

VETERANS SUPPORT BILL – CLAUSE BY CLAUSE ANALYSIS

Clause 1 states the Title of the Bill.

Clause 2 is the commencement clause. This Bill comes into force on 1 July 2014 except for the following provisions which come into force on 1 July 2015:

- *Part 4* (Scheme Two):
- *Part 5* (except *subpart 4*) to the extent it applies in relation to *Part 4*:
- *Schedule 2* (except *Part 1*).

Part 1

Preliminary provisions

Subpart 1—Preliminary matters

Clause 3 states the purpose of the Bill.

Clause 4 provides an overview of the Bill by way of a summary of what each Part of the Bill contains.

Clause 5 provides that the Bill binds the Crown.

Clause 6 provides that *Schedule 1* contains application, transitional, and savings provisions.

Subpart 2—Interpretation and related matters

Clause 7 contains definitions of terms used in the Bill.

Clause 8 contains definitions of qualifying service, qualifying operational service, and qualifying routine service.

Clause 9 provides the process and criteria for the Minister of Veterans' Affairs to declare the deployment of a New Zealand force to be operational service.

Subpart 3—Presumptions

Clause 10 states the circumstances that give rise to a presumption that a person is physically and mentally fit for service in the armed forces.

Clause 11 provides certain exceptions (relating to qualifying operational service) to the circumstances in *clause 10(4)* in which the presumption in that clause is disapplied.

Clause 12 provides that injury, illness, or death occurring during qualifying operational service is presumed to have occurred as a result of the qualifying operational service. The clause also states the circumstances when a pre-qualifying operational service injury or illness is presumed to be aggravated by qualifying operational service.

Clause 13 contains a presumption that the loss or impairment of a second paired organ from whatever cause is attributable to qualifying service if the loss or impairment of the first paired organ is attributable to qualifying service. Which organs are paired organs for the purposes of the clause are to be specified in regulations.

Subpart 4—Principles and related matters

Clause 14 requires every person performing any function or exercising any power under the Bill to do so in accordance with certain principles.

Clause 15 provides that in determining whether a veteran's death or disablement is attributable to or aggravated by a veteran's service, the question is to be determined in accordance with the substantial justice and merits of the claim and not in accordance with technicalities, legal forms, or legal rules of evidence.

Clause 16 authorises regulations to be made that specify conditions that are to be treated, in the absence of evidence to the contrary, as being linked to specific exposure or specific events occurring during qualifying operational service.

Clause 17 provides a process for the review and application of statements of principle determined by the Australian Repatriation Medical Authority under the Veterans' Entitlements Act 1986 (Aust).

Subpart 5—Other matters

General obligations of VANZ

Clauses 18, 19, and 20 place requirements on VANZ to make decisions on reasonable grounds and in a timely manner, to give notice of its decisions and reasons for them, and to advise claimants of their review rights.

Disentitlement

Clauses 21 and 22 specify certain circumstances that exclude, limit, or suspend the provision of entitlements under the Bill.

Indexation

Clauses 23 and 24 provide for the adjustment of entitlements under the Bill having regard to movements in the average weekly earnings or the New Zealand Consumers Price Index.

Part 2 Code of Veterans' and Other Claimants' Rights

This Part provides for a Code of Veterans' and Other Claimants' Rights. The provisions are based on sections 40 to 47 of the Accident Compensation Act 2001, which provide for a Code of ACC Claimants' Rights.

Clause 25 sets out the purpose of the Code in terms of meeting the reasonable expectations of veterans and claimants.

Clause 26 requires the Chief of Defence Force to prepare and consult on a draft Code.

Clause 27 provides for the approval of the draft Code by the Minister of Veterans' Affairs, and for the notification and commencement of the Code.

Clause 28 requires VANZ to act consistently with and uphold the rights in the Code. It also requires VANZ to make the Code accessible and to promote awareness of the Code.

Clause 29 provides that the Code is a disallowable instrument for the purposes of the Legislation Act 2012.

Clause 30 provides for amendments to the Code and (except in certain circumstances) requires amendments to follow the same process as for Code itself.

Part 3

Scheme One

Subpart 1—Application and purpose

Clause 31 provides that *Part 3* applies to certain veterans and every spouse, partner, child, and dependant of those veterans. The veterans are those with qualifying service performed before 1 April 1974.

This Part also applies to the following veterans:

- veterans with certain qualifying service in Vietnam after 1 April 1974 but before certain dates in 1975:
- veterans who have made claims under Scheme Two that VANZ has determined under *clause 76(3)* are to be dealt with under Scheme One:
- veterans who have qualifying service prior to the commencement of Scheme Two (*see clause 32*).

Clause 33 sets out the purpose of Scheme One, which is to provide certain entitlements to the persons to whom this Part applies.

Subpart 2—Medical treatment and associated travel costs

Clause 34 defines terms used in this subpart.

Medical treatment

Clause 35 provides that VANZ is responsible for paying or contributing to the cost of medical treatment of a veteran's injury or illness if the injury or illness is service-related. The extent of VANZ's responsibility is set out in *subpart 2 of Part 5*.

Travel costs associated with medical treatment

Clause 36 specifies the circumstances when VANZ is responsible for paying or contributing to a veteran's travel costs associated with medical treatment.

Clause 37 specifies the circumstances when VANZ is responsible for paying or contributing to the cost of a travel escort for a veteran who is not fit or able to travel alone for the purposes of medical treatment.

Clause 38 specifies the circumstances when VANZ is responsible for paying or contributing to the cost of certain persons visiting a veteran in long-term hospital care.

Clause 39 specifies certain purposes for which regulations may be made in relation to this subpart.

Subpart 3—Disablement pension

Clause 40 provides an entitlement to a disablement pension if a veteran (whether resident in New Zealand or overseas) suffers disablement as a consequence of injury or illness attributable to or aggravated by qualifying service. The entitlement to a disablement pension is conditional on a veteran having a rehabilitation plan under *Part 1 of Schedule 2*.

Clause 41 specifies the procedural requirements to be completed before a veteran is entitled to a disablement pension. When these are completed, the entitlement is backdated to when an application for the pension was received.

Clause 42 provides that a disablement pension is temporary unless a veteran is notified that the pension is permanent. The purpose of this is to provide periodic assessments of a veteran's condition until his or her

condition has either stabilised or reached its final state. At that stage, the pension can become permanent.

Clause 43 provides for the suspension of a temporary disablement pension if VANZ is unable to complete a reassessment of a veteran's condition because the veteran, without reasonable excuse, has not complied with any reasonable requirement for the purpose of completing the reassessment.

Clause 44 requires VANZ to prepare a treatment and rehabilitation plan for a veteran whose disablement pension is temporary.

Clause 45 provides a discretion for VANZ to undertake periodic reassessments of a veteran who is receiving a permanent disablement pension.

Clause 46 provides for lump sum payments equivalent of the disablement pension for 12 months if a veteran is suffering from a service-related terminal condition.

Clause 47 provides that a veteran's entitlement to a disablement pension ceases 28 days after the veteran dies.

Clause 48 provides that regulations are to specify the rates of the disablement pension and requiring an additional rate to be set for cases of severe disablement.

Clause 49 is a transitional provision that enables a veteran receiving a war disablement pension under the War Pensions Act 1954 immediately before the commencement of the Bill to continue receiving the pension as if it were payable under this subpart.

Subpart 4—Weekly income compensation

Clause 50 provides an entitlement to weekly income compensation to a veteran (whether resident in New Zealand or overseas) who is unable to work full-time, if the veteran meets certain criteria.

Clause 51 specifies the procedural requirements to be completed before a veteran is entitled to weekly income compensation. When these are completed, the entitlement is backdated to when the application was received.

Clause 52 authorises regulations to specify the rate of weekly income compensation, which must be 80% of the average wage. The rate must be adjusted as at 1 April each year.

Clause 53 specifies when an entitlement to weekly income compensation ceases if a veteran is assessed as to be able to work full-time. Different periods are specified depending on how long the veteran has been receiving weekly income compensation and whether the veteran is able to work full-time in employment in which he or she was employed immediately before receiving weekly income compensation.

Clause 54 provides for the abatement of weekly income compensation for a veteran who is assessed as able to work part-time. The compensation is to abate in accordance with regulations.

Clause 55 provides what happens to a veteran's entitlement to weekly income compensation when the veteran reaches the New Zealand superannuation qualification age. In certain circumstances, a veteran can elect to continue to receive weekly income compensation for a certain period instead of New Zealand superannuation or a pension under *Part 6*.

Subpart 5—Retirement lump sum

Clause 56 entitles a veteran who reaches the New Zealand superannuation qualification age after the commencement of the clause to receive a retirement lump sum. The veteran must have been receiving weekly income compensation for at least 10 years and must have assets of less than a certain value.

Clause 57 requires a veteran to apply for an asset assessment for the purpose of determining whether he or she meets the asset value criterion for a retirement lump sum.

Clause 58 specifies certain purposes for which regulations may be made for this subpart.

Subpart 6—Spouses, partners, children, and dependants of veterans

Surviving spouse or partner pension

Clause 59 specifies the circumstances when the surviving spouse or partner of a veteran is entitled to a surviving spouse or partner pension, and provides that the rate of the pension is to be specified in regulations.

Clause 60 specifies the procedural requirements to be completed before a surviving spouse or partner is entitled to a surviving spouse or partner pension. When these are completed, the entitlement is backdated. Different dates are specified in relation to when VANZ received the application.

Clause 61 provides that a surviving spouse's or partner's pension ceases when the spouse or partner enters into a new relationship, but gives the spouse or partner a choice to receive a periodic payment for 2 years at the same rate or a lump sum equivalent to 2 years of the pension.

Clause 62 reinstates a surviving spouse's or partner's pension that has ceased because he or she has entered into a new relationship if the new relationship comes to an end within 5 years after the start of the new relationship.

Clause 63 provides that a surviving spouse's or partner's pension ceases 28 days after the spouse's or partner's death.

Clause 64 is a transitional provision in relation to surviving spouses or partners who were receiving a surviving spouse or partner pension under the War Pensions Act 1954.

Children's pension

Clause 65 specifies the circumstances when a child under the age of 18 years is entitled to a pension as a child of a veteran or deceased veteran. The clause also provides for payment of the pension after a child turns 18 years, if the child is suffering mental or physical infirmity or is undertaking full-time study.

Clause 66 specifies the procedural requirements to be completed before a child is entitled to a children's pension. When these are completed, the entitlement is backdated. Different dates are specified in relation to when VANZ received the application.

Clause 67 provides that a children's pension ceases 28 days after the child receiving it dies.

Clause 68 is a transitional provision in relation to children who were receiving a children's pension under the War Pensions Act 1954.

Dependant's pension

Clause 69 specifies the circumstances in which a dependant of a veteran or deceased veteran is entitled to a dependant's pension.

Clause 70 specifies the procedural requirements to be completed before a dependant is entitled to a dependant's pension. When these are completed, the entitlement is backdated. Different dates are specified in relation to when VANZ received the application.

Clause 71 provides that a dependant's pension ceases 28 days after a dependant dies.

Clause 72 provides that a child receiving a children's pension is not entitled to receive a dependant's pension.

Clause 73 is a transitional provision in relation to dependants of veterans who were receiving a dependant's pension under the War Pensions Act 1954.

Subpart 7—Children's bursaries

Clause 74 provides an entitlement to a children's bursary in relation to full-time study at a secondary school or full-time or part-time study at a tertiary institution.

Clause 75 is a transitional provision providing for the continuation of children's war bursaries under the War Pensions Act 1954.

Part 4

Scheme Two

Subpart 1—Preliminary matters

Clause 76 provides that this Part applies to veterans with qualifying operational service on or after 1 April 1974 and the spouses, partners, children, and dependants of those veterans.

Clause 77 provides special circumstances where claims are or are not covered by this Part. Veterans with qualifying operational service after that date who are covered under Scheme One under *clause 31(1)(a)(ii)* or *(iii)* are not covered by this Part. If a claim relates to injury, illness, or death that is attributable in part to circumstances before 1 April 1974 and in part to circumstances on or after 1 April 1974, then the claim is to be dealt with under this Part unless VANZ determines that the claim should be dealt with under *Part 3*.

Clause 78 sets out the purpose of Scheme Two, which is to provide certain entitlements to the persons to whom this Part applies.

Clause 79 specifies the circumstances in which either VANZ or ACC or both are responsible for managing a veteran's claim and providing entitlements.

Subpart 2—Vocational services and assistance for spouse or partner

Clause 80 provides that this subpart applies to the spouse or partner of a veteran who has an injury or illness that results from qualifying operational service and that makes the veteran unable to work or unable to undertake vocational rehabilitation. The subpart also applies to the spouse or partner of a veteran who has died and his or her death is service-related.

Clause 81 gives the spouse or partner an entitlement to vocational services in accordance with this subpart and regulations made under *clause 250*.

Clause 82 provides that vocational rehabilitation is to be provided to a spouse or partner, but not for longer than 3 years, unless VANZ considers it appropriate to provide it for a longer period.

Clause 83 requires an assessment of a spouse's or partner's vocational needs.

Clause 84 specifies how an occupational assessor is to undertake a spouse's or partner's occupational assessment.

Clause 85 requires an occupational assessor to prepare and provide to VANZ a report, and provide a copy to the spouse or partner.

Subpart 3—Payments for permanent impairment

Clause 86 provides that this subpart applies to a veteran who has permanent impairment from an injury or illness that results from qualifying operational service.

Independence allowance

Clause 87 provides an independence allowance if the injury or illness that caused the permanent disablement occurred in the period beginning on 1 April 1974 and ending on the close of 31 March 2002. The allowance is payable at the same rate as veteran's disablement pension under *subpart 3 of Part 3*.

Clause 88 prevents a veteran from receiving an independence allowance under this subpart and also under the Accident Compensation Act 2001. However, a veteran is entitled to receive from VANZ the difference between the 2 allowances.

Lump sum payments

Clause 89 provides for lump sum payments if the injury or illness that caused permanent impairment occurred on or after 1 April 2002. A lump sum comprises what a veteran is or would be entitled to under the Accident Compensation Act 2001 plus 20% of that amount.

Clause 90 requires VANZ to provide or meet the cost of providing financial advice to a veteran from an authorised financial adviser to enable the veteran to make an informed decision about investing a lump sum payment, if the amount is equal to or greater than the prescribed amount.

Tax status of impairment payments

Clause 91 provides that *Schedule 4* contains consequential amendments to the Income Tax Act 2007 making the independence allowance and lump sum payments under this subpart exempt from income tax.

Subpart 4—Weekly compensation

Clause 92 provides an entitlement to weekly compensation to a veteran (whether resident in New Zealand or overseas) who is under the New Zealand superannuation qualification age and unable to work because of injury or illness attributable to or aggravated by qualifying operational service.

Clause 93 provides for weekly income compensation to cease if a veteran is able to work full-time or to abate if able to work part-time.

Clause 94 provides that a veteran is not entitled to receive weekly compensation under this subpart and under the Accident Compensation Act 2001. However, the veteran is entitled to receive the difference.

Clause 95 provides that *Schedule 4* contains consequential amendments making weekly compensation income for the purposes of the Income Tax Act 2007.

Clause 96 provides what happens to a veteran's entitlement to weekly compensation when the veteran reaches the New Zealand superannuation qualification age. In certain circumstances, a veteran can elect to continue to receive weekly compensation for a certain period instead of New Zealand superannuation or a pension under *Part 6*.

Subpart 5—Retirement lump sum

Clause 97 entitles a veteran who reaches the New Zealand superannuation qualification age after the commencement of the section to receive a retirement lump sum. The veteran must have been receiving weekly compensation for at least 10 years and have assets of less than a certain value.

Clause 98 requires a veteran to apply for an asset assessment for the purpose of determining whether he or she meets the asset value criterion for a retirement lump sum.

Clause 99 specifies certain purposes for which regulations may be made for this subpart.

Part 5

Entitlements common to Scheme One and Scheme Two

Subpart 1—Application and purpose

Clause 100 provides that this Part applies to veterans to whom *Part 3 or 4* applies.

Clause 101 provides that the purpose of this Part is to provide additional entitlements to, or in respect of, veterans to whom Scheme One or Scheme Two applies.

Subpart 2—Medical treatment

Clause 102 makes VANZ responsible for paying or contributing to the cost of medical treatment of a veteran's service-related injury or illness, but not if the Defence Force is doing so or the medical treatment is available under the New Zealand Public Health and Disability Act 2000 or ACC is paying or contributing to the cost of medical treatment.

Clause 103 requires VANZ, as soon as practicable after accepting an application for payment of medical treatment, to decide what medical treatment it will pay for or contribute towards the cost of paying. The clause specifies criteria that VANZ must take into account in making a decision.

Clause 104 provides that a veteran whose medical treatment is being paid for or contributed to by VANZ may apply to increase the amount or to include additional treatment, or both.

Clause 105 provides that VANZ is not responsible for paying or contributing to the cost of medical treatment unless it has given its prior approval, but this does not apply to emergency treatment.

Clause 106 makes VANZ responsible for meeting the costs of transport reasonably required by a veteran to receive medical treatment. The extent of the responsibility is to be specified in regulations.

Subpart 3—Rehabilitation

Clause 107 requires VANZ, as soon as practicable after accepting a veteran's claim, to appoint a case manager whose function is to ensure that a rehabilitation plan is prepared and liaise with ACC as to whether VANZ or ACC should prepare the plan.

Clause 108 requires VANZ to take all reasonable and practicable steps to assist a veteran to achieve the maximum level of rehabilitation, having regard to the nature and extent of a veteran's disablement.

Individual rehabilitation plan

Clause 109 requires VANZ, within 13 weeks after accepting a veteran's claim, to determine whether the veteran needs social or vocational rehabilitation and, if so, prepare an individual rehabilitation plan that may include provision for treatment.

Clause 110 requires VANZ to provide social and vocational rehabilitation before a rehabilitation plan is agreed, and gives VANZ a discretion to provide that rehabilitation before an assessment is undertaken or completed.

Clause 111 specifies how VANZ is to assess a veteran's needs for rehabilitation and what a rehabilitation plan must contain.

Clause 112 requires a case manager to update a rehabilitation plan from time to time.

Social rehabilitation

Clause 113 specifies the purpose of social rehabilitation.

Clause 114 defines what is meant by “key aspect of social rehabilitation”, requires VANZ to provide a veteran with key aspects of social rehabilitation, and specifies when this must be done.

Clause 115 gives VANZ a discretion to provide other social rehabilitation in certain circumstances.

Clause 116 specifies when VANZ is responsible for providing social rehabilitation and gives VANZ a discretion to provide social rehabilitation earlier than required.

Clause 117 requires assessments and reassessments of the need for social rehabilitation to be undertaken by an assessor appointed under *clause 199*, and specifies the matters to be taken into account in an assessment or reassessment.

Vocational rehabilitation

Clause 118 specifies the purpose of vocational rehabilitation.

Clause 119 specifies the circumstances when VANZ is responsible for providing vocational rehabilitation.

Clauses 120 and 121 specify that matters VANZ must consider in deciding whether to provide vocational rehabilitation.

Clause 122 provides for the start or resumption of vocational rehabilitation if a veteran's circumstances change.

Clause 123 specifies that an assessment of a veteran's vocational needs must consist of an initial occupational assessment and an initial medical assessment.

Clause 124 requires an occupational assessment to be undertaken by a suitable assessor appointed under *clause 199*.

Clause 125 specifies how an occupational assessor must conduct an initial occupational assessment.

Clause 126 requires an occupational assessor to prepare a report on an initial occupational assessment and provide a copy to the veteran and the medical assessor.

Clause 127 requires a medical assessment to be undertaken by a suitable medical practitioner appointed under *clause 199*.

Clause 128 specifies when a medical assessment may be done by a medical practitioner who does not qualify under *clause 199*.

Clause 129 specifies how a medical assessor must conduct an initial medical assessment.

Clause 130 requires a medical assessor to prepare a report on an initial medical assessment and provide a report to VANZ and a copy of the report to the veteran.

Subpart 4—Veterans' independence programme

Clause 131 requires VANZ to establish and administer a veterans' independence programme.

Clause 132 specifies the purpose of the programme, which is to provide services and support to the extent that a veteran cannot undertake an activity required to live independently in his or her normal residence.

Clause 133 provides that services and support under the programme are to be provided to the extent assessed by VANZ and subject to any limits specified in regulations.

Clause 134 provides that a veteran entitled to impairment compensation is entitled to apply for all types of services and support under the programme. A veteran who is not entitled to impairment compensation may apply for all types of services and support under the programme, but the provision of the services and support is at the discretion of VANZ.

Clause 135 specifies the procedural requirements to be completed before a veteran becomes entitled to services and support under the programme. When these are completed, the entitlement is backdated to when the application was received.

Clause 136 gives the surviving spouse or partner of a deceased veteran a 12-month entitlement to receive support and services under the programme to the same extent as the veteran was entitled to receive before his or her death.

Clause 137 specifies certain purposes for which regulations may be made under *clause 250* for this subpart.

Subpart 5—Regulations relating to aids and appliances

Clause 138 provides that regulations may be made under *clause 250* in relation to aids and appliances, including the payment of a weekly battery allowance for hearing aids approved by VANZ.

Subpart 6—Motor vehicle loans

Clause 139 defines motor vehicle for the purposes of this subpart.

Clause 140 provides for veterans with lower body mobility impairment to apply to VANZ for motor vehicle loans. A veteran with total impairment may apply for more than 1 loan at intervals of not less than 5 years. A veteran with severe impairment may apply for a loan, but only once.

Clause 141 specifies certain purposes for which regulations may be made under *clause 250* for this subpart.

Subpart 7—Funeral grants

Clause 142 provides that *clause 143* applies in relation to the death of a veteran that is attributable to qualifying service, and that *clause 144* applies in relation to the death of a veteran that is not attributable to qualifying service.

Clause 143 makes VANZ responsible for paying or contributing to the expenses of the funeral and burial of a veteran, subject to a limit specified in regulations. The clause provides for the payment of costs of transferring the body of a veteran who dies in hospital.

Clause 144 gives VANZ a discretion to pay a reasonable amount in respect of the funeral and burial or cremation of a veteran, if certain circumstances apply.

Part 6

Veteran's pension

Part 6 of this Bill replaces *Part 6* of the War Pensions Act 1954 and provides for the veteran's pension. The veteran's pension is an alternative to New Zealand superannuation. People who are entitled to the veteran's pension fall into 1 of 5 categories.

The first category includes any veteran who—

- has qualifying operational service (defined in *clause 8*); and
- has reached the superannuation qualification age and is eligible to receive superannuation; and
- has been assessed, under the Bill, as having whole-person impairment of 55% or more (or who was, immediately before the commencement of this Part, entitled to a war disablement pension for disablement of 70% or more under *Part 2, 4, or 5* of the War Pensions Act 1954).

The second category includes the spouse or partner of a veteran in the first category (provided the spouse or partner has reached the superannuation qualification age and is eligible to receive superannuation).

The third category includes any person who, immediately before the commencement of this Part, was entitled to a veteran's pension under the War Pensions Act 1954, otherwise than under section 70(1) of that Act, provided the person has reached the superannuation qualification age and is eligible to receive superannuation. (A person who, immediately before the commencement of this Part, was entitled to a veteran's pension under section 70(1) of the War Pensions Act 1954 will come within the first or fifth categories.)

The fourth category includes the spouse or partner of a deceased veteran who, had he or she not died, would have been entitled to a veteran's pension provided both the spouse or partner and the deceased veteran, had he or she not died, have reached the superannuation qualification age and are eligible to receive superannuation.

The fifth category includes any veteran who, immediately before the commencement of this Part, was entitled to receive a veteran's pension under section 70(1)(b)(ii) of the War Pensions Act 1954 because of, what is referred to in that Act as, an infirmity. This is the only category in which a person does not need to have reached the superannuation qualification age to be entitled to a veteran's pension.

Apart from some terminology and other minor changes, the administration of the veteran's pension remains largely unchanged.

Preliminary provisions

Clauses 145 and 146 are interpretation clauses.

Clause 147 empowers the general manager to delegate the administration of the veteran's pension under this Part and corresponding provisions of the Social Security Act 1964 and the Social Welfare (Transitional Provisions) Act 1990 to the chief executive of the department for the time being responsible for the administration of the Social Security Act 1964. This allows the veteran's pension to be administered alongside New Zealand superannuation.

Entitlement

Clause 148 sets out the criteria for entitlement to the veteran's pension for veterans and their spouses and partners (the first, second, and third categories above).

Clause 149 sets out the criteria for entitlement to the veteran's pension for the spouses and partners of deceased veterans (the fourth category above).

Entitlement to veteran's pension by reason of infirmity

Clause 150 provides for entitlement to the veteran's pension for any veteran who, immediately before the commencement of this Part, was entitled to receive a veteran's pension under section 70(1)(b)(ii) of the War Pensions Act 1954 by reason of infirmity (the fifth category above). *Clause 150* also provides that a veteran who is also entitled to weekly income compensation under *subpart 4 of Part 3* of the Bill may elect to receive weekly income compensation instead of a veteran's pension.

Clause 151 provides that a veteran receiving a veteran's pension under *clause 150* (that is, by reason of an infirmity) does not cease to be entitled to the veteran's pension just because they can work (although, the amount of pension they receive will be subject to abatement in respect of any money they earn under *clause 158*.) However, if a medical practitioner certifies the veteran as able to undertake full-time employment, their entitlement to the veteran's pension ceases.

Clause 152 provides for medical examinations for the purposes of *clause 151*.

Person may not receive New Zealand superannuation and veteran's pension

Clause 153 provides that a person who is entitled to receive both a veteran's pension and New Zealand superannuation (that is, the first, second, third, and fourth categories above) may only choose to receive one of those entitlements at any time.

Commencement and rates of veteran's pension

Clause 154 provides that the veteran's pension commences on the later of the date the applicant became entitled to receive it and the date on which VANZ received the application for it.

Clause 155 sets out the different rates at which the veteran's pension is payable. The rates are—

- the single living alone rate:
- the single sharing accommodation rate:
- the relationship rate:
- the relationship (partner not receiving superannuation or pension) rate:
- the relationship (partner not receiving superannuation or pension) legacy rate.

The precise amount payable under each rate will be specified in regulations, and in certain cases, will be subject to abatement in accordance with *clause 158*.

Clause 156 provides that the rates for the period beginning with the commencement of this Part are the same as the corresponding rates that are in effect under Schedule 11 of the War Pensions Act 1954 at the time of that commencement. This ensures that no person entitled to a veteran's pension will be worse off as a result of the repeal of that Act.

Clause 157 provides for the rates of the veteran's pension to be adjusted by regulations from 1 April every year in a manner that reflects increases in Consumer Price Index (All Groups), keeps the rates within specified proportions of the average wage, and preserves the proportional relationship between the different rates.

Clause 158 provides that the amount payable to a veteran who is entitled to receive a veteran's pension under *clause 148* at the relationship (partner not receiving superannuation or pension) rate or the relationship (partner not receiving superannuation or pension) legacy rate is to be abated in respect of income derived by the veteran (and the veteran's spouse or partner, if relevant) in accordance with Income Test 3 (defined in *clause 145*). The clause also provides that the amount payable to a veteran who

is entitled to receive a veteran's pension under *clause 150* is to be abated in respect of income derived by the person (and the person's spouse or partner, if relevant) as specified.

Clause 159 provides a veteran who is entitled to receive a veteran's pension whose spouse or partner is not entitled to superannuation or a veteran's pension with the option of electing to receive a higher rate of veteran's pension. The clause provides that an election to receive a rate that is subject to abatement based on the couple's combined income is deferred if, as a consequence of that abatement and the couple's combined income, the veteran would not receive any pension.

Clause 160 provides that any person who is receiving a veteran's pension (or whose spouse or partner is receiving a veteran's pension) and whose spouse or partner is in long-term residential care in a hospital or rest home is entitled to receive the pension at the higher single living alone rate or single sharing accommodation rate (as relevant to the person's circumstances). The clause also provides that any income that has been included in a means assessment of the person's spouse or partner under Part 4 of the Social Security Act 1964 (used to determine the amount the spouse or partner must pay for his or her care) is not included as income for the purpose of calculating any abatement of any benefit payable to the person.

Lump sum payment on death

Clause 161 provides for a lump sum to be paid, on the death of a veteran receiving a veteran's pension on account of his or her own service, to the surviving spouse or partner of the veteran, or to the veteran's dependent children if there is no surviving spouse or partner. The clause also provides for a lump sum to be paid to a veteran receiving a veteran's pension on account of his or her own service on the death of the veteran's spouse or partner if the spouse or partner was receiving a veteran's pension. The amount of the payments will be specified in regulations made under *clause 250*.

Review of decision relating to veteran's pension

Clause 162 provides that a person affected by a decision on entitlement to the veteran's pension may appeal to the Social Security Appeal Authority under the Social Security Act 1964 (or, if the decision was made on medical grounds, to a Board appointed under section 10B(3) of that Act). However, an affected person may not appeal, to that authority, a decision to decline entitlement to a pension on the basis that the service on which a claim to entitlement is based is not qualifying operational service. The affected person may instead apply for a review of the decision by the review panel appointed under *clause 209* of this Bill.

Payment overseas of veteran's pension

Clauses 163 to 183 provide for the payment overseas of veteran's pension (including rules in respect of certain Pacific countries). The current rules are carried forward.

Part 7 Administration

Part 7 of this Bill deals with various administrative matters.

Subpart 1—Establishment and functions of VANZ and related matters

Clause 184 provides that the Chief of Defence Force is responsible for the administration of the Bill.

Clause 185 provides that the Chief of Defence Force must establish VANZ as a unit within the Defence Force.

Clause 186 sets out VANZ's functions.

Clause 187 provides for the appointment of a General Manager (**general manager**) and a Deputy General Manager (**deputy general manager**) of VANZ.

Clause 188 provides that every function, duty, and power of VANZ is a function, duty, or power of the general manager.

Clause 189 provides that the general manager may delegate any of his or her functions, duties, and powers to any member of the Defence Force.

Clause 190 provides that the general manager may delegate any of his or her functions, duties, and powers to a chief executive or employee of the Public Service (with the Chief of Defence Force's approval) or to a person outside of the Public Service (with the approval of the Chief of Defence Force and the Minister). The provisions of section 41 of the State Sector Act 1988 apply to this type of delegation.

Clause 191 provides that specified people (including the general manager, the deputy general manager, and any member of the Defence Force performing or exercising a function, duty, or power under the Bill) are immune from liability in civil proceedings for good-faith actions or omissions in pursuance or intended pursuance of their functions, duties, or powers. The clause replicates aspects of section 6(4A) and (5) of the Crown Proceedings Act 1950 relating to the liability of the Crown.

Clause 192 provides that VANZ may revise any decision made in error. Specifically, it can reconsider a decision if a statement of principle is adopted or modified, a presumptive decision-making condition is specified or amended, or a declaration of operational service is made after the decision has been made, if those matters would have materially affected the decision.

Clause 193 provides that a veteran or other person has certain responsibilities to assist VANZ in establishing the entitlements of the veteran or other person under the Bill. The veteran or other person may be required to provide medical certificates, authorise VANZ to access medical information, undergo assessment, provide information, and participate in rehabilitation provided in accordance with the Bill.

Clause 194 provides for the recovery of debts, including overpayments, by VANZ.

Clauses 195 to 198 provide that entitlements provided under the Act are inalienable (subject to certain other enactments) and specify the circumstances in which payments are to be made to the claimant or to the claimant's caregiver or estate.

Clause 199 provides for the appointment of medical assessors and examiners by VANZ.

Clause 200 sets out the purposes for which VANZ may collect information.

Subpart 2—Review of VANZ decisions

This subpart relates to the review of decisions made by VANZ.

Clause 201 provides that a veteran or other claimant may apply for a review of a decision by VANZ that relates to the person's entitlement.

Clause 202 provides that the procedure for reviews may be prescribed by regulations which must not be inconsistent with this subpart.

Clause 203 provides that a review application is made by giving an application to VANZ, and sets out some requirements with which the application must comply.

Clause 204 provides that an application for review of a decision must be made within 6 months of the claimant receiving notification of the decision, unless the review officer is satisfied that any delay beyond 6 months was caused by circumstances beyond the applicant's control.

Clause 205 provides that reviews must be conducted by a review officer. However, if the decision under review is a decision to decline entitlement on the basis that the service on which the claim for entitlement is based is not service of the type required for the particular entitlement, the review must be conducted by the Veterans' Service Review Panel (appointed by the general manager under *clause 209*).

Clause 206 provides that the review officer must act independently in conducting the review, have had no previous involvement with the claim, decide the review on its merits, conduct the review on the papers, and comply with the principles of natural justice, the principles set out in *clauses 14(b)*, and *clause 15*.

Clause 207 provides that a review officer may require an applicant to provide further information or seek an assessment of the claimant's impairment if the review officer considers it reasonable necessary to decide the review.

Clause 208 provides that the review officer must confirm, modify, or revoke the decision or make any other decision appropriate to the circumstances of the case.

Veterans' Service Review Panel

Clauses 209 to 213 provide for a panel of 2 people, an employee or contractor of the New Zealand Defence Force and a person nominated by the Royal New Zealand Returned and Services' Association, to conduct reviews of decisions to decline entitlement on the basis that the service on which the claim for entitlement is based is not service of the type required for the particular entitlement.

Subpart 3—Appeal against review decision

Appeal to appeal board

Clause 214 provides that a review decision may be appealed to the appeal board, within 6 months of the review decision (unless that time is extended by the appeal board).

Clause 215 relates to the hearing and determination of appeals. It provides that appeals are *de novo* appeals and that the appeal board is not bound by any findings of fact made by the review officer or review panel (as relevant). Appeals must be heard and determined without regard to legal or procedural technicalities. The clause enables the appeal board to hold hearings in private and requires the appeal board to comply with the principles of natural justice, the principles set out in *clauses 14(b)*, and *clause 15*.

Clause 216 relates to the composition of the appeal board.

Clauses 217 to 221 set out the appeal board's powers to require documents and to summon witnesses.

Clause 222 provides that the appeal board must confirm, modify, or revoke the decision or make any other decision appropriate to the circumstances of the case. If the appeal board revokes the decision it must substitute its own decision or require VANZ to make the decision again in accordance with directions.

Clause 223 provides that decisions of the appeal board must be made available on VANZ's Internet site. However, the appeal board may make an order prohibiting or restricting the publication of any report of a hearing, a decision or part of a decision, or any details of a decision that would identify a person. Contravening such an order is an offence punishable with a fine of up to \$5,000.

Clause 224 provides that an appeal on a question of law only may be made to the High Court.

Veterans' Entitlements Appeal Board

Clauses 225 to 231 relate to the establishment and composition of the Veterans' Entitlements Appeal Board, the appointment of members and deputy members, the ability to appoint a specialist member to assist in technical, scientific, or medical matters, and the term of office and remuneration of members.

Part 8

Advisory bodies and medical research trust fund

Subpart 1—Veterans' Advisory Board

Clause 232 establishes the Veterans' Advisory Board, the function of which is to provide advice to the Minister, including advice on policies to be applied in respect of veterans' entitlements. This is currently a function of the War Pensions Advisory Board under the War Pensions Act 1954.

Clauses 233 to 238 provide for the composition of the advisory board, the appointment of members and deputy members, meetings of the board, and the term of office and remuneration of members.

Subpart 2—Specialist Medical Advisory Panel

Clause 239 establishes the Specialist Medical Advisory Panel, the functions of which include—

- to provide advice to the Minister and the Chief of Defence Force on specified matters relating to service, veterans' health, and entitlements under this Act:
- to decide how the income of the Veterans' Medical Research Trust Fund is to be applied for grants and awards.

Some of the functions of the advisory panel are currently functions of the War Pensions Advisory Board under the War Pensions Act 1954.

Clauses 240 to 244 provide for the membership of the advisory panel, the appointment of members, meetings of the panel, and the term of office and remuneration of members.

Subpart 3—Veterans' Medical Research Trust Fund

Clauses 245 and 246 continue the existing War Pensions Medical Research Trust Fund under the name Veterans' Medical Research Trust Fund. VANZ administers the fund and must apply the income of the fund by making grants or awards for the purpose of research into any field of medicine that the advisory panel considers may be beneficial for veterans.

Clause 247 provides that VANZ must prepare an annual report of the fund and that the Auditor-General is the fund's auditor.

Clause 248 provides that any capital of the fund must be invested in accordance with the Trustee Act 1956.

Part 9

Miscellaneous

Subpart 1—Notification

Clause 249 sets out the methods by which documents or notifications required to be given under the Act may be given.

Subpart 2—Regulations

Clause 250 is the general regulation-making provision.

Clause 251 provides for the making of regulations relating to rehabilitation for the purposes of *Part 4 and Schedule 2*.

Clause 252 provides for the making of regulations relating to ancillary services for treatment or rehabilitation for the purposes of *clauses 3 and 11 of Schedule 2*.

Clause 253 provides for the making of regulations relating to lump sum compensation and the independence allowance for the purposes of *Part 3 of Schedule 2*.

Subpart 3—Offences

Clause 254 provides that it is an offence to intentionally mislead VANZ for the purpose of, or with the effect of, receiving or continuing to receive any payment or entitlement.

Clause 255 provides that it is an offence for any person receiving certain entitlements to fail to advise VANZ if the person's income has increased in such a way as to reduce the person's entitlement.

Clause 256 provides that certain people must provide to VANZ any information or statement, when requested to do so by VANZ, for the purposes of facilitating decisions about cover, the timely and appropriate provision of entitlements, and detecting fraud, provided that the claimant has authorised the request. It is an offence to refuse or fail to supply any information or statement requested by VANZ for that purpose.

Clause 257 provides that it is an offence to demand or accept any assignment or charge of an entitlement.

Clause 258 extends the time for the filing of a charging document for an offence against the Act or any regulations made under it to the date that is 12 months after the date on which the facts of the charge are brought to the knowledge of the person by whom the proceedings are instituted.

Clause 259 provides that a person who commits an offence against the Act or any regulations made under it for which no fine is provided is liable on conviction to a fine not exceeding \$500.

Subpart 4—Repeals, transitional provisions, and consequential amendments

Clause 260 repeals the War Pensions Act 1954 and the Veterans' Affairs Act 1999.

Clause 261 gives effect to the application, savings, and transitional provisions set out in *Schedule 1*.

Clause 262 gives effect to the consequential amendments set out in *Schedule 4*.

Subpart 5—Other matters

Clause 263 provides for the circumstances where a veteran is officially reported as missing or as having died while on operational service.

Clause 264 provides for reciprocal arrangements with other countries under which the Defence Force acts as an agent of a department of State of another country for the purposes of an analogous Act and that department acts as an agent of the Defence Force for the purposes of this Bill in that country.

Clause 265 provides that the Crown is not liable to pay compensation or damages in respect of death or disablement of a veteran if any entitlement has at any time been provided or is being provided under the Bill in respect of the death or disablement or if VANZ has determined that the death or disablement is attributable to service in the armed forces.
