

Summary of the Government's Response to the Law Commission's Review of the War Pensions Act 1954

Chapter 1 — Principles		
Rec No	Law Commission Recommendation	Government Response
R1	<p>The purpose of the new legislation should include:</p> <ul style="list-style-type: none"> to acknowledge community responsibility for injury, illness or death to veterans as a result of being placed in harm's way in service of New Zealand; to provide veterans with fair entitlements; to promote equal treatment of equal claims; to promote a benevolent approach to claims; and to ensure that the scheme is administered efficiently. 	Accept
R2	The new legislation should require periodic review at least every five years.	Accept in principle Legislation to be reviewed periodically as required
Chapter 2 — Scheme Structure		
Rec No	Law Commission Recommendation	Government Response
R3	The new system should create two separate schemes for different veterans depending on date of service either through the introduction of two separate Acts or as a single Act with distinct parts applying to Scheme One and Scheme Two. Scheme One would apply to serving personnel with service prior to 1 April 1974. Scheme Two would apply to those with qualifying operational service from 1 April 1974.	Accept
R4	If two Acts are introduced, the Scheme One legislation should be entitled the "Military Entitlements Act" and the Scheme Two legislation the "Armed Forces Rehabilitation and Compensation Act"	Not progressed Advice from the Parliamentary Counsel Office was that one piece of legislation should be introduced.

Chapter 3 — Service Eligibility		
Rec No	Law Commission Recommendation	Government Response
R5	The new legislation should cover the same types of service currently covered by the War Pensions Act 1954, that is, any service in the New Zealand armed forces prior to 1 April 1974 and qualifying operational service on or after 1 April 1974.	Accept
R6	<p>Scheme One should also cover:</p> <ul style="list-style-type: none"> • civilians employed by the Government to serve overseas in connection with qualifying operational service, who were New Zealand residents when they commenced service; • former members of the forces of any Commonwealth country who served in qualifying operational service and were New Zealand residents when they commenced service and resided in New Zealand subsequently; • former members of the New Zealand mercantile marine during World War Two; and • former members of the mercantile marine of any country of the Commonwealth during World War Two, who were New Zealand residents when they commenced service and resided in New Zealand subsequently. 	Accept
R7	Scheme Two should also cover civilian members of the New Zealand Defence Force who serve in qualifying operational service.	Accept
R8	All wars and emergencies currently covered by the War Pensions Act 1954 should be declared qualifying operational service.	Accept
R9	The Minister of Veterans' Affairs, following consultation with the Chief of Defence Force, would have the authority to declare that a particular deployment constitutes a qualifying operational service.	Accept
R10	The declaration should be required to specify the period of time and the locations on land or sea that constitute qualifying operational service.	Accept with amendment Declaration to include locations in the air where appropriate
R11	<p>The new legislation should set out a list of factors to be taken into consideration when deciding if a deployment should be declared qualifying operational service. This list should be:</p> <p>(a) the operational threat posed to the well-being of personnel by:</p>	Accept

	<ul style="list-style-type: none"> • the activity of stakeholders, factions and security forces, including military and political activity; • the local conditions and hazards, including violence as a result of crime, civil disturbance, rioting and protest action; • introduced operational danger such as mines, unexploded ordnance, booby traps and any nuclear, biological and chemical threat; and • acts of terrorism, whether specifically directed at NZDF personnel or not; and <p>(b) the environmental threat to the health and well-being of personnel due to:</p> <ul style="list-style-type: none"> • water, food and sanitation; • endemic, epidemic and other diseases of operational importance; insect, animal and plant hazards; and • roads and associated traffic hazards. 	
Rec No	Law Commission Recommendation	Government Response
R12	If possible, declarations of qualifying operational service should be made prior to personnel leaving New Zealand for the deployment.	Accept
R13	The legislation should allow the Minister of Veterans' Affairs to declare that a deployment is qualifying operational service at any time before, during or after the deployment.	Accept
R14	Declarations of qualifying operational service should be published in the Gazette and made publicly available on the VANZ website.	Accept
Chapter 4 — Connection between Service and Impairment		
Rec No	Law Commission Recommendation	Government Response
R15	The veterans' legislation should cover injuries, illnesses and deaths that are attributable to or have been aggravated by service.	Accept
R16	For an injury or illness to be attributable to service it must have: <ul style="list-style-type: none"> • resulted from an occurrence that happened while the veteran was rendering qualifying operational service; and • been caused or contributed to by qualifying operational service. 	Accept
R17	For an injury or illness to be aggravated by service, it must have: <ul style="list-style-type: none"> • been made worse by service; and 	Accept

	<p>either:</p> <ul style="list-style-type: none"> • been sustained before the veteran entered qualifying operational service and was recorded in a service medical examination prior to the qualifying operational service; or • been sustained before the veteran entered qualifying operational service but without the veteran's knowledge and it was not found in a service medical examination prior to the qualifying operational service; or • arisen during qualifying operational service but was not caused by qualifying operational service. 	
Rec No	Law Commission Recommendation	Government Response
R18	Scheme One should continue to exclude from coverage injuries, illnesses or deaths that occurred while a veteran was a deserter, absent without leave and not in receipt of continuous pay, or that resulted from wilful misconduct.	Accept
R19	<p>Scheme Two should exclude from coverage, at the discretion of the General Manager of VANZ, injuries, illnesses or deaths that are:</p> <ul style="list-style-type: none"> • the result of illegal activity; • self-inflicted (unless suicide or caused by a service-related psychological impairment); • the result of alcohol or drug consumption (unless caused by a service-related psychological impairment); • smoking-related; or • due to sexually transmitted infections. 	Accept
Chapter 5 — Evidential Standards and Instruments		
Rec No	Law Commission Recommendation	Government Response
R20	The new legislation should include beneficial evidential provisions that adopt the same level of benevolence towards veterans' claims as those in the War Pensions Act 1954. A more beneficial standard of proof should apply to veterans with service in qualifying operational service compared with the standard that applies to service personnel with routine service.	Accept
R21	The legislation should allow for the creation of statements of principles (SoPs) and presumptive lists, to guide decision-making on certain relationships between medical conditions and service.	Accept
R22	SoPs should be a list of the service factors that link a particular condition with service. Only the factors contained in a SoP should be able to link the condition covered by the SoP with service. Different SoPs	Accept

	reflecting the appropriate standard of proof should apply to veterans with qualifying operational service and service personnel with routine service	
Rec No	Law Commission Recommendation	Government Response
R23	The expert medical panel should have the power to adopt or amend presumptive decision-making instruments.	Accept in principle Dependent on conditions noted in the bilateral instrument to be developed with Australia
R24	The new legislation should require that any presumptive decision-making instruments are based on “sound medical and scientific research”, which should be defined.	Accept
R25	The United States’ Committee on Evaluation of the Presumptive Disability Decision-Making Process for Veterans should be closely examined and relevant recommendations incorporated into the process for establishing presumptive decision-making instruments in New Zealand.	Operational Issue
R26	A presumptive list should be a list of medical conditions for which there is a rebuttable presumption that a condition is related to service based solely on diagnosis of a condition and service in a particular theatre. The legislation should set out the degree of relationship between a service factor and a medical condition that is sufficient for a presumptive list to apply. The expert medical panel should examine the United States presumptive rules and the research of the Institute of Medicine, as well as other evidence, in determining whether to establish a presumptive list for the New Zealand system.	Accept
R27	The legislation should allow individual veterans, veterans’ groups and Veterans’ Affairs New Zealand to refer medical conditions to the expert medical panel for consideration of whether presumptive decision-making rules need to be adopted or reviewed.	Accept in principle Veterans will make application through the veteran’s advisory board
R28	The expert medical panel should be able to review and recommend amendment to any existing decision-making instruments on the basis of new medical and scientific evidence.	Accept in principle Dependent on conditions noted in the bilateral instrument to be developed with Australia

Rec No	Law Commission Recommendation	Government Response
R29	The new legislation should allow requests for review of decision-making instruments from individual veterans, veterans' organisations or VANZ to be considered by a review committee within three months of the decision to adopt or amend a decision-making instrument. The grounds on which a review could be requested should be that the instrument is not based on sound medical and scientific research or that the sound medical and scientific research is insufficient to justify the making of the instrument.	Accept with amendment The review process will be through the Australian Repatriation Medical Authority
R30	The new legislation should require the appointment of a permanent chair of the review committee who is a medical or scientific expert. The Minister of Veterans' Affairs should be required to appoint up to two additional reviewers, being medical or scientific experts in fields relevant to the medical condition being examined, when a review request is made. The review committee should be required to make a declaration in writing to give reasons for its decision and be able to make recommendations to the expert medical panel regarding that condition.	Not progressed The review process will be through the Australian Repatriation Medical Authority
Chapter 6 — Measuring Impairment		
Rec No	Law Commission Recommendation	Government Response
R31	The new legislation should provide that the following tools are used to determine the level of whole-person impairment caused by service-related injury or illness: <ul style="list-style-type: none"> American Medical Association Guides to the Evaluation of Permanent Impairment (AMA Guides); and a supplement specific to this scheme. 	Accept
R32	The supplement to the AMA Guides should be developed by VANZ in conjunction with the expert medical panel.	Accept
R33	Assessments of service-related impairments should be carried out by VANZ approved assessors.	Accept
Chapter 7 — Decision Making		
Rec No	Law Commission Recommendation	Government Response
R34	The authority for the administration of the legislation and overall decision-making should be vested in the General Manager of VANZ.	Accept
R35	The new legislation should include a section setting out the functions of the General Manager. These should	Accept

	<p>include:</p> <ul style="list-style-type: none"> • to grant compensation and other entitlements and assistance to veterans and certain other persons under and in accordance with the legislation; • to arrange provision of treatment, rehabilitation and other services for veterans and other persons under and in accordance with the legislation; and • to provide the Minister with information concerning, and to advise the Minister on, matters relating to the operation of the legislation. 	
Rec No	Law Commission Recommendation	Government Response
R36	The General Manager should be provided with the power to correct administrative errors.	Accept
R37	The General Manager should be responsible for determining all claims for all assistance and entitlements, including impairment compensation. The new Act should provide the General Manager with the authority to delegate this decision-making power to any employee of the department, and potentially to other departments.	Accept
R38	<p>The new legislation should set out the following details relating to claims for any entitlement:</p> <ul style="list-style-type: none"> (a) a claimant must make application for an entitlement; (b) applications for entitlements are to be made in writing on a form specified by the department and must contain all of the necessary information; (c) the date of lodgement is the date the application form is received by the department; (d) the General Manager has the responsibility to make decisions in a timely manner; and (e) when being advised of a decision, a claimant must be advised of any review rights. 	Accept
R39	<p>We recommend that the following types of decisions are covered by the right of review:</p> <ul style="list-style-type: none"> (a) the eligibility of a veteran for any entitlement or assistance under the legislation; (b) the relationship of any medical condition to a claimant's service; (c) the claimant's service eligibility; and (d) the degree of impairment caused by a medical condition. 	<p>Accept in principle</p> <p>To be discussed with the Ministry of Justice during drafting</p>
R40	A person whose claim for impairment compensation is declined on the basis that the impairment is not related to service and presumptive decision-making instruments did not apply to the decision should be able	<p>Accept with amendment</p> <p>Reviews of claims not</p>

	to request to have their claim reviewed by a review panel.	related to service will be reviewed by a panel; all other reviews to be undertaken by a VANZ review officer
Rec No	Law Commission Recommendation	Government Response
R41	Review panels should be made up of one VANZ reviewer and one reviewer nominated by the RNZRSA. Both reviewers should be suitably qualified, with either legal or medical expertise. If the reviewers disagree, the General Manager of VANZ should be responsible for the overall decision.	Accept
R42	If a person disagrees with the level at which impairment compensation has been awarded, this review of the level of impairment is to be carried out by a medical assessor trained in using the AMA Guides. A VANZ medical reviewer should then provide a decision based on both the original medical assessment and the review assessment.	Accept
R43	The review of any other type of decision, including impairment compensation decisions based on presumptive decision-making instruments, should be made by VANZ.	Accept
R44	The legislation should provide that requests for the review of any decision regarding an entitlement should be made in writing within six months of the original decision.	Accept
R45	Reviewers should be required to provide notification in writing of their decision and the reasons for it. Claimants should also be advised of any right of appeal to the appeal tribunal.	Accept
R46	The War Pensions Appeal Board should be replaced with a new independent tribunal, named the Veterans' Appeal Tribunal.	Not progressed The Ministry of Justice supports the proposal that the War Pensions Appeal Board be retained as the appeal body.
R47	In order for an appeal of a decision to be heard, the claimant should first have the decision reviewed. Both the claimant and VANZ should have the right to appeal a decision of a review panel to the Veterans' Appeal Tribunal within six months of the review decision. The Veterans' Appeal Tribunal would have the power to uphold or overturn the original decision.	Accept with amendment Decisions of the review panel to be appealed to the War Pensions Appeal

Rec No	Law Commission Recommendation	Government Response
R48	The Ministry of Justice, through the Tribunals Unit, should provide administrative support to the Veterans' Appeal Tribunal.	Not progressed The appeal body will remain with VANZ
R49	Appointments to the Veterans' Appeal Tribunal should be independent and merit-based. The appointment process should be open and give the opportunity for the appointing authority to assess candidates' abilities.	Not progressed The Tribunal is not being introduced
R50	The Minister of Justice should recommend appointments after consultation with the Minister of Veterans' Affairs. The responsibility for appointing members should be with the Governor-General on recommendation of the Minister of Justice.	Not progressed The Tribunal is not being introduced
R51	Members of the Veterans' Appeal Tribunal should be appointed for a fixed term of three years and the chair should have a fixed term of five years. The legislation should set out limited grounds for termination of appointment allowing removal on the basis of "just cause".	Not progressed The Tribunal is not being introduced
R52	The Veterans' Appeal Tribunal should have two or three members sitting at each hearing. It should be necessary for the chair to have legal expertise. The current requirement that some of the members should be medically qualified should be retained. The nomination of a medical member by the RNZRSA should be retained.	Not progressed The Tribunal is not being introduced
R53	The Veterans' Appeal Tribunal should be required to conduct hearings with as little formality as is consistent with a fair and efficient process.	Not progressed The Tribunal is not being introduced
R54	The Veterans' Appeal Tribunal should not be bound by legal forms or rules of evidence. If a provision that the tribunal is to make decisions based on the substantial merits and justice of a case is included, the legislation should clearly state the circumstances when the application of strict legal technicalities can be relaxed and to what extent.	Not progressed The Tribunal is not being introduced
R55	The Veterans' Appeal Tribunal should have the power to call and examine witnesses, and to require the production of papers, documents, records and things for inspection by the tribunal. These powers should be	Not progressed

	set out in the legislation.	The Tribunal is not being introduced
Rec No	Law Commission Recommendation	Government Response
R56	The tribunal should be required to provide reasons for decisions in writing.	Not progressed The Tribunal is not being introduced
R57	The tribunal should have the following powers: (a) to summon witnesses, administer an oath or affirmation and take sworn evidence; (b) to require parties and witnesses to produce information and documents; (c) to require the disclosure of information between the parties to proceedings; and (d) to exclude people when they are abusive or disruptive and generally maintain order during proceedings.	Not progressed The Tribunal is not being introduced
R58	There should be a presumption that hearings of the Veterans' Appeal Tribunal are closed.	Not progressed The Tribunal is not being introduced
R59	Decisions of the Veterans' Appeal Tribunal that have value as precedents should be published on the VANZ website.	Not progressed The Tribunal is not being introduced
R60	The Veterans' Appeal Tribunal should be given limited powers to award costs.	Not progressed The Tribunal is not being introduced
R61	The legislation should allow appeals from decisions of the Veterans' Appeals Tribunal to the High Court on matters of law only.	Accept with amendment No Veterans' Appeal Tribunal; equivalent body to be the War Pensions Appeal Board

Rec No	Law Commission Recommendation	Government Response
R62	<p>The General Manager of VANZ should have the power to allow reconsideration of previously declined impairment compensation claims in the following situations:</p> <p>(a) where an administrative error has materially affected the original decision (“administrative error” should be defined to exclude contended errors relating to the substance of the decision, and should include only errors relating to missing or incorrect information relating to service or diagnosis of a condition);</p> <p>(b) where a presumptive decision-making rule (such as a presumptive list or SoP) has been introduced or amended, and the original claim would have been materially affected by the rule; and</p> <p>(c) where a new declaration of qualifying operational service has been made, and the original claim would have been materially affected by the rule.</p>	Accept
R63	In the case where a previously declined claim is reconsidered and accepted, the commencement date of the pension should be the date of the original application for that medical condition.	Accept
R64	Initial decisions on entitlement to a Veteran’s Pension should be made by the Ministry of Social Development, with VANZ advising on whether the service eligibility is met. If a veteran disagrees with a decision relating to their service eligibility, the decision should be reviewed by VANZ reviewers. An appeal on the service eligibility decision should be to the Veterans’ Appeal Tribunal. For all other aspects of the Veteran’s Pension, claimants should under the Social Security Act 1964 be able to request reviews of the decisions from a benefits review committee and appeal to the Social Security Appeal Authority.	Accept with amendment Service eligibility decisions to be appealed to the War Pensions Appeal Board
Chapter 8 — Administration		
Rec No	Law Commission Recommendation	Government Response
R65	The new legislation should require that a veteran who is receiving assistance under veterans’ legislation be given a case manager.	Accept with amendment All veterans will have a case manager, however this won’t be set down in the legislation
R66	The War Pensions Medical Research Trust Fund should be renamed the Veterans ’Medical Research Trust Fund. Administration, including investment, of the fund should be carried out by VANZ.	Accept

Rec No	Law Commission Recommendation	Government Response
R67	<p>The new legislation should establish an expert medical panel, with the following roles:</p> <ul style="list-style-type: none"> • reviewing international medical and scientific research relating to the impacts of service on veterans' health; • formulating presumptive decision-making instruments; • establishing guidelines for conditions where any deterioration after a veteran has left service should not be considered service-related; • commissioning research; • making decisions on expenditure of the Veterans' Medical Research Trust Fund on veteran-related medical research; • providing the Minister of Veterans' Affairs and the Chief of Defence Force with guidance regarding the monitoring of veterans; • providing information to medical practitioners about the treatment of veterans; and • providing advice to the Minister of Veterans Affairs and Chief of Defence Force on issues relating to the medical impacts of military service, both past and present. 	<p>Accept in principle</p> <p>The Australian Repatriation Medical Authority to formulate decision-making instruments</p>
R68	<p>The expert medical panel should have a similar membership to the current Expert Panel on Veterans' Health, including medical experts in different fields, the NZDF Director-General of Medical Services and a lay member with relevant expertise. The Minister of Veterans' Affairs should appoint the panel members. Nominations should come from both the RNZRSA and the General Manager of VANZ. The panel should be resourced so that it has administration and research support available to it.</p>	Accept
R69	<p>The new legislation should establish an independent veterans' advisory board with the function of advising the Minister of Veterans' Affairs on issues concerning the legislation and its administration, as well as on other veteran-related issues. It should have up to six members who are nominated by the RNZRSA or other veterans' organisations and appointed by the Minister. The board should meet approximately five times per year. Administrative support should be provided by VANZ.</p>	Accept
R70	<p>The new legislation should require VANZ to develop a code of claimants' rights.</p>	Accept
R71	<p>The NZDF should keep a register of all veterans known to have been exposed to certain factors during qualifying operational deployments.</p>	Accept

Chapter 9 — Impairment Compensation		
Rec No	Law Commission Recommendation	Government Response
R72	Scheme One should include a Disablement Pension to replace the War Disablement Pension. This should be a tax-free, periodic payment for service-related impairment.	Accept
R73	The Disablement Pension should commence from the date of receipt of the written application, unless there was an administrative error.	Accept
R74	The Disablement Pension should cease four weeks after the recipient's death.	Accept
R75	Current recipients of the Disablement Pension should have their rate of pension grandparented and receive their current rate plus any increase pursuant to recommendation 85. If current recipients apply for a new condition under the new legislation, they should be assessed under the whole of body assessment method.	Accept
R76	New recipients of the Disablement Pension after the introduction of the new legislation should be assessed using whole person impairment percentages rather than cumulatively adding the individual impairment percentages of each accepted injury or illness. The maximum rate of pension for new recipients would be given to those with impairment of 80% or higher.	Accept
R77	The rates of Disablement Pension for those with the most severe levels of impairment should be proportionally higher.	Accept
R78	The legislation should require that Disablement Pensions are either temporary or permanent. A permanent pension should only be awarded after an injury or illness has reached a stable, permanent state. When a temporary pension is awarded, a decision must be made regarding the appropriate period after which the level of impairment should be reassessed. The decision-makers should be able to extend the temporary pension where there is a likelihood that the level of impairment will continue to change. After a medical assessment showing that the injury or illness has reached a stable, permanent state, the decision-maker should determine whether there is ongoing impairment and award a permanent pension if there is. Those awarded temporary pension should be given a treatment or rehabilitation plan by	Accept

	VANZ staff and have their level of impairment reassessed once this has been completed.	
Rec No	Law Commission Recommendation	Government Response
R79	Scheme One should only allow reassessment of a Disablement Pension after at least two years have elapsed since that veteran has had his or her whole person impairment assessed or reassessed. However, it should be possible for Disablement Pension recipients to request reassessment of their level of service-related impairment within two years of their last assessment if there is evidence that their impairment has significantly increased and that this is due to service-related conditions. "Significantly" should be defined as an increase of 10 or more percent in whole body impairment.	Accept
R80	VANZ should have the ability to initiate a reassessment of the level of impairment if it considers that the level of service-related impairment has changed.	Accept
R81	The expert medical panel should create guidelines on medical conditions for which it should be presumed that any deterioration after a veteran has left service is not service-related.	Accept
R82	Scheme One should not allow Disablement Pension applications for new medical conditions or reviews of existing accepted conditions after veterans have reached the age of 80 years.	Not progressed This would discriminate against veterans aged 80+, and reduce entitlements available under the current legislation
R83	The legislation should allow a veteran's full New Zealand Disablement Pension entitlement to be paid at the same time as an overseas equivalent pension as long as the pensions relate to different medical conditions.	Not progressed No veteran should be able to receive a greater amount of compensation than they would receive under the New Zealand war pensions legislation

Rec No	Law Commission Recommendation	Government Response
R84	Those diagnosed with a terminal service-related injury or illness should have the option of electing to receive one year's worth of the maximum rate of the Disablement Pension paid as a lump sum to cover the period of one year following the terminal diagnosis.	Accept
R85	The Government should consider some meaningful increase to the rates of the Disablement Pension.	Accept
R86	The legislation should provide that the Disablement Pension is increased annually in line with any change in the consumer price index.	Accept
Chapter 10 — Compensation for Loss of Income		
Rec No	Law Commission Recommendation	Government Response
R87	Scheme One should provide a Veterans' Weekly Income Compensation (VWIC) payment for veterans of qualifying operational service who are under 65 years and are unable to work because of their service-related impairment.	Accept with amendment Limiting this entitlement to veterans unable to work due to a service-related impairment would be more restrictive than the provisions in the 1954 Act. Veterans unable to work due to any medical reason will qualify for this entitlement
R88	Every recipient of VWIC should be required to have a rehabilitation plan in place.	Accept
R89	Current under 65 year old recipients of the Veteran's Pension should be able to transfer to VWIC if they meet the eligibility criteria. Current under 65 year old recipients of the Veteran's Pension that choose not to apply for VWIC would remain on Veteran's Pension, with the current rules for that payment continuing to apply.	Accept

Rec No	Law Commission Recommendation	Government Response
R90	The rate of VWIC should be based on 80 % of the average wage.	Accept
R91	VWIC should be paid to eligible veterans up until they turn 65 years old.	Accept in principle VWIC to be paid to eligible veterans up until the age of entitlement for NZ Superannuation
R92	If a recipient of VWIC is able to resume some work, the VWIC payment should be reduced so as to ensure that the total of the veteran's VWIC and earnings does not exceed the average wage.	Accept
R93	The legislation should allow a veteran residing overseas to receive VWIC. However, if there are any costs associated with the assessment of the veteran's eligibility for the entitlement, VANZ should not be required to meet the costs of assessing the veteran overseas or of the return of the veteran to New Zealand.	Accept
R94	The Veteran's Pension for veterans 65 years and over should be retained.	Accept in principle Veteran's Pension to be paid from the age of entitlement to NZ Superannuation
R95	All veterans with qualifying operational service should be eligible for the Veteran's Pension, regardless of whether they have received impairment compensation.	Not progressed at this point in time The intent/focus of government is to assist veterans who have been adversely affected by their service

Chapter 11 — Health Care		
Rec No	Law Commission Recommendation	Government Response
R96	Scheme One should retain the provision of funding for a veteran's medical costs relating to all accepted injuries and illnesses.	Accept
R97	At the time that an injury or illness is accepted, VANZ should decide on the medical treatment that is approved for that condition.	Accept
R98	Veterans with accepted injuries or illnesses should be provided with a treatment card that allows health care providers to access information on exactly what medical treatment VANZ has approved.	Accept
R99	VANZ should be able to consider paying for treatment costs additional to those that are approved at the time of the acceptance of the condition but only after special application by the veteran or his or her GP.	Accept
R100	<p>The new legislation should set out the criteria against which all treatment should be considered. The following criteria should be considered:</p> <ul style="list-style-type: none"> • the treatment is necessary and appropriate, and of the quality required, for this purpose; • the treatment will be performed only on the number of occasions necessary for this purpose; • the treatment will be given at a time and place appropriate for this purpose; • the treatment is of a type normally provided by a treatment provider; • the treatment is provided by a treatment provider of a type who is qualified to provide that treatment and who normally provides that treatment; and • the treatment is provided after VANZ has agreed to it (unless special conditions apply regarding urgent treatment). 	Accept
R101	<p>In making a decision on treatment VANZ should take into account:</p> <ul style="list-style-type: none"> • the nature and severity of the injury; • the generally accepted means of treatment for such an injury in New Zealand; the other options available in New Zealand for the treatment of such an injury; and 	Accept

	<ul style="list-style-type: none"> the cost in New Zealand of the generally accepted means of treatment; and of the other options, compared with the benefit that the claimant is likely to receive from the treatment. 	
Rec No	Law Commission Recommendation	Government Response
R102	The legislation should allow for veterans to be paid the necessary travel costs to receive medical treatment. ACC regulations should be used as a model for the rules relating to when and to what extent travel costs are paid.	Accept with amendment Scheme One veterans to be grandparented under rates in the 1954 Act to avoid a reduction in payment rate
R103	VANZ should establish regulations and policy that set out what health care assistance is covered. These regulations should define “treatment” and the exact bounds and cost limits of what is covered by each type of assistance.	Accept
R104	Any veteran who is in receipt of a Disablement Pension and is 80 years or over should be entitled to receive in relation to any medical condition (regardless of whether the condition is related to service): <ul style="list-style-type: none"> funding of GP visits; funding of pharmaceuticals that are subsidised through Pharmac; funding of specialist consultations with a registered medical practitioner; and in respect of certain specified types of surgery: <ul style="list-style-type: none"> funding for the first specialist’s assessment to be undertaken at a private hospital; and the surgery to be undertaken at a private hospital if it cannot be carried out through the public health system within a reasonable time. 	Not progressed at this point in time The intent/focus of government is to provide assistance to veterans who have impairments directly related to their military service
R105	The Government should consider funding the full cost of surgeries covered by this entitlement through Vote Veterans’ Affairs rather than Vote Health.	Not progressed The initiative to provide free surgery is not being progressed

Rec No	Law Commission Recommendation	Government Response
R106	Over 80 year old veterans that qualify for this entitlement should receive a veteran's card that identifies this.	Not progressed The entitlement that would require the card is not being progressed
Chapter 12 — Independence Assistance		
Rec No	Law Commission Recommendation	Government Response
R107	The following persons would qualify for the Veterans' Independence Programme (VIP): - <ul style="list-style-type: none"> Any recipient of a Disablement Pension. This group would qualify for independence assistance that is associated with the accepted disability or disabilities. Veterans with qualifying operational service who are over 80 years old and in receipt of a Disablement Pension. This group would receive assistance based on needs arising from any medical condition. 	Accept with amendment All veterans in receipt of impairment compensation to be eligible on the basis of need
R108	The services provided under VIP should include: <ul style="list-style-type: none"> section maintenance — the activities regularly required to maintain the section immediately surrounding the veteran's primary residence; home help — routine domestic tasks required to support the veteran in remaining at their primary residence; personal care — assistance with the tasks of daily living; modifications to the home — adaptations to the veteran's primary residence to assist the veteran to live as independently as possible; and transport for independence — assisted transport for social purposes for those for whom social isolation is harmful to the health. 	Accept in principle The services to be provided will meet the individual needs of the veteran and will not be restricted to a particular list

Rec No	Law Commission Recommendation	Government Response
R109	A special category of independence assistance should be provided for veterans who are not in receipt of a Disablement Pension, but who have qualifying operational service. These veterans should be eligible to have a case manager and to receive some VIP services on a discretionary basis.	Accept with amendment Veterans with qualifying service not in receipt of impairment compensation to receive assistance on a discretionary basis.
R110	The new legislation should adopt the travel concession amendments announced by the Government in December 2009.	Accept
R111	A decoration allowance should be incorporated into other legislation.	Not progressed No other suitable legislation could be identified
Chapter 13 — Rehabilitation		
Rec No	Law Commission Recommendation	Government Response
R112	Veterans that are assessed as being able to rehabilitate from their service-related injury or illness should be provided with rehabilitation services.	Accept

Chapter 14 — Families		
Rec No	Law Commission Recommendation	Government Response
R113	The new legislation should provide that the surviving spouse, civil union partner or de facto partner of any person who was in receipt of a Disablement Pension when he or she died is eligible for a Surviving Spouse Pension.	Not progressed at this point in time The intent behind this pension was to support the dependents of seriously injured veterans in times when veterans were likely to be the sole income earner in the family
R114	Every eligible spouse or partner should receive an amount of pension that is proportional to the level of Disablement Pension that the veteran was receiving prior to death, for instance, 50%.	Not progressed at this point in time The intent behind this pension was to support the dependents of seriously injured veterans in times when veterans were likely to be the sole income earner in the family
R115	The Surviving Spouse Pension should cease if the surviving spouse or partner remarries or enters a new civil union or de facto relationship. The legislation should continue to provide a lump sum payment of two years' worth of Surviving Spouse Pension when the surviving spouse or partner enters the new relationship. Once the Surviving Spouse Pension has ceased because of a new relationship, it should not be reinstated if the new relationship ends.	Accept
R116	A Children's Pension (combining the current Parent's Allowance and Children's Pension) should be paid to children of veterans with a service-related death or who received a Disablement Pension for impairment equivalent to the current 70% level. The definition of "child" should include adopted children	Accept with amendment Discretion for the Children's Pension to be paid until the

	and step-children and apply until the child turns 18.	age of 23 if the child is in full time study to match provisions in the 1954 Act for the payment of bursaries.
Rec No	Law Commission Recommendation	Government Response
R117	The new legislation should retain the war bursaries and the Government should consider increasing the amounts paid.	Accept
R118	A funeral grant should be paid on the death of any veteran who had qualifying operational service, regardless of whether he or she received impairment compensation. A funeral grant should also be paid in respect of persons with routine service whose death is attributable to their service or who qualify under current legislation.	Not progressed at this point in time The intent/focus of government is to provide assistance to veterans who have impairments directly related to their military service.
R119	The funeral grant should be for the actual costs of the funeral up to a specified maximum that is no less than ACC's funeral grant.	Not progressed at this point in time The current funeral grant rate is a contribution towards the cost of a funeral, and is not intended to cover the full cost as individual requirements vary greatly.
R120	VIP services should be available for surviving spouses or partners of deceased veterans for up to one year if they are assessed as needing it.	Accept

Chapter 16— Rehabilitation		
Rec No	Law Commission Recommendation	Government Response
R121	The new legislation should create an obligation on the Government to rehabilitate any veteran who becomes impaired as a result of qualifying operational service and who is assessed as being capable of rehabilitating in order that the veteran can recover to the maximum extent practicable.	Accept
R122	The services provided should cover medical, psycho-social and vocational rehabilitation.	Accept
R123	The General Manager of VANZ should have the discretion to provide rehabilitation services to any veteran in relation to a physical or mental impairment if he or she is satisfied that it is likely to have been caused by qualifying operational service, such that a claim for impairment compensation would be tenable if the impairment proved permanent.	Accept
R124	VANZ should have an obligation to make sure that a rehabilitation plan and case manager are put in place for each veteran who qualifies for rehabilitation services.	Accept
R125	Any veteran receiving rehabilitation services should have an obligation to cooperate with VANZ in determining the rehabilitation services that can be supplied and to participate in the rehabilitation.	Accept
R126	Scheme Two should provide vocational rehabilitation to a veteran's spouse or partner if the veteran is assessed as being unable to make use of rehabilitation because of serious, permanent incapacity that causes the veteran to be unable to work.	Accept
Chapter 17— Compensation for loss of income		
Rec No	Law Commission Recommendation	Government Response
R127	The new legislation should provide that Veterans' Weekly Income Compensation (VWIC) will be paid to a veteran with qualifying operational service who is unable to work because of a service-related injury or illness and is participating in a rehabilitation plan.	Accept

Rec No	Law Commission Recommendation	Government Response
R128	<p>The new legislation should provide for veterans to receive income compensation (whether through VWIC or a combination of VWIC and ACC income compensation) at a rate of 100% of their earnings prior to the service-related injury or illness that has made them unable to work. VWIC would be paid at this rate for either:</p> <ul style="list-style-type: none"> • one year; or • the period during which the veteran is receiving rehabilitation services, whichever is the shorter. <p>After this period, veterans who:</p> <ul style="list-style-type: none"> • continue to have a rehabilitation plan in place and have incapacity for work; or • are unable to rehabilitate further and have incapacity for work, <p>would continue to be eligible for VWIC, but at 85 % of pre-incapacity earnings.</p>	Accept
R129	VWIC should cease after the veteran is assessed as no longer having incapacity for work or after the veteran turns 65 or (if the veteran elects to continue receiving VWIC rather than Veteran's Pension) 66.	Accept
R130	If a recipient of VWIC is able to resume some work, the VWIC payment should be reduced so as to ensure that the total of the veteran's VWIC's and earnings does not exceed their pre-injury earnings.	Accept
R131	The legislation should allow a veteran residing overseas to receive VWIC. However, if there are any costs associated with the assessment of the veteran's eligibility for the entitlement, VANZ should not be required to meet the costs of assessing the veteran overseas or of the return of the veteran to New Zealand.	Accept
R132	The new legislation should provide a retirement lump sum payment, for instance \$25,000, for veterans who have received VWIC for 10 years or more, and who meet an asset test.	Accept

Chapter 18— Compensation for Permanent Impairment		
Rec No	Law Commission Recommendation	Government Response
R133	Scheme Two should provide for tax free lump sum impairment compensation to be paid at a rate dependent upon the level of whole person service-related impairment.	Accept
R134	Levels of impairment should be assessed in 1% increments.	Operational Issue
R135	Impairment compensation should only be paid for impairment of 10% or higher.	Accept with amendment Impairment compensation to be paid for impairment of 5% or higher to match the entitlements under the 1954 Act
R136	The lump sum payment should only be paid once the condition has settled into a stable level of impairment.	Accept
R137	The lump sum compensation for impairment under the new veterans' entitlements scheme should be set at a level that is equivalent to the ACC lump sum impairment compensation amounts with an additional percentage, such as 20%, on top of this. However, consideration should be given to setting the impairment compensation for the highest levels of impairment at amounts that are proportionally higher.	Accept
R138	The legislation should provide that, where ACC lump sum impairment compensation is paid for the same injury, the full impairment compensation amount that the veteran is entitled to under the veterans' scheme will be made up of the ACC lump sum and a veterans' impairment compensation lump sum.	Accept
R139	Scheme Two should only allow reassessment of the percentage that a veteran is impaired due to service after at least two years have elapsed since that veteran has had his or her whole person impairment assessed or reassessed. However, it should be possible for impairment compensation recipients to request reassessment of their level of service-related impairment within two years of their last assessment	Accept

	if there is evidence that their impairment has significantly increased and that this is due to service-related conditions. "Significantly" should be defined as an increase of ten or more percent in whole body impairment.	
Rec No	Law Commission Recommendation	Government Response
R140	Scheme Two should not allow Disablement Pension applications for new medical conditions or reviews of existing accepted conditions after veterans have reached the age of 80 years.	Not progressed This would discriminate against veterans aged 80+, and reduce entitlements available under the current legislation
R141	The new legislation should provide for recipients of lump sum payments to receive funding of up to a set maximum for professional financial advice if they choose to obtain this.	Accept
Chapter 19— Health Care Benefits		
Rec No	Law Commission Recommendation	Government Response
R142	Scheme Two should retain the provision of funding for a veteran's medical costs relating to all accepted injuries and illnesses.	Accept
R143	At the time that an injury or illness is accepted, VANZ should decide on the medical treatment that is approved for that condition.	Accept
R144	Veterans with accepted injuries or illnesses should be provided with a treatment card that allows health care providers to access information on exactly what medical treatment VANZ has approved.	Accept
R145	VANZ should be able to consider paying for treatment costs additional to those that are approved at the time of the acceptance of the condition but only after special application by the veteran or his or her GP.	Accept

Rec No	Law Commission Recommendation	Government Response
R146	<p>The new legislation should set out the criteria against which all treatment should be considered. The following criteria should be considered:</p> <ul style="list-style-type: none"> • the treatment is necessary and appropriate, and of the quality required, for this purpose; • the treatment will be performed only on the number of occasions necessary for this purpose; • the treatment will be given at a time and place appropriate for this purpose; • the treatment is of a type normally provided by a treatment provider; • the treatment is provided by a treatment provider of a type who is qualified to provide that treatment and who normally provides that treatment; and the treatment is provided after VANZ has agreed to it (unless special conditions apply regarding urgent treatment). 	Accept
R147	<p>In making a decision on treatment VANZ should take into account:</p> <ul style="list-style-type: none"> • the nature and severity of the injury; • the generally accepted means of treatment for such an injury in New Zealand; the other options available in New Zealand for the treatment of such an injury; and - • the cost in New Zealand of the generally accepted means of treatment and of the other options, compared with the benefit that the claimant is likely to receive from the treatment. 	Accept
R148	<p>The legislation should allow for veterans to be paid the necessary travel costs to receive medical treatment. ACC regulations should be used as a model for the rules relating to when and to what extent travel costs are paid.</p>	Accept
R149	<p>VANZ should establish regulations and policy that set out what health care assistance is covered. These regulations should define “treatment” and the exact bounds and cost limits of what is covered by each type of assistance.</p>	Accept
R150	<p>Any veteran who is in receipt of a Disablement Pension and is 80 years or over should be entitled to receive in relation to any medical condition (regardless-of whether the condition is related to service):</p> <ul style="list-style-type: none"> • funding of GP visits; 	<p>Not progressed at this point in time</p> <p>The intent/focus of</p>

	<ul style="list-style-type: none"> • funding of pharmaceuticals that are subsidised through Pharmac; funding of specialist consultations with a registered medical practitioner; • and in respect of certain specified types of surgery: <ul style="list-style-type: none"> • funding for the first specialist's assessment to be undertaken at a private hospital; and • the surgery to be undertaken at a private hospital if it cannot be carried out through the public health system within a reasonable time. 	government is to provide assistance to veterans who have impairments directly related to their military service
Rec No	Law Commission Recommendation	Government Response
R151	The Government should consider funding the full cost of surgeries covered by this entitlement through Vote Veterans' Affairs rather than Vote Health.	Not progressed The initiative to provide free surgery is not being progressed
R152	Over 80 year old veterans that qualify for this entitlement should receive a veteran's card that identifies this.	Not progressed The entitlement that would require the card is not being progressed
Chapter 20 — Independence Assistance		
Rec No	Law Commission Recommendation	Government Response
R153	<p>The following persons should qualify for the Veterans' Independence Programme (VIP) under Scheme Two:</p> <ul style="list-style-type: none"> • Any recipient of a Disablement Pension. This group would qualify for independence assistance that is associated with the accepted disability or disabilities. • Veterans with qualifying operational service who are over 80 years old and in receipt of a Disablement Pension. This group would receive assistance based on needs arising from any medical condition on. 	Accept in principle All veterans in receipt of impairment compensation to be eligible on the basis of need

Rec No	Law Commission Recommendation	Government Response
R154	<p>The services provided under VIP should include:</p> <ul style="list-style-type: none"> • section maintenance — the activities regularly required to maintain the section immediately surrounding the veteran’s primary residence; • home help — routine domestic tasks required to support the veteran in remaining at their primary residence; • personal care — assistance with the tasks of daily living; modifications to the home — adaptations to the veteran’s primary residence to assist the veteran to live as independently as possible; and • transport for independence — assisted transport for social purposes for those for whom social isolation is harmful to the health. 	<p>Accept in principle</p> <p>The services to be provided will meet the individual needs of the veteran and will not be restricted to a particular list</p>
R155	<p>A special category of independence assistance should be provided for veterans who have not received impairment compensation, but who have qualifying operational service. These veterans should be eligible to have a case manager and to receive some VIP services on a discretionary basis.</p>	<p>Accept with amendment</p> <p>Veterans with qualifying service not in receipt of impairment compensation to receive assistance on a discretionary basis</p>
Chapter 21 — Transition Assistance		
Rec No	Law Commission Recommendation	Government Response
R156	<p>The NZDF should be required to provide all members of the armed forces, including Reserve Forces, with transition assistance when they leave the armed forces.</p>	<p>Not progressed</p> <p>The matter is under review by NZDF</p>
R157	<p>Job placement assistance, including job search training, career counselling and job finding assistance, should be available to all members of the forces when they are leaving the armed forces.</p>	<p>Not progressed</p> <p>The matter is under review by NZDF</p>

Rec No	Law Commission Recommendation	Government Response
R158	VANZ should educate currently serving veterans with qualifying operational service about what is provided for veterans under the legislative scheme.	Accept
Chapter 22 — Recognition of Service for Senior Veterans		
Rec No	Law Commission Recommendation	Government Response
R159	Scheme Two should retain the Veteran's Pension for veterans 65 years and over.	Accept in principle Veteran's Pension to be paid from the age of entitlement to NZ Superannuation
R160	All veterans with qualifying operational service should be eligible for the Veteran's Pension, regardless of whether they have received impairment compensation.	Not progressed at this point in time The intent/focus of government is to assist veterans who have been adversely affected by their service
Chapter 23 — Families		
Rec No	Law Commission Recommendation	Government Response
R161	Spouses or partners of veterans with a service related death should be eligible for assistance. We recommend that Scheme Two define a service-related death as: <ul style="list-style-type: none"> • death during qualifying service; • death within 10 years of qualifying service from a condition that was attributable to or aggravated by qualifying service; or • death more than 10 years of qualifying service from an accepted late onset condition. 	Accept

Rec No	Law Commission Recommendation	Government Response
R162	The new legislation should provide a lump sum compensation payment of approximately \$20,000 for surviving spouses.	Accept with amendment Lump sum payment to be \$25,000
R163	When a spouse qualifies for ACC in respect of the veteran's death, ACC should pay the survivor's grant under ACC legislation and VANZ should pay the amount required to top the total payment up to the amount the spouse is entitled to under veterans' legislation.	Accept
R164	Spouses and partners of deceased veterans should be provided with weekly income compensation at a rate of 60% of the veteran's earnings. This entitlement would last for five years or for as long as the spouse is caring for a child of the veteran who is under 18 years.	Accept
R165	Surviving spouses who qualify for entitlements should be entitled to VIP services for up to one year following the veteran's death.	Accept
R166	Scheme Two should allow for the surviving spouse to receive vocational rehabilitation services.	Accept
R167	Every child (under 18 years) of a deceased veteran with a service-related death should receive a lump sum payment. This could be set at \$5,000.	Accept with amendment Lump sum payment to be \$10,000
R168	Weekly compensation of a share of 20% of the veteran's earnings prior to death should be divided equally between the children of the deceased veteran as weekly income compensation and paid to each child until he or she reaches 18 years or 21 years if he or she continues in full time study.	Accept with amendment Discretion for the impairment compensation to be paid until the age of 23 if the child is in full time study to match provisions in the 1954 Act for the payment of bursaries

Rec No	Law Commission Recommendation	Government Response
R169	A funeral grant should be paid on the death of any veteran who had qualifying operational service, regardless of whether he or she received impairment compensation.	<p>Not progressed at this point in time</p> <p>The intent/focus of government is to provide assistance to veterans who have impairments directly related to their military service.</p>
R170	The funeral grant should be for the actual costs of the funeral up to a specified maximum that is no less than ACC's funeral grant.	<p>Not progressed at this point in time</p> <p>The current funeral grant rate is a contribution towards the cost of a funeral, and is not intended to cover the full cost as individual requirements vary greatly.</p>