

EXPLANATORY STATEMENT

Veterans' Affairs (Treatment Principles – Provision of Falls Prevention Items) Amendment Instrument 2014

EMPOWERING PROVISIONS

The *Veterans' Entitlements Act 1986* (the VEA) – subsection 90(4).

The *Military Rehabilitation and Compensation Act 2004* (MRCA) – subsection 286(2).

The *Australian Participants in British Nuclear Tests (Treatment) Act 2006* (APBNT(T)A) – subsection 16(6).

PURPOSE

The attached instrument (2014 No.R107/MRCC107) varies provisions in the three virtually identical sets of Treatment Principles under the VEA, MCRA and APBNT(T)A.

The Treatment Principles is a legislative instrument that sets out the circumstances in which treatment may be provided under the VEA, MRCA and APBNT(T)A to persons eligible for treatment (entitled persons) and the circumstances in which the Repatriation Commission and Military Rehabilitation and Compensation Commission (Commissions) may accept financial responsibility for treatment provided to entitled persons.

The purpose of the variations to the Treatment Principles made by the attached instrument is to:

- update the references in the Treatment Principles to the incorporated document known as the “RAP National Schedule of Equipment” so that the updated version of the document is made part of the Treatment Principles. The updated version includes a number of new rehabilitation items that the Department of Veterans' Affairs (DVA) may provide to entitled persons (set out below):

Non-Slip Mat – Indoor and Outdoor rubber backed mats
Lighting – Sensor Light
Lighting – Other
Retractable Garden Hose
House Connection Handy Line

- remove the provisions in the Treatment Principles known collectively as the “Provision of aids and appliances for accident prevention and personal safety” because the aids and appliances provided under this part of the Treatment Principles may be provided under another part of the Treatment Principles known as the Rehabilitation Appliance Program.

Essentially this measure streamlines the provisions of the Treatment Principles that relate to the supply of rehabilitation items by consolidating those provisions in one part of the Treatment Principles thereby removing duplication. Further, the measure provides a more suitable basis on which the

items are provided (clinical basis rather than environmental (safety assessment of a person's home)).

CONSULTATION

No. The proposal implemented by the attached instrument was a 2014-15 Budget initiative to alter an entitlement and in this situation the rule-makers (the Commissions and the Minister for Veterans' Affairs) decided that consultation was inappropriate.

It should be noted that in the *Legislative Instruments Act 2003*, an example of a situation where consultation may be considered unnecessary or inappropriate is where:

“...an instrument...gives effect, in terms announced in the Budget, to a decision...to confer, revoke or alter an entitlement” (s.18(2)(c)(ii)).

RETROSPECTIVITY

None.

DOCUMENTS INCORPORATED-BY-REFERENCE

Yes.

On 6 February 2015 the following non-legislative documents are incorporated into the three sets of Treatment Principles. These instruments are incorporated as they exist on 6 February 2015 and not as they may exist from time to time:

1. Notes for Local Medical Officers (paragraph 1.4.1);
2. Department of Veterans' Affairs Fee Schedules for Medical Services (paragraph 3.5.1);
3. Notes for Allied Health Providers (paragraphs 3.5.1 and 7.1A.1);
4. Optometrist Fees for Consultation (paragraph 3.5.1);
5. DVA Schedule of Fees Orthoptists (paragraph 3.5.1);
6. Pricing Schedule for visual aids (paragraph 3.5.1);
7. The fifth edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (commonly known as DSM-V) (paragraph 2.4.2A) [not incorporated into the MRCA Treatment Principles or APBNT(T)A Treatment Principles];
8. Fee Schedule of Dental Services for Dentists and Dental Specialists (paragraph 3.5.1);
9. Fee Schedule of Dental Services for Dental Prosthetists (paragraph 3.5.1);
10. Chiropractors Schedule of Fees (paragraph 3.5.1);

11. Diabetes Educators Schedule of Fees (paragraph 3.5.1);
12. Dietitians Schedule of Fees (paragraph 3.5.1);
13. Exercise Physiologists Schedule of Fees (paragraph 3.5.1);
14. Occupational Therapists Schedule of Fees (paragraph 3.5.1);
15. Osteopaths Schedule of Fees (paragraph 3.5.1);
16. Physiotherapists Schedule of Fees (paragraph 3.5.1);
17. Psychologists Schedule of Fees (paragraph 3.5.1);
18. Podiatrists Schedule of Fees (paragraph 3.5.1);
19. Social Workers Schedule of Fees (paragraph 3.5.1);
20. Clinical Counsellors Schedule of Fees (paragraph 3.5.1);
21. Speech Pathologists Schedule of Fees (paragraph 3.5.1);
22. Australian Government Department of Veterans' Affairs Classification System and Schedule of Item Numbers and Fees — Community Nursing Services (paragraph 6A.4.2(b));
23. Notes for Coordinated Veterans' Care Program Providers (Part 6A); [not included in APBNT(T)A Treatment Principles]
24. Rehabilitation Appliances Program (RAP) National Guidelines (paragraph 11.2A.1);
25. RAP National Schedule of Equipment (paragraph 11.2A.1);
26. Veterans and Veterans Families Counselling Services (VVCS) Outreach Program Counsellors (OPC) Provider Notes (paragraph 1.4.1 and 7.1A.1) [not included in the APBNT(T)A Treatment Principles];
27. Veterans and Veterans Families Counselling Service (VVCS) Outreach Program Counsellors (OPC) Schedule of Fees (paragraph 3.5.1); [not included in the APBNT(T)A Treatment Principles]
28. General information about VVCS – Veterans and Veterans Families Counselling Service (paragraph 1.4.1); [not included in the APBNT(T)A Treatment Principles];
29. Better Access to Psychiatrists, Psychologists & General Practitioners through the Medical Benefits Schedule Initiative

<http://www.health.gov.au/internet/mentalhealth/publishing.nsf/Content/better-access-through-mbs-1>;

[not included in the APBNT(T)A Treatment Principles]

30. Gold Card (paragraph 1.4.1); [not included in the APBNT(T)A Treatment Principles];
31. White Card (paragraph 1.4.1).

At the time the attached instrument was made, all the documents except:

- the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders; and
- the Better Access to Psychiatrists, Psychologists & General Practitioners through the Medical Benefits Schedule Initiative;

were available on the DVA Web Page:

<http://www.dva.gov.au/>

At the time the attached instrument was made, all the documents except the "Better Access to Psychiatrists, Psychologists & General Practitioners through the Medical Benefits Schedule Initiative" were available, or could be made available, at:

Department of Veterans' Affairs (ACT Office), Lovett Tower, 13 Keltie St, Woden ACT 2606 / GPO Box 9998 Woden ACT 2606.
Tel.no:(02) 6289 6243.

Any State or Territory Office of the Department of Veterans' Affairs:
Tel.no: 133 254.

At the time the attached instrument was made the document "Better Access to Psychiatrists, Psychologists & General Practitioners through the Medical Benefits Schedule Initiative" was available on the Internet:

<http://www.health.gov.au/internet/mentalhealth/publishing.nsf/Content/better-access-through-mbs-1>

HUMAN RIGHTS STATEMENT

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

The attached legislative instrument engages and promotes:

- the Right to Health contained in article 12(1) of the International Covenant on Economic Social and Cultural Rights; and
- the Right to Full Effective Participation in Society, on an equal basis with others, by people with a disability (Right to Full and Effective Participation in Society), contained in the Convention on the Rights of Persons with Disabilities.

The attached instrument will enable DVA to provide several new rehabilitation items to a section of the community who need them. The items may loosely be described as "falls prevention items" and, as the name suggests, are intended to minimise the potential for people with disabilities, or people who are frail, from falling or tripping in or about the home.

The items in question constitute “treatment” in the terms of the Treatment Principles and conditions are imposed for the provision of that treatment. In particular, a person must have a clinical need for an item in question.

The conditions governing the supply of the items under the Treatment Principles (including other rehabilitation items) are set out in Part 11 of the Treatment Principles.

The attached instrument engages with, and promotes, the Right to Health and the Right to Full Effective Participation in Society. Conditions are imposed on the provision of the relevant treatment to the people in question but these conditions are not aimed at curtailing the rights in question but to ensure the treatment is provided appropriately.

Michael Ronaldson
Minister for Veterans’ Affairs
Rule-Maker

FURTHER EXPLANATION OF NEW PROVISIONS

See: [Attachment A](#)

Attachment A

Section [1]

This section sets out the name of the instrument - *Veterans' Affairs (Treatment Principles – Provision of Falls Prevention Items) Amendment Instrument 2014*.

Section [2]

This section provides that the instrument commences on 6 February 2015.

Section [3]

This section is a transitional provision and provides that if, before the commencement of the attached instrument, an entitled person, or a person on the entitled person's behalf, had requested the Repatriation Commission or Military Rehabilitation and Compensation Commission to accept financial responsibility for the provision of an aid or appliance to the entitled person under paragraph 11.9 of the Treatment Principles under the VEA (including as applied under the APBNT(T)A) or the MRCA, and on the commencement of the instrument the request had not been determined, then the request is to be determined by reference to the relevant set of Treatment Principles as those Treatment Principles have been varied by the attached instrument.

Schedule 1

This Schedule varies the Treatment Principles under the *Veterans' Entitlements Act 1986* in accordance with Part A of the Schedule.

Part A

Item 1

This item removes the reference to "HomeFront" from paragraph 2.2.8. "HomeFront" is the common name for the program known as the "Provision of aids and appliances for accident prevention and personal safety" i.e. the program being amalgamated with the Rehabilitation and Appliance Program .

Former paragraph 2.2.8 contained a prohibition on the provision of HomeFront outside Australia. As HomeFront is no longer a DVA program the prohibition was no longer relevant and was removed.

Item 2

This item removed the provisions in the Treatment Principles that related to the program known as the "Provision of aids and appliances for accident prevention and personal safety" because the items available under the program are now available under another DVA program (Rehabilitation and Appliances Program).

Item 3

This section substituted Schedule 1 of the Treatment Principles. Schedule 1 lists the documents that are incorporated by reference into the Treatment Principles as those documents exist on the date stated and not as they may exist from time to time.

In the present context this means that the document known as the RAP National Schedule of Equipment (item 25 of the Schedule) is incorporated as it has been changed to include the new items mentioned above.

Schedule 2

This Schedule varies the Treatment Principles under the *Military Rehabilitation and Compensation Act 2004* in accordance with Part A of the Schedule.

Part A

Item 1

This item removes the reference to “HomeFront” from paragraph 2.2.8. “HomeFront” is the common name for the program known as the “Provision of aids and appliances for accident prevention and personal safety” i.e. the program being amalgamated with the Rehabilitation and Appliance Program.

Former paragraph 2.2.8 contained a prohibition on the provision of HomeFront outside Australia. As HomeFront is no longer a DVA program the prohibition was no longer relevant and was removed.

Item 2

This item removed the provisions in the Treatment Principles that related to the program known as the “Provision of aids and appliances for accident prevention and personal safety” because the items available under the program are now available under another DVA program (Rehabilitation and Appliances Program).

Item 3

This section substituted Schedule 1 of the Treatment Principles. Schedule 1 lists the documents that are incorporated by reference into the Treatment Principles as those documents exist on the date stated and not as they may exist from time to time.

In the present context this means that the document known as the RAP National Schedule of Equipment (item 24 of the Schedule) is incorporated as it has been changed to include the new items mentioned above.

Schedule 3

This Schedule varies the Treatment Principles under the *Australian Participants in British Nuclear Tests (Treatment) Act 2006* in accordance with Part A of the Schedule.

Note the variations made by the attached instrument to the Treatment Principles under the *Veterans' Entitlements Act 1986* automatically apply to entitled persons under the APBNT(T)A.

Part A

Item 1

This section substituted Schedule 1 of the Treatment Principles. Schedule 1 lists the documents that are incorporated by reference into the Treatment Principles as those documents exist on the date stated and not as they may exist from time to time.

In the present context this means that the document known as the RAP National Schedule of Equipment (item 23 of the Schedule) is incorporated as it has been changed to include the new items mentioned above.