

61 3 9602 5344

Department of Veterans' Affairs

**DVA FACTS**DP  
82**Disability Pension and Allowances****Disability Pension and Compensation Offsetting****Introduction/Purpose**

This fact sheet provides a general outline of how a disability pension under the *Veterans' Entitlements Act 1986* (VEA) may be affected by the payment of compensation from another source.

**If offsetting may affect you, before making any decisions, you should get advice from the Department of Veterans' Affairs that is specific to your circumstances. You may also wish to obtain financial advice as compensation offsetting in most cases affects a disability pension for life.**

**What is compensation offsetting?**

The principle behind compensation offsetting is that a person should not be compensated twice for the same incapacity.

A disability pension is compensation for incapacity from conditions that have been accepted under the *Veterans' Entitlements Act 1986* (VEA) as being related to a veteran's eligible service.

If a veteran does receive any award of compensation or damages from another source for the same incapacity, there must be a corresponding reduction or offset to the amount of disability pension to preclude double compensation.

**'Incapacity'**

Disability pensions are paid in respect of incapacity, not for the underlying disease or injury. Often the same disease or injury accepted under the VEA may be described in a different way when compensation or damages are claimed or paid. Sometimes an accepted condition is aggravated in a later mishap unrelated to service. Neither the different description nor the later mishap affects the application of compensation offsetting to a disability pension for the same incapacity.

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## Disability Pension and Compensation Offsetting, *continued*

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### What is an award of compensation or damages?

Compensation is a defined term in the VEA and includes any payment;

- in the nature of compensation; *or*
- any damages recoverable at law from a government or any other person (whether within or outside Australia), in respect of injury to, or the death of, a person; *or*
- any amount paid under a compromise or settlement of a claim for damages.

Payments under the *Safety Rehabilitation and Compensation Act 1988* (SRCA) which is administered by the Military Compensation and Rehabilitation Service (MCRS) of the Department of Veterans' Affairs are compensation.

Compensation does *not* include:

- any expenses incurred in medical or hospital treatment;
  - payments under an insurance policy owned by a veteran or dependent (for example life insurance  
travel injury or death insurance  
loss of income protection insurance)
  - superannuation payments; *or*
  - a Severe Injury Adjustment which may be paid under the *Defence Act 1901*.
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### Who does this affect?

Any person who is seeking or who receives a pension payable under the VEA who:

- has **received** a benefit from another source for the same incapacity;  
*or*
  - is **eligible to claim** a benefit from another source for the same incapacity.
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### How an award of compensation or damages affects disability pension

The VEA requires that the amount of a disability pension payable in a fortnight must be reduced (or offset) to take account of any other periodic (eg weekly or fortnightly) compensation payment that is made in the same period for the same incapacity.

If a veteran has a number of disabilities accepted under the VEA but the other compensation is only for some of these, the Department will make a separate pension assessment just for those disabilities affected. Offsetting only affects that part of a disability pension paid for the same incapacity for which the other compensation is paid.

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## Disability Pension and Compensation Offsetting, *continued*

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### How an award of compensation or damages affects disability pension, *continued*

The amount of the reduction or offset is the lesser amount of the assessed disability pension or the other compensation paid for the same incapacity.

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### How lump sum of compensation payments are handled

If the other compensation is made as a lump sum payment, an equivalent indexed fortnightly pension payable for life has to be calculated so it can be offset on equal terms to a disability pension.

The Commonwealth Actuary has provided instructions and a table so that the Department can make this calculation. A copy of the table is included with this fact sheet.

*Example* – A veteran, born on 7 July 1963, was granted a disability pension effective from 8 October 1999. On 8 January 2000, he receives a lump sum amount of \$23,451.00 from another source. The same incapacity is being compensated.

The 'age next birthday' in the table is based on the date that a Disability Pension commenced, or the date on which the lump sum was received, whichever is the earlier. In this example, the initial fortnightly equivalent pension rate for a male who is 37 next birthday is \$17.554 per \$10,000.

Thus the initial fortnightly equivalent for the lump sum amount of \$23,451.00 is:-

$$\frac{\$23,451.00}{\$10,000.00} \times \$17.554 = \$41.17$$

This initial amount is then treated in the same way any other fortnightly compensation payment, except that throughout the veteran's lifetime, its value is designed to increase at the same time and by the same factors that apply to indexation increases for disability pensions so that it remains on equal terms with a disability pension.

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### How a compensation lump sum affects disability pension already paid

Where a disability pension is in payment and a lump sum of compensation is later paid for the same incapacity, the VEA deems the fortnightly equivalent pension to have started when disability pension started.

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## **Disability Pension and Compensation Offsetting, *continued***

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### **How a compensation lump sum affects disability pension already paid, *continued***

This means that compensation offsetting operates retrospectively and that some or all of the disability pension already paid becomes an amount not payable. This constitutes an overpayment that must be recovered. Where the Department is aware of the other compensation claim, recovery by a deduction from the lump sum is arranged through the veteran's solicitor or the MCRS.

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### **Fortnightly payments redeemed under s.30 of the SRCA**

There is a specific exception in the VEA for a lump sum payment that is made under the provisions of Section 30 of the SRCA. A lump sum under this section consists of redeemed fortnightly payments that otherwise would have ceased at the age of 65. In such cases offsetting ceases at 65.

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### **Information on the effects of proposed compensation payments**

If you have been told that you are likely to receive an award, payment or settlement of a compensation claim you should find out how this payment will affect your pension. The Department can advise you of the likely impact which may be subject to final adjustments depending on the actual date of payment.

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### **Treatment Entitlements – the White or Gold Card**

Compensation offsetting does not affect your entitlement to treatment. You will retain your white or gold Repatriation Health Card.

The Fact Sheet entitled 'Repatriation Health Card for Specific Conditions (White)' or 'Repatriation Health Card for all conditions (Gold)' provides further information on treatment benefits and other concessions associated with the issue of these cards.

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### **Will any allowances paid by DVA be affected?**

Most compensation allowances paid under the VEA are not offset. However Loss of Earnings Allowance may be affected if periodic compensation payments are related to your normal weekly earnings.

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### **Do compensation payments affect my service pension?**

Any compensation payment offset against a disability pension is not counted again for offsetting against a service pension.

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## ability Pension and Compensation Offsetting, *continued*

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### Do compensation payments affect my service pension? *continued*

Any other compensation or damages (including any residual amount of compensation not used for offsetting against disability pension) may affect service pension payments.

The fact sheet titled *Compensation IS101* provides further information.

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### Rights of reconsideration and review

A veteran may ask for a re-examination of any compensation offsetting matter by a senior officer who will consider any additional information provided.

A compensation offset is an administrative decision for the purposes of the *Administrative Decisions (Judicial Review) Act 1977* and can be appealed to the Federal Court under the provisions of that Act.

There is no avenue of appeal to either the Veterans' Review Board or the Administrative Appeals Tribunal on compensation offsetting.

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### Obligation to notify

A veteran who receives a disability pension, service pension or has any treatment entitlement must tell the Department within 21 days if compensation or damages are claimed or received.

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### Freedom of Information

Under the Freedom of Information Act you may apply to inspect or request a copy of documents which are held on your Veterans' Affairs files. Applications for access to documents must be lodged in writing.

If the application is for documents that are not relevant to a claim for a prescribed benefit such as a pension or allowance you should include an application fee of \$30.00.

In addition to this fee, charges for processing the request (for example, photocopying) may apply.

Copies of manuals and other material used by the Department in making decisions or recommendations affecting your claims are available for you to inspect. Copies of the Veterans' Entitlements Act and the Guide to Assessment of Rates of Veterans' Pensions (GARP) can be purchased from the Commonwealth Government Bookshop.

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## Disability Pension and Compensation Offsetting, *continued*

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### Freedom of Information, *continued*

Should you require further information about seeking access to documents please contact the Freedom of Information section at the nearest office of the Department of Veterans' Affairs.

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### Oral advice

While we make every effort to ensure that you are given accurate information, it is important that you seek written confirmation of oral information or advice before making any major decisions based on that information.

We continually strive to improve the level of service you receive and make this request as an added safeguard for you.

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### Other fact sheets

Other fact sheets related to this topic include:

- *Defence Service: DP 15.*
  - *Military Compensation Scheme: DP 53*
  - *Overview of Disability Pensions and Allowances: DP 01*
  - *Disability Pension and War Widow(er)'s Pension Rates and Allowances: DP43*
  - *Compensation: IS101*
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### More information

All DVA fact sheets are available on request from any DVA office or on the DVA website at [www.dva.gov.au/factsheets/default.htm](http://www.dva.gov.au/factsheets/default.htm).

If you need more information about this topic, contact your nearest DVA office or visit the DVA website at [www.dva.gov.au](http://www.dva.gov.au).

You can telephone DVA for the cost of a local call\* on:

133 254 - general inquiries

1800 555 254 - non-metropolitan callers

Note: \*If you use a mobile phone, calls may be more costly. You are advised to use a normal phone (i.e. a landline phone) when ringing these numbers.

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**ability Pension and Compensation Offsetting, continued****Commonwealth Actuary's Table****INITIAL FORTNIGHTLY AMOUNT FOR AN INDEXED PENSION  
EQUIVALENT TO A LUMP SUM OF \$10,000**

Issued by the Commonwealth Actuary - effective September 1999

AGE NEXT BIRTHDAY	MALES	FEMALES	AGE NEXT BIRTHDAY	MALES	FEMALES
1	12.923	12.617	46	18.936	17.459
2	12.934	12.625	47	19.278	17.721
3	12.982	12.664	48	19.640	17.997
4	13.035	12.706	49	20.024	18.287
5	13.090	12.750	50	20.431	18.594
6	13.149	12.796	51	20.862	18.918
7	13.210	12.844	52	21.320	19.259
8	13.274	12.894	53	21.806	19.620
9	13.341	12.946	54	22.322	20.002
10	13.410	13.000	55	22.871	20.405
11	13.482	13.056	56	23.454	20.833
12	13.558	13.114	57	24.075	21.287
13	13.636	13.176	58	24.736	21.770
14	13.717	13.237	59	25.439	22.283
15	13.801	13.302	60	26.189	22.829
16	13.887	13.369	61	26.988	23.412
17	13.975	13.439	62	27.839	24.035
18	14.064	13.510	63	28.747	24.702
19	14.153	13.584	64	29.716	25.416
20	14.244	13.660	65	30.749	26.182
21	14.337	13.739	66	31.851	27.005
22	14.435	13.822	67	33.028	27.889
23	14.536	13.908	68	34.286	28.840
24	14.643	13.999	69	35.631	29.866
25	14.754	14.093	70	37.071	30.973
26	14.870	14.192	71	38.616	32.170
27	14.991	14.294	72	40.277	33.468
28	15.119	14.402	73	42.070	34.878
29	15.252	14.514	74	44.011	36.414
30	15.392	14.630	75	46.118	38.087
31	15.538	14.752	76	48.406	39.910
32	15.692	14.880	77	50.885	41.895
33	15.854	15.012	78	53.560	44.051
34	16.024	15.152	79	56.437	46.388
35	16.202	15.297	80	59.519	48.915
36	16.390	15.450	81	62.808	51.650
37	16.583	15.609	82	66.307	54.618
38	16.796	15.777	83	70.010	57.847
39	17.015	15.953	84	73.912	61.366
40	17.246	16.137	85	77.998	65.193
41	17.490	16.331	86	82.245	69.337
42	17.748	16.534	87	86.615	73.787
43	18.020	16.748	88	91.050	78.508
44	18.309	16.973	89	95.462	83.446
45	18.613	17.210	90	99.726	88.537