1. The Repatriation Commission makes this Determination pursuant to section 92, paragraph 88A(1)(c) and subsection 88A(2), of the Veterans’ Entitlements Act 1986 (Act).

2. For the purposes of paragraph 88A(1)(c) of the Act, the Repatriation Commission specifies the class of persons in Part 2 and the kind of treatment in Part 3.
Part 1  Introduction

1.1 Name of Determination

This Determination is the Veterans' Entitlements (Counselling and Psychiatric Assessment – Former Dependants of Vietnam Veterans) Determination 2006 No.R16.

1.2 Commencement

This Determination commences after registration on the Federal Register of Legislative Instruments and on 1 July 2006.

1.3 Definitions

In this Determination:

*Act* means the Veterans’ Entitlements Act 1986.

*Break-up date* means the date on which a *divorce-order* takes effect in respect of the marriage between a *partner-dependant* and a *Vietnam veteran* or, as the case may be, means the date on which the *marriage-like relationship* between a *partner-dependant* and a *Vietnam veteran* in the opinion of the *Commission* ceased to exist.

*Commission* means the Repatriation Commission.

*child of a veteran* has the meaning it has in section 10 of the Act.

*child of a deceased veteran* has the meaning it has in section 10 of the Act.

*child* has the meaning it has in section 5F of the Act.

*dependant* has the meaning it has in section 11 of the Act.

*divorce-order* means a divorce order under Part VI of the Family Law Act 1975 in force from time to time.

*marriage-like relationship* means a relationship that, but for the couple to the relationship not being married, would otherwise be regarded as a marriage.

*partner-dependant* means a *dependant* of a *veteran* other than a *dependant* who is a *child of a veteran* or a *child of a deceased veteran*.

*Repatriation Commission* means the body corporate continued in existence under section 179 of the Act.

*specified class* means the class of persons specified in Part 2 of this Determination.

*specified treatment* means treatment described in Part 3 of this Determination.
**veteran** means a person described in paragraph (a) of the definition of veteran in subsection 5C(1) of the *Act*.  
**Vietnam service** means operational service, as described in section 6C, 6E or 6F of the *Act*, rendered by a veteran in Vietnam.  
**Vietnam veteran** means a veteran who rendered Vietnam service.  
**Vietnam Veterans Counselling Service** means the organisation within the Department of Veterans’ Affairs commonly known as the “Vietnam Veterans Counselling Service” and comprised of people appointed under the *Public Service Act 1999* whose role is to counsel veterans, including Vietnam veterans, and their dependants, and where appropriate, refer such people to psychiatrists for psychiatric assessment.  
**VVCS** means a member of the *Vietnam Veterans Counselling Service* who is a qualified psychologist or qualified social worker.

### 1.4 Revocation

(1) The Determinations in paragraphs (a) and (b) are revoked:

(a) *Veterans’ Entitlements Determination (counselling and psychiatric assessment – former dependants of Vietnam veterans)* 2000 Instrument No.26/2000;


### 1.5 Savings

(1) A former *dependant* in the class of person in paragraph 2.1 b) of the *Veterans’ Entitlements Determination (counselling and psychiatric assessment – former dependants of Vietnam veterans)* 2000 Instrument No.26/2000 who, immediately before 1 July 2006, was eligible for counselling and psychiatric assessment under that Instrument, is, to the extent of that eligibility, taken to be eligible for counselling and psychiatric assessment under this Instrument as if eligibility had been granted under this Instrument.

Note: the intention is that if the relevant former dependant was eligible for treatment for an unexpired portion of the relevant 5 year period, the person is eligible for treatment under this Instrument for the remaining time in that 5 year period.

MS EK SH
1.6 **Purpose**

To specify, for the purposes of paragraph 88A(1)(c) of the *Act*, a class of former dependants of *Vietnam veterans* and the kind of treatment a former dependant within that class is eligible to be provided.

Upon the identification of the class and the relevant treatment, the Repatriation Commission may, with the approval of the Minister for Veterans' Affairs, arrange to provide a person within that class with treatment consisting of counselling services and/or psychiatric assessment.

At the time this Determination was made the Repatriation Commission had arranged with the Vietnam Veterans Counselling Service to provide the relevant treatment.

**Part 2 Specified Class of Person**

1. A person who, on or after 1 July 2006:

   (a) was a *child of a veteran*, the veteran being a *Vietnam veteran*; or
   (b) was a *child of a deceased veteran*, the veteran having been a *Vietnam veteran*;

   is, subject to paragraph 2, eligible to be provided with *specified treatment*.

2. A person in paragraph 1 is only eligible for *specified treatment* comprised of a psychiatric assessment if, in the written opinion of the *VVCS*, the person could be suffering from a mental condition as a result of having, or having had, a parent or guardian that is, or was, a *Vietnam veteran*. 

MS EK SH
3. A person who, on or after 1 July 2006, ceased to be a dependant of a Vietnam veteran because:

(a) the dependant or the Vietnam veteran obtained a divorce order in respect of the marriage between the dependant and the Vietnam veteran; or
(b) the marriage-like relationship between the dependant and the Vietnam veteran ended (other than because the Vietnam veteran died);

is, for a single period of five years commencing on the break-up date, and subject to paragraph 4, eligible to be provided with specified treatment.

4. A person in paragraph 3 is only eligible for specified treatment comprised of a psychiatric assessment if, in the written opinion of the VVCS, the person could be suffering from a mental condition as a result of having been the spouse of, or partner of, a Vietnam veteran.

Note (1): "child" under the Act has a different meaning to its normal meaning and, generally speaking, means a person who has not turned 16. Accordingly, generally speaking, a child of a veteran ceases to be a child of the veteran upon turning 16. The child is, therefore, for the purposes of the Act, a former child of the veteran (who was the child of a veteran).


Part 3 Specified Kind of Treatment

The kind of treatment a person within the specified class is eligible to be provided with under Part V of the Act, and subject to the Act, is counselling services or psychiatric assessment or counselling services and psychiatric assessment.

Note: under section 92 of the Act, the Minister for Veterans' Affairs must agree to the Repatriation Commission arranging for counselling and/or psychiatric services for eligible people and those services may only be provided pursuant to those arrangements.