

# Independence Allowance

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# Policy

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## 1. Purpose

- 1.1 The purpose of this document is to provide guidance on administering Scheme Two veterans' eligibility under the Veterans' Support Act 2014 (the Act) to the Independence Allowance.

## 2. Legislative Reference

- 2.1 The relevant legislation is the Act, sections 56, 96-97, clause 47 schedule 2 and regulations 17(3) and 26C & D of the Veterans' Support Regulations 2014.

## 3. Eligibility for an Independence Allowance

- 3.1 A veteran is eligible for an Independence Allowance if they suffer a service-related **accepted disability** between 1 April 1974 and 31 March 2002 that results in permanent impairment. As a matter of policy, a veteran is eligible for an Independence Allowance if it is assessed on the basis of medical evidence that their condition:

- has stabilised; and
- is likely to have caused permanent impairment.

or

- if 2 years have passed since the date of injury or illness, there is medical evidence that the condition has not stabilised, but it is likely that there is permanent impairment resulting from the injury or illness.

*Section 96 and clause 47 of Schedule 2 of the Veterans' Support Act 2014*

- 3.2 If the veteran's service related **accepted disability** is a mental injury or illness, a certificate from a suitably qualified medical practitioner must be provided that:

- states that it is likely that permanent impairment has arisen from the mental injury and illness.

*Clause 47 of Schedule 2 of the Veterans' Support Act 2014*

- 3.3 Veterans' Affairs is responsible for paying the reasonable costs associated with the provision of the information required in paragraph 3.2.

- 3.4 If a veteran is entitled to an Independence Allowance under the Accident Compensation Act 2001, a veteran is not entitled to a full Independence Allowance from Veterans' Affairs, but is entitled to receive the difference between the Independence Allowance payable under the Accident

Compensation Act 2001 and the Independence Allowance payable under the Veterans' Support Act 2014.

*Section 97 of the Veterans' Support Act 2014*

## 4. Transitional Provisions for Veterans receiving War Disablement Pension

- 4.1 Scheme Two veterans who are currently receiving, or who have previously received a War Disablement Pension are not eligible for the Independence Allowance.
- 4.2 If a Scheme Two veteran in receipt of a War Disablement Pension wishes to seek a review of an accepted service-related injury or illness, or make a claim for a new injury or illness, they must do so by applying for a Disablement Pension under Scheme One. The same applies to Scheme Two veterans who were previously in receipt of a War Disablement Pension.
- 4.3 Refer to **Section 21** of the **Disablement Pension** policy for further information and specific instructions for dealing with transitional arrangements for veterans for whom this applies.

*Schedule 1 Section 6 of the Veterans' Support Act 2014*

## 5. Applications for an Independence Allowance

- 5.1 Applications for an Independence Allowance must be made in writing using the appropriate application form provided by Veterans' Affairs. The veteran must supply all supporting information required by Veterans' Affairs for the assessment of eligibility, including:
  - veteran identification (service number and a certified birth certificate, current passport, drivers licence or firearms licence)
  - original or certified copy of the veteran's bank statement showing the account number and name, or a pre-printed deposit slip stamped by the bank
  - any other documentation or information the veteran holds relating to their service that can assist with processing the application (this is apart from the veteran's military records which Veterans' Affairs will obtain from NZDF Archives or NZDF Health Services)
  - medical evidence (the **medical practitioner** should complete the section of the form requiring details of the medical diagnosis for each condition).

*Sections 27 and 48 of the Veterans' Support Act 2014*

## Veteran had qualifying operational service

5.2 In considering whether the veteran had qualifying operational service for the Independence Allowance, Veterans' Affairs will establish:

- what type of service the veteran has (**qualifying operational service**), and when the injury or illness that causes the permanent impairment occurred (qualifying operational service must have occurred in the period between 1 April 1974 and 31 March 2002)
  - permanent impairment caused by an injury or illness that occurred during qualifying operational service from 1 April 2002 onwards, is compensated through the section 98 Lump Sum Payment for Permanent Impairment.

*Sections 96 and 98 of the Veterans' Support Act 2014*

## Injury or illness was service-related

5.3 In considering whether the veteran's injury or illness was service-related for the Independence Allowance, Veterans' Affairs will establish:

- whether the veteran is in receipt of a Disablement Pension or a War Disablement Pension for an injury or illness claimed relating to an accepted service-related **paired organ** disability, i.e. permanent loss of or the permanent loss of the use of one of any paired organs as a result of service, and the subsequent loss or impairment to the efficiency of the other corresponding organ from whatever cause (**see current of accepted paired organs**)

*Section 20 of the Veterans' Support Act 2014 and regulation 9 of the Veterans' Support Regulations 2014*

- whether the injury or illness occurred or was aggravated during qualifying operational service, and, in the case of an aggravation the injury or illness was recorded in the veteran's service medical records if the veteran knew about the injury or illness before he/she commenced qualifying operational service

*Section 19 of the Veterans' Support Act 2014*

- whether the veteran's medical/service records or medical diagnosis, indicate he/she is suffering from a conclusively presumed injury, illness or condition relating to specified deployments or specific events during qualifying operational service as listed in the Regulations, in which case the injury, illness or condition will be treated as service-related

*Section 21 of the Veterans' Support Act 2014 and regulations 10 and 14 of the Veterans' Support Regulations 2014*

- whether the veteran is suffering from an injury or illness to which a **Statement of Principles** applies

- If the veteran is suffering from an injury or illness to which no Statement of Principles applies, whether the claim is consistent with a hypothesis that is reasonable.

**(for instruction on how to apply the Statements of Principles and what to do when there is no Statement of Principles for the injury or illness see separate paper on Statements of Principles)**

*Sections 14 and 15 of the Veterans' Support Act 2014 and regulation 15 of the Veterans' Support Regulations 2014*

- whether additional medical assessment of the veteran's disability is required.

## **6. Assessing the whole-person impairment rate to determine rates of payment**

- 6.1 When considering the application Veterans' Affairs will conduct a whole-person **impairment** assessment for every condition the veteran has applied for. The *American Medical Association Guides to the Evaluation of Permanent Impairment* 4<sup>th</sup> Edition (*AMA Guides*) is used to determine the individual rate of impairment for each accepted disability and the combined tables are used to calculate the overall whole-person impairment rating of up to 100 percent. The amount of Disablement Pension paid to the veteran is based on the whole-person impairment rating.
- 6.2 The *AMA Guides* (4<sup>th</sup> ed.) are available on the ACC website **[www.acc.co.nz](http://www.acc.co.nz)**.
- 6.3 **See separate paper on Whole-Person Impairment.**
- 6.4 **Go to separate Factsheet for current rates for each level of impairment.**
- 6.5 When considering the application, an assessor will determine the veteran's percentage of whole-person impairment. The assessor must exclude from the assessment any permanent impairment that:
- does not result from a service-related injury or illness that occurred during the period 1 April 1974 – 31 March 2002;
  - the veteran has already received an Independence Allowance from Veterans' Affairs for.
- 6.6 The amount paid to the veteran is based on the overall whole-person impairment rating.

*Clause 48 of Schedule 2 of the Veterans' Support Act 2014*

## 7. Start of Entitlement, Decision Timeline and Notice to the Veteran

7.1 Veterans' Affairs will make a decision on a claim within 30 **working days** of receipt of the application. Veterans' Affairs considers each injury or illness included in an application as a separate claim.

7.2 The 30 working days does not include any period while Veterans' Affairs is waiting for further information that it requires to make a determination about a claim.

7.3 When a veteran has applied for multiple conditions the 30 day decision period applies for each condition separately (**see flowchart at Appendix I**).

*Section 11 of the Veterans' Support Act 2014*

7.4 When Veterans' Affairs has made a decision on a claim, the claimant will be given notice in writing of the decision as soon as practicable, providing:

- the reasons for the decision
- information about the veteran's right of review.

*Section 12 of the Veterans' Support Act 2014*

7.5 When a condition is accepted, entitlement begins on the day Veterans' Affairs received the application.

## 8. Payment of the Independence Allowance

8.1 The amount of Independence Allowance paid is based on the whole-person impairment rating and is neither taxed nor asset tested. It is paid at the same rate as the Disablement Pension.

8.2 **See Factsheet on Rates and Allowances for the current payment rates for the Independence Allowance.**

8.3 The Independence Allowance is adjusted annually in line with the Consumer Price Index. If the Index decreases, no adjustment will be made to the payment rate.

8.4 Veterans using New Zealand bank accounts will receive the Independence Allowance on a fortnightly basis.

8.5 If the Independence Allowance is being paid to an overseas bank account it is paid on a monthly basis.

*Section 96 of the Veterans' Support Act 2014*

## 9. Option to lump sum the Independence Allowance

9.1 The Act provides veterans with the option to receive a lump sum payment in exchange for stopping their periodic payments for one year. The amount is

calculated by Veterans' Affairs, using the formula set out in regulation 26C (3). After one year, a veteran may request their lump sum be renewed for a further year or have their lump sum paid annually for the next four years (giving a total of five years). A veteran is not prevented from applying again for a lump sum payment, after five years.

*Section 96 (3) of the Veterans' Support Act 2014 and regulation 26C (3) of the Veterans' Support Regulations 2014*

9.2 Applications to lump sum the Independence Allowance must be made in writing on the appropriate application form provided by Veterans' Affairs.

9.3 **Formula to be used to calculate lump sum amounts:**

9.4 The lump sum payment is based upon the amount payable per week, multiplied by the number of weeks that the payment will be halted for. The lump sum payment will be subject to a discount rate. This rate uses the long-term risk free rates of investment returns and inflation that is published by Treasury.

9.5 The lump sum amount is to be calculated using the following formula:

$$a \times 51.6075$$

Where:

*a* equals the weekly payment rate of the Independence Allowance

*Section 96 (3) of the Veterans' Support Act 2014 and regulation 26C (3) of the Veterans' Support Regulations 2014*

9.6 **Increase to impairment during the lump sum period**

9.7 A veteran who has received a lump sum payment is eligible to receive an additional amount if their impairment increases during the one year period covered by the lump sum and they would have been eligible for a higher weekly rate of Independence Allowance.

9.8 The additional amount is to be calculated using the following formula:

$$[2 \times (a - b)] \times (1 - 1.000562^{-(0.5 \times c)}) \div 0.000562$$

Where:

*a* is the higher weekly rate of Independence Allowance the veteran would have been entitled to if they had not elected to receive the lump sum payment

*b* is the original weekly rate of Independence Allowance the veteran would have been entitled to if they had not elected to receive the lump sum payment

*c* is the number of full weeks remaining in the lump sum period

*Section 96 (3) of the Veterans' Support Act 2014 and regulation 26D (3) of the Veterans' Support Regulations 2014*



## 9.9 Decrease to impairment during the lump sum period

A veteran who has received a lump sum payment does not need to repay Veterans' Affairs any money if their level of whole-person impairment decreases during the period covered by the lump sum.

*Regulation 26D (3)(b) of the Veterans' Support Regulations 2014*

## 10. Relationship with other entitlements

### Accident Compensation

- 10.1 ACC provides impairment compensation in the form of an Independence Allowance. This is a weekly amount that is paid quarterly.

If a veteran is receiving an Independence Allowance from ACC for the same impairment, they may receive a 'top up' of their entitlement to meet the higher rate from Veterans' Affairs.

#### ***Treatment of ACC Independence Allowance payments***

##### *a. Veterans in receipt of weekly periodic payments*

Veterans' Affairs must pay the difference between the ACC weekly payment rate and the Veterans' Affairs payment rate of Independence Allowance.

##### *Veterans in receipt of a Single Payment Offer (SPO)*

ACC claimants in receipt of an Independence Allowance can choose to receive a SPO (which is for a five year period) rather than quarterly payments over those five years. The single payment uses a formula that takes into account things like the age, gender and life expectancy of the claimant, and always results in the payment being less than the total amount the claimant would receive if they chose to receive quarterly payments over five years.

The lower rate payable under the SPO is not used as it contains discounting that has been applied by ACC. Veterans' Affairs must use the current ACC weekly payment rates when calculating the top up amount payable to the veteran.

##### *Adjustment of ACC Independence Allowance payment rates*

The amount of the ACC payment rate may change due to the annual CPI adjustment, or a change to the veteran's rate of impairment for their condition. This has an impact on the amount of the top up payable by Veterans' Affairs.

The table below sets out the treatment for each type of adjustment:

	<b>ACC CPI adjustment</b>	<b>ACC amount changes through review of impairment</b>
<b>VA weekly payment</b>	Increase to VA top up amount: Adjust from date of change (1 July each year) and pay arrears	Increase to VA top up amount: Adjust from date of change and pay arrears
	Decrease to VA top up amount: Reduce from date of change as veterans are required to advise VA of changes	Decrease to VA top up amount: Reduce from date of change as veterans are required to advise VA of changes
<b>VA one year lump sum</b>	Increase to VA top up amount: Recalculate the formula and pay residual payment if arrears payable	Increase to VA top up amount: Recalculate the formula and pay residual payment if arrears payable
	Decrease to VA top up amount: Reassess at end of one year period	Decrease to VA top up amount: Reassess at end of one year period

### **Lump sum compensation for permanent impairment**

- 10.2 Veterans who suffer a permanent impairment resulting from a service-related injury or illness that occurred on or after 1 April 2002 are not entitled to receive an Independence Allowance. Instead, they may be eligible to receive a Lump Sum Payment for Permanent Impairment.
- 10.3 **See separate policy on Lump Sum Payment for Permanent Impairment.**

## **11. End of Entitlement**

- 11.1 The Independence Allowance ceases if:
- a veteran recovers from their service-related condition (as supported by medical opinion), or
  - the veteran dies. The entitlement will be paid until the date of death.
- 11.2 Veterans' Affairs must not provide a veteran with an Independence Allowance during any period when that veteran is a **prisoner** in any **prison** and is not required to undertake any assessments or make any Independence Allowance related payments.

*Section 29 of the Veterans' Support Act 2014*

## **12. Living Overseas**

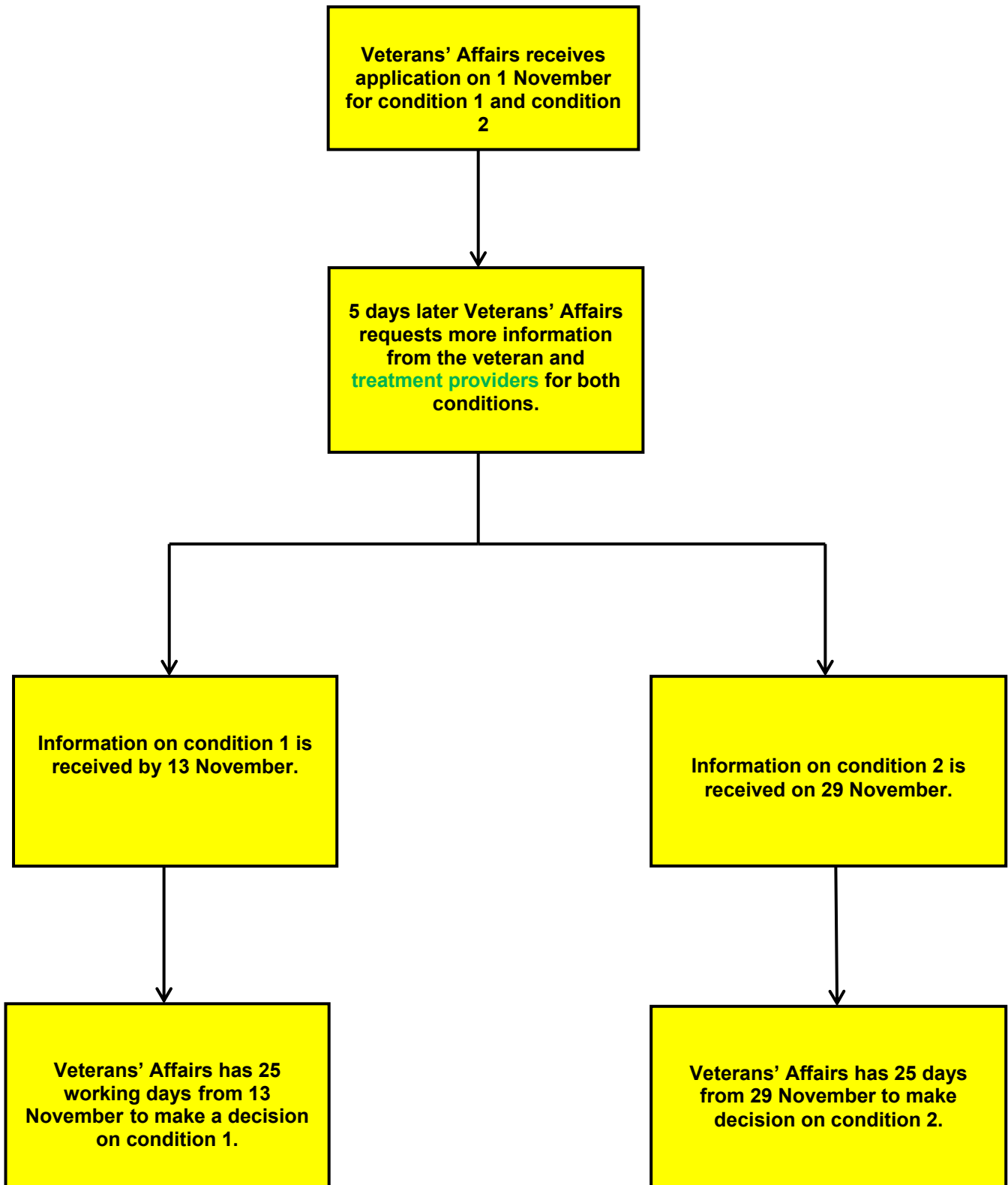
- 12.1 This policy for the Independence Allowance applies equally to all New Zealand veterans, irrespective of their country of residence.
- 12.2 Veterans living overseas should be aware that the payments may be considered to be taxable income in their country of residence.

## 13. Reviews and Appeals

- 13.1 If a veteran disagrees about a decision concerning eligibility for an entitlement or service go to separate policies on **Reviews and Appeals**. If a veteran is concerned about Veterans' Affairs' administration of the entitlement or service go to separate policy on **Complaints**.

## Appendix I: Applying the 30 day rule for applications for multiple conditions

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## Glossary

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### **accepted disability** [policy definition]

Means an injury, illness or condition that Veterans' Affairs accepts as being service-related.

### **impairment** [section 7]

Means a loss or abnormality of psychological, physiological, or anatomical function or structure.

### **medical practitioner** [section 7]

Has the same meaning as in section 5(1) of the Health Practitioners Competence Assurance Act 2003.

### **prisoner** [section 3(1) of the Corrections Act 2004]

*prisoner means any person for the time being in the legal custody under this Act of either of the following persons:*

- (a) *the chief executive;*
- (b) *the Commissioner of Police*

### **prison** [section 3(1) of the Corrections Act 2004 and section 29]

*prison:*

- (a) *means a prison established or deemed to be established under section 32;*  
*and*
- (b) *to avoid doubt, includes any land or building declared to be a prison*

Prison includes:

- (i) a service prison within the meaning of the Armed Forces Discipline Act 1971; and
- (ii) an overseas prison.

### **qualifying operational service** [section 8]

Means:

- (a) service on any deployment treated as a war or emergency for the purposes of the War Pensions Act 1954; and
- (b) service on any deployment declared to be operational service under section 9 of the Veterans' Support Act 2014.

### **service-related** [section 7]

In relation to an injury, an illness, a condition, or a whole-person impairment, means an injury, an illness, or a whole-person impairment caused by, contributed to by, or aggravated by qualifying service.

### **statement of principles** [section 14]

Means a statement of principles that, under section 22(6) and regulations made under section 265, applies for the purposes of the Veterans' Support Act 2014.

### **Veterans' Affairs** [section 7]

Means Veterans' Affairs New Zealand (VANZ) established under section 198 of the Veterans' Support Act 2014.

**veteran** [section 7]

Means:

- (a) a member of the armed forces who took part in qualifying operational service at the direction of the New Zealand Government; or
- (b) a person:
  - (i) who has been:
    - (A) appointed as an employee of the Defence Force under section 61A of the Defence Act 1990; or
    - (B) seconded to the Defence Force with the permission of the Chief of Defence Force; and
  - (ii) who took part in qualifying operational service at the direction of the New Zealand Government; or
- (c) a person who, immediately before the commencement of Part 3 of this Act, is eligible for a pension under the following provisions of the War Pensions Act 1954:
  - (i) section 19 (but only if the person was a member of the forces);
  - (ii) section 55 or 56;
  - (iii) Parts 4 and 5

**working day** [section 7]

Means a day of the week other than:

- (a) a Saturday, a Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's birthday, and Labour Day; and
- (b) if Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday; and
- (c) a day in the period commencing on 25 December in any year and ending with 15 January in the following year.