

Disablement Pension

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Contents

Version History	Error! Bookmark not defined.
Policy	3
1. Purpose.....	3
2. Legislative Reference.....	3
3. Eligibility for a Disablement Pension	3
4. Where a veteran is not eligible for a Disablement Pension	4
5. Applications for a Disablement Pension	4
6. Assessing the whole-person impairment rate to determine rates of payment	6
7. Start of Entitlement, Decision Timeline and Notice to the Veteran	6
8. Payment of the Disablement Pension	7
9. End of Entitlement.....	7
10. Reassessment of temporary Disablement Pensions	8
11. Temporary Disablement Pension rate changes following reassessment	9
12. Reassessment of permanent Disablement Pension.....	9
13. Permanent Disablement Pension rate changes following reassessment	10
14. Suspension of temporary Disablement Pension.....	11
15. Suspension of temporary Disablement Pension relating to a veteran's rehabilitation plan	11
16. Temporary Increase in Disablement Pension.....	11
17. Entitlement for terminal veterans.....	11
18. Living Overseas.....	12
19. Administration of claims after death of the veteran.....	12
20. Reviews, Appeals and Complaints	12
21. Transitional Arrangements	13
Appendix I: Pathway to Disablement Pension	14
Appendix II: Applying the 30 day rule for applications for multiple conditions .	15
Glossary	16

Policy

1. Purpose

- 1.1 The purpose of this document is to provide guidance on administering Scheme One **veterans'** eligibility under the Veterans' Support Act 2014 (the Act) to the Disablement Pension.

2. Legislative Reference

- 2.1 The relevant legislation is the Act, sections 7, 11, 14-15, 17-21, 27-29, 38-40 and 47-58, 214, 215, clause 6 of Part 2 of Schedule 1, and the Veterans' Support Regulations 2014, regulation 17, section 42 of the Police Act 1958 and section 110 of the Policing Act 2008.

3. Eligibility for a Disablement Pension

- 3.1 A veteran is eligible for a Disablement Pension if:

- they suffer an **accepted disability**, and

Section 7 of the Veterans' Support Act 2014

- they performed **qualifying service**
 - before 1 April 1974; or
 - before 31 March 1975 in connection with the civilian surgical team based at Qui Nhon Provincial State Hospital, Binh dinh province, Viet Nam; or
 - before 21 April 1975, in connection with 41 Squadron RNZAF in Viet Nam.

Section 38 of the Veterans' Support Act 2014

- 3.2 A New Zealand police officer granted a War Disablement Pension based on their service in the New Zealand Police between 1958 and 1972 can elect to:

- continue to receive their War Disablement Pension, or
- apply for a Disablement Pension and receive it in respect of any injury or illness arising from the service for which entitled they were eligible to receive a War Disablement Pension.

Section 42 of the Police Act 1958, section 110 of the Policing Act 2008 and section 7 and Schedule 1 clause 6 of the Veterans' Support Act 2014

- 3.3 The Disablement Pension is granted on a temporary basis unless Veterans' Affairs notifies the veteran when accepting his/her application that it is permanent.

- 3.4 To be eligible for a temporary Disablement Pension the veteran must:
- participate in a rehabilitation and treatment plan (Your Plan); or
 - have a reasonable excuse for not participating in a rehabilitation and treatment plan (Your Plan).

(Go to separate paper on Rehabilitation Services Eligibility and Rehabilitation Section of Your Plans).

- 3.5 A veteran may be eligible for a permanent Disablement Pension if it is assessed on the basis of medical evidence that his/her accepted disability:
- is not likely to improve; or
 - has stabilised or reached its final state.

- 3.6 Veterans are not required to participate in a rehabilitation plan in order to receive a permanent Disablement Pension.

Sections 47 and 49 (1) and (2) and 51 of the Veterans' Support Act 2014

4. Where a veteran is not eligible for a Disablement Pension

- 4.1 A veteran is not eligible for a Disablement Pension if his/her injury or illness:

- occurred while the veteran was a deserter or absent without leave within the meaning of the relevant armed forces disciplinary legislation applicable at the time of the injury or illness (the findings of a military tribunal within the meaning of the Armed Forces Disciplinary Act 1971 that a veteran was a deserter or absent without leave would be conclusive proof)
- occurred while the veteran was committing an offence under New Zealand law or committing an act overseas that, had it been done in New Zealand, would have been an offence under New Zealand law
- is due wholly or substantially to the ageing process.

Section 28(1)(a)&(b) & (3) & (4) of the Veterans' Support Act 2014

5. Applications for a Disablement Pension

- 5.1 Applications for a Disablement Pension must be made in writing on 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** must complete the section of the form requiring details of the medical diagnosis for each condition and provide relevant reports).

Sections 27 and 48 of the Veterans' Support Act 2014

5.2 In considering the veteran's application, 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

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

- what type of service the veteran has (**qualifying service** or **qualifying operational service**), and when the service occurred (Qualifying service must have occurred before 1 April 1974, or before 31 March 1975, in connection with the civilian surgical team based at Qui Nhon Provincial State Hospital, Binh Dinh province, Viet Nam, or before 21 April 1975, in connection with 41 Squadron RNZAF in Viet Nam. Qualifying operational service applies to veterans making claims before the commencement of Scheme 2 of the Act who performed qualifying operational service in the period between 1 April 1974 and 6 December 2015)

Sections 38 and 39 of the Veterans' Support Act 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 10-14 of the Veterans' Support Regulations 2014

- whether the veteran is suffering from an injury or illness to which a **Statement of Principles** applies
- whether the veteran is suffering from an injury or illness to which no Statement of Principles applies

(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 claimed condition is required.

See also Pathway to Disablement Pension diagram at Appendix I

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 4th 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 Veterans' Affairs will undertake a complete reassessment of all disabilities at the time a veteran transfers to the Disablement Pension.
- 6.3 **See separate paper on Whole-Person Impairment.**
- 6.4 **Go to separate Factsheet on Entitlement Rates for current rates for each level of impairment.**

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 II**).
- 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
 - whether the pension is temporary or permanent
 - information about the veteran's right of review, and
 - the date by which the veteran's accepted disabilities are to be reassessed if the pension is temporary (**Go to section 8**).
- 7.5 When a disability is accepted entitlement begins on the day Veterans' Affairs received the application.

8. Payment of the Disablement Pension

- 8.1 The amount of Disablement Pension paid is based on the whole-person impairment rating and is neither taxed nor asset tested.

Regulation 17 of the Veterans' Support Regulations 2014

- 8.2 **See Factsheet on Rates and Allowances for the current payment rates for the Disablement Pension.**
- 8.3 The Disablement Pension is adjusted annually in line with the Consumer Price Increase.
- 8.4 Veterans using New Zealand bank accounts will receive the Disablement Pension on a fortnightly basis.
- 8.5 If the pension is being paid to an overseas bank account it is paid on a four-weekly basis.
- 8.6 **See also separate policy on Dual Entitlement.**

9. End of Entitlement

- 9.1 The Disablement Pension ceases if:
- a veteran recovers from their service-related accepted disability (as supported by medical opinion), or
 - 28 days after the veteran dies (if the veteran has not elected to receive a terminal payment in the last 12 months – **Go to section 12**)

Sections 49(4)(a) and 55 of the Veterans' Support Act 2014

- 9.2 Veterans' Affairs must not provide a veteran with a Disablement Pension during any period when that veteran is a **prisoner** in any **prison** and is not required to undertake any assessments or make any Disablement Pension related payments.

Section 29 of the Veterans' Support Act 2014

- 9.3 **Go to section 11 regarding suspension of temporary Disablement Pension when Veterans' Affairs is unable to complete a reassessment.**

10. Reassessment of temporary Disablement Pensions

- 10.1 The purpose of the reassessment is to determine whether:

- the Disablement Pension should continue because the veteran still suffers from the accepted disability or be cancelled because the veteran has recovered
- the accepted disability is likely to improve, or has stabilised or reached its final state in which case the pension should be made permanent.

Section 49(4) of the Veterans' Support Act 2014

- 10.2 If Veterans' Affairs determines through reassessment that the veteran's Disablement Pension should remain temporary because the accepted disability has not stabilised or reached its final state, Veterans' Affairs must notify the veteran of the further reassessment date.

Section 49(6) of the Veterans' Support Act 2014

- 10.3 A veteran's temporary Disablement Pension may be made permanent, even though the veteran is assessed at 0% whole-person impairment and not entitled to pension payments (though still entitled to treatment and rehabilitation), if:

- there is a need for ongoing treatment to deal with the effects of the accepted disability, or
- there is potential for the accepted disability to return or recur.

Section 49(5)(a) & (b) of the Veterans' Support Act 2014

Timeline of Reassessment for temporary Disablement Pension

- 10.4 When advising the veteran that their Disablement Pension is temporary Veterans' Affairs will state the date by which the veteran's temporary accepted disabilities are to be reassessed. The reassessment must occur on or before that date. Normally the reassessment will occur within 12 months.

Section 49(3) & (4) of the Veterans' Support Act 2014

- 10.5 Where treatment or rehabilitation advice has been received that additional treatment/rehabilitation is needed Veterans' Affairs may, if it considers it appropriate, advise the veteran on a temporary Disablement Pension of a later date by which the accepted disability is to be assessed.

Section 49(3) of the Veterans' Support Act 2014

- 10.6 Veterans' Affairs will ensure that there is up-to-date information available at the time of the reassessment, including, for example:
- post-surgery update from a specialist (if unavailable Veterans' Affairs may book an appointment)
 - update from the veteran's GP or other health practitioner (Veterans' Affairs may require the veteran to attend a later appointment).
- 10.7 This information may include advice of an appropriate follow-up reassessment date.
- 10.8 The reassessment may result in a further period of temporary Disablement Pension or a permanent Disablement Pension being granted if the accepted disability or disabilities has/have stabilised.

11. Temporary Disablement Pension rate changes following reassessment

- 11.1 The reassessment of a veteran's temporary accepted disability may result in a change in the rate of temporary Disablement Pension that the veteran is receiving. For example if an accepted disability is assessed at a lesser whole-person impairment than the original assessment, the veteran's temporary Disablement Pension may reduce. If the whole-person impairment increases (and the accepted disability has not stabilised) the temporary Disablement Pension may increase.

12. Reassessment of permanent Disablement Pension

Timeline of Reassessment for permanent Disablement Pension

- 12.1 As a matter of policy Veterans' Affairs has decided that reassessments generally must not be undertaken earlier than 2 years after a permanent Disablement Pension has been granted or reassessed for a particular individual accepted disability, unless:
- the veteran provides medical evidence that his/her individual accepted disability has changed significantly, or
 - Veterans' Affairs considers that a particular individual accepted disability of the veteran has changed significantly (e.g. information from a rehabilitation report or a treatment report might suggest that a significant change has occurred).

- 12.2 A “significant change” is when a the impairment from one or more disabilities would change the veteran’s whole-person impairment by 10 percent or more.

Section 52 of the Veteran’s Support Act 2014

- 12.3 After two years a veteran can apply for a reassessment of his/her accepted disability without providing evidence of a significant change and Veterans’ Affairs will pay for that reassessment.
- 12.4 If a veteran’s whole-person impairment has been assessed at 85% or more, no further reassessments of accepted disabilities will be undertaken, unless there is a significant improvement in the veteran’s accepted disability. Veterans’ Affairs may be satisfied that there has been a significant improvement if it receives a medical report that seems to indicate a significant reduction in the veteran’s level of impairment. In the case of multiple disabilities the decision maker will need to consider whether the AMA Guides indicate a significant change may have occurred based on the veteran’s health status in respect of his/her disabilities.

13. Permanent Disablement Pension rate changes following reassessment

- 13.1 If, following reassessment of the veteran’s accepted disability, the reassessment indicates that there has been any change in the veteran’s accepted disability, the veteran’s permanent Disablement Pension rate will be adjusted according to the percentage of change.
- 13.2 For example, in the case of a veteran in receipt of a permanent Disablement Pension of 82%, if a reassessment indicates that their accepted disability or disabilities has/have worsened to the extent that it results in the veteran’s whole-person impairment increasing by 3%, the veteran’s Disablement Pension should be increased to 85% whole-person impairment. The maximum payment rate for the Disablement Pension corresponds to 85% whole-person impairment, so there will be no change in the rate of pension beyond that threshold.
- 13.3 If the veteran’s accepted disability has improved, or indeed if the veteran is assessed as no longer having a particular accepted disability, the veteran’s whole-person impairment rate will be recalculated to a lower percentage and the pension rate will be reduced.
- 13.4 The level of impact on the pension rate will depend on the degree of change in impairment for the particular accepted disability, the accepted disability’s ranking in respect of the veteran’s other accepted disabilities and the number of other accepted disabilities the veteran has.
- 13.5 If the veteran’s whole-person impairment rate drops below 85% following a reassessment, the veteran may apply for a reassessment of any other accepted disability.

14. Suspension of temporary Disablement Pension

- 14.1 A veteran must comply with the reasonable requirements by Veterans' Affairs for the purposes of completing a reassessment. "Reasonable requirements" include providing Veterans' Affairs with additional information such as a further medical assessment by a specialist nominated and paid for by Veterans' Affairs.
- 14.2 If a veteran, without reasonable excuse, does not comply with these requirements within the timelines provided, Veterans' Affairs may suspend their temporary Disablement Pension.
- 14.3 "Reasonable excuse" would be a circumstance outside of the veteran's control that has impaired their ability to complete the requirements of Veterans' Affairs, such as hospitalisation or the death of a family member.
- 14.4 Veterans' Affairs must give the veteran 28 days notice, in writing, that it proposes to suspend payment of the pension.

Section 50 of the Veterans' Support Act 2015

- 14.5 A permanent Disablement Pension is not subject to suspension on these terms.

15. Suspension of temporary Disablement Pension relating to a veteran's rehabilitation plan

- 15.1 If a dispute arises with the veteran relating to his/her Your Plan and the veteran fails to comply with the Your Plan requirements, Veterans' Affairs may cease the veteran's temporary Disablement Pension.
- 15.2 The entitlement may cease only if Veterans' Affairs has given the veteran written notice of its intention to cease payment because the veteran has failed to comply, and if the veteran has not complied within 28 days of the date of the giving of the notice, or established, to Veterans' Affairs' satisfaction, reasonable grounds for not complying.

Sections 214 and 27(2)(c),(4) & (5) of the Veterans' Support Act 2014

16. Temporary Increase in Disablement Pension

- 16.1 Veterans' Affairs may increase a veteran's Disablement Pension to the maximum rate if the veteran is undergoing treatment that requires them to live away from home, or be absent from work, for one or more days in any week **(See separate paper on Temporary Increase in Disablement Pension)**.

17. Entitlement for terminal veterans

- 17.1 A veteran suffering from a terminal **service-related** medical condition can elect to suspend payment of the Disablement Pension for a period of 12 months and

instead receive a lump sum payment for the 12-month period at the maximum rate.

17.2 After the end of the 12-month period the veteran is entitled to the maximum Disablement Pension on and from the day after the close of that period.

17.3 **Go to separate paper on Terminal Lump Sum and Terminal Disablement Pension Payments.**

18. Living Overseas

18.1 This policy for the Disablement Pension applies equally to all New Zealand veterans, irrespective of their country of residence.

18.2 Overseas entitlements do not affect the payment of New Zealand entitlements. However, other countries may view New Zealand entitlements payments or grants as income which could impact on payments received from those countries. Recipients may also be required to pay tax on entitlement payments received. Veterans' Affairs is to advise recipients of the need to contact the appropriate local agency to ascertain what, if any, impact the receipt of Disablement Pension payments will have at the time the entitlement is granted.

19. Administration of claims after death of the veteran

19.1 If a veteran has made a claim for a Disablement Pension and dies before the entitlement has been decided, the claim can proceed and be determined by Veterans' Affairs, but there can be no review of the decision Veterans' Affairs makes about the claim.

Section 215 of the Veterans' Support Act 2014

19.2 Similarly, if a veteran applies for a review of a Veterans' Affairs' decision about his/her entitlement to a Disablement Pension, but dies before the review decision is made, the review of the decision may proceed, but there would be no right of appeal by the veteran's estate.

19.3 If a veteran applies for an appeal but dies prior to the appeal being determined, the appeal can proceed with the appeal being continued by a representative of the veteran.

Regulation 53 of the Veterans' Support Regulations 2014

20. Reviews, Appeals and Complaints

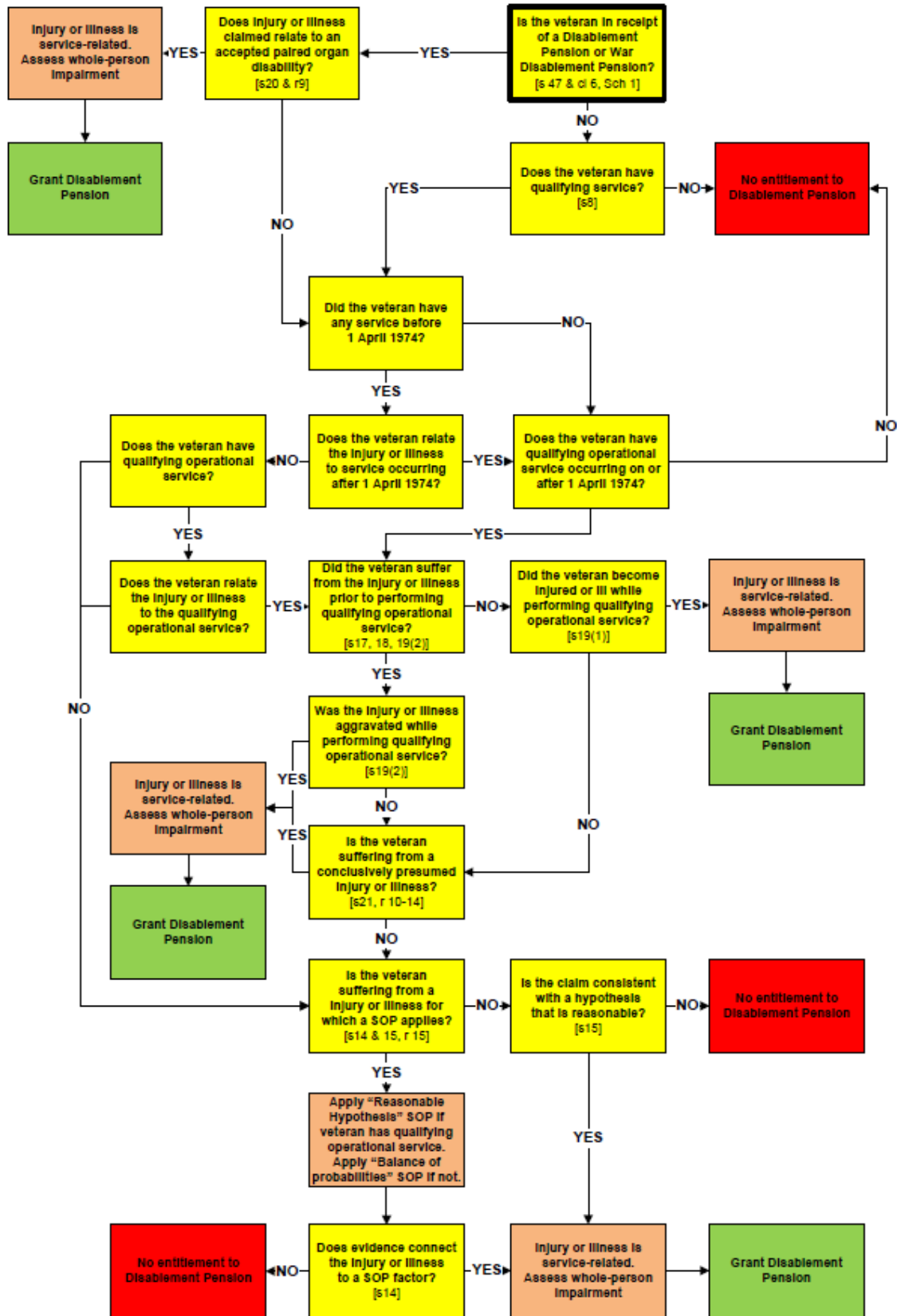
20.1 If a veteran disagrees about a decision concerning eligibility for an entitlement or service go to the separate policies on Reviews and Appeals. If a veteran is concerned about Veterans' Affairs' administration of an entitlement or service go to the separate policy on Complaints.

21. Transitional Arrangements

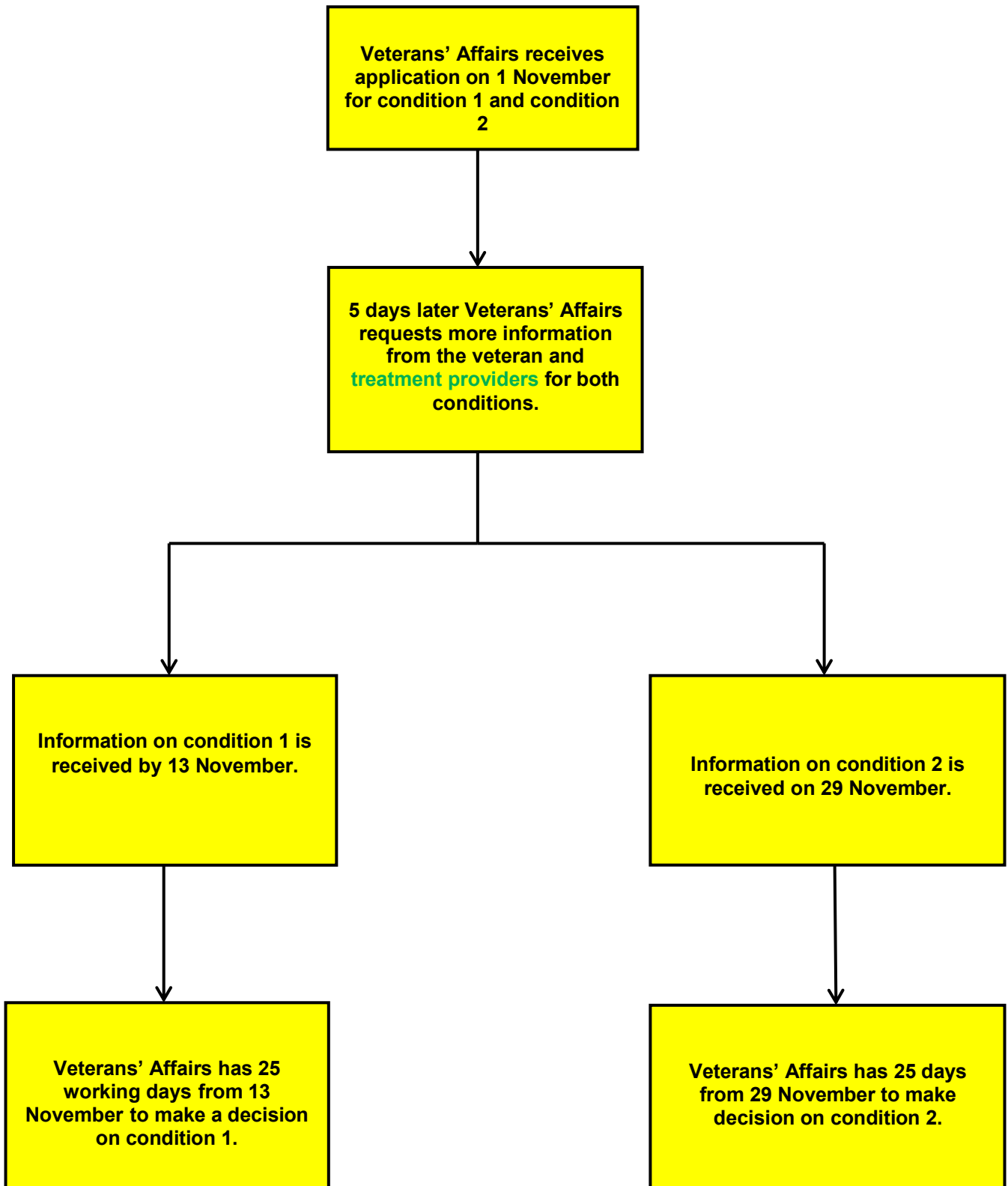
- 21.1 Veterans who were in receipt of the War Disablement Pension under the War Pensions Act 1954 immediately before the commencement of the Veterans' Support Act 2014 on 7 December 2014 can continue to receive the pension under the 2014 Act.
- 21.2 Veterans who choose to remain on the War Disablement Pension cannot add new injuries or illnesses to the War Disablement Pension or have existing injuries and illnesses reassessed. They can apply for treatment and rehabilitation for new injuries or illnesses that they believe are service-related and remain on the War Disablement Pension or they can transfer to a Disablement Pension at which point they can seek reassessment of any accepted injury or illness or apply to have new ones included.
- 21.3 If a War Disablement Pension veteran elects to transfer to a Disablement Pension a Disablement Pension will automatically be granted for any accepted disability for which he/she is receiving the War Disablement Pension.
- 21.4 Veterans' Affairs will conduct a whole-person impairment assessment for each condition applied for using the *American Medical Association Guides to the Evaluation of Permanent Impairment* (4th edition). All accepted disabilities for which a War Disablement Pension has been granted are to be reassessed when transferring to a Disablement Pension to ensure that the level of impairment of each disability is accurate. Reassessment of an accepted disability for a new condition will be determined using the decision-making process prescribed by the Veterans' Support Act 2014 as set out in section 10 of this paper.
- 21.5 Veterans who were receiving a temporary War Disablement Pension for an accepted disability are to be granted a temporary Disablement Pension for that accepted disability unless the disability is assessed as being permanent.
- 21.6 If, during the course of considering the transfer application, a veteran is found not to be entitled to a Disablement Pension because he or she does not meet the service criteria the application is to be declined. If the veteran is assessed as no longer suffering from a particular accepted disability a Disablement Pension of 0% is to be granted.
- 21.7 If the veteran is not applying for a new condition, was in receipt of a War Disablement Pension of 70% or more and their whole-person impairment is assessed as being below 52%, the veteran is to be given the option to cancel their application if they have a spouse, partner, child or dependant.
- 21.8 The payment rate of the Disablement Pension must be no less than the rate the veteran was receiving on the War Disablement Pension. As a matter of policy the pension payment rate will not drop below the rate the veteran received under the War Disablement Pension even if the whole-person impairment rating has dropped. This minimum rate will be CPI adjusted annually. However, if the whole-person impairment rating increases, the Disablement Pension payments will increase.

Clause 6 of Part 2, Schedule 1 of the Veterans' Support Act 2014

Appendix I: Pathway to Disablement Pension



Appendix II: Applying the 30 day rule for applications for multiple conditions



Glossary

accepted disability [policy definition]

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

health practitioner [section 7]

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

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.

Paired organs [regulation 9]

The following organs are paired organs for the purposes of section 20 of the Act:

- (a) adrenal glands:
- (b) breasts:
- (c) ears:
- (d) eyes:
- (e) kidneys:
- (f) lungs:
- (g) ovaries:
- (h) testicles.

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 service [section 8]

Means:

- (a) qualifying operational service; and
- (b) qualifying routine service.

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.

qualifying routine service [section 8]

Means service in the armed forces before 1 April 1974 that is not qualifying operational service.

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.

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.

treatment provider [section 7]

- (a) means a chiropractor, dentist, medical laboratory technologist, nurse, nurse practitioner, occupational therapist, optometrist, osteopath, physiotherapist, podiatrist, or medical practitioner; and
- (b) includes a member of any occupational group as added for the purposes of this definition by regulations made under section 265 and subject to any criteria specified in those regulations, including (but not limited to) whether and, if so, the extent to which members of an occupational group are recognised by the Accident Compensation Corporation as treatment providers for the purposes of the Accident Compensation Act 2001.

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.