

EXPLANATORY STATEMENT

Veterans' Affairs (Treatment Principles – Updating of RAP National Schedule of Equipment) Amendment Instrument 2016 (Instrument 2016 No. R31/MRCC31)

EMPOWERING PROVISIONS

For Schedule 1 of the attached instrument — subsection 90(4) of the *Veterans' Entitlements Act 1986* (the VEA).

For Schedule 2 of the attached instrument — subsection 286(2) of the *Military Rehabilitation and Compensation Act 2004* (the MRCA).

For Schedule 3 of the attached instrument - subsection 16(6) of the *Australian Participants in British Nuclear Tests (Treatment) Act 2006* (the APBNT(T)A).

PURPOSE

The attached instrument (2016 No. R31/MRCC31) varies the legislative instruments known as the:

- *Treatment Principles* (VEA Treatment Principles);
- *MRCA Treatment Principles*; and
- *Treatment Principles (Australian Participants in British Nuclear Tests) 2006*.

Hereinafter, these 3 legislative instruments are referred to collectively as the Treatment Principles.

The Treatment Principles set out the circumstances in which treatment may be provided to clients of the Department of Veterans' Affairs (DVA).

The variations to the Treatment Principles made by the attached instrument relate to updating references in the Treatment Principles to the RAP National Schedule of Equipment (RAP Schedule) and other documents that are incorporated-by-reference into the Treatment Principles and that have changed.

RAP Schedule Changes

The purpose of the variations is to ensure that the changed (updated) version of the RAP Schedule as it exists on the date mentioned in the variation (1 June 2016) is the version of the document that is incorporated into, and made part of, the Treatment Principles.

The RAP Schedule lists the rehabilitation appliances that DVA may supply (via health providers) to DVA clients. The RAP Schedule also provides information about the

Rehabilitation Appliances Program (RAP) including eligibility, the role of the assessing health provider, and the RAP Business Rules.

A number of changes and updates have been made to the RAP Schedule to better reflect current processing work practices and provide further clarification to health providers on the rules that govern the provision of aids and appliances.

In order for the changes to be authorised, the Treatment Principles need to be amended to refer to the RAP Schedule in its updated form.

- *Amendments to the RAP Business Rules*

The RAP Business Rules form part of the RAP Schedule and provide a guide for health providers who undertake assessments as well as a guide to decision-makers (DVA delegates) in respect of the supply of aids and appliances. The rules are listed in the front section of the RAP Schedule.

Business Rules 1 and 12 have been updated to reflect recent changes including:

- incorporation of a reference to the *Safety, Rehabilitation and Compensation Act 1988* (SRCA) following an expansion of the provision of RAP services to SRCA White card holders (Business Rule 1); and
- omission of “quantity limits” for RAP items where prior approval is not required (Business Rule 12).

In addition, Business Rule 13(b) has been updated and a new Business Rule (14) has been added to require that health providers use only DVA-contracted suppliers where the item is a contracted RAP item and prior approval is not required. Approximately 80 percent of the items listed on the RAP Schedule are provided through contractual arrangements with suppliers.

Consistent with the above changes, the format of the RAP Schedule has been modified to clearly identify whether the individual RAP item is contracted, and if so, through which product group. This format change provides detailed information to health providers on when DVA contracted suppliers are to be used when prescribing equipment. This is anticipated to result in a reduction in the manual invoice workload.

In summary, the changes will ensure that the Business Rules are updated to reflect current arrangements and that health providers and DVA delegates are fully aware of all approved RAP suppliers.

- *Smoke Alarm Packages for the Hearing Impaired*

The RAP Schedule has been updated to revise the eligibility requirements for the provision of smoke alarms for the hearing impaired. The RAP Schedule has also been updated to provide additional information in relation to the installation and to direct health providers to use contracted suppliers for installation of smoke alarms.

The changes will streamline the referral and assessment process for the supply of smoke alarm packages for the hearing impaired. A single assessment for eligible persons will now be required and this new process will eliminate the need for dual assessments by an audiologist and an occupational therapist.

- *Compression Garments*

Currently, health providers are required to seek prior approval for the grant of compression garments if the cost exceeds \$284 per pair, or for the supply of three or more pairs in a six month period.

The RAP Schedule has been updated to increase the approval limit for compression garments to \$550 per pair. Approval will still be required for the supply of 3 or more pairs within a six month period.

All changes to the RAP Schedule impact beneficially on stakeholders by reducing red tape for providers, increasing efficiency for DVA, and providing a more streamlined and convenient service for DVA clients.

Other Incorporated Documents

As the references in the Treatment Principles to the RAP Schedule are being updated the opportunity was taken to update the references to other incorporated documents in the Treatment Principles so that any later version of these documents in existence on 1 June 2016 is recognised by the Treatment Principles.

Details of the attached instrument are set out in Attachment A.

CONSULTATION

Section 17 of the *Legislation Act 2003* requires a rule-maker to be satisfied, before making a legislative instrument that any consultation the rule-maker considered appropriate and reasonably practicable, has been undertaken.

The changes to the RAP Schedule give effect to recommendations approved by the Repatriation Commission and the Military Rehabilitation and Compensation Commission following consultation with internal stakeholders engaged directly with DVA clients and health providers.

The changes are beneficial in nature in terms of their impact on both clients and health providers.

External stakeholders will be notified of the changes in accordance with a communication plan to be implemented prior to the commencement date. National bodies representing the various health providers (for example, the National Association of Physiotherapists and the National Association of Occupational Therapists) will be advised of the key changes. The DVA website and RAP website will be updated and publications such as *VetAffairs* will be used to target relevant client groups to ensure those impacted are informed of the changes.

In these circumstances, it is considered the requirements of section 17 of the *Legislation Act 2003* have been fulfilled.

RETROSPECTIVITY

None, if the attached legislative instrument is made before 1 June 2016.

If made after that date, the instrument will be taken to have commenced on 1 June 2016 and will operate retrospectively from that date.

Any such retrospective commencement will not contravene subsection 12(2) of the *Legislation Act 2003* (a provision of a legislative instrument is of no effect if it takes effect before registration and disadvantages a person or imposes liabilities on a person other than the Commonwealth) because the changes implemented by the attached instrument are beneficial in nature; the changes do not disadvantage any person or impose a liability on a person other than the Commonwealth.

DOCUMENTS INCORPORATED BY REFERENCE

Yes. The documents listed in the Schedules to the attached instrument are incorporated into the Treatment Principles in the form in which those documents exist on 1 June 2016 and not in the form they may be in from time to time.

At the time the attached instrument was made the documents could be made available for inspection at:

Department of Veterans' Affairs, Level 5 Gnabara Building, Genge Street, Civic, Canberra. Tel.no: (02) 6289 6344.

In addition, the RAP Schedule is available electronically on the DVA Web Page at: <http://www.dva.gov.au>

REGULATORY IMPACT

None.

HUMAN RIGHTS STATEMENT

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

The attached legislative instrument engages an applicable right or freedom - specifically, the Right to Health contained in article 12(1) of the International Covenant on Economic Social and Cultural Rights.

The Right to Health is the right to the enjoyment of the highest attainable standard of physical and mental health. The UN Committee on Economic Social and Cultural Rights has stated that health is a fundamental human right indispensable for the exercise of other human rights. Every human being is entitled to the enjoyment of the highest attainable standard of health conducive to living a life in dignity.

Overview

The instrument makes a number of changes and updates to the RAP Schedule to better reflect current processing practices, provide clearer and more detailed information to health providers and administrators, and increase financial limits for approvals.

These changes support the rehabilitation of relevant veterans or dependants (clients) by reducing red tape and streamlining access to essential medical aids and supplies.

Conclusion

The attached legislative instrument promotes the health and rehabilitation of the veteran community by providing easier access to aids and appliances. Accordingly, it is considered to be compatible with human rights, specifically, the Right to Health.

Dan Tehan
Minister for Veterans' Affairs
Rule-Maker

FURTHER EXPLANATION OF PROVISIONS

See [Attachment A](#).

Attachment A

FURTHER EXPLANATION OF PROVISIONS

Section 1

This section sets out the name of the instrument - *the Veterans' Affairs (Treatment Principles – Updating of RAP National Schedule of Equipment) Amendment Instrument 2016*.

Section 2

This section provides that the instrument commences, or is taken to have commenced, on 1 June 2016.

Section 3

This section sets out the legislative authority for the making of the variations to each set of Treatment Principles.

Section 4

This is the operative provision of the instrument. It provides that the variations to the Treatment Principles, as outlined in each of the 3 schedules, have effect.

Schedule 1 – (Variations to the *Treatment Principles* under the *Veterans' Entitlements Act 1986*)

Section 1

This section replaces Schedule 1 of the *Treatment Principles* and provides that the documents listed in the schedule are incorporated into the *Treatment Principles* in the form in which those documents exist on 1 June 2016.

The RAP Schedule is at item 25 of Schedule 1.

Schedule 2 – (Variations to the *MRCA Treatment Principles* under the *Military Rehabilitation and Compensation Act 2004*)

Section 1

This section replaces Schedule 1 of the *MRCA Treatment Principles* and provides that the documents listed in the schedule are incorporated into the *MCRA Treatment Principles* in the form in which those documents exist on 1 June 2016.

The RAP Schedule is at item 24 of Schedule 1.

Schedule 3 – (Variations to the *Treatment Principles (Australian Participants in British Nuclear Tests) 2006*)

Section 1

This section substitutes the section that substitutes schedule 1 of the *Treatment Principles* under the *Veterans' Entitlements Act 1986* (VEA Treatment Principles).

Under section 16 of the *Australian Participants in British Nuclear Tests (Treatment) Act 2006* (APBNT(T)A) the VEA Treatment Principles apply under the APBNT(T)A unless modified. The VEA Treatment Principles have been modified in their

application under the APBNT(T)A by the substitution of Schedule 1 of the VEA Treatment Principles with a modified Schedule. Section 1 of Schedule 3 changes that modified schedule by substituting a new modified schedule.

The documents listed in the modified schedule are incorporated into the *Treatment Principles (Australian Participants in British Nuclear Tests) 2006* in the form in which those documents exist on 1 June 2016.

The RAP Schedule is at item 23 of Schedule 1.