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OIA-2026-5715
OIA-2026-5723
OIA-2026-5739
OIA-2026-5740
OIA-2026-5752

16th April 2026

Spencer Jones

fyi-request-34113-9fcc0ab@requests.fyi.org.nz

Dear Spencer Jones

I refer to your recent requests for information, under the Official Information Act 1982 (OIA), relating to the Veterans' Advisory Board (VAB) and its recommendations, as follows:

- 17 March 2026 – seeking documents and correspondence responding to or recording implementation of VAB recommendations (ref OIA-2026-5715);
- 17 March 2026 – transferred from the Department of the Prime Minister and Cabinet, seeking a list of briefings prepared for the Minister for Veterans discussing advice from the VAB (ref OIA-2026-5739);
- 18 March 2026 – transferred in part from the Department of the Prime Minister and Cabinet, seeking Cabinet-level consideration of matters informed by advice from the VAB (ref OIA-2026-5740);
- 21 March 2026 – seeking confirmation of systems to record VAB advice and implementation of recommendations, as well as any system for monitoring performance across government's support for veterans (Ref OIA-2026-5723); and
- 1 April 2026 – seeking specific records relating to VAB advice held by the secretariat of veterans' boards (ref OIA-2026-5752).

As your various requests substantively concern the same, or similar, information they have been considered together. There is no responsibility within the New Zealand Defence Force (NZDF) or Veterans' Affairs (VA) to consider, implement, or monitor advice or recommendations from the VAB beyond requests or direction from the Minister. In order to respond efficiently to your requests, and avoid unreasonable impairment of the operational functions of the NZDF and VA, the scope is limited to information provided to the current Minister for Veterans, who was formally appointed in November 2023.

The secretariat of veterans' boards is not a separate agency or organisation. It is a small team within VA that works to assist the VAB, Veterans' Health Advisory Panel, Veterans' Entitlements Appeal Board and Veterans' Service Review Panel to run efficiently while remaining independent. The secretariat maintains its own records resulting from this support. As the secretariat is part of VA, and therefore the NZDF, any such records are reviewed where appropriate in response to requests made to the NZDF.

There is no single, centralised system used to monitor or coordinate veterans' support activity across all government agencies. Veterans' support is delivered through a range of legislative frameworks and agencies, each with its own accountability and reporting arrangements. Coordination across the broader veterans' system is supported through policy frameworks, inter-agency engagement, and collaborative mechanisms, including Te Arataki: the Veterans' Wellbeing and Mental Health Strategy, which provides a shared strategic direction rather than an operational monitoring tool.

The VAB is an independent statutory board that provides advice, on request, directly to the Minister for Veterans. The VAB and its functions are established under section 247 of the Veterans' Support Act 2014. While the NZDF and VA provide administrative and logistic support for the VAB (via the secretariat), and provide advice or information to the VAB on request, there is no centralised implementation register for VAB recommendations, as there is no statutory or administration requirement to create such a record. Where advice from the VAB results in a ministerial request for further analysis or action, standard policy and briefing processes apply.

The following list provides relevant information on advice that was provided to the current Minister for Veterans:

1. 24 November 2023 – Briefing to the Incoming Minister for Veterans

This briefing includes reference to some matters raised by the VAB. It is publically available on the VA website¹.

16 February 2024 – Background Notes for Visit to Minister for Veterans of Veterans' Advisory Board Members

A copy is provided at Enclosure 1.

2. 19 April 2024 – Background on Potential Priorities for the Veterans Portfolio

The NZDF and VA provided background context of potential priority areas within the Veterans portfolio for consideration. One item raised was with regard to the potential widening of the definition of the term veteran within legislation. The VAB has previously provided a report on this matter:

Priorities - Establishing a Wider Definition of Veteran - General

4. This is a complex issue and has been the subject of work in the past - we would be happy to provide a full briefing to the Minister which would set out the background to the issue and the practicalities that would need to be considered and worked through.

5. If the Minister's priority is to make a decision on whether work should be done that would enable him to make a decision on this matter, that briefing, including a possible pathway forward, could be provided by May/June 2024.

Establishing a Wider Definition of Veteran – Without Access to Entitlements

¹ <https://www.veteransaffairs.mil.nz/assets/Documents/Briefing-to-the-Incoming-Minister-for-Veterans-November-2023.pdf>.

6. We are not certain how a wider definition to include veterans without access to entitlements would be established, but the comments below are offered with respect to a possible change to the legal definition used in New Zealand:

a. That definition is contained in the Veterans' Support Act 2014. An extension through the Act would require a third part to be added to the definition of a veteran, so that it would cover those with Qualifying Operational Service, those with Qualifying Routine Service, and those who have served in the NZDF but have no entitlements.

7. This option has been explored in the past with the following points noted:

a. While numbers are not firm, the usual estimate is that, of the approximately 120,000 thought to have served in the NZDF, only around 40,000 are currently eligible for support and services from VA.

b. Given that the role of Veterans' Affairs is to administer the Veterans' Support Act 2014, a legal change that could bring another 80,000 or so former personnel into

its purview would increase the number of "potential clients" for VA. The change would make quite a stark point that there are still "two classes of veterans" – rather than those covered by the Act and those not, it would become those with entitlements and those without.

c. While the intention (at present) would be that the broader group would have no entitlements, there is a high risk that those concerned would expect something to accompany their change of status. Any additional pressure from clients to deliver any services, including non-financial recognition, could not be managed by VA without a significant boost to resources.

d. Although it would seem a simple thing to change the legislation to insert a broader definition, this would in fact require major changes to the Act. The Act's purpose would change - the purpose clause currently specifies that it is intended to provide for the rehabilitation and support of veterans who, as a result of being placed in harm's way, have been injured or become ill. Changing the purpose to include recognition of all who have ever served is a major policy change that would require consultation.

e. The work involved in embedding such a change into the legislation would be complex. The term "veteran" is an integral and fundamental part of the Veterans' Support Act 2014. Should the term be redefined, without any change being made to eligibility for entitlements, the Act's title would become a misnomer and would have to be changed so as not to mislead. A new term would need to be identified, other than veteran, with which to refer in the legislation to those with entitlements; and any form of circumlocution to replace the single word now used could make it more difficult to deal with what Professor Ron Paterson described in his 2018 review of the operation of the Act as legislation which is already cumbersome and complex.

f. Every reference in the Act to a "veteran" in association with entitlements,

would need to be changed; and there would be other changes needed where the term is used in other pieces of legislation or involving agencies other than Veterans' Affairs (for example, it might be necessary to rename the Veteran's Pension, and the Veteran SuperGold card so as not to raise expectations that cannot be met). The detailed policy work that would be required to ensure accurate drafting instructions, and the time required to allow for feedback and consultation on what is produced, would be significant and not without cost.

g. Drafting the changes would be the responsibility of the Parliamentary Counsel Office (PCO), so consideration would need to be given to whether this work could be accommodated in the PCO work programme.

8. With respect to a non-legislative change to the way in which this term is used by the Government when referring to those who have served, the following points are noted.

A Non-Legislated Change to the Way the Term "Veteran" is used by Government

9. This was the option taken by a previous Minister for Veterans and Minister of Defence, Hon Ron Mark.

10. He noted that there were a number of implications that would need to be worked through regarding any possible extension of the legal definition of "veteran" in New Zealand that would involve an extension of entitlements. These would include what should be the basis of veteran legislation and the costing of various scenarios, as discussed in the previous section.

11. In a public statement, therefore, he said that, in the meantime, he would be using the term "veteran" in line with a broader inclusive definition (covering all those who have served in the NZDF) - with the proviso that this would only be done "where this does not impact on the use of this term as otherwise defined in legislation".

International comparisons

12. Definitions vary across countries, with criteria including length of service, participation in specified operations, and method of discharge (dishonourable discharges disqualifying one from being considered a veteran in Canada and the US).

13. The following are some general comments on international veteran support provisions:

a. Overseas countries provide health care and social welfare support in varied ways that can differ markedly from New Zealand.

b. The systems governing support of servicepersons overseas are designed around the unique health and welfare environments of each country.

c. It is common for the provision of support to be governed by multiple pieces of legislation/regulation with complex eligibility criteria, variation in coverage and entitlements under different Acts.

d. Coverage may be broader overseas and include all service in the forces as well as others, including civilians, at particular times and specified circumstances.

e. Systems overseas integrate a wider umbrella of support across government and non-government agencies.

f. Coverage of larger population groups may impact on individuals' access to services and support as all systems have resource constraints.

14. Because the health and welfare environment and veterans' systems in each country are so different from New Zealand's own health and welfare environment and veteran system, there is limited value in comparisons. They demonstrate, however, that the greater the population that is covered, and the wider the range of support that is offered, the more complex a system will be; and the more challenges there will be to ensure that resources reach those who need them the most.

3. 8 July 2024 – Recognition of Service People Through Burial and Memorialisation – Veterans Advisory Board Report 18 December 2023

This briefing is publically available on the VA website².

22 August 2024 – The Definition of “Veteran” in New Zealand: Options for Moving Forward

A copy is provided at Enclosure 2. This does not reference VAB recommendations directly, but the VAB has provided advice on this matter.

4. 17 October 2024 – Veterans’ Affairs: 2024 Work Programme

The following is an excerpt of relevant advice within a briefing to the Minister’s office on VA’s 2024 work programme:

Definition

- *The current definition of “veteran” in the Veterans’ Support Act 2014 is limited, because the Act is targeted legislation, recognising and supporting those who are specifically sent by the Government into areas and situations that put them at significant risk of harm.*
- *Consideration is being given to whether and how a legal definition of veteran could be broadened to cover more of those who have served.*
- *What if any entitlements could be made available to the broader group is one of the issues being considered:*
 - *Approximately 40-45,000 individuals are currently eligible for entitlements under the Veterans’ Support Act 2014 (with less than half this number currently claiming).*
 - *NZ’s total service population could number upwards of 140,000.*
- *Services to veterans are costed on a liability basis - the sum involved is currently around \$3 billion.*
- *If the definition were to be changed to provide similar entitlements to all who have served, the substantial increase in the number of veterans who would be eligible for support or services could significantly increase the size of the liability.*
- *Consideration is being given to entitlements that could be made available to the broader group which would have little if any cost.*

² <https://www.veteransaffairs.mil.nz/news-events/articles/vab-report-recognition-of-service-people-through-burial-and-memorialisation/>.

Covenant (Kawenata)

- *If established, a Covenant would have at its core an undertaking by the government and people of New Zealand that those who have served should not be disadvantaged by their service.*
- *Likely to be broader than the Veterans portfolio as the call is for it to cover all who have served including serving personnel.*
- *Currently under early consideration as to the form it could take (e.g. statement of principles, legislation, treaty), any associated entitlements, and who could administer it.*
- *Other countries have such covenants (UK and Australia).*

The Veterans' Recognition Bill, introduced on 14 August 2025, embodies in part a response to the above advice. Its purpose is to introduce a broader definition, recognising more former soldiers, sailors and aviators as veterans, without altering the existing definitions or related entitlements.

Further material directly relating to the drafting of this Bill and its introduction is withheld, for the time being, in accordance with section 9(2)(f)(iv) of the OIA, to maintain the constitutional conventions which protect the confidentiality of advice tendered by Ministers of the Crown and officials.

You have the right, under section 28(3) of the OIA, to ask an Ombudsman to review this response to your request. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

Please note that responses to official information requests are proactively released where possible. This response to your request will be published shortly on the NZDF website.

Yours sincerely

GA Motley

Brigadier

Chief of Staff HQNZDF

Enclosures:

1. Background Notes
2. The Definition of "Veteran" in New Zealand: Options for Moving Forward

**BACKGROUND NOTES FOR VISIT TO MINISTER FOR VETERANS HON CHRIS PENK BY
MEMBERS OF THE VETERANS' ADVISORY BOARD: 22 FEBRUARY 2024**

- The Veterans' Advisory Board was established under the Veterans' Support Act 2014 (the Act). It has been operating since 2015.

Membership

- The Act specifies membership (not more than seven members plus one serving veteran nominated by the Chief of Defence Force – ex officio).
- Members are appointed as individuals, not as representatives of an organisation.
- At present the Board has six members plus the New Zealand Defence Force (NZDF) appointee and his deputy:
 - Chair – Leith Comer
 - Fiona Cassidy
 - BJ Clark
 - Baden Ewart
 - Denise Hutchins
 - Glenis Philip-Barbara
 - WO1 Mark Mortiboy (NZDF ex officio appointee)
 - CDR Kate Ayres (deputy member for ex officio NZDF appointee)
- There is one vacancy – the Deputy Chair, Chester Borrowes, died in 2023 and was not replaced.
- All appointments are due to lapse in July 2024.

Function

- The Board's function is to provide advice to the Minister for Veterans, including advice on policies to be applied in respect of veterans' entitlements.

Reports

- Since its inception, the Board has provided reports to responsible Ministers on a number of topics, including the following:
 - Family and whānau members covered by the Veterans' Support Act 2014 (2016).
 - Support for a spouse or partner under the Veterans' Independence Programme (2016).
 - The ability of estates to continue claims, reviews and appeals following the death of a veteran (2017).

- The circumstances that should limit the rights of a spouse or partner to receive a surviving spouse or partner pension (2017).
- Consideration of repatriation policy relating to New Zealanders interred overseas as a result of a military burial between 1 January 1948 and mid-1970 (2017).
- What constitutes a veteran and how should their service in the armed forces be recognised? (2019).
- A possible Covenant between Service personnel and the Government and People of New Zealand (2020).
- Better recognition of serving people (serving and former) and their whānau (2021).
- Kawenata – overseas-based covenants (2022).
- Review of the principles relating to recognition of service through the burial and memorialisation of veterans (2023).

Major Issues

- The Board has previously indicated that it is disappointed that its recommendations on the two issues of definition and Kawenata have not been actioned by government(s).
- It is particularly keen to continue work on the Kawenata concept and how this can be implemented.
- These two issues are broader than simply the Veterans portfolio. Both relate to the entire Defence community (serving personnel, and all former service personnel, not only those covered by the Veterans' Support Act 2014). They raise questions that would need inter-departmental consultation and Government policy decisions.



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NEW ZEALAND



BRI-052 23-24
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22 August 2024

Minister for Veterans

THE DEFINITION OF “VETERAN” IN NEW ZEALAND: OPTIONS FOR MOVING FORWARD

Purpose

1. The purpose of this paper is to brief you on options for legislation in New Zealand that would provide recognition, through use of the term “veteran”, for all those who have served.
2. It seeks your views on whether:
 - a. work should commence on the policy and practical implications of amending the legal definition of “veteran” within the current Veterans’ Support Act 2014 without extending eligibility for the benefits that are available under that Act; or
 - b. work should instead be done to explore alternative means of recognising those who have served, but who do not meet the criteria for the definition within the present legislation.

Part 1: Background

3. The legal definition of “veteran” in New Zealand is contained in section 7 of the Veterans’ Support Act 2014.
4. That definition does not cover everyone who has served in the New Zealand Defence Force (NZDF), and this means that not everyone who has served in our armed forces qualifies for the entitlements (support and services) that are available under the Act. The reasons for this are not well understood by the general public, and the Act is often described as unfair and discriminatory by personnel who served in the armed forces, but who do not come within the legal definition of “veteran”.
5. The limitation on entitlements, however, is intentional.
6. It is based on the premise that the Act should recognise and support those who are specifically sent by the Government into areas and situations that put them at significant risk of harm. Government legislation is able to target particular social groups especially deserving of support and this does not constitute discrimination.¹

¹ Examples of specially targeted legislation that exists includes the health legislation, the Social Security Act 2018 and the Retirement and NZ Superannuation legislation.

How the current arrangement was arrived at

7. Before the present Act came into force in New Zealand, veterans were covered under the War Pensions Act 1954. By the early 2000s, this legislation was widely recognised as being out-of-date and no longer able to meet veterans' needs. The system was frustrating, had the potential for inconsistency, and in many ways, was just not working.

8. The Law Commission, led by Sir Geoffrey Palmer, was tasked in 2007 with reviewing the legislation and identifying a more appropriate support scheme to replace it.

9. Following a lengthy process, the Law Commission recommended a new law to set in place "a fair and modern scheme to address the needs of a diverse veteran population"². It would also take into account the changes to the healthcare landscape that had resulted from the introduction of the ACC system in New Zealand from 1 April 1974.

10. The Law Commission considered that exposure to significant risk of harm on behalf of the state should be the defining factor in creating a Government obligation.

11. In their view, it is not military service of itself that gives rise to an obligation, but rather exposure to extraordinary risk when serving the country. This could involve potentially life-threatening action against a hostile enemy, or extreme environmental conditions that are unlike what a person would expect, or choose to experience, in standard employment and living circumstances.

12. They noted that, because New Zealand has the ACC to provide support and compensation for workplace injuries, something special was needed to justify a scheme that offers a group of New Zealanders extra cover and entitlements on top of ACC:

The risk and type of activities involved in routine service in the defence force can be likened to that in other employments, such as the police or fire service. It is only when a service person is placed outside of their usual circumstances and faces actual risk of harm from a conflict situation or an extreme environment that there are grounds for a special entitlements regime to apply.³

13. They therefore recommended new legislation to recognise that veterans would be entitled to the same assistance as ordinary New Zealanders in a similar position receive, while providing:

a margin of additional support for veterans and their family members who have been adversely affected by service, in order to acknowledge the impacts of being placed in harm's way in service of the state.⁴

14. The principle, therefore, underlying the modernised legislation that passed in 2014, was that it would provide additional support—not for all who have served—but for those who were placed in harm's way by their service. This support would be delivered through, and administered by, Veterans' Affairs.

² Law Commission 2010 *A New Support Scheme for Veterans: A report on the review of the War Pensions Act 1954*.

³ *Ibid*, page 56

⁴ *Ibid*, page 6

Part 2: The future

15. You have advised us that your current view is that the arguments made at the time for the new legislation to be targeted remain valid.

16. While you do not see it as appropriate to extend the benefits available under the Act to all who have served, you wish to address the matter of how the term “veteran” is used in New Zealand. There are two main reasons for doing so:

- a. The use of the term in New Zealand legislation causes confusion. The legal definition in the Veterans’ Support Act 2014 does not mesh with the broader use of the term in everyday language; neither does it mesh with the more inclusive use of the term in veteran legislation of Five Eyes partner nations.
- b. Those who have served tend to see the term “veteran” itself as a positive form of recognition for what is often long and honourable service, albeit service which does not meet the criteria in the Veterans’ Support Act 2014, and they resent feeling that they are being denied recognition because they are not legally seen as veterans.

17. You have asked for options on dealing with these issues which:

- a. would recognise those who have served, but who do not meet the definition criteria within the Veterans’ Support Act 2014; and
- b. would not extend the benefits currently available under the Veterans’ Support Act 2014 beyond those currently eligible for those benefits.

18. The following options are presented for your consideration.

Option A: Extend the definition within the Veterans’ Support Act 2014

19. This option would involve an amendment to the current legislation that would extend the purpose of the legislation from “support” to “support and recognition”.

20. There are a number of other changes that it would be helpful, although not urgent, to make to the Act. While Veterans’ Affairs can, in general, operate effectively and legally under present arrangements until this is done, there may be a need from time to time to respond to new circumstances. We are aware, for example, that Australia plans to move to a new piece of legislation that will have flow-on effects here. While the details of this are not yet known, it seems likely at this stage that it would require technical amendments to the Veterans’ Support Act 2014, relating to how New Zealand adopts Statements of Principles and presumptive conditions.

21. Technical and minor amendments may be able to be accommodated within a Statutes Amendment Bill. A change to the definition of “veteran”, however, is not one of those. It goes to the heart of the Act, and – when a full review of the Act is undertaken – it will certainly be fundamental to that review.

22. Should there be a wish to review the Act in the immediate future, so as to make all the necessary or desirable changes, we would recommend that this should be the avenue taken to examine any possible change to the “veteran” definition. This is, however, a relatively complex solution. It is unlikely to be able to be delivered quickly.

23. A full review is also likely to require a Budget bid.

Legal Issues

24. Embedding a broader definition would change the Act's purpose. The term "veteran" is an integral and fundamental part of the Veterans' Support Act 2014, and options for progressing such a change would have to be worked through. The Parliamentary Counsel Office (PCO) could advise on this.

25. The purpose statement currently specifies that the Veterans' Support Act 2014 is intended to provide for the rehabilitation and support of veterans who, as a result of being placed in harm's way, have been injured (including fatally) or become ill. Changing the purpose to include recognition of all (or a large proportion of those) who have ever served is a policy change that would require consultation.

26. Should the term be redefined, without any change being made to eligibility for entitlements and support, the Act's title would become a misnomer and would have to be changed so as not to mislead.

27. At its simplest, a new Part of the Act could be added that would cover those who are neither Scheme 1 veterans nor Scheme 2 veterans, but veterans with routine service in the New Zealand Armed Forces after 1 April 1974. If this were to be done, the content of that Part of the Act would need careful consideration, in order to justify providing legislative status for a large group of individuals who would have few, if any, entitlements under the Act.

28. It may be possible to consider providing some tangible entitlements for the group, but this would have resourcing implications (see below).

29. Nonetheless, without the new "veteran" definition being tied to having some entitlement, support or service, it has no real purpose and is of limited value, and may thus disappoint the group it is designed to placate.

30. Detailed policy work would be required to ensure accurate drafting instructions, and the time required to allow for feedback and consultation on what is produced would be significant and not without cost.

31. Drafting the changes, whether minor or significant, would be the responsibility of the PCO. PCO could not commence work until Cabinet had approved the policy underlying the proposed Bill, and assigned it legislative priority. That would determine whether this work could be accommodated in the PCO work programme.

Veteran Perceptions

32. Broadening the legal definition so that it covers everyone who has served in the New Zealand Armed Forces (or a large proportion of those) would meet the basic requirements of those calling for a change.

33. However, uncoupling it from the entitlements that are specified in the Act might lead to additional problems. It could, for example, be seen as perpetuating two classes of veterans. While both would now be under the same legal umbrella, some would have entitlements to support and services, while others would not. It is likely to lead to pressure for some entitlements to be associated with the new definition. It could also lead to litigation in an effort for the newly-defined "veterans" to obtain the same entitlements, support, and services as current veterans enjoy.

Resourcing

34. Para 28 above notes the possibility of making available some tangible entitlements for those newly defined as veterans.

35. Veterans' Affairs is responsible for administering the Act and ensuring that it delivers what it is legally mandated to deliver. Any added pressure from this group to provide additional services, even non-financial services such as registration, or communications, could not be managed by Veterans' Affairs without a boost to resources.

36. It is assessed that around 40,000 former service personnel are currently eligible for support from Veterans' Affairs, with fewer than half that number currently registered, and only around a quarter of that number being actively managed or receiving financial entitlements. An extension of the definition could increase the number potentially covered by the legislation to around 120,000.

37. Newly defined veterans are likely to have expectations of Veterans' Affairs as the responsible agency, even if only to enquire about what might be available to them, to sign up for newsletters, or to be navigated elsewhere. This could not be managed within current resources. If it were determined that some minor entitlements should be made available to the newly defined veterans (such as, for example, a pin or a certificate), administering such entitlements would require additional resources again.

38. Making this new group eligible for more substantial entitlements, such as the Veteran's Pension and/or Veteran's SuperGold Card, would also have an impact on resources. These options would require consultation with Ministry of Social Development (MSD), as MSD administers these entitlements. It would involve some cost, primarily to MSD who administer the Pension and the cards, and MSD would have to consider what priority they could give to such work.

39. There would also be some additional cost for Veterans' Affairs and the NZDF, as there would be a significant increase in the number of checks that would have to be undertaken.

Option B: Introduce new legislation: a Veterans' (or Military Veterans') Recognition Act

40. This option would require a new piece of legislation to be passed. Exactly what that legislation would cover would need to be developed as part of a policy programme.

Australian Example

41. Australia passed legislation that focused on recognising veterans in 2019—the Veterans' Recognition (Putting Veterans and Their Families First) Act 2019. It is a brief, seven-page Act, with four parts plus a schedule. A copy is enclosed.

42. The purpose of the Australian Act is to "acknowledge the unique nature of military service and the sacrifice of those who commit to defend [the] nation". It includes a definition of a veteran as "a person who has served or is serving, as a member of the Permanent Forces or as a member of the Reserves".

43. Section 5 of the Act covers general recognition. It acknowledges the unique nature of military service and the demands and sacrifices of veterans' families. It acknowledges that they may require support mechanisms to enjoy social wellbeing or community involvement after their service; and that support should be provided in a way that respects their dignity, enhances their self-esteem, is sensitive to physical or mental injury or disease they may

have suffered and respects their military service. It commits to supporting veterans and providing the care and support that they require.

44. The Act covers the issue of “pins, cards, and other artefacts” to veterans in recognition of their military service.

45. It also covers the Australian Defence Veterans’ Covenant, and commits to decision-makers making decisions in a way that benefits veterans or their families when interpreting provisions in the three other Acts which are part of a suite of veteran-related Acts in Australia: the Veterans’ Entitlements Act 1986; the Military Rehabilitation and Compensation Act 2004 and the Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988, and their associated instruments.

Comment

46. Some of the matters covered in the Australian Act are already covered in New Zealand’s Veterans’ Support Act 2014 with respect to the entitlements which are due to those defined as veterans in that legislation – for example a commitment to providing care and support, and the principle of benevolence in the approach taken to claims.

47. Given the different situations in Australia and New Zealand, consideration would need to be given as to how far a Recognition Act in New Zealand could go in committing to provide care and support for all who have served.

48. It could, however :

- a. acknowledge and recognise military service;
- b. confirm that all who have served (or all who have served for a particular length of time) are considered to be veterans **for the purpose of this Act**;
- c. establish eligibility in the Act for minor symbolic recognition (for example veteran pins and certificates of appreciation); and
- d. confirm eligibility for the sort of entitlements that are currently provided to serving and former personnel and their families—such as entitlements under the Force for Families arrangement, and limited mental health support (for NZDF-related matters) through the NZDF4U telephone help line.

49. Consideration could be given to whether reference should be made in this legislation to medallic recognition, and also to more substantial entitlements such as a veteran’s Pension or Veteran SuperGold Card.

50. A covenant or kawenata, such as exists in Australia, has also been proposed for New Zealand, and could perhaps be a natural fit with any Recognition Act in this country. Consideration of this matter is being led by the NZDF. Both legislative and non-legislative options are still under consideration.

Legal Issues

51. A new Bill would need to go through the full legislative process. Policy work would be required before Cabinet could consider taking it forward. It would then need to be assigned priority and fitted into the PCO work programme.

52. There would have to be consideration of whether New Zealand law could encompass what would effectively be two definitions of veterans – albeit, each would be for the

purpose of a particular Act – or whether small tweaks to the wording may suffice (such as calling those covered by a new Recognition Act by some term such as “military veterans”; and the legislation itself the Military Veterans Recognition Act).

Veteran Perceptions

53. An Act as proposed would address the calls of former service personnel who wish to be “officially” known as, and able to call themselves “veterans”. The name of the Act would confirm that New Zealand officially recognises them for their service.

54. The question would again be, however, whether any entitlements which such an Act could make available would be sufficient to satisfy those who feel that all who have served should have all of the entitlements available under the Veterans’ Support Act.

Resourcing

55. Veterans’ Affairs is a small agency specifically responsible for administration of the Veterans’ Support Act 2014. While it may be able to manage the policy work involved in consulting on and developing a proposal for a new Act, it is noted that Veterans’ Affairs has had to employ contractors to assist in the past when developing legislation. Funding for this work would need to be found.

56. Should even minor new entitlements be made available to recognise service under this legislation, this would inevitably come at a cost, both for administration of those benefits and for costs directly associated with what is being provided.

57. Extending its mandate to administer a Veterans’ (or Military Veterans’) Recognition Act as well as the Veterans’ Support Act would certainly require an increase in Veterans’ Affairs resources.

58. One option would be for a Recognition Act to be administered by the NZDF.

59. A significant number of those covered by this Act would be currently serving NZDF staff and their families. Most of the entitlements that might be referred to in this legislation are managed by the NZDF – for example, the Force 4 Families and NZDF4U arrangements, and medallic recognition. Should the new Act cover some token entitlements, such as pins and certificates, these could be issued to current staff on transition from service. Additional resource, however, could be required to manage issue to those personnel who are no longer with the NZDF, or to serving personnel, if it were to be decided that they would qualify for such recognition prior to leaving service.

60. Should it be decided that entitlements under a Recognition Act should include a Veteran’s Pension or Veteran SuperGold Card, then the resourcing implications for MSD, as described in Para 38 above, would again be relevant.

Option C: Cover recognition of those who have served in an amended Defence Act

61. The Defence Act 1990 gives the legal basis for the Armed Forces and their activities, and sets out the overall purpose of the Defence Force and the Ministry of Defence.

62. Parts of the Defence Act are over 50 years old, and it will eventually need a full review. In due course, this full review could provide a vehicle to formalise recognition of those who have served, including through formalising the use of the term “veteran” for these people.

63. However, the desired change would not solve the immediate problem of nomenclature which is the cause of discontent for many former service personnel who do not meet the criteria in the Veterans' Support Act 2014. This review may also take some years to complete and has not yet been commissioned.

64. As you know, work is currently underway on a targeted review to modernise parts of the Defence Act. Incorporation of this issue, however, would likely delay the delivery of this review and resolution for more urgent aspects of NZDF activity.

Option D: Send this issue to the Law Commission for advice and recommendations

65. The Veterans' Support Act 2014 was the product of a Law Commission review and lengthy consultation with the veteran community.

66. The advantages of this option are that the Law Commission could:

- a. advise on any legal issues and the drafting and design of an altered scheme of the Veteran's support Act 2014 in a holistic way;
- b. consider overseas models such as the Australian Act;
- c. conduct consultation with agencies and the veteran community on the proposal; and
- d. gather consensus and reduce the risk of litigation challenges.

Legal Risks with Options

67. None of the options described above would result in all who have served in the NZDF receiving the same level of entitlements as those who are currently covered by the Veterans' Support Act 2014. This presents some risk.

68. An extension to the definition through the present Veterans' Support Act 2014 (Option A) would require a third part to be added to the "veteran" definition. The new definition would cover those with qualifying operational service; those with qualifying routine service before 1 April 1974; and those who have routine service in the NZDF after 1 April 1974.

69. Given that the justification for including this latter group would solely be recognition of service, it would need to be ring-fenced to provisions that only relate to that recognition of service. There would need to be an application provision in the Act which specified the current entitlements and support and services that apply to current veterans or there would be legal risk created. The legal risk would be that those who have routine service in the NZDF after 1 April 1974, or third parties who have not served in the NZDF, will litigate to have the current veteran entitlements, support and services in the Act applied to them.⁶

70. The legal risk for Option A is regarded as medium. It would only be 'high' if a court took a broader view than the legislation provides, or if the Ombudsman took a broader view than the legislation provides. The risk does not arise from amending the definition of 'veteran' to provide for recognition itself as opposed to the status quo. The legal risk increases because of an amendment to the Veterans' Support Act 2014 itself.

71. The legal risk associated with Option B or Option C is regarded as low.

⁶ The NZDF is currently aware of a challenge by a person who has not served in the armed forces to be a veteran.

72. There is no legal risk with Option D. There is, however, a risk that former service personnel who are not currently considered to be veterans, and who are impatient for change, would see this option as delaying, potentially for years, any change to the status quo.

Recommendations

73. It is recommended that you:

- a. **Note** that the Veterans' Support Act 2014 is targeted legislation, intended to provide rehabilitation, support and entitlements for those veterans who, as a result of being placed in harm's way in the service of New Zealand, have been injured or become ill.

Noted

- b. **Note** that the discrepancy between the use of the term "veteran" in the Veterans' Support Act 2014, and its use in everyday language and in legislation in other countries, has given rise to calls from former service personnel for the New Zealand definition to be extended.

Noted

- c. **Note** that options to extend the definition of "veteran" in New Zealand to recognise all or a large proportion of those who have served in the New Zealand Armed Forces include:

- (1) an amendment to the Veterans' Support Act 2014; or
- (2) the introduction of a new Veterans' (or Military Veterans') Recognition Act; or
- (3) an amendment to the Defence Act.

Noted

- d. **Note** that all of these options would have some costs associated with them.

Noted

- e. **Note** that all of these options would have some legal risk associated with them.

Noted

- f. **Agree** that further work should be done to examine the option of amending the Veterans' Support Act 2014 to include recognition of all or a large proportion of those who have served in the New Zealand Armed Forces; **or**

Agreed / Disagreed

- g. **Agree** that further work should be done to examine the option of introducing a Veterans' (or Military Veterans') Recognition Act to provide for recognition of all or a large proportion of those who have served in the New Zealand Armed Forces; **or**

Agreed / Disagreed

- h. **Agree** that further work on extending the definition of a veteran in New Zealand should be paused at present and considered in work that is to be done to amend and update the Defence Act 1990; **or**

Agreed / Disagreed

- i. **Agree** that the issue of whether and how the definition of a veteran should be widened be sent to the Law Commission for advice and recommendations.

Agreed / Disagreed



T DAVIES

Air Marshal
Chief of Defence Force

Hon Chris Penk

Minister for Veterans

Date: 22 Aug 24

Date:

Enclosure:

1. Australian Veterans' Recognition (Putting Veterans and Their Families First) Act 2019



Australian Veterans' Recognition (Putting Veterans and Their Families First) Act 2019

No. 96, 2019

**An Act to provide for the recognition of veterans,
and for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

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Australian Veterans' Recognition (Putting Veterans and Their Families First) Act 2019

No. 96, 2019

**An Act to provide for the recognition of veterans,
and for related purposes**

[Assented to 30 October 2019]

The Parliament of Australia enacts:

*No. 96, 2019 Australian Veterans' Recognition (Putting Veterans and Their Families
First) Act 2019 1*

Part 1 Preliminary

Section 1

Part 1—Preliminary

1 Short title

This Act is the *Australian Veterans' Recognition (Putting Veterans and Their Families First) Act 2019*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	The day after this Act receives the Royal Assent.	31 October 2019

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Object of this Act

The object of this Act is to acknowledge the unique nature of military service and the sacrifice demanded of those who commit to defend our nation.

4 Definitions

In this Act:

Permanent Forces has the same meaning as in the *Defence Act 1903*.

Reserves has the same meaning as in the *Defence Act 1903*.

veteran means a person who has served, or is serving, as a member of the Permanent Forces or as a member of the Reserves.

Part 2 Recognition of veterans and their families

Section 5

Part 2—Recognition of veterans and their families

5 General recognition

- (1) The Commonwealth acknowledges the unique nature of military service and the sacrifice demanded of those who commit to defend our nation.
- (2) The Commonwealth acknowledges the demands placed on, and the sacrifices made by, the families of veterans.
- (3) The Commonwealth acknowledges that veterans may require support mechanisms to enjoy good health, to access employment and training opportunities, to access appropriate housing, to have access to justice, to enjoy social wellbeing or to participate in community engagement after the end of their military service.
- (4) The Commonwealth is committed to supporting veterans and providing the care and support they require.
- (5) The Commonwealth acknowledges that support for veterans should be provided in a way that respects their dignity as individuals, enhances their self-esteem, is sensitive to any physical or mental injury or disease they may have suffered and respects their military service.
- (6) The Commonwealth acknowledges that veterans should be supported to achieve greater economic wellbeing and sustainability and greater participation in civic affairs and should have opportunities to participate in employment and education.

6 Australian Defence Veterans' Covenant

The Parliament, on behalf of the people of Australia, endorses the Australian Defence Veterans' Covenant set out in Schedule 1.

7 Beneficial interpretation of legislation

- (1) The Commonwealth is committed to decision-makers interpreting a provision of the following legislation in a way that benefits veterans, or their families, where that interpretation is consistent with the purpose of that provision:
 - (a) the *Veterans' Entitlements Act 1986*;
 - (b) the *Military Rehabilitation and Compensation Act 2004* (the ***MRC Act***);
 - (c) the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988*;
 - (d) instruments under those Acts.
- (2) The Commonwealth is committed to decision-makers deciding claims under that legislation:
 - (a) in a manner that is fair, just and consistent; and
 - (b) except under the MRC Act—within a time that is proportionate to the complexity of the matter; and
 - (c) in a manner that promotes public trust and confidence; and
 - (d) on the basis of only requiring evidence sufficient to meet the relevant standard of proof for the claims.
- (3) The Commonwealth is committed to the Military Rehabilitation and Compensation Commission deciding a claim under the MRC Act within 90 days beginning on:
 - (a) the day the Commission receives the claim; or
 - (b) the day the Commission receives information, or a document, that the Commission requested in relation to the claim under section 330 of that Act;whichever occurs later.

8 Cooperation

The Commonwealth is committed to working cooperatively with veterans, their families and ex-service organisations to address issues facing veterans.

Part 3 Issue of pins, cards or other artefacts

Section 9

Part 3—Issue of pins, cards or other artefacts

9 Issue of pins, cards or other artefacts

- (1) The Commonwealth may issue pins, cards or other artefacts to veterans in recognition of the military service of veterans.
- (2) The Commonwealth may issue pins, cards or other artefacts to family members of veterans in recognition of:
 - (a) the military service of veterans; or
 - (b) the demands placed on, and the sacrifices made by, the families of veterans.

Part 4—Other matters

10 Part 2 does not create or give rise to rights or obligations

- (1) Part 2 does not, by its terms or operation, create or give rise to any rights (whether substantive or procedural), or obligations, that are legally enforceable in judicial or other proceedings.
- (2) A failure to comply with Part 2 does not affect the validity of any decision, and is not a ground for the review or challenge of any decision.
- (3) No action, suit or proceeding is to be instituted in reliance on the terms of Part 2 or the operation of that Part.

11 Act not intended to exclude similar State or Territory laws

This Act is not intended to apply to the exclusion of any law of a State or Territory that provides for the recognition of veterans or their families.

Schedule 1—Australian Defence Veterans' Covenant

Note: See section 6.



AUSTRALIAN DEFENCE VETERANS' COVENANT

*We, the people of Australia, respect and give thanks
to all who have served in our defence force and their families.*

*We acknowledge the unique nature of military service and the sacrifice
demanded of all who commit to defend our nation.*

*We undertake to preserve the memory and deeds of all who have served
and promise to welcome, embrace, and support
all military veterans as respected and valued members of our community.*

For what they have done, this we will do.

*[Minister's second reading speech made in—
Senate on 4 July 2019
House of Representatives on 21 October 2019]*

(89/19)

*No. 96, 2019 Australian Veterans' Recognition (Putting Veterans and Their Families
First) Act 2019 9*