

# Departmental Disclosure Statement

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The Veterans' Support Amendment Bill
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The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by the New Zealand Defence Force (Veterans' Affairs).

The New Zealand Defence Force (Veterans' Affairs) certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

13 May 2019

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## Part One: General Policy Statement

The Veterans' Support Act was passed in 2014 and introduced a more modern regime for rehabilitating and supporting veterans who have qualifying operational service.

The 2014 legislation changed the criteria for qualifying operational service. Those now in force cover a broad range of operational and environmental threats. The previous Act had referred only to service in war and emergencies.

Contemporaneous documentation confirms that it was intended that the responsible Minister could make declarations of qualifying operational service before, during, or after deployments. The legislation has been interpreted accordingly, and a number of deployments, which had originally been considered against the criteria that applied under previous legislation, have been reassessed under the new criteria now in place, to ensure equity and consistency for all who have served. Further such assessments are under way.

Advice has now been received which indicates that the interpretation of section 9 could not be stretched to provide jurisdiction to make declarations in respect of historical (retrospective) deployments (i.e. deployments that have already ceased). There is also a strong indication that section 9 may apply only to deployments that BEGIN after the date the new legislation commenced.

Since 2015, Ministers have made 14 historical declarations, covering multiple missions and geographical areas. These affect approximately 675 veterans, spouses and family members (including families of Service personnel killed in action).

Work now under way in Veterans' Affairs – and widely promulgated to veterans – is a continuation of this work. The first tranche of the programme has considered 39 deployments in three geographical areas. It could result in declarations that would extend entitlements to around 1,600 veterans. There are further tranches to be examined which would be likely to create additional entitlements for veterans not currently covered by the legislation.

The bill is intended to make legal the historical declarations which have already been made; and to enable the responsible Minister to make such declarations in the future. This will ensure that all those who served New Zealand in situations where they were put at risk of serious harm are treated equitably.

## Part Two: Background Material and Policy Information

### Published reviews or evaluations

<b>2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?</b>	<b>YES</b>
Report 115 of the Law Commission – A New Support Scheme for Veterans: A report on the Review of the War Pensions Act 1954, May 2010. This report recommends (Chapter 3, para 3.37) the policy which this bill would give effect to.	

### Relevant international treaties

<b>2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?</b>	<b>NO</b>
<b>2.2.1. If so, was a National Interest Analysis report prepared to inform a Parliamentary examination of the proposed New Zealand action in relation to the treaty?</b>	<b>N/A</b>

### Regulatory impact analysis

<b>2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?</b>	<b>NO</b>
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### Extent of impact analysis available

<b>2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?</b>	<b>NO</b>
<b>2.5. For the policy to be given effect by this Bill, is there analysis available on:</b>	
(a) the size of the potential costs and benefits?	<b>NO</b>
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	<b>NO</b>
<b>2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:</b>	
(a) the level of effective compliance or non-compliance with applicable obligations or standards?	<b>NO</b>
(b) the nature and level of regulator effort put into encouraging or securing compliance?	<b>NO</b>

## Part Three: Testing of Legislative Content

### Consistency with New Zealand's international obligations

<b>3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?</b>
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NZDF (Veterans' Affairs) has analysed the bill, and has not identified any aspects of it that are inconsistent with New Zealand's international obligations.

### Consistency with the government's Treaty of Waitangi obligations

<b>3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?</b>
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NZDF (Veterans' Affairs) has analysed the bill, and has not identified any aspects of it that are inconsistent with the principles of the Treaty of Waitangi.

### Consistency with the New Zealand Bill of Rights Act 1990

<b>3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?</b>	<b>YES</b>
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Advice has been provided to the Attorney-General by the Crown Law Office. This advice will be available on the Ministry's website at <https://www.justice.govt.nz/justice-sector-policy/constitutional-issues-and-human-rights/bill-of-rights-compliance-reports/>  
<https://www.justice.govt.nz/justice>

### Offences, penalties and court jurisdictions

<b>3.4. Does this Bill create, amend, or remove:</b>	
<b>(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?</b>	<b>NO</b>
<b>(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?</b>	<b>NO</b>

<b>3.4.1. Was the Ministry of Justice consulted about these provisions?</b>	<b>YES</b>
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The Ministry of Justice was consulted as to whether the amendment would be appropriate for inclusion in a Statutes Amendment Bill. Their advice was that this would not be appropriate; and the amendment has therefore been drafted as a stand-alone amendment bill.

### Privacy issues

<b>3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?</b>	<b>NO</b>
<b>3.5.1. Was the Privacy Commissioner consulted about these provisions?</b>	<b>NO</b>

### External consultation

<b>3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?</b>	<b>NO</b>
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### Other testing of proposals

<b>3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?</b>	<b>NO</b>
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## Part Four: Significant Legislative Features

### Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO
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### Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO
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### Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	YES
The retrospective effect of the bill is in line with the Legislation Guidelines (2018), which state (Chapter 12) that retrospection is appropriate if it is intended to “validate matters generally understood and intended to be lawful, but that are, in fact, unlawful as a result of a technical error”. No one will be adversely affected by the retrospective provisions.	

### Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO

### Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO
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### Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	NO
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### Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	NO
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4.8. Does this Bill create or amend any other powers to make delegated legislation?	NO
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**Any other unusual provisions or features**

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	NO
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