Australian Government

Veterans' Entitlements Act 1986
Military Rehabilitation and Compensation Act 2004
Australian Participants in British Nuclear Tests (Treatment) Act 2006

Veterans' Affairs (Treatment Principles – Removal of Prior Approval Requirement and Time Limits for Convalescent and Respite Care in Hospital) Amendment Instrument 2015

Instrument 2015 No.R32/MRCC32

I, Michael Ronaldson, Minister for Veterans' Affairs, as required by subsection 90(5) of the *Veterans' Entitlements Act 1986* (VEA), subsection 286(3) of the *Military Rehabilitation and Compensation Act 2004* (MRCA) and subsection 16(7) of the *Australian Participants in British Nuclear Tests (Treatment) Act 2006* (APBNT(T)A), approve:

(a) under the VEA — the making by the Repatriation Commission of the legislative instrument in Schedule 1.
(b) under the MRCA — the making by the Military Rehabilitation and Compensation Commission of the legislative instrument in Schedule 2.
(c) under the APBNT(T)A — the making by the Repatriation Commission of the legislative instrument in Schedule 3.

Dated this 18th day of August 2015

Michael Ronaldson

MICHAEL RONALDSON

The Repatriation Commission (RC) makes the legislative instrument in Schedule 1 under subsection 90(4) of the *Veterans' Entitlements Act 1986* (VEA) and makes the legislative instrument in Schedule 3 under subsection 16(6) of the *Australian Participants in British Nuclear Tests (Treatment) Act 2006* (APBNT(T)A).

The Military Rehabilitation and Compensation Commission (MRCC) makes the legislative instrument in Schedule 2 under subsection 286(2) of the *Military Rehabilitation and Compensation Act 2004* (MRCA).

Dated this 6th day of August 2015

The Seals of the)
Repatriation Commission and)
Military Rehabilitation and Compensation Commission) SEAL SEAL
were affixed hereto in the)
presence of:)

Simon Lewis

SIMON LEWIS

RC PRESIDENT/MRCC CHAIR

Craig Orme

CRAIG ORME
AM CSC
RC DEPUTY PRESIDENT/MRCC MEMBER

Jennifer Taylor

MS JENNIFER TAYLOR

MRCC MEMBER

Air Vice-Marshall Tony Needham

AIR VICE-MARSHAL TONY NEEDHAM
AM
MRCC MEMBER

Name

1 This instrument is the *Veterans' Affairs (Treatment Principles – Removal of Prior Approval Requirement and Time Limits for Convalescent and Respite Care in Hospital) Amendment Instrument 2015*.

Commencement

2 This instrument commences on the day after registration.

Authority

3 This instrument is made under the *Veterans' Entitlements Act 1986,* the *Military Rehabilitation and Compensation Act 2004* and the *Australian Participants in British Nuclear Tests (Treatment) Act 2006.*

Schedules

4 Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1

The *Treatment Principles* (Instrument 2013 No. R52) is varied in accordance with Part A.

Part A

Variations to the Treatment Principles

1 Paragraph 1.4.1 (definition of "convalescent admission")

substitute:

"convalescent care" means a period of medically prescribed convalescence for an *entitled person* who is recovering from an acute illness or an operation.

2 Paragraph 1.4.1 (definition of "respite admission")

substitute:

respite care in an institution means care provided as *respite* to a person in an *institution*.

3 Paragraph 2.2.4 (Note (1))

substitute:

Note (1): the intention is that the *Commission* will not accept any further financial responsibility for *residential care (respite*) provided to a *veteran* in a financial year where in that year the *veteran* had already been provided *residential care (respite)* for 63 days.

4 Paragraph 2.2.4 (Note (2))

substitute:

Note (2): for the purpose of calculating the number of days for which a *veteran* was provided with *residential care (respite)* in a financial year, any day on which the *veteran* was provided *residential care (respite)* in Australia in that year is also to be taken into account.

5 Paragraph 3.2.1 (h)

substitute:

(h) *convalescent care* in an *institution* — except where the institution is a *private hospital* or *public hospital*;

Note: for *convalescent care* in an institution that is a hospital see paragraph 9.5.2

(ha) *respite care in an institution* — except where the *institution* is a *private hospital* or *public hospital*;

Note: for *respite care in an institution* where the institution is a hospital see paragraph 10.7A.

6 Paragraph 3.3.2 (k)

substitute:

(k) treatment at a hospital under the conditions set out in paragraph 9.1.8;

(ka) *convalescent care* at a *private hospital* or *public hospital;*

(kb) *respite care in an institution* — where the institution is a *private hospital* or *public hospital*.

7 Paragraph 9.5.1

substitute:

convalescent care in institutions other than hospitals

9.5.1 Subject to *prior approval* and subject to paragraph 9.2.5 (health insurance etc), the *Commission* will accept financial responsibility for the costs of *convalescent care* for an *entitled person* at an institution other than a *private hospital* or *public hospital* for a maximum of 21 days during any financial year.

convalescent care in institutions that are private or public hospitals

9.5.2 Subject to paragraph 9.2.5 (health insurance etc), the *Commission* may accept financial responsibility for the costs of *convalescent care* for an *entitled person* at a *private hospital* or *public hospital*.

Note (1) *prior approval* is not a requirement in these circumstances.
Note (2) there is no express time limit in these circumstances but the Commission has a discretion to accept financial responsibility. It could exercise its discretion not to accept financial responsibility if it considered the length of *convalescent care* to be excessive.

8 Paragraph 10.6.2(Notes (2) and (3))

substitute, respectively:

Note (2) in Part B *residential care (respite)* includes *residential care (28 day) respite.*

Note (3): by virtue of Determination 4/2001 *residential care* (*respite*) may be applied to the non-war caused (non-accepted) conditions of a white-card holder.

9 Paragraph 10.6.2 (Heading to the Table)

omit:

RESPITE ADMISSION

substitute:

RESIDENTIAL CARE (RESPITE)

10 Paragraph 10.6.3(a)

omit:

been a *respite admission* for 63 days

substitute:

been provided with *residential care (respite)* for 63 days

11 Paragraph 10.6.5

omit:

been a *respite admission* for 63 days

substitute:

been provided with *residential care (respite)* for 63 days

12 Paragraph 10.6.6

omit:

been a *respite admission* for 63 days

substitute:

been provided with *residential care (respite)* for 63 days

13 PART 10 Part C (the heading and notes)

substitute:

Part C — *respite care in an institution* not involving *residential care (respite)*

Note (1): this heading is intended to be an aid in interpretation.

Note (2): an example of *respite care in an institution* not involving *residential care (respite)* would be *respite* provided to a person in a hospital. The definition of *residential care* does not include hospital care.

14 Paragraph 10.7

substitute:

respite care in an institution (other than a hospital)

10.7 The *Commission* may accept, in whole or in part, financial responsibility for *respite care in an institution* for a person (being either an *entitled person* or that person's carer) for a maximum period of 28 days in a financial year:

(a) being an institution (other than a *private hospital* or *public hospital*) in respect of which a *residential care subsidy* is not payable; and

(b) if, in the opinion of the *Commission*, it is a cost-effective and appropriate alternative to *residential care (respite)* under paragraph 10.6.1 and to *Respite Care* under the *Veterans' Home Care Program*.

Note (1): *prior approval* is required (see paragraph 3.2.1(h)).
Note (2): an institution here would include a residential care facility not covered by the *Aged Care Act 1997*.

respite care in an institution (being a private or public hospital)

10.7A The *Commission* may accept, in whole or in part, financial responsibility for *respite care in an institution* for an *entitled person* where the institution is a *private hospital* or *public hospital*.

Note (1) prior approval is not a requirement in these circumstances.

Note (2) there is no express time limit in these circumstances but the *Commission* has a discretion to accept financial responsibility. It could exercise its discretion not to accept financial responsibility if it considered the length of *respite care in an institution* to be excessive.

Schedule 2

The *MRCA Treatment Principles* (Instrument 2013 No. MRCC53) is varied in accordance with Part A.

Part A

Variations to the MCRA Treatment Principles

1 Paragraph 1.4.1 (definition of "convalescent admission")

substitute:

"convalescent care" means a period of medically prescribed convalescence for an *entitled person* who is recovering from an acute illness or an operation.

2 Paragraph 1.4.1 (definition of "respite admission")

substitute:

respite care in an institution means care provided as *respite* to a person in an *institution*.

3 Paragraph 2.2.4(d) (Note (1))

substitute:

Note (1): the intention is that the *Commission* will not accept any further financial responsibility for *residential care (respite*) provided to the member/former member in a financial year where in that year the person had already been provided *residential care (respite)* for 63 days.

4 Paragraph 3.2.1 (h)

substitute:

(h) *convalescent care* in an *institution* — except where the institution is a *private hospital* or *public hospital*;

Note: for *convalescent care* in an institution that is a hospital see paragraph 9.5.2

(ha) *respite care in an institution* — except where the *institution* is a *private hospital* or *public hospital*;

Note: for *respite care in an institution* where the institution is a hospital see paragraph 10.4A.

5 Paragraph 3.3.2 (k)

substitute:

(k) treatment at a hospital under the conditions set out in paragraph 9.1.8;

(ka) *convalescent care* at a *private hospital* or *public hospital;*

(kb) *respite care in an institution* — where the institution is a *private hospital* or *public hospital*.

6 Paragraph 9.5.1

substitute:

convalescent care in institutions other than hospitals

9.5.1 Subject to *prior approval* and subject to paragraph 9.2.5 (health insurance etc), the *Commission* will accept financial responsibility for the costs of *convalescent care* for an *entitled person* at an institution other than a *private hospital* or *public hospital* for a maximum of 21 days during any financial year.

convalescent care in institutions that are private or public hospitals

9.5.2 Subject to paragraph 9.2.5 (health insurance etc), the *Commission* may accept financial responsibility for the costs of *convalescent care* for an *entitled person* at a *private hospital* or *public hospital*.

Note (1) prior approval is not a requirement in these circumstances.
Note (2) there is no express time limit in these circumstances but the Commission has a discretion to accept financial responsibility. It could exercise its discretion not to accept financial responsibility if it considered the length of convalescent care to be excessive.

7 Paragraph 10.2.1 (Note (2))

omit the note.

8 Paragraph 10.3.2 (Note (2))

substitute:

Note (2) In Part B *residential care (respite)* includes *residential care (28 day) respite.*

9 Paragraph 10.3.2 (Heading to the Table)

omit:

RESPITE ADMISSION

substitute:

RESIDENTIAL CARE (RESPITE)

10 Paragraph 10.3.4(a)

omit:

been a *respite admission* for 63 days

substitute:

been provided with *residential care (respite)* for 63 days

11 Paragraph 10.3.6

omit:

been a *respite admission* for 63 days

substitute:

been provided with *residential care (respite)* for 63 days

12 Paragraph 10.3.7

omit:

been a *respite admission* for 63 days

substitute:

been provided with *residential care (respite)* for 63 days

13 PART 10 Part C (the heading and notes)

substitute:

Part C — *respite care in an institution* not involving *residential care (respite)*

Note (1): this heading is intended to be an aid in interpretation.

Note (2): an example of *respite care in an institution* not involving *residential care (respite)* would be *respite* provided to a person in a hospital. The definition of *residential care* does not include hospital care.

14 Paragraph 10.4

substitute:

respite care in an institution (not a hospital)

10.4 The *Commission* may accept, in whole or in part, financial responsibility for *respite care in an institution* for a person (being either an *entitled person* or that person's carer) for a maximum period of 28 days in a financial year:

(a) being an *institution* (other than a *private hospital* or *public hospital*) in respect of which a *residential care subsidy* is not payable; and

(b) if, in the opinion of the *Commission*, it is a cost-effective and appropriate alternative to *residential care (respite)* under paragraph 10.3.1 and to *Respite Care* under the *MRCA Home Care Program*.

Note: *prior approval* is required (see paragraph 3.2.1(h)).

respite care in an institution (a private or public hospital)

10.4A The *Commission* may accept, in whole or in part, financial responsibility for *respite care in an institution* for an *entitled person* where the institution is a *private hospital* or *public hospital*.

Note (1) *prior approval* is not a requirement in these circumstances.
Note (2) there is no express time limit in these circumstances but the *Commission* has a discretion to accept financial responsibility. It could exercise its discretion not to accept financial responsibility if it considered the length of *respite care in an institution* to be excessive.

Schedule 3

The *Treatment Principles (Australian Participants in British Nuclear Tests) 2006* (Instrument 2013 No. R54) is varied in accordance with Part A.

Part A

Variation to the Treatment Principles (Australian Participants in British Nuclear Tests) 2006

1 4. Paragraph 1.4 Interpretation (substituted 1.4.1 - definition of "convalescent admission")

substitute:

"convalescent care" means a period of medically prescribed convalescence for a *entitled person* who is recovering from an acute illness or an operation.

2 4. Paragraph 1.4 Interpretation (substituted 1.4.1 - definition of "respite admission")

substitute:

respite care in an institution means care provided as *respite* to a person in an *institution*.

3 42. Paragraph 10.6.2 (Table and definitions)(Heading of Substituted Table)

omit:

RESPITE ADMISSION

substitute:

RESIDENTIAL CARE (RESPITE)