

Terminal Lump Sum and Terminal Disablement Pension Payments

**Version 9.0
September 2017**

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Policy

1. Purpose

- 1.1 This document sets out policy for administering the **Terminal Lump Sum** payment or the **Terminal Rate of the Disablement Pension** under the **Veterans' Support Act 2014**.

2. Legislative Reference

- 2.1 The relevant legislation is the **Veterans' Support Act 2014** (the Act), sections 53, 54, 210 and 276, and schedule 1 clause 7, and the **Veterans' Support Regulations 2014** (the Regulations) schedule 2.

3. The Terminal Rate of the Disablement Pension

- 3.1 The Terminal Rate of the Disablement Pension is the **maximum available rate** of Disablement Pension paid to a **veteran** with a **terminal medical condition** that is **service-related**.

Section 54 of the Veterans' Support Act 2014

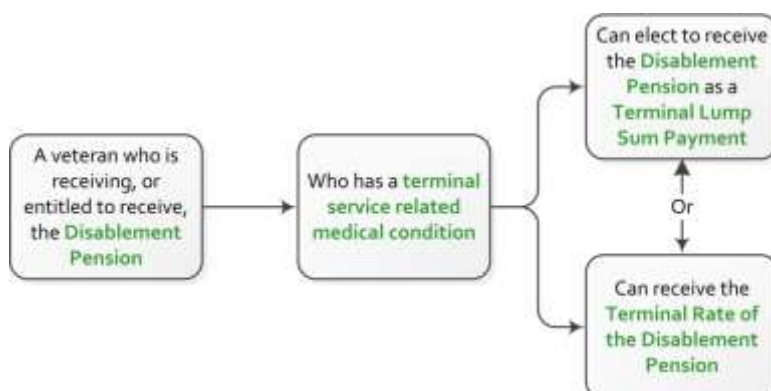
4. The Terminal Lump Sum

- 4.1 The Terminal Lump Sum is a payment made to a veteran with a terminal **service-related** condition who elects to suspend their Disablement Pension payments and receive 12 months of pension payments as a one-off lump sum instead. An eligible veteran may receive a Terminal Lump Sum only once.

Section 53 of the Veterans' Support Act 2014

5. Entitlement

- 5.1 To be eligible for a Terminal Lump Sum or the Terminal Disablement Pension Rate a veteran must be:
- Receiving, or entitled to receive, the Disablement Pension, and
 - Have a terminal service-related medical condition.



Receiving, or entitled to, the Disablement Pension

- 5.2 To be eligible for these entitlements a veteran must first be receiving, or be entitled to receive, the **Disablement Pension**.
- 5.3 For more information on **Disablement Pension** eligibility see the **Disablement Pension** policy.

War Disablement Pension recipients

- 5.4 Veterans receiving a **War Disablement Pension** under the **War Pensions Act 1954** can apply for the Terminal Lump Sum or the Terminal Rate of the Disablement Pension. These entitlements are considered as if the veteran were receiving a Disablement Pension.
- 5.5 The Terminal Rate that those on a War Disablement Pension are eligible for, is the maximum rate that applies to the veteran on the date that the decision is made to accept the application.

Schedule 1 clause 7 of the Veterans' Support Act 2014

- 5.6 A veteran does not need to transfer to the Disablement Pension from the War Disablement Pension to receive these entitlements.
- 5.7 For more information on receiving the War Disablement Pension under the new Act see the **Disablement Pension** policy.

The veteran has a terminal medical condition

- 5.8 A veteran must produce evidence to satisfy **Veterans' Affairs** they have a **terminal medical condition** that is **service-related**.

Section 53(2)(b) of the Veterans' Support Act 2014

Terminal medical condition

- 5.9 A **terminal medical condition** is an advanced progressive disease likely to cause death within a 12 month period.

Section 53(7) of the Veterans' Support Act 2014

Evidence of a terminal medical condition

- 5.10 **Veterans' Affairs** will be satisfied the veteran has a **terminal medical condition** if it is confirmed by a signed **medical certificate** from an appropriately qualified **medical practitioner**.

Terminal medical conditions without a 12 month period

- 5.11 If the appropriately qualified **medical practitioner** confirms the veteran's condition is terminal but is unable to determine if the condition is likely to cause death within 12 months the veteran is unable to claim for these entitlements.
- 5.12 The veteran can seek a reassessment of their accepted disability which may increase their whole-person impairment rating, increasing their Disablement Pension payment.

Sections 52 and 53(2)(b) of the Veterans' Support Act 2014

- 5.13 A veteran receiving a War Disablement Pension will need to transfer to the Disablement Pension for a reassessment.

Section 276 of the Veterans' Support Act 2014

Service-related

- 5.14 The Veterans' Support Act 2014 sets out the process for determining if a veteran's condition is **service-related**.

Sections 7, 14, 15, 17 – 26 of the Veterans' Support Act 2014

- 5.15 For more information on determining whether a condition is related to service see the **Disablement Pension** policy.

The veteran applies to receive the Terminal Rate of the Disablement Pension

- 5.16 A **veteran** with a terminal service related medical condition can apply to receive the Terminal Rate of the Disablement Pension.

- 5.17 A veteran can receive the **Terminal Rate of the Disablement Pension** for as long as they choose, and can later subsequently apply for the **Terminal Lump Sum**.

Section 54 of the Veterans' Support Act 2014

The veteran applies to receive their Disablement Pension as a Lump Sum

- 5.18 A veteran may elect to receive the Terminal Lump Sum instead of receiving the Terminal Rate.

- 5.19 The Terminal Lump Sum is equal to the aggregate of the Disablement Pension at the maximum rate for 12 months.

- 5.20 If a veteran elects to receive the lump sum payment their Disablement Pension periodic payment will be suspended for the 12 month period.

Sections 53(1) of the Veterans' Support Act 2014

Role of the Case Manager if a veteran is terminally ill

- 5.21 If a Case Manager is advised a veteran's condition has become terminal the Case Manager must advise the veteran of Terminal Lump Sum payment option and provide the veteran with the appropriate application form so they can apply.

If a veteran dies prior to payment

- 5.22 The Terminal Lump Sum can be paid to the veteran's estate, if Veterans' Affairs' receives his/her completed application on or before the veteran's death.

- 5.23 If a veteran dies before the Terminal Lump Sum payment can be made but the completed application has been received on or before the veteran's death, and has been accepted by Veterans' Affairs, Veterans' Affairs will consider this application as per usual, and if accepted, pay into the veteran's estate.

- 5.24 The Terminal Lump Sum Payment paid to a veteran's estate is tax free.

6. Applications

- 6.1 Veterans must make the election to receive the Terminal Lump Sum, or apply for the Terminal Rate of the Disablement Pension using the form provided by Veterans' Affairs.
- 6.2 Applications can be made by the veteran or someone with legal authority to act for the veteran. See our policy on **Persons with Legal Authority to Act**.

Application timeline

- 6.3 Veterans' Affairs will make a decision on claims within **30 working days** of receipt of the application.
- 6.4 The 30 day period does not include any period Veterans' Affairs is waiting for information that is required to determine the claim.

Section 11 of the Veterans' Support Act 2014

Applicants living overseas

- 6.5 A veteran living overseas can apply for the Terminal Lump Sum.

Start of entitlement

Terminal Rate of the Disablement Pension

- 6.6 If Veterans' Affairs accepts that the veteran is entitled to the Terminal Rate of the Disablement Pension it is treated as starting on the day Veterans' Affairs received the application.

Section 54 of the Veterans' Support Act 2014

Terminal Lump Sum payment

- 6.7 The 12 month period of the Terminal Lump Sum starts from the day Veterans' Affairs received the veteran's election to receive it.
- 6.8 Any Disablement Pension paid after the election date while Veterans' Affairs was processing their Terminal Lump Sum will be deducted from the veteran's lump sum payment.

Section 53(3) of the Veterans' Support Act 2014

End of entitlement

Terminal Lump Sum payment

- 6.9 The Terminal Lump Sum replaces the Terminal rate for a period of 12 months from the date a veteran elects to receive the Terminal Lump Sum. Once that period ends, if the veteran is still alive, his or her Disablement Pension or War Disablement Pension resumes at the terminal rate.

Section 53(6) of the Veterans' Support Act 2014

Terminal Rate of Disablement Pension

- 6.10 The terminal rate of the Disablement Pension is a permanent increase. Entitlement to the Terminal Rate begins the day after the 12 month Terminal Lump Sum period

ends. The Terminal rate continues to be paid until 28 days after the veteran's death.

- 6.11 Any further reassessment or adjustment of the veteran's whole-person impairment rating will not affect payment of the maximum rate.

Section 54 of the Veterans' Support Act 2014

7. Payment

Amount

The Terminal Rate of the Disablement Pension

- 7.1 The Terminal Rate of the Disablement Pension is the **maximum available rate** of the Disablement Pension.
- 7.2 The entitlement is paid fortnightly if paid into a New Zealand bank account. Payments to an overseas bank account are made on a four-weekly basis.

Schedule 2 of the Veterans' Support Regulations 2014

Terminal Lump Sum payment

- 7.3 The Terminal Lump Sum is the maximum amount of the Disablement Pension for 12 months, paid all at once.
- 7.4 No refund of any part of the Terminal Lump Sum occurs if the veteran, having received it, dies before the 12 months period has passed.

Other allowances

- 7.5 Only the Disablement Pension or War Disablement Pension payments are able to be paid as a lump sum, any other allowances the veteran is receiving will continue to be paid normally.

CPI adjustments

- 7.6 If the maximum rate of the Disablement Pension changes during the 12 months period due to CPI adjustment the surviving veteran will be paid an additional lump sum payment to make up the difference.
- 7.7 This additional payment will be the difference between:
- The lump sum paid to the veteran, and
 - What the veteran would have received if the adjustment had been taken into account from the date it was adjusted.
- 7.8 The Terminal Lump Sum payment will be made to the veteran into their nominated bank account.

Example 1.

The maximum weekly rate of the Disablement Pension is \$350. The veteran received a Terminal Lump Sum payment of \$18, 200 (\$350 X 52 weeks) on 3 March. On 1 April the maximum weekly rate of the Disablement Pension was increased to \$360.

First, work out how much the veteran should receive at the lower rate:

3 March to 1 April = 4 weeks

4 x \$350 = \$1400

Then, work out how much the veteran should receive at the CPI adjusted rate:

52 – 4 = 48 weeks

48 x \$360 = \$17,280

Add these together to work out what the veteran is entitled to for the year:

\$1400 + \$17,280 = \$18,680

To work out what the veteran is due deduct what has already been paid to the veteran from their total entitlement including the CPI adjustment:

\$18,680 - \$18,200 = \$480

The difference is then paid to the veteran by bank deposit.

Tax

7.9 The Terminal Lump Sum is a tax free payment in New Zealand.

Section 53(4) and CW28 (1) (a) of the Income Tax Act 2007

Overseas recipients

- 7.10 Overseas recipients of the Terminal Lump Sum may need to declare the payment for tax purposes.
- 7.11 The Terminal Lump Sum payment, or the Terminal Rate of the Disablement Pension, may be treated as income in countries that apply income and asset testing when assessing entitlement to social security pensions and support.
- 7.12 Recipients, or their representatives, should contact the Government Tax Agency of their country of residence for more information.

8. Related documents

- 8.1 Other documents relating to this entitlement are the:
- a. **Terminal Lump Sum factsheet**
 - b. **Terminal Lump Sum application form**
 - c. **Disablement Pension**

9. Reviews and Appeals

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

Glossary

Disablement Pension

A pension available to veterans under the **Veterans' Support Act 2014** who are affected by a disablement caused by a service-related injury, illness, or condition.

War Disablement Pension

A pension granted to veterans before 2014 under the **War Pensions Act 1954** who are affected by a disablement caused by a service related injury, illness, or condition.

Medical practitioner [section 7]

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

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.

terminal medical condition [section 53]

Means an advanced progressive disease likely to cause death within the 12-month period referred to in subsection 53(1) 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