a person for the time being in legal custody in that prison.

NB: *Under section (3)(1) of the Corrections Act 2004, prisoner is defined as follows:*

Means any person for the time being in the legal custody under this Act of the following persons:

- (a) the chief executive;
- (b) the Commissioner of Police.

Under section 2(1) of the Armed Forces Discipline Act 1971, service prisoner is defined as follows:

Means a person under a sentence that includes imprisonment imposed under this Act by the Court Martial.

qualifying operational service [section 7]

Means–

- (a) service on any deployment treated as a war or emergency for the purposes of the War Pensions Act 1954; or
- (b) service on any deployment declared to be operational service under section 9

qualifying routine service [section 8]

Means service in the armed forces before 1 April 1974 that is not qualifying operational service.

service-related [section 7]

In relation to an injury, an illness, a condition, or a whole-person impairment, means an injury, an illness, or a whole-person impairment caused by, contributed to by, or aggravated by qualifying service.

service-related death

In relation to Part 3 (Scheme One) means death attributable to qualifying service.

veteran [section 7]

Means–

- (a) a member of the armed forces who took part in qualifying operational service at the direction of the New Zealand Government; or
- (aa) a member of the armed forces who took part in qualifying routine service before 1 April 1974; or
- (b) a person–
 - (i) who has been–
 - (A) appointed as an employee of the Defence Force under section 61A of the Defence Act 1990; or
 - (B) seconded to the Defence Force with the permission of the Chief of Defence Force; and
 - (ii) who took part in qualifying operational service at the direction of the New Zealand Government; or
- (c) a person who, immediately before the commencement of Part 3 of this Act, is eligible for a pension under the following provisions of the War Pensions Act 1954:
 - (i) section 19 (but only if the person was a member of the forces);
 - (ii) section 55 or 56;
 - (iii) Parts 4 and 5.

working day [section 7]

Means a day of the week other than:

- (a) a Saturday, a Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's birthday, Te Rā Aro ki a Matariki/Matariki Observance Day, and Labour Day; and
- (b) if Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday; and
- (ba) the day observed in the appropriate area as the anniversary of the province of which the area forms a part; and
- (c) a day in the period commencing on 25 December in any year and ending with 15 January in the following year.