

## **EXPLANATORY STATEMENT**

### **Veterans' Entitlements (Treatment Principles – Vaccinations for Overseas Travel) Instrument 2010**

#### **EMPOWERING PROVISION**

Section 90 of the *Veterans' Entitlements Act 1986* (the Act).

#### **PURPOSE**

The attached instrument (R40/2010) amends the *Treatment Principles*. The *Treatment Principles* is a legislative instrument made under section 90 of the Act and sets out the circumstances in which the Repatriation Commission (Commission) may accept financial liability for treatment provided to veterans or their dependants (entitled persons).

The purpose of the attached instrument is to partially relax the prohibition on the Commission accepting financial responsibility for vaccinations for entitled persons proposing to travel outside Australia so that an entitled person who is the holder of a Gold Card is not caught by the prohibition.

A Gold Card issued by the Department of Veterans' Affairs signifies that the holder is eligible for the treatment of any injury or disease without the condition needing to be service related. A White Card issued by the Department of Veterans' Affairs signifies that the holder is eligible for the treatment only of a service-related injury or disease.

Generally, eligibility for treatment under the *Veterans' Entitlements Act 1986* is dependent on the existence of an injury or disease to which the treatment can be applied. A vaccination (the treatment covered by the attached instrument) is not applied to an injury or disease. Its purpose is to prevent such a condition.

Accordingly, in order to extend a "Gold Card person's" eligibility for treatment so that it encompasses preventive treatment i.e. treatment not applied to an injury or disease, it is necessary for the Commission to make a determination under section 88A of the Act. The Commission has done this and the determination is called the *Veterans' Entitlements (Vaccinations for Overseas Travel) Eligibility Determination 2010*.

#### **RETROSPECTIVE**

Yes. The attached legislative instrument commenced on 1 August 2010 i.e. before registration on the Federal Register of Legislative Instruments. However the instrument will not contravene subsection 12(2) of the *Legislative Instruments Act 2003* because it does not negatively affect any person. It is beneficial in nature.

### **CONSULTATION**

No. The Instrument is beneficial. Accordingly persons affected could be expected to agree to the proposal.

### **DOCUMENTS INCORPORATED-BY-REFERENCE**

No.

### **FURTHER EXPLANATION**

Attachment A.

## Attachment A

<b>Items</b>	<b>Explanation</b>
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| [1] | sets out the name of the instrument.   |
| [2] | provides that the instrument commences, or is taken to have commenced, on 1 August 2010. |

**Schedule**

1. substitutes paragraph 4.8.1(k) to provide that:

[4.8.1 The Commission will not accept financial responsibility for the cost of:]

vaccination for an entitled person who proposes to travel outside Australia, unless:

- the person is the holder of a Gold Card; and
- the person is in Australia at the time the vaccination is provided; and
- the vaccination is provided to the person under the *Repatriation Pharmaceutical Benefits Scheme* [made under section 91 of the Act].

The Notes to the variation explain:

- the need for a determination under section 88A of the Act for the attached instrument to be effective.
- that an approved medical practitioner may also be a Community Pharmacist under the *Repatriation Pharmaceutical Benefits Scheme*. The significance being that the medical practitioner can both prescribe and supply a pharmaceutical benefit (vaccine).