

Veterans' Entitlements Amendment Regulations 2004 (No. 1)

2004No. 337

EXPLANATORY STATEMENT

Statutory Rules 2004 No. 337

Issued by the Authority of the Minister for Veterans' Affairs

Veterans' Entitlements Act 1986

Veterans' Entitlements Amendment Regulations 2004 (No. 1)

Section 216 of the *Veterans' Entitlements Act 1986* (the Act) provides, in part, that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters which are by the Act required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The purpose of the *Veterans' Entitlements Amendment Regulations 2004* (Amendment Regulations) is to extend the range of travel expenses payable to an attendant to an entitled person (being a veteran or a dependant of a deceased veteran).

Under section 110 of the Act an entitled person who travels for, among other purposes, hospital or medical treatment is entitled to be paid travelling expenses in connection with that travel. An attendant authorised by the Repatriation Commission who accompanies an entitled person is also entitled to be paid travelling expenses.

Regulations may prescribe conditions that an entitled person or an attendant must satisfy before being entitled to travelling expenses and may prescribe the types of travelling expenses that may be paid to an entitled person or an attendant. These matters are prescribed in the *Veterans' Entitlements Regulations 1986* (Principal Regulations).

The Principal Regulations enable, among other things, an entitled person and an attendant to be reimbursed a fixed amount for the cost they incur in staying in certain classes of accommodation when they travel for the purposes of obtaining treatment for the entitled person.

These classes of accommodation are:

- commercial accommodation;
- subsidised accommodation; and
- private accommodation.

Under subregulation 9(18) of the Principal Regulations an attendant who accompanies an entitled person may stay in commercial accommodation while the entitled person is in hospital or some other institution (hereafter either type of institution is referred to as a hospital) and may be reimbursed the cost of that accommodation. The rationale for this is that the attendant, who is usually the partner of the entitled person, may prefer to remain close to the entitled person rather than return home and back to the hospital (for which travelling expenses are also paid).

Subregulation 9(18) of the Principal Regulations provides that an attendant who chooses to stay in commercial accommodation while an entitled person is in hospital is entitled to reimbursement

of the lesser of the costs of the commercial accommodation and the costs of the journey home and back.

However subregulation 9(18) only deals with commercial accommodation. An attendant who stays in subsidised or private accommodation while the entitled person that he or she is accompanying is in hospital cannot be reimbursed for the cost of staying in either of those classes of accommodation except where the entitled person is being admitted to, or discharged from, hospital.

This was anomalous and the Amendment Regulations rectified the situation by extending the class of accommodation an attendant may stay in (while the entitled person he or she is accompanying is staying in hospital) to include subsidised and private accommodation.

Details of the Amendment Regulations are set out in the Attachment.

The Act specified no conditions that needed to be met before the power to make the Amendment Regulations could be exercised.

The Amendment Regulations commenced on the date of their notification in the Gazette.

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ATTACHMENT

Details of the *Veterans' Entitlements Amendment Regulations 2004 (No. 1)*

Regulation 1

provides that the name of the Amendment Regulations is the *Veterans' Entitlements Amendment Regulations 2004 (No. 1)*

Regulation 2

provides for the Amendment Regulations to commence on the date of their notification in the *Gazette*.

Regulation 3

provides that Schedule 1 amends the *Veterans' Entitlements Regulations 1986* (Principal Regulations).

Schedule 1 - Amendments

Item [1] for ease of drafting omitted the reference to "commercial accommodation" in subregulation 9(18) of the Principal Regulations and re-inserted it along with the terms "subsidised accommodation" and "private accommodation", in the subregulation.

This would have the effect of ensuring that, generally speaking, an attendant who stays in commercial, private or subsidised accommodation while the entitled person he or she is accompanying is in hospital, will be reimbursed the lesser of their accommodation costs and the costs of returning home and back to the hospital.

Item [2] omitted the former examples in subregulation 9(18) of the Principal Regulations in relation to the types of travelling situations that may occur and substituted updated examples and new examples.

The former examples were out of date in that they did not reflect current levels of reimbursement and new examples were required in order to provide guidance in those situations where an attendant stays in subsidised or private accommodation while the entitled person the attendant was accompanying was in hospital.