



# **Australian Participants in British Nuclear Tests and British Commonwealth Occupation Force (Treatment) Regulations 2007**

**Select Legislative Instrument No. 154, 2007**

made under the

*Australian Participants in British Nuclear Tests and British Commonwealth Occupation Force (Treatment) Act 2006*

## **Compilation No. 2**

**Compilation date:** 19 December 2017

**Includes amendments up to:** F2017L01652

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Prepared by the Office of Parliamentary Counsel, Canberra

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## About this compilation

### This compilation

This is a compilation of the *Australian Participants in British Nuclear Tests and British Commonwealth Occupation Force (Treatment) Regulations 2007* that shows the text of the law as amended and in force on 19 December 2017 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

### Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register ([www.legislation.gov.au](http://www.legislation.gov.au)). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

### Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

### Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

### Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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## Part 1—Preliminary

### 1 Name of Regulations

These Regulations are the *Australian Participants in British Nuclear Tests and British Commonwealth Occupation Force (Treatment) Regulations 2007*.

### 3 Definitions

In these Regulations, unless the contrary intention appears:

*Act* means the *Australian Participants in British Nuclear Tests and British Commonwealth Occupation Force (Treatment) Act 2006*.

*attendant* means a person who is authorised by the Commission under subsection 19(2) of the Act to accompany an eligible person as his or her attendant.

*commercial accommodation* means accommodation provided by a commercial establishment, such as a hotel or motel.

*private accommodation* means accommodation that is not commercial accommodation or subsidised accommodation.

*residence*, for a person at a time, means the permanent or temporary place of residence of that person at that time.

*subsidised accommodation* means accommodation provided on a cost-recovery basis by an organisation that receives a subsidy for providing the accommodation, such as a hostel.

*travel*, for an eligible person, means travel, referred to in section 19 of the Act, from his or her residence to his or her destination and return.

Note: Several other words and expressions used in these Regulations have the meaning given by the Act. For example:

- Commission
- eligible person
- testing
- treatment.

## Part 2—Travelling expenses

### 4 Composition (Act s 19)

- (1) Subject to this regulation, travelling expenses comprise the amount required to reimburse in whole or in part expenditure on:
  - (a) transport; or
  - (b) accommodation; or
  - (c) meals;necessarily incurred by or on behalf of an eligible person in connection with travel referred to in section 19 of the Act.
- (2) Subject to subregulations (3) and (4), the amount of travelling expenses payable to an eligible person in relation to transport for travel will not exceed an amount calculated by the Commission as the cost of transport by the most appropriate form of transport over the relevant distance.
- (3) Where the cost incurred by an eligible person in relation to transport for travel referred to in subregulation (2) is less than the amount calculated by the Commission under that subregulation, the cost will be the amount of travelling expenses payable to the person for transport.
- (4) If an eligible person incurs parking fees at or near 1 or more places to which the person has travelled for the purpose of obtaining treatment, the travelling expenses payable to the person are the costs necessarily incurred.

Note: For the calculation of the cost of transport, see regulation 7.

Note: For examples of the travelling expenses that are payable in particular circumstances, see Schedule 1.

### 5 Forms of transport (Act s 19)

For subregulation 4(2), the most appropriate form of transport is the form of transport determined by the Commission to be the most appropriate for that travel with reference to:

- (a) the forms of transport that were reasonably available to the person for that travel; and
- (b) the cost of each of those forms of transport including, where a form of transport was reasonably available in more than one class, differences in cost between those classes; and
- (c) the desirability of using the cheapest form of suitable transport for that travel; and
- (d) the degree of any mental or physical disablement of the person; and
- (e) the distance travelled; and
- (f) whether the route taken in that travel was the most direct, practical route.

## 6 Relevant distance (Act s 19)

For subregulation 4(2), the relevant distance for travel by an eligible person under section 19 of the Act is:

- (a) if the distance from the residence of the eligible person to the treatment location is more than 50 km, the greater of:
  - (i) the distance determined by the Commission to be the distance between the eligible person's residence and the closest practical treatment location; and
  - (ii) 50 km; or
- (b) if the distance from the residence of the eligible person to the treatment location is 50 km or less—that distance.

## 7 Cost of transport (Act s 19)

The cost of transport for travel between 2 places over the most direct route between the places is taken to be the following:

- (a) for travel by private motor vehicle—26.7 cents per kilometre;
- (b) if paragraph (a) applies—the costs necessarily incurred by an eligible person for tolls paid in relation to travel by private motor vehicle;
- (c) for travel by any other means—the costs necessarily incurred by an eligible person.

Note 1: Travelling expenses incurred for travel outside Australia are not payable—see subsection 19(3) of the Act.

Note 2: For examples of the travelling expenses that are payable in particular circumstances, see Schedule 1.

## 8 Accommodation and meals (Act s 19)

- (1) Subject to subregulations (2), (3) and 9(3), the amount of travelling expenses payable to an eligible person for each night's accommodation and meals during travel is the amount specified for whichever of the following kinds of accommodation was used on each night:
  - (a) for commercial accommodation that is not in a capital city—\$110.10 each night;
  - (b) for commercial accommodation that is in a capital city—\$130.80 each night;
  - (c) for subsidised accommodation—\$68.80 each night;
  - (d) for private accommodation—\$34.40 each night.
- (2) If an eligible person and an attendant share commercial accommodation for a night, the amount of travelling expenses payable to the eligible person for the night's accommodation and meals for both the person and the attendant is \$178.90.
- (3) The amount of travelling expenses payable to an eligible person for meals during travel on a day on which overnight accommodation is not required is:

## Regulation 9

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- (a) if the distance from the residence of the eligible person to the person's destination exceeds 50 km but does not exceed 200 km—\$10.90 each day; or
- (b) if the distance from the residence of the eligible person to the person's destination exceeds 200 km—\$22.10 per day.

Note: For examples of the travelling expenses that are payable in particular circumstances, see Schedule 1.

### 9 Attendant entitlements (Act s 19)

- (1) If an attendant accompanies an eligible person to a hospital or other institution to which the eligible person is admitted, the attendant is entitled to travelling expenses in accordance with subregulation (2), in addition to the expenses payable for the journeys to and from the hospital or other institution with the eligible person:
  - (a) to return to his or her residence at the time of the admission; and
  - (b) to return to the hospital or other institution when the eligible person is discharged.
- (2) The travelling expenses payable to an attendant under subregulation (1):
  - (a) are based on the same mode of transport as was used to accompany the eligible person; and
  - (b) include any applicable amounts for accommodation and meals.
- (3) If an attendant:
  - (a) accompanies an eligible person to a hospital or other institution to which the eligible person is admitted; and
  - (b) stays in commercial accommodation, subsidised accommodation or private accommodation while the eligible person is in the hospital or other institution;the attendant is entitled to travelling expenses in accordance with subregulation (4).
- (4) Under subregulation (3) the attendant is entitled to payment of travelling expenses, in addition to the expenses payable for the journeys to and from the hospital or other institution with the eligible person, equal to the lesser of:
  - (a) the travelling expenses that would have been payable under subregulation (1), excluding any amounts for accommodation and meals, if the attendant had returned home and returned to the hospital or other institution using a private motor vehicle; and
  - (b) the travelling expenses payable under subregulation 8(1) for the period from the admission of the eligible person until his or her discharge.

Note: For examples of the travelling expenses that are payable in particular circumstances, see Schedule 1.

## 10 Travelling expenses to more than one location within the same city or town (Act s 19)

If an eligible person travels to more than 1 location in the same city or town for the purpose of obtaining treatment, the amount of travelling expenses that the person is entitled to be paid is:

- (a) the greatest amount payable under section 19 of the Act for travel to the city or town; and
- (b) the greatest amount payable under section 19 of the Act for travel between each location within that city or town.

Example: A person who travels to a medical practice in a city for treatment, and then goes to another location in the same city for a medical examination before returning home, will be paid once for the return travel to the city, and once for the travel from the medical practice to the other location (being the greatest amount of travelling expenses payable under section 19 of the Act for that travel).

## 11 Annual increase in rates

A rate prescribed by regulation 7 or subregulation 8(1), (2) or (3) is increased, as applicable, in accordance with regulation 12, on each anniversary of 1 July 2006.

## 12 Calculation of increase

- (1) In this regulation:

**CPI number** means the All Groups Consumer Price Index number (that is, the weighted average of the 8 Australian capital cities) published by the Australian Statistician.

**earlier CPI number**, for a financial year, means the CPI number for the last March quarter before the beginning of the financial year.

**latest CPI number**, for a financial year, means the CPI number for the last March quarter before the end of the financial year.

**rate** means a rate prescribed by regulation 7 or subregulation 8(1), (2) or (3).

**relevant financial year** means a financial year beginning on or after 1 July 2006.

**relevant rate**, for a financial year, means the rate applying in the financial year.

- (2) If, for a relevant financial year, the latest CPI number is greater than the earlier CPI number, a rate is taken to increase, on 1 July of the next financial year, in accordance with the following formula:

$$\frac{\text{Relevant rate} \times \text{Latest CPI number}}{\text{Earlier CPI number}}$$

- (3) If, apart from this subregulation, a rate prescribed by regulation 7 and increased under subregulation (2) is not a multiple of 0.1 cents, the rate is to be rounded to

Regulation 12

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the nearest multiple of 0.1 cents and, if the amount to be rounded is 0.05 cents, rounded up.

- (4) If, apart from this subregulation, a rate prescribed by subregulation 8(1), (2) or (3) and increased under subregulation (2) is not a multiple of 10 cents, the rate is to be rounded to the nearest multiple of 10 cents and, if the amount to be rounded is 5 cents, rounded up.
- (5) If, at any time, whether before or after the commencement of this regulation, the Australian Statistician publishes for a particular March quarter a CPI number in substitution for a CPI number previously published by the Australian Statistician for the quarter, the publication of the later CPI number is to be disregarded for this regulation.
- (6) However, if, at any time, whether before or after the commencement of this regulation, the Australian Statistician changes the reference base for the Consumer Price Index, then, in applying this regulation after the change is made, regard is to be had only to numbers published in terms of the new reference base.

## Schedule 1—Examples

(regulations 4, 7, 8 and 9)

Examples:

- 1 An eligible person and attendant drive by private motor vehicle to an appointment 100 km from home, and return on the same day. The travelling expenses are:

Eligible person:	meals	\$10.90	paragraph 8(3)(a)
	transport	\$53.40 plus the cost of tolls and parking fees	subregulation 4(4) and paragraphs 7(a) and (b) — 200 km @ 26.7c/km plus the cost of tolls and parking fees
Attendant:	meals	\$10.90	paragraph 9(2)(b)
Total:		\$75.20 plus the cost of tolls and parking fees	

- 2 An eligible person and attendant drive by private motor vehicle to an appointment in a capital city 300 km from home, stay overnight in non-shared commercial accommodation, and return the next day. The travelling expenses are:

Eligible person:	accommodation & meals (1st day)	\$130.80	paragraph 8(1)(b)
	meals (2nd day)	\$22.10	paragraph 8(3)(b)
	transport	\$160.20 plus the cost of tolls and parking fees	subregulation 4(4) and paragraphs 7(a) and (b) — 600 km @ 26.7c/km plus the cost of tolls and parking fees
Attendant:	accommodation & meals (1st day)	\$130.80	paragraph 9(2)(b) and subregulation 9(4)
	meals (2nd day)	\$22.10	paragraph 9(2)(b)
Total:		\$466.00 plus the cost of tolls and parking fees	

- 3 An eligible person and attendant drive by private motor vehicle to an appointment in a capital city 300 km from home, and stay overnight in non-shared commercial accommodation. The eligible person is admitted to a hospital the next morning. The attendant returns home and comes back to collect the eligible person, staying in commercial accommodation the night before the eligible person is discharged. The travelling expenses are:

## Schedule 1 Examples

Amount set out in example 2	\$466.00	
Less (for the eligible person's meals on 2nd day)	\$22.10	paragraph 8(3)(b)
Subtotal	\$443.90	
Plus		
Eligible Person: meals on return journey	\$22.10	paragraph 8(3)(b)
Attendant: transport	\$160.20 plus the cost of tolls and parking fees	subregulation 4(4), paragraphs 7(a) and (b) and subregulation 9(1) — journey to hospital and return with eligible person — 600 km @ 26.7c/km plus the cost of tolls and parking fees
meals	\$22.10	paragraph 9(2)(b)
accommodation & meals	\$130.80	paragraph 9(2)(b) and subregulation 9(4)
Total:	\$779.10 plus the cost of tolls and parking fees	

- 4 The situation is the same as in example 3, except that the attendant stays in commercial accommodation while the eligible person is in the hospital (2 nights). The travelling expenses are:

Amount set out in example 2	\$466.00	
Less (for the eligible person's meals on 2nd day)	\$22.10	paragraph 8(3)(b)
Subtotal	\$443.90	
Plus		
Eligible Person: meals on return journey	\$22.10	paragraph 8(3)(b)
Attendant:		
The lesser of:		
(a) transport home and back to the hospital; and	\$160.20 plus the cost of tolls and parking fees	subregulation 4(4), paragraphs 7(a) and (b) and 9(4)(a)
(b) 2 nights commercial accommodation	\$261.60	paragraph 9(2)(b)
Total:	\$626.20 or \$727.60 (for both totals: plus the cost of tolls and parking fees)	

- 5 The situation is the same as in example 3 except that the attendant stays in subsidised accommodation and stays in subsidised accommodation while the eligible person is in the hospital (2 nights). The travelling expenses are:

Amount set out in example 2 (as if subsidised accommodation)	\$342.00	
Less (for the eligible person's meals on 2nd day)	\$22.10	paragraph 8(3)(b)
Subtotal	\$319.90	
Plus		
Eligible person: meals on return journey	\$22.10	paragraph 8(3)(b)
Attendant:		
The lesser of:		
(a) transport home and back to the hospital; and	\$160.20 plus the cost of tolls and parking fees	subregulation 4(4), paragraphs 7(a) and (b) and 9(4)(a)
(b) 2 nights subsidised accommodation	\$137.60	paragraph 9(2)(b)
Total:	\$502.20 or \$479.60 (for both totals: plus the cost of tolls and parking fees)	

- 6 The situation is the same as in example 3 except that the attendant stays in private accommodation and stays in private accommodation while the eligible person is in the hospital (2 nights). The travelling expenses are:

Amount set out in example 2 (as if private accommodation)	\$273.20	
Less (for the eligible person's meals on 2nd day)	\$22.10	paragraph 8(3)(b)
Subtotal	\$251.10	
Plus		
Eligible person: meals on return journey	\$22.10	paragraph 8(3)(b)
Attendant:		
The lesser of:		
(a) transport home and back to the hospital; and	\$160.20 plus the cost of tolls and parking fees	subregulation 4(4), paragraphs 7(a) and (b) and 9(4)(a)
(b) 2 nights private accommodation	\$68.80	paragraph 9(2)(b)

**Schedule 1** Examples

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Total:	\$433.40 or \$342.00 (for both totals: plus the cost of tolls and parking fees)
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## Endnotes

### Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

### Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

### Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

### Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

### Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

## Endnotes

### Endnote 2—Abbreviation key

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#### Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

## Endnote 3—Legislation history

**Endnote 3—Legislation history**

<b>Number and year</b>	<b>FRLI registration</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
54, 2009	25 June 2007 (F2007L01780)	1 Dec 2006 (s 2)	
102, 2012	21 June 2012 (F2012L01278)	22 June 2012 (s 2)	—

<b>Name</b>	<b>Registration</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Veterans' Affairs Legislation Amendment (British Commonwealth Occupation Force) Regulations 2017	18 Dec 2017 (F2017L01652)	Sch 1 (items 1, 2); 19 Dec 2017 (s 2(1) item 1)	—

## Endnotes

### Endnote 4—Amendment history

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### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
<b>Part 1</b>	
r 1 .....	am F2017L01652
r 2 .....	rep LA s 48D
r 3 .....	am F2017L01652
<b>Part 2</b>	
r 6 .....	am 2012 No 102
r 8 .....	am 2012 No 102
r 11 .....	am 2012 No 102
r 12 .....	am 2012 No 102
<b>Schedule 1</b>	
Schedule 1 .....	am 2012 No 102

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