

## **HON MEKA WHAITIRI, MINISTER FOR VETERANS**

### **Amendment to Veterans' Support Regulations 2014: Principles and Accepted Late Onset Conditions**

January 2023

This paper seeks authorisation for submission to the Executive Council of the Veterans' Support Amendment Regulations (No 4) 2022 (the Regulations).

The pack comprises the following documents:

- December 2022 Cabinet Legislation Committee Minute of Decision *Amendment to Veterans' Support Regulations 2014: Principles and Accepted Late Onset Conditions* [LEG-22-MIN-0231]; and
- The associated Cabinet Paper *Amendment to Veterans' Support Regulations 2014: Statements of Principles and Accepted Late-Onset Conditions*.

This pack has been released on the New Zealand Defence Force website, available at: [www.nzdf.mil.nz/nzdf/search-our-libraries/documents/?document-type=Official+information&sort=relevance](http://www.nzdf.mil.nz/nzdf/search-our-libraries/documents/?document-type=Official+information&sort=relevance).

Certain information has been withheld in accordance with:

- section 9(2)(h) of the Official Information Act 1982 (OIA) to: *maintain legal professional privilege*.



# Cabinet Legislation Committee

## Minute of Decision

*This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.*

### Amendment to Veterans' Support Regulations 2014: Principles and Accepted Late Onset Conditions

**Portfolio**                      **Veterans**

On 8 December 2022, the Cabinet Legislation Committee:

- 1        **noted** that in accordance with section 23 of the Veterans' Support Act 2014 the Minister for Veterans has approved the revocation and replacement of 24 Statements of Principles relating to conditions that may be causally connected to a veteran's qualifying service.
- 2        **noted** that the Minister for Veterans has approved revision of the name of one accepted late-onset condition set out in Schedule 2A of the Veterans' Support Regulations 2014 in order to align it with the Statements of Principles from which it was derived, and the addition of two conditions to that Schedule.
- 3        **noted** that In March 2016, Cabinet authorised the Minister for Veterans to instruct the Parliamentary Counsel Office to amend Schedule 1 of the Veterans' Support Regulations 2014 to effect revisions to the Statements of Principles, without further reference to Cabinet [SOC-16-MIN-0018];
- 4        **noted** that the proposed amendment of the Veterans' Support Regulations 2014 gives effect to the decisions referred to in paragraphs 1 and 2 above;
- 5        **noted** that the Veterans' Support Amendment Regulations (No 4) 2022 come into force on 12 January 2023;
- 6        **authorised** the submission to the Executive Council of the Veterans' Support Amendment Regulations (No 4) 2022 [PCO 25084/3.0].

Rebecca Davies  
Committee Secretary

**Present:**

Hon Chris Hipkins (Chair)  
Hon Andrew Little  
Hon David Parker  
Hon Michael Wood  
Hon Dr David Clark  
Hon Dr Ayesha Verrall  
Dr Duncan Webb, MP

**Officials present from:**

Office of the Prime Minister  
Officials Committee for LEG

## **AMENDMENT TO VETERANS' SUPPORT REGULATIONS 2014: STATEMENTS OF PRINCIPLES AND ACCEPTED LATE-ONSET CONDITIONS**

### **Proposal**

1. This paper seeks agreement to the amendment of Schedule 1 and Schedule 2A of the Veterans' Support Regulations 2014 (the Regulations).
2. Schedule 1 lists the Australian Statements of Principles that apply for the purposes of the Veterans' Support Act 2014 (the Act). Amendment is required to revoke 24 Statements of Principles, replacing them with 24 Statements of Principles.
3. Schedule 2A lists accepted-late onset conditions that apply for the Act. Change to the name of one condition on the list is required in order to align it with the name listed in Schedule 1. Addition of two conditions is also required.

### **Background**

4. In deciding claims for entitlements under the Veterans' Support Act 2014 (the Act), Veterans' Affairs must assess whether a veteran's medical condition is linked to qualifying service. Statements of Principles are one of the mechanisms under the Act for establishing this causal link. They have been specifically developed for the most commonly claimed conditions that are service-related.
5. The Statements of Principles are determined by the Australian Government Repatriation Medical Authority (RMA) and are regularly reviewed and amended. New Statements of Principles are introduced based on medical-scientific evidence linking the condition to service.
6. A Veterans' Affairs representative (a medical practitioner) attends the RMA meetings as an "attending expert". The representative provides input into the RMA's assessment of the medical-scientific evidence and on the proposed revisions to the Statements of Principles and introduction of any new Statements of Principles.
7. New Zealand adopted the Statements of Principles under Schedule 1 of the Regulations. In accordance with section 23 of the Act, I must decide if the Australian revocations and replacements of Statements of Principles, and any new Statements of Principles if there are any, should apply in New Zealand based upon advice from Veterans' Affairs and the independent Veterans' Health Advisory Panel.
8. Cabinet previously authorised [CAB-16-MIN-0131] that the Minister for Veterans will issue instructions to the Parliamentary Counsel Office to draft amendments to Schedule 1 of the Regulations to effect revisions to the Statements of Principles,

without further reference to the then Cabinet Social Policy Committee, unless a significant issue relating to the Statements of Principles revisions arises.

9. Accepted late-onset conditions are another mechanism under the Act for establishing a link between a veteran's service and their illness or injury. This mechanism is applied only to veterans whose qualifying operational service took place after 1 April 1974 (Scheme Two). Its purpose was to ensure that families of veterans whose death was the result of a late-onset malignancy or other physical illness, or a mental disorder, receive entitlements under the Act. It was deemed that if accepted late-onset conditions were not defined, the family of a veteran whose death was caused by an event that occurred during qualifying operational service ten or more years prior to the onset of illness may not be covered as causality would be difficult to establish over this time period.
10. The original list of accepted late-onset conditions was based on identifying which conditions were covered by Statements of Principles and then, of those, which had one or more late-onset causative factors.
11. I must approve changes to accepted late-onset conditions as these are specified in Regulations.

**Proposed Regulatory Amendment to revise Statements of Principles, amend the name of one accepted late-onset condition, and add two new accepted late-onset conditions**

12. In July 2022 and September 2022 Australia repealed and replaced 24 Statements of Principles. I have decided, on the basis of advice from Veterans' Affairs and the Veterans' Health Advisory Panel, that the changes to the Statements of Principles are based upon sound medical-scientific evidence, that they can be linked to a veteran's qualifying service and that they are suitable for use in New Zealand. None of the replacement Statements of Principles will make it significantly harder or easier to link a veteran's condition to service or are likely to result in significantly higher numbers of successful or failed claims. The Statements of Principles in question are listed in Annex A.
13. The replacement Statements of Principles have undergone revisions, additions, and deletions of definitions, and of causative factors that link a veteran's injury, illness or death to their qualifying service; and in one case a change to the name of one condition (*chronic lymphocytic leukaemia/small lymphocytic lymphoma* has changed to *mature B-cell lymphoid leukaemia and small lymphocytic lymphoma*).
14. Accepted late-onset conditions are derived from the Statements of Principles. The list of these conditions first came into force in December 2015. The Statements of Principles for *chronic lymphocytic leukaemia/small lymphocytic lymphoma* have been renamed *mature B-cell lymphoid leukaemia and small lymphocytic lymphoma*. Amendment is needed in the list of accepted late-onset conditions. Alignment of name will not make it significantly harder or easier to link a veteran's condition to service or result in significantly higher numbers of successful or failed claims.

15. An annual audit has been conducted by Veterans' Affairs of the newly introduced Statements of Principles adopted in New Zealand since January 2022. The purpose of the audit was to assess whether any of the conditions these Statements of Principles cover meet the criteria set out in section 7 of the Veterans' Support Act 2014 for accepted late-onset conditions. Of the five conditions covered by ten new Statements of Principles adopted in New Zealand since January 2022, two — *gender dysphoria* and *exertional heat illness* are recommended to be added to the list.
16. These two conditions can be related to specific exposures or events during qualifying operational service that could result in a diagnosis of a malignancy, other physical or psychological disorder ten years or more after the qualifying service that subsequently causes the death of the veteran.
17. Any changes to a Statement of Principles, through amendment, revocation (repeal) or new introduction, and to the name of an accepted late-onset condition, and the addition of new accepted late-onset conditions, will not impact on any entitlement or service that has previously been granted under the Act.

#### **Timing and 28-day rule**

18. It is intended that the Veterans' Support Amendment Regulations (No 4) 2022 will come into force on 12 January 2023, thus complying with the 28-day rule.

#### **Compliance**

19. The proposed amendment to the Regulations to replace Schedules 1 and 2A complies with each of the following:
  - 19.1. the principles of the Treaty of Waitangi;
  - 19.2. the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;
  - 19.3. the principles and guidelines set out in the Privacy Act 2020;
  - 19.4. the relevant international standards and obligations; and
  - 19.5. the Legislation Design and Advisory Committee Guidelines (2021) which are maintained by the Legislation Design and Advisory Committee.
20. In accordance with section 23 of the Act, before reaching my decision that the 24 Statements of Principles should be revoked and replaced, I received reports from Veterans' Affairs and independent advice from the Veterans' Health Advisory Panel. Both recommended the adoption of the proposed changes. I also received a report from Veterans' Affairs on the proposed addition of two conditions to Schedule 2A List of accepted late-onset conditions.

#### **Regulations Review Committee**

21. There are no grounds for the Regulations Review Committee to draw this regulation amendment to the attention of the House under Standing Order 327.

### **Certification by Parliamentary Counsel**

22. The draft Amendment Regulations have been certified by the Parliamentary Counsel Office as being in order for submission to Cabinet.

### **Financial Implications**

23. The changes to the Statements of Principles are not expected to affect the overall Crown liability relating to veteran entitlements.
24. The addition of the proposed two new accepted late-onset conditions (*gender dysphoria* and *exertional heat illness*) is unlikely to have a significant budgetary impact and is not expected to affect the overall Crown liability relating to veteran entitlements. The likelihood of subsequent mortality related to either condition is low. Further, the eligibility for veterans' benefits would be dependent on both demonstrating a service causation for the conditions and that the condition was directly related to the cause of death.

### **Impact Analysis**

25. The Regulatory Impact Analysis Team at the Treasury has determined that the regulatory proposals in this paper are exempt from the requirement to provide a Regulatory Impact Statement on the basis that they have no, or minor, impacts on businesses, individuals or not-for-profit entities.

### **Publicity**

26. Veterans' Affairs will publish the changes on its website.

### **Proactive Release**

27. I intend to release this paper in full. In accordance with section 131 of the Legislation Act 2019, I do not intend to release the draft regulations which are subject to legal professional privilege.

### **Consultation**

28. The Treasury and the Ministry of Social Development were consulted in the course of developing the policy and the amended Schedules 1 and 2A of the Regulations.

### **Recommendations**

29. I recommend that the Cabinet Legislation Committee:

1. **Note** that in accordance with section 23 of the Veterans' Support Act 2014 I have approved the revocation and replacement of 24 Statements of Principles relating to conditions that may be causally connected to a veteran's qualifying service.
2. **Note** that I have approved revision of the name of one accepted late-onset condition set out in Schedule 2A of the Veterans' Support Regulations 2014 in order to align it with the Statements of Principles from which it was derived, and the addition of two conditions to that Schedule.
3. **Note** that Cabinet authorised [CAB-16-MIN-0131] the Minister for Veterans to instruct the Parliamentary Counsel Office to amend Schedule 1 of the Veterans' Support Regulations 2014 to effect revisions to the Statements of Principles without further reference to the then Cabinet Social Policy Committee.
4. **Note** that the proposed amendment of the Veterans' Support Regulations 2014 gives effect to the decisions referred to in recommendations 1 and 2 above.
5. **Agree** that the Veterans' Support Amendment Regulations (No 4) 2022 will come into force on 12 January 2023, thus complying with the 28-day rule.
6. **Authorise** the submission to the Executive Council of the Veterans' Support Amendment Regulations (No 4) 2022.

Authorised for lodgement

Hon Meka Whaitiri  
Minister for Veterans

Date:

**Annex:**

- A. List of Statements of Principles for Possible Application in New Zealand by amendment of Schedule 1 of the Veterans' Support Regulations 2014.

**LIST OF STATEMENTS OF PRINCIPLES FOR POSSIBLE APPLICATION IN NEW ZEALAND BY  
AMENDMENT OF SCHEDULE 1 OF THE VETERANS' SUPPORT REGULATIONS 2014**

*Note: Each condition has two Statements of Principles. The Reasonable Hypothesis version of the Statement of Principles is applied when the veteran's condition is presumed to have arisen due to qualifying operational service. The Balance of Probabilities version of the Statement of Principles is applied when the veteran's condition is presumed to have arisen due to qualifying routine service.*

Condition	Statement of Principles Number	
	Reasonable Hypothesis	Balance of Probabilities
Creutzfeldt-Jakob disease	80/2022 Replacing 76/2014.	81/2022 Replacing 77/2014.
dermatomyositis	70/2022 Replacing 9/2014.	71/2022 Replacing 10/2014.
epilepsy	84/2022 Replacing 75/2013.	85/2022 Replacing 76/2013.
erectile dysfunction	72/2022 Replacing 43/2013.	73/2022 Replacing 44/2013.
hiatus hernia	60/2022 Replacing 68/2014.	61/2022 Replacing 69/2014.
malignant neoplasm of the anus and anal canal	82/2022 Replacing 51/2013.	83/2022 Replacing 52/2013.
mature B-cell lymphoid leukaemia and small lymphocytic lymphoma	78/2022 Replacing 84/2014 Name has changed from chronic lymphocytic leukaemia/small lymphocytic lymphoma.	79/2022 Replacing 85/2014 Name has changed from chronic lymphocytic leukaemia/small lymphocytic lymphoma.
otitis media	62/2022 Replacing 51/2014.	63/2022 Replacing 52/2014.



Condition	Statement of Principles Number	
	Reasonable Hypothesis	Balance of Probabilities
sick sinus syndrome	66/2022 Replacing 15/2014.	67/2022 Replacing 16/2014.
sleep apnoea	68/2022 Replacing 41/2013.	69/2022 Replacing 42/2013.
somatic symptom disorder	64/2022 Replacing 24/2014.	65/2022 Replacing 25/2014.
steatohepatitis	86/2022 Replacing 79/2013.	87/2022 Replacing 80/2013.