

HON MEKA WHAITIRI, MINISTER FOR VETERANS

Veterans' Support Amendment Regulations (No 2) 2022

April 2022

This publication provides papers seeking authorisation for submission to the Executive Council of the Veterans' Support Amendment Regulations (No 2) 2022.

The pack comprises the following documents:

- March 2022 Cabinet Legislation Committee Minute of Decision *Veterans' Support Amendment Regulations (No 2) 2022* [LEG-22-MIN-0028]; 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.

Certain information has been withheld in accordance with:

- section 9(2)(g)(i) of the OIA: *to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employees of any public service agency or organisation in the course of their duty.*



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.

Veterans' Support Amendment Regulations (No 2) 2022

Portfolio **Veterans**

On 17 March 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 and introduction of two new 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 names of four accepted late-onset conditions set out in Schedule 2A of the Veterans' Support Regulations 2014 in order to align them with the Statements of Principles from which they were derived.
- 3 **noted** that in 2016, the previous government 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 the then Cabinet Social Policy Committee [SOC-16-MIN-0018];
- 4 **noted** that Veterans' Support Amendment Regulations (No 2) 2022 give effect to the decisions referred to in paragraphs 1 and 2 above;
- 5 **noted** that the Veterans' Support Amendment Regulations (No 2) 2022 come into force on 22 April 2022;
- 6 **authorised** the submission to the Executive Council of the Veterans' Support Amendment Regulations (No 2) 2022 [PCO 24559/4.0].

Rebecca Davies
Committee Secretary

Attendance: (see over)

Present:

Hon Dr Megan Woods
Hon Andrew Little
Hon David Parker
Hon Poto Williams
Hon Kris Faafoi
Hon Michael Wood (Chair)
Hon Kiri Allan
Hon Dr David Clark
Hon Meka Whaitiri
Keiran McAnulty, MP (Senior Government Whip)

Officials present from:

Office of the Prime Minister
Officials Committee for LEG

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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, and to introduce two new Statements of Principles.
3. Schedule 2A lists accepted-late onset conditions that apply for the Act. Changes to four names of conditions on the list are required in order to align them with the names listed in Schedule 1.

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 and the new Statements of Principles 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 10 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 and Revise the Names of Four Accepted Late-Onset Conditions

12. In December 2021 and January 2022, Australia repealed and replaced 24 Statements of Principles and introduced two new 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, and the newly introduced 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 or new 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. 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 solvent encephalopathy*, *Hashimoto's thyroiditis*, *Graves' disease*, and *malignant neoplasm of the colorectum* have undergone name change to *chronic solvent-induced neurocognitive disorder*, *Hashimoto thyroiditis*, *Graves disease*, and *malignant neoplasm of the colon and rectum*. Consequential amendments are needed in the list of accepted late-onset conditions. Alignment of names 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.
14. Any changes to a Statement of Principles, through amendment, revocation (repeal) or new introduction, and to names of 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

15. It is intended that the Veterans' Support Amendment Regulations (No 2) 2022 will come into force on 22 April 2022, thus complying with the 28-day rule.

Compliance

16. The proposed amendment to the Regulations to replace Schedules 1 and 2A complies with each of the following:
 - 16.1. the principles of the Treaty of Waitangi;

- 16.2. the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;
 - 16.3. the principles and guidelines set out in the Privacy Act 2020;
 - 16.4. the relevant international standards and obligations; and
 - 16.5. the Legislation Design and Advisory Committee Guidelines (2021) which are maintained by the Legislation Design and Advisory Committee.
17. In accordance with section 23 of the Act, before reaching my decision that the 24 Statements of Principles should be revoked and replaced, and two newly introduced Statements of Principles should be applied in New Zealand, I received a report from Veterans' Affairs and independent advice from the Veterans' Health Advisory Panel. Both recommended the adoption of the proposed changes.

Regulations Review Committee

18. 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

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

Financial Implications

20. The changes to the existing Statements of Principles and the introduction of the new Statements of Principles for *gender dysphoria* are not expected to affect the overall Crown liability relating to veteran entitlements.

Impact Analysis

21. 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

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

Proactive Release

23. I intend to release this paper in full.

Consultation

24. 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

25. 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 and introduction of two new 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 names of four accepted late-onset conditions set out in Schedule 2A of the Veterans' Support Regulations 2014 in order to align them with the Statements of Principles from which they were derived.
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 2) 2022 will come into force on 22 April 2022, thus complying with the 28-day rule.
6. **Authorise** the submission to the Executive Council of the Veterans' Support Amendment Regulations (No 2) 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
chronic solvent-induced neurocognitive disorder	109/2021 Replacing 71/2013 Name has changed from "chronic solvent encephalopathy".	110/2021 Replacing 72/2013 Name has changed from "chronic solvent encephalopathy".
motor neurone disease	111/2021 Replacing 67/2013.	112/2021 Replacing 68/2013.
gender dysphoria	113/2021 NEW SOP.	114/2021 NEW SOP.
Hashimoto thyroiditis	1/2022 Replacing 31/2013 Name has changed from "Hashimoto's thyroiditis".	2/2022 Replacing 32/2013. Name has changed from "Hashimoto's thyroiditis".
hypothyroidism	3/2022 Replacing 29/2013.	4/2022 Replacing 30/2013.
hyperthyroidism and thyrotoxicosis	5/2022 Replacing 27/2013.	6/2022 Replacing 28/2013.
Graves disease	7/2022 Replacing 33/2013 Name has changed from "Graves' disease".	8/2022 Replacing 34/2013 Name has changed from "Graves' disease".
goitre	9/2022 Replacing 23/2013.	10/2022 Replacing 24/2013.
narcolepsy	11/2022 Replacing 7/2014.	12/2022 Replacing 8/2014.

Condition	Statement of Principles Number	
	Reasonable Hypothesis	Balance of Probabilities
aortic stenosis	13/2022 Replacing 21/2013.	14/2022 Replacing 22/2013.
colorectal adenoma	15/2022 Replacing 35/2013.	16/2022 Replacing 36/2013.
gingivitis	17/2022 Replacing 45/2013.	18/2022 Replacing 46/2013.
malignant neoplasm of the colon and rectum	19/2022 Replacing 37/2013 Name has changed from "malignant neoplasm of the colorectum".	20/2022 Replacing 38/2013 Name has changed from "malignant neoplasm of the colorectum".

Veterans' Support Amendment Regulations (No 2) 2022

Governor-General

Order in Council

At Wellington this day of 2022

Present:
in Council

These regulations are made under section 265 of the Veterans' Support Act 2014—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister for Veterans made in accordance with section 23 of that Act.

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Regulations

1 Title

These regulations are the Veterans' Support Amendment Regulations (No 2) 2022.

2 Commencement

These regulations come into force on 22 April 2022.

3 Principal regulations

These regulations amend the Veterans' Support Regulations 2014.

4 Schedule 1 amended

Amend Schedule 1 as set out in Schedule 1 of these regulations.

5 Schedule 2A amended

Amend Schedule 2A as set out in Schedule 2 of these regulations.

Schedule 1 Schedule 1 amended

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In the item relating to aortic stenosis,—

- (a) replace “21/2013” with “13/2022”; and
- (b) replace “22/2013” with “14/2022”.

In the item relating to chronic solvent encephalopathy,—

- (a) replace “chronic solvent encephalopathy” with “chronic solvent-induced neurocognitive disorder”; and
- (b) replace “71/2013” with “109/2021”; and
- (c) replace “72/2013” with “110/2021”.

In the item relating to colorectal adenoma,—

- (a) replace “35/2013” with “15/2022”; and
- (b) replace “36/2013” with “16/2022”.

After the item relating to Gaucher’s disease, insert:

gender dysphoria	113/2021	114/2021
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In the item relating to gingivitis,—

- (a) replace “45/2013” with “17/2022”; and
- (b) replace “46/2013” with “18/2022”.

In the item relating to goitre,—

- (a) replace “23/2013” with “9/2022”; and
- (b) replace “24/2013” with “10/2022”.

In the item relating to Graves’ disease,—

- (a) replace “Graves’ disease” with “Graves disease”; and
- (b) replace “33/2013” with “7/2022”; and
- (c) replace “34/2013” with “8/2022”.

In the item relating to Hashimoto’s thyroiditis,—

- (a) replace “Hashimoto’s thyroiditis” with “Hashimoto thyroiditis”; and
- (b) replace “31/2013” with “1/2022”; and
- (c) replace “32/2013” with “2/2022”.

In the item relating to hyperthyroidism and thyrotoxicosis,—

- (a) replace “27/2013” with “5/2022”; and
- (b) replace “28/2013” with “6/2022”.

In the item relating to hypothyroidism,—

- (a) replace “29/2013” with “3/2022”; and

(b) replace “30/2013” with “4/2022”.

In the item relating to malignant neoplasm of the colorectum,—

(a) replace “malignant neoplasm of the colorectum” with “malignant neoplasm of the colon and rectum”; and

(b) replace “37/2013” with “19/2022”; and

(c) replace “38/2013” with “20/2022”.

In the item relating to motor neurone disease,—

(a) replace “67/2013” with “111/2021”; and

(b) replace “68/2013” with “112/2021”.

In the item relating to narcolepsy,—

(a) replace “7/2014” with “11/2022”; and

(b) replace “8/2014” with “12/2022”.

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Schedule 2

Schedule 2A amended

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Replace the item relating to chronic solvent encephalopathy with:

chronic solvent-induced neurocognitive disorder

Replace the item relating to Graves' disease with:

Graves disease

Replace the item relating to Hashimoto's thyroiditis with:

Hashimoto thyroiditis

Replace the item relating to malignant neoplasm of the colorectum with:

malignant neoplasm of the colon and rectum

Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 22 April 2022, amend the Veterans' Support Regulations 2014 (the **principal regulations**).

Regulation 4 and Schedule 1 amend Schedule 1 of the principal regulations, which lists the Australian statements of principles (the **statements**) that apply to specified medical conditions for the purposes of the Veterans' Support Act 2014 (the **Act**). The amendments—

- replace the names of 4 conditions in order to reflect the statements (the new names are chronic solvent-induced neurocognitive disorder, Graves disease, Hashimoto thyroiditis, and malignant neoplasm of the colon and rectum):
- update references to the statements for the above-mentioned conditions and for 8 other conditions (aortic stenosis, colorectal adenoma, gingivitis, goitre, hyperthyroidism and thyrotoxicosis, hypothyroidism, motor neurone disease, and narcolepsy):
- insert the name of a new condition (gender dysphoria) and references to 2 new statements related to that condition.

Regulation 5 and Schedule 2 amend Schedule 2A of the principal regulations, which lists accepted late-onset conditions for the purposes of the definition of accepted late-onset condition in section 7 of the Act. The amendments replace the names of 4 accepted late-onset conditions with their new names (chronic solvent-induced neurocognitive disorder, Graves disease, Hashimoto thyroiditis, and malignant neoplasm of the colon and rectum).

Veterans' Support Amendment Regulations (No 2) 2022

Issued under the authority of the Legislation Act 2019.

Date of notification in *Gazette*:

These regulations are administered by the New Zealand Defence Force.

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