

# **Terminal Lump Sum and Terminal Rate for Disablement Pension and War Disablement Pension**

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# Contents

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<b>Policy</b> .....	<b>3</b>
1. Purpose.....	3
2. Legislative Reference .....	3
3. The Terminal Rate .....	3
4. The Terminal Lump Sum.....	3
5. Entitlement .....	3
1. Receiving, or entitled to, the Disablement Pension .....	4
2. Receiving the War Disablement Pension .....	4
3. The veteran has a terminal medical condition.....	4
4. The veteran applies to receive the Terminal Rate.....	5
5. The veteran applies to receive a Terminal Lump Sum .....	5
6. Role of the Case Manager if a veteran is terminally ill .....	5
7. If a veteran dies prior to payment.....	6
6. Applications.....	6
8. Application timeline .....	6
9. Applicants living overseas.....	6
10. Start of entitlement.....	6
11. End of entitlement .....	7
7. Payment.....	7
12. Amount.....	7
13. Tax.....	8
8. Related documents .....	9
9. Reviews and Appeals .....	9
<b>Glossary</b> .....	<b>10</b>

# Policy

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## 1. Purpose

- 1.1 This Policy provides guidance for administering the Terminal Lump Sum payment or the Terminal Rate of the Disablement Pension and War Disablement Pension.

## 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
  - Veterans' Support Regulations 2014 (the Regulations), schedule 2.

## 3. The Terminal Rate

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

*Section 54 of the Veterans' Support Act 2014*

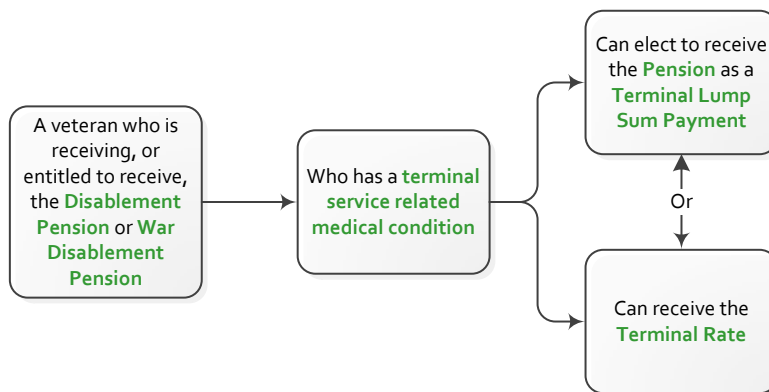
## 4. The Terminal Lump Sum

- 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 or War Disablement Pension 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 Rate a veteran must be:
- a. Receiving, or entitled to receive, the Disablement Pension or War Disablement Pension, and
  - b. Have a terminal service-related medical condition.



*Sections 53 and 54 of the Veterans' Support Act 2014*

### 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.

### Receiving the War Disablement Pension

- 5.4 Veterans receiving a **War Disablement Pension** grand-parented from the War Pensions Act 1954 can apply for the Terminal Lump Sum or the Terminal Rate as if the veteran were receiving a Disablement Pension.

*Schedule 1 clause 7 of the Veterans' Support Act 2014*

- 5.5 A veteran does not need to transfer to the Disablement Pension from the War Disablement Pension to receive these entitlements.
- 5.6 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

- 5.7 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*

- 5.8 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

- 5.9 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

5.10 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.

5.11 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*

5.12 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*

5.13 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*

5.14 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**

5.15 A **veteran** with a terminal service-related medical condition can apply to receive the Terminal Rate.

5.16 A veteran can receive the **Terminal Rate** 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 a Terminal Lump Sum**

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

5.18 The Terminal Lump Sum is equal to the aggregate of the Disablement Pension or War Disablement Pension at the maximum rate for 12 months.

5.19 If a veteran elects to receive the lump sum payment their Disablement Pension or War 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**

5.20 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**

- 5.21 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.
- 5.22 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 the application, and if accepted, pay into the veteran's estate.
- 5.23 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 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 must within 7 **working days** after receiving the application, acknowledge receipt of the application, and must keep the claimant up-to-date on the progress of the application
- 6.4 Veterans' Affairs will make a decision on a claim as soon as practicable after receipt of the application.
- 6.5 Veterans' Affairs will give notice of its decision on a claim in writing, providing:
- the reasons for the decision, and
  - information about the claimant's right of review.

*Section 11 of the Veterans' Support Act 2014*

### **Applicants living overseas**

- 6.6 A veteran living overseas can apply for the Terminal Lump Sum or for the Terminal Rate.

### **Start of entitlement**

#### *Terminal Rate*

- 6.7 If Veterans' Affairs accepts that the veteran is entitled to the Terminal Rate 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*

- 6.8 The 12 month period of the Terminal Lump Sum starts from the day Veterans' Affairs received the veteran's election to receive it.

- 6.9 Any Disablement Pension or War 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*

- 6.10 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*

- 6.11 The Terminal Rate 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.

*Section 55 of the Veterans' Support Act 2014*

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

## **7. Payment**

### **Amount**

#### *The Terminal Rate*

- 7.1 The Terminal Rate is the **maximum available rate** of the Disablement Pension or War 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 or War 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 or War Disablement Pension changes during the 12 month period due to CPI adjustment and the veteran is alive on the date that the adjustment occurs, 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 the pension rate 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 or the Terminal Rate 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 information relating to this entitlement is available on the *Disablement Pension* and *War Disablement Pension* webpages on the Veterans' Affairs website.

## **9. Reviews and Appeals**

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

## Glossary

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### **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.

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

Means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of medicine.

### **member of the armed forces** [section 7]

Means a person who is or has been a member of the New Zealand armed force raised by the Governor-General on behalf of the Sovereign,—

- (a) whether in New Zealand or elsewhere; and
- (b) whether before or after the passing of this Act.

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

Means—

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

### **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.

### **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.

### **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
- (aa) a member of the armed forces who took part in qualifying routine service before 1 April 1974; 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.

### **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.

### **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.