



# War Pensions Amendment Act 2001

Public Act 2001 No 97  
Date of assent 14 December 2001  
Commencement see section 2

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## The Parliament of New Zealand enacts as follows:

### 1 Title

- (1) This Act is the War Pensions Amendment Act 2001.
- (2) In this Act, the War Pensions Act 1954 is called “the principal Act”.

### 2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

### 3 Interpretation

- (1) Section 2(1) of the principal Act is amended by repealing the definitions of **dependant** and **member of the family**, and substituting the following definitions in their appropriate alphabetical order:

“**dependant**, in relation to a member of the defence force, means—

“(a) any person who is wholly or primarily dependent on the member for financial support and who ordinarily resides with the member and who—

“(i) is related to the member or is within any class of persons specified as dependent persons in guidelines issued by the Secretary; and

“(ii) is within any class of persons specified as financially dependent persons in guidelines issued by the Secretary;

“(b) any person who is under the care of that member as a consequence of that person’s inability to live independently of the member for reasons of—

“(i) disability; or

- “(ii) illness; or
- “(iii) advanced age

“**member of the family**, in relation to a family that includes a member of the forces, means—

- “(a) any person who is related to the member:
- “(b) any person who belongs to the same whanau or other culturally recognised family group:
- “(c) any person within a class of persons specified as members of a family in guidelines issued by the Secretary”.

- (2) Section 2(1) of the principal Act is amended by inserting, in their appropriate alphabetical order, the following definitions:

“**member of the forces** means a member of the defence force

“**partner**, in relation to a member of the forces, means a person with whom the member is in a relationship

“**relationship** means a relationship between a member of the forces and another person of the same or different sex who live together and are not married to one another and that is within a class of relationships specified as recognised relationships in guidelines issued by the Secretary

“**spouse**, in relation to a member of the forces who is married, means the person to whom the member is married”.

#### 4 Appeals to Social Security Appeal Authority

Section 16A(1)(b) of the principal Act is amended by omitting the expression “76 to”, and substituting the expression “78 and”.

#### 5 General provisions as to grounds for payment of pensions

Section 19(3) of the principal Act is amended by omitting the word “wife” in both places where it appears, and substituting in each case the words “spouse or partner”.

#### 6 Amendment to heading before section 32

The heading before section 32 of the principal Act is amended by inserting, after the words “*surviving spouses*”, the words “*or surviving partners*”.

## **7 Maximum rates of surviving spouses' pensions**

- (1) The heading to section 32 of the principal Act is amended by inserting, after the words “**surviving spouses**”, the words “**and surviving partners**”.
- (2) Section 32(1) and (2) of the principal Act is amended by inserting, after the words “surviving spouse” in each place where they appear, the words “or surviving partner”.

## **8 Rate of pension for surviving spouse who is a bona fide resident of New Zealand**

- (1) The heading to section 33 of the principal Act is amended by inserting, after the words “**surviving spouse**”, the words “**or surviving partner**”.
- (2) Section 33 of the principal Act is amended by inserting, after the words “surviving spouse”, the words “or surviving partner”.

## **9 New sections 34 to 35A substituted**

The principal Act is amended by repealing sections 34 to 35A, and substituting the following sections:

### **“34 Surviving spouse or surviving partner not entitled to pension in certain cases**

Despite anything to the contrary in this Act, the surviving spouse or surviving partner of a member of the forces is not entitled to a pension in respect of the member's death if—

- “(a) the death of the member occurred within 1 year after the marriage or, as the case may require, the date of commencement of the relationship; and
- “(b) at the date of the marriage or, as the case may require, the date of commencement of the relationship, the member had not, in the opinion of the Secretary, a reasonable expectation of surviving for at least 1 year.

### **“35 Pensions to surviving spouses or surviving partners to cease on remarriage or commencement of new relationship**

- “(1) A pension payable to the surviving spouse or surviving partner of a member of the forces must cease on his or her remarriage or, as the case may require, on the commencement of a new relationship by him or her.

- “(2) Despite anything to the contrary in subsection (1), on the remarriage of a surviving spouse or surviving partner or, as the case may require, on the commencement of a new relationship by him or her, while in receipt of a pension under this Part, the Secretary may, in the Secretary’s discretion,—
- “(a) continue the pension at any rate, not exceeding the maximum rate of pension payable to a surviving spouse or surviving partner, and for any period, not exceeding 2 years, that the Secretary thinks fit:
- “(b) review, at any time, a pension continued under paragraph (a).
- “(3) In any case to which subsection (2) applies, the Secretary may, in the Secretary’s discretion, instead of continuing the pension, pay to the surviving spouse or, as the case may require, the surviving partner, a lump sum gratuity not exceeding 2 years’ pension.
- “(4) For the purposes of this Act and any other enactment, a pension payable to a person under subsection (2) is deemed to be a pension payable to the surviving spouse or, as the case may require, the surviving partner, of a member of the forces.
- “(5) For the purposes of this section, a **new relationship** includes a relationship that the Secretary regards as a relationship under section 2(1).

**“35A Reinstatement of surviving spouse’s or surviving partner’s pension**

- “(1) Despite anything in section 35, if a pension payable to the surviving spouse or the surviving partner of a member of the forces has ceased under that section because of remarriage or the commencement of a new relationship, and that remarriage or new relationship has subsequently terminated or irreconcilably broken down within 5 years after the date of remarriage or the commencement of the new relationship, the Secretary may, in the Secretary’s discretion, reinstate the pension previously payable.
- “(2) The rate of any pension reinstated under subsection (1) is the appropriate rate specified in the Fourth Schedule of this Act as if the pension had been granted under section 32.”

**10 Child not entitled to pension in certain cases**

Section 37 of the principal Act is amended—

- (a) by omitting the word “mother”, and substituting the word “parent”; and
- (b) by omitting the word “widow”, and substituting the words “surviving spouse or surviving partner”; and
- (c) omitting the word “his”, and substituting the words “the member’s”.

**11 Increased pensions for children in certain cases**

Section 40(b) of the principal Act is amended by omitting the word “mother”, and substituting the word “parent”.

**12 Children whose parents are not married**

Section 41 of the principal Act is repealed.

**13 Duration of pensions for children**

Section 43 of the principal Act is amended by repealing subsection (3).

**14 New section 44 substituted**

The principal Act is amended by repealing section 44, and substituting the following section:

**“44 Maximum rates of pensions for dependants other than spouses, partners, and children**

The rates of pension payable to any dependant of a disabled or deceased member of the forces (other than his or her spouse, partner, or child) must not exceed the maximum rate of pension prescribed for the spouse or partner, as the case may be, of a member of the same rank or rating.”

**15 Pensions to unmarried females to cease on marriage**

Section 45 of the principal Act is repealed.

**16 Economic position of dependant to be considered in determining rate of pension**

Section 46(1) of the principal Act is amended by omitting the words “wife or widow”, and substituting the words “spouse or partner, or surviving spouse or surviving partner.”.

**17 Increased pensions to wife and children of member in receipt of economic pension**

- (1) The heading to section 47 of the principal Act is amended by omitting the word “**wife**”, and substituting the words “**spouse or partner**”.
- (2) Section 47 of the principal Act is amended by omitting the word “wife”, and substituting the words “spouse or partner”.

**18 Pension to surviving spouse or child of deceased member whose death not attributable to service**

- (1) The heading to section 48 of the principal Act is amended by inserting, after the words “**surviving spouse**”, the words “, **surviving partner**,”.
- (2) Section 48 of the principal Act is amended by inserting, after the words “surviving spouse”, the words “, surviving partner,”.

**19 Pension for guardians of motherless children**

- (1) The heading to section 51 of the principal Act is amended by omitting the word “**motherless**”, and substituting the word “**parentless**”.
- (2) Section 51 of the principal Act is amended—
  - (a) by omitting from subsection (1) the word “woman”, and substituting the word “person”; and
  - (b) by omitting from subsection (1) the word “she”, and substituting the words “he or she”; and
  - (c) by omitting from subsection (2) the word “wife”, and substituting the words “spouse or partner”.

**20 Pensions for other persons**

Section 52(2) of the principal Act is amended by omitting the words “wife or widow”, and substituting the words “spouse or partner, or surviving spouse or surviving partner”.

**21 Service as member of other Commonwealth forces**

Section 56(5) of the principal Act is amended by omitting the word “widow”, and substituting the words “surviving spouse, surviving partner,”.

- 22 Pensions for members of mercantile marine and their dependants in respect of disablement or death resulting from Second World War**  
Section 62(3) of the principal Act is amended by omitting the word “wife” in both places where it appears, and substituting in each case the words “spouse or partner”.
- 23 Service as member of other Commonwealth mercantile marine**  
Section 63(5) of the principal Act is amended by omitting the word “wife” in both places where it appears, and substituting in each case the words “spouse or partner”.
- 24 Pensions for members of Emergency Reserve Corps and their dependants in respect of disablement or death attributable to their service**  
Section 65(3) of the principal Act is amended by omitting the word “wife” in both places where it appears, and substituting in each case the words “spouse or partner”.
- 25 Wives and children of Maoris**  
Section 76 of the principal Act is repealed.
- 26 Conjugal status for purposes of pension or allowance**  
Section 77 of the principal Act is amended by repealing paragraphs (a) and (b).
- 27 Sick benefits received from friendly society**  
Section 78A(1) of the principal Act is amended by omitting the words “husband or the wife”, and substituting the words “spouse or the partner”.
- 28 Rates of pension where overseas pension payable**  
Section 81(2) of the principal Act is amended by omitting the words “wife or husband”, and substituting the words “spouse or partner”.



**29 Disposition of accrued pension unpaid at death**

Section 85(2)(a) of the principal Act is amended—

- (a) by omitting the words “widow or widower”, and substituting the words “surviving spouse or surviving partner”; and
- (b) by omitting the word “widow” in both places where it appears, and substituting in each case the words “surviving spouse or surviving partner”.

**30 Refusal or reduction of pension in certain cases**

Section 87A of the principal Act is amended by omitting the words “husband or wife” in both places where they appear, and substituting in each case the words “spouse or partner”.

**31 Pensions and allowances absolutely inalienable**

Section 89(1) of the principal Act is amended by omitting the words “his wife”, and substituting the words “the person’s spouse or partner”.

**32 Money payable out of Crown Bank Account**

Section 94(2)(b) of the principal Act is amended by omitting the words “husband or wife”, and substituting the words “spouse or partner”.

**33 Repeals and savings**

Section 97 of the principal Act is amended by adding the following subsections:

- “(5) The amendments made to the principal Act by the War Pensions Amendment Act 2001 do not confer any entitlement on any person in respect of any period before the commencement of the War Pensions Amendment Act 2001.
- “(6) The amendments made to the principal Act by the War Pensions Amendment Act 2001 do not prevent any department from continuing to describe the pension known, before the commencement of the War Pensions Amendment Act 2001, as ‘the surviving spouse’s pension’ by that name after the commencement of that Act—
  - “(a) in official forms, computer programs, and other documents; or
  - “(b) for the purposes of assessment of eligibility and payment; or

“(c) for any other official purpose.”

### **34 Amendments to Fourth Schedule**

The Fourth Schedule of the principal Act is amended by—

- (a) inserting in the heading to that schedule, after the words “**surviving spouses**”, the words “**or surviving partners**”; and
- (b) inserting in items 1, 2, 4, and 6, after the words “surviving spouse” in each place where they appear, the words “or surviving partner”.

### *Amendments to War Pensions Regulations 1956*

### **35 New regulation 23 substituted**

The War Pensions Regulations 1956 (SR 1956/7) are amended by revoking regulation 23, and substituting the following regulation:

#### **“23 Pension determinable on remarriage or commencement of new relationship**

“(1) If any pension payable to a person is determinable on his or her remarriage or on the commencement by him or her of a new relationship, the Secretary may, at any time before payment of any instalment of the pension, require him or her to make a declaration,—

“(a) in the case of a surviving spouse or surviving partner, that he or she has not remarried or commenced a new relationship:

“(b) in the case of any other person, that he or she is not married or in a relationship.

“(2) If a pension is payable to any person on account of, or in respect of, any child, the Secretary may, at any time before payment of any instalment of the pension, require the person claiming payment of the pension to make a declaration to the effect that the child is still alive and is being maintained by the claimant.”

### **36 New regulation 25 substituted**

The War Pensions Regulations 1956 are amended by revoking regulation 25, and substituting the following regulation:

**“25 Conditions for economic pension**

- “(1) Before granting or renewing an economic pension, or at any time during the currency of an economic pension, the Secretary may require the claimant or pensioner to register for suitable employment with an employment bureau or other agency nominated by the Secretary.
- “(2) Subclause (1) does not apply to a claimant or pensioner who is the sole surviving parent of a deceased member of the forces or the surviving spouse or surviving partner of a deceased member having the care and control of a child to, or in respect of, whom a pension is payable.”

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**Legislative history**

5 December 2001	Divided from Human Rights Amendment Bill, Bill 145-2, as Bill 145-3A
11 December 2001	Third reading
14 December 2001	Royal assent

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This Act is administered in the New Zealand Defence Force.

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