

EXPLANATORY STATEMENT

Veterans' Vocational Rehabilitation Scheme Amendment Instrument 2016

EMPOWERING PROVISION

Subsection 115B(2) of the *Veterans' Entitlements Act 1986* (the VEA).

PURPOSE

The attached instrument varies the *Veterans' Vocational Rehabilitation Scheme* (VVRS) to facilitate the inclusion of medical management and psychosocial services as part of the range of services that may be provided to veterans under the Scheme.

The VVRS is a voluntary scheme aimed at assisting eligible veterans to find or maintain paid employment. The Scheme is intended for former members of the Australian Defence Force (ADF) or those about to leave the ADF with qualifying service recognised under the VEA—the ADF has its own rehabilitation scheme for serving members.

The VVRS has been administered by the Department of Veterans' Affairs since the mid-1990s and was introduced to meet concerns that younger veterans were being accepted as totally and permanently incapacitated for work without being provided with opportunities for vocational rehabilitation.

The VVRS operates separately to rehabilitation services provided under schemes under the *Military Rehabilitation and Compensation Act 2004* (the MRCA) and the *Safety Rehabilitation and Compensation Act 1988* (the SRCA) and veterans cannot undertake vocational rehabilitation under the VVRS concurrently with any other vocational rehabilitation program.

Services provided by the VVRS include assisting veterans to find suitable employment before the transition from the ADF to civilian workforce, and skill development, or assistance in gaining recognition for skills, to assist in finding employment.

Expansion of the VVRS to include medical management and psychosocial services

The *Veterans' Affairs Legislation Amendment (2015 Budget Measures) Act 2015* introduced amendments to the VEA to enhance the *Veterans' Vocational Rehabilitation Scheme*. This included provisions to expand the services available under the VVRS to transform the Scheme from a solely vocational scheme to one which offers whole-of-person options within the VVRS vocational rehabilitation framework. Specifically, the amendments expanded the range of services available through the VVRS to include the provision of medical management and psychosocial services.

An individual's unresolved psychosocial needs can have a significant impact on their ability to achieve, or remain in, suitable and meaningful employment.

Medical management and psychosocial rehabilitation aims to restore, or achieve the highest possible level of, the individual's function to maximise their quality of life, and to minimise the long term health care needs and community support they require.

Medical management services involve the monitoring of treatment measures to restore or maximise a person's physical and psychological function. Psychosocial services involve a set of comprehensive, individually tailored rehabilitation interventions that help to promote recovery and an optimal level of functioning. Psychosocial services can include pain management, adjustment to disability counselling and family education.

The attached instrument introduces these changes into the VVRS instrument in the following ways:

- Adding definitions of “medical management services” and “psychosocial services” to the interpretation provision of the Scheme.
- Including “the provision of medical management services” and “the provision of psychosocial services” as elements that might be incorporated into an approved program for a veteran under the VVRS.
- Introducing new provisions to allow the Repatriation Commission to approve the inclusion of medical management services or psychosocial services (or both) into a vocational rehabilitation program for a veteran under Chapter 2 or a rehabilitation program for a veteran under Chapter 3.
- Enabling the Repatriation Commission to make a grant towards assisting a veteran with transport and accommodation costs involved in obtaining psychosocial services or medical management services.
- Changing the wording of relevant Scheme provisions (for example paragraph 1.5.1) to reflect the more participatory and consultative nature of the Scheme.

In addition, the attached instrument amends the Scheme to update references to a repealed section of the VEA and to make other minor and technical changes.

CONSULTATION

Yes. Under subsection 115B(6) of the *Veterans' Entitlements Act 1986* it is a requirement that the Repatriation Commission “must consult such organisations and associations, representing the interests of the veteran community, as the Commission thinks appropriate”.

The proposal implemented by the attached instrument was the subject of appropriate consultation within government and externally, via a veterans' representative forum known as “ESORT” (Ex Service Organisations Round Table).

The proposal stemmed from the MRCA Review which recommended that the Department of Veterans' Affairs, the Repatriation Commission and the Military Rehabilitation and Compensation Commission review the Veterans' Vocational Rehabilitation Scheme with the aim of improving rehabilitation options for those who have eligibility under the Act and are younger than 50 years.

The Prime Minister Advisory Council and Emerging Issues Forum were consulted on 7 and 13 March 2013 respectively regarding changes being proposed as a result of this review.

The specific amendments to the VVRS in the attached instrument were the subject of additional consultation in November 2015 with internal stakeholders and with an external rehabilitation provider who provides rehabilitation service to VVRS clients.

The feedback at these meetings indicated support for the proposed enhancements to the Scheme.

RETROSPECTIVITY

None.

DOCUMENTS INCORPORATED-BY-REFERENCE

No.

HUMAN RIGHTS STATEMENT

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

The attached legislative instrument positively engages with, and promotes, a number of applicable rights or freedoms, namely, the Right to Health, the Rights of people with a Disability and, most relevantly, the Right to Work.

The Right to Work is contained in articles 6(1), 7 and 8(1)(a) of the International Covenant on Economic, Social and Cultural Rights.

The instrument is compatible with the Right to Work in that it enables the Department of Veterans' Affairs (DVA) to assist veterans find, or continue in, suitable paid employment. The amendments in the attached instrument enhance the existing *Veterans' Vocational Rehabilitation Scheme* and support its objectives of facilitating the transition for veterans from service to paid employment by introducing additional services and means to support vocational rehabilitation for veterans.

Conclusion

The attached legislative instrument is considered to be compatible with human rights, in particular the Right to work, because it increases the likelihood of members of the veterans' community finding work or remaining in work.

Dan Tehan
Minister for Veterans' Affairs

Rule-Maker

FURTHER EXPLANATION OF PROVISIONS

See: Attachment A

Attachment A

Veterans' Vocational Rehabilitation Scheme Amendment Instrument 2016

Section 1

This section sets out the name of the instrument - *Veterans' Vocational Rehabilitation Scheme Amendment Instrument 2016*.

Section 2

This section provides that the instrument commences on 20 March 2016. This coincides with the commencement of Schedule 1 to the *Veterans' Affairs Legislation Amendment (2015 Budget Measures) Act 2015*, which amended Part V1A of the *Veterans' Entitlements Act 1986* (VEA) to facilitate the changes to the VVRS made by this instrument.

Section 3

This section sets out the primary legislation that authorises the making of the instrument, namely section 115B(2) of the VEA.

Section 4

This section provides that variations to the *Veterans' Vocational Rehabilitation Scheme* set out in the Schedule have effect.

Schedule - Variations to the *Veterans' Vocational Rehabilitation Scheme* (the Scheme)

Item 1

This item amends the definitions section of the Scheme to add important new definitions of “medical management service” and “psychosocial service”.

Item 2

This item expands paragraph 1.3.3 of the Scheme to include “the provision of medical management services” and “the provision of psychosocial services” as elements that may be incorporated into an approved program for a veteran under the Scheme.

An approved program means the particular vocational rehabilitation program approved by the Repatriation Commission for a veteran under Chapter 2 or the particular rehabilitation program approved by the Commission for a veteran under Chapter 3 of the Scheme.

Items 3 and 4

These items make a minor change to the Scheme to update a reference to a repealed section of the VEA. Specifically, repealed subsection 37(2A) of the VEA is replaced with its current equivalent, section 37AAA.

This amendment does not alter the operation of the VVRS but merely updates relevant provisions of the VVRS in line with amendments to the VEA.

Item 5

This item amends paragraph 1.5.1 of the Scheme to replace the words “for the veteran” with “in consultation with the veteran”.

Paragraph 1.5.1 is the provision of the Scheme that requires a rehabilitation plan to be prepared for a veteran by a service provider or the Secretary, and approved by the Commission, before the veteran can participate in the Scheme.

The change of wording is intended to reflect the more participatory nature of the Scheme in line with the introduction of medical management services and psychosocial services into the rehabilitation programs for veterans.

Item 6

This item introduces new paragraph 2.2.5 into the Scheme. This new provision allows the Commission to approve the inclusion of medical management services or psychosocial services (or both) into a vocational rehabilitation program for a veteran under Chapter 2 if the Commission is satisfied that the services are reasonably required to:

- assist the veteran to achieve or retain suitable paid employment; or
- address an identified rehabilitation barrier as part of the process of assisting the veteran to achieve or retain suitable paid employment.

A vocational rehabilitation program under Chapter 2 is intended to apply to veterans in receipt of an intermediate rate pension under section 23 of the VEA, a special rate pension under section 24 or an invalidity service pension.

Item 7

This item makes a corresponding change to Chapter 3. It introduces new paragraph 3.2.2A into Chapter 3 of the Scheme. This new provision allows the Commission to approve the inclusion of medical management services or psychosocial services (or both) into a rehabilitation program for a veteran under Chapter 3 of the Scheme if the Commission is satisfied that the services are reasonably required to:

- assist the veteran to achieve or retain suitable paid employment; or
- address an identified rehabilitation barrier as part of the process of assisting the veteran to achieve or retain suitable paid employment.

A rehabilitation program under Chapter 3 is intended to apply to veterans other than veterans who are in receipt of an intermediate rate pension under section 23, a special rate pension under section 24 or an invalidity service pension.

Item 8

This is a minor amendment to correct a typographical error.

Item 9

This amendment makes a drafting change to correct the terminology in paragraph 3.2.4 of Chapter 3 to bring it in line with the terminology as it appears in other provisions of that Chapter where the “rehabilitation program”, rather than “vocational rehabilitation program”, has been adopted. It clarifies, rather than alters, the intent of the provision.

Item 10

This item amends paragraph 4.2.1 of the Scheme to add medical management services and psychosocial services to the types of services for which the Commission may provide a grant to assist with transport and accommodation costs.

Paragraph 4.2.1 enables the Commission, in special circumstances, to make a grant towards assisting a veteran to meet additional transport and accommodation costs involved in obtaining specified services, if the services are provided a substantial distance away from the veteran's usual place of residence.