



Australian Government
Repatriation Medical Authority

EXPLANATORY STATEMENT

**AMENDMENT STATEMENT OF PRINCIPLES CONCERNING
ANXIETY DISORDER
NO. 100 OF 2016**

VETERANS' ENTITLEMENTS ACT 1986
MILITARY REHABILITATION AND COMPENSATION ACT 2004

1. This is the Explanatory Statement to the *Amendment Statement of Principles concerning anxiety disorder* No. 100 of 2016.

Background

2. The Repatriation Medical Authority (the Authority) has determined, under subsections 196B(3) and (8) of the *Veterans' Entitlements Act 1986* (the VEA) Amendment Statement of Principles concerning **anxiety disorder** No. 100 of 2016.
3. This Instrument amends Statement of Principles concerning **anxiety disorder** No. 103 of 2014 by:
 - replacing the definition of 'anxiety disorder' in clause 3(b);
 - deleting clauses 3(c) and 3(d);
 - inserting new factors (ba)(i) & (na) in clause 6 concerning 'taking a drug or a drug from a class of drugs';
 - inserting new factors (ba)(ii) & (nb) in clause 6 concerning 'using or inhaling a substance';
 - inserting new factor (ba)(iii) in clause 6 concerning 'taking a drug which results in the development of anxiety symptoms or panic attacks';
 - inserting new factors (ba)(iv) & (nd) in clause 6 concerning 'ingesting or inhaling a chemical or a substance';
 - inserting new factors (ba)(v) & (ne) in clause 6 concerning 'having ceased or reduced therapeutic or illicit drug use or other substance use';
 - inserting new factors (ba)(vi) & (nf) in clause 6 concerning 'periodic, heavy alcohol consumption';
 - inserting new factors (ba)(vii) & (ng) in clause 6 concerning 'an alcohol use disorder or a substance use disorder';
 - inserting new factors (ba)(viii) & (nh) in clause 6 concerning 'smoking';
 - inserting new factor (ba)(ix) in clause 6 concerning 'taking at least 200 milligrams of caffeine from beverages, drugs or foods', for persons without a regular caffeine habit, for clinical onset only;
 - inserting new factor (ba)(x) in clause 6 concerning 'taking at least 800 milligrams of caffeine from beverages, drugs or foods' for persons with a regular caffeine habit, for clinical onset only;

- inserting new factor (nc) in clause 6 concerning 'taking a drug which results in the re-development or worsening of anxiety symptoms or panic attacks', for clinical worsening only;
- inserting new factor (ni) in clause 6 concerning 'taking at least 400 milligrams of caffeine from beverages, drugs or foods', for clinical worsening only;
- inserting the definitions of 'alcohol', 'cigarettes per day, or the equivalent thereof in other tobacco products', 'inhalants', 'intoxication', 'organic solvents', 'periodic, heavy alcohol consumption', 'regular caffeine habit', 'specified list of drugs' and 'specified list of substances' in clause 9 in alphabetical order; and
- deleting the definition of 'ICD-10-AM code' in clause 9.

Day of Commencement

4. This Instrument also specifies a day of commencement for the amendment in accordance with subsection 12(3) of the *Legislation Act 2003*.

Incorporation

5. This Instrument incorporates by reference the *Diagnostic and Statistical Manual of Mental Disorders*, Fifth Edition (DSM-5), Arlington, VA, American Psychiatric Association, 2013. A copy of this document is available from the offices of the Repatriation Medical Authority, Level 8, Bank of Queensland Building, 259 Queen St, Brisbane, Queensland 4000, by contacting the Registrar on telephone (07) 3815 9404.

Consultation

6. Prior to determining this Instrument, the Authority advertised its intention to undertake an investigation in relation to anxiety disorder in the Government Notices Gazette of 30 June 2015, and circulated a copy of the notice of intention to investigate to a wide range of organisations representing veterans, service personnel and their dependants. The Authority invited submissions from the Repatriation Commission, organisations and persons referred to in section 196E of the VEA, and any person having expertise in the field. No submissions were received for consideration by the Authority during the investigation.

Human Rights

7. This instrument is compatible with the Human Rights and Freedoms recognised or declared in the International Instruments listed in Section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A Statement of Compatibility with Human Rights follows.

Finalisation of Investigation

8. The determining of this Instrument finalises the investigation in relation to anxiety disorder as advertised in the Government Notices Gazette of 30 June 2015.

References

9. A list of references relating to the above condition is available to any person or organisation referred to in subsection 196E(1)(a) to (c) of the VEA. Any such request must be made in writing to the Repatriation Medical Authority at the following address:

The Registrar
Repatriation Medical Authority
GPO Box 1014

BRISBANE QLD 4001



Australian Government
Repatriation Medical Authority

Statement of Compatibility with Human Rights

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

Instrument No.: **Amendment Statement of Principles No. 100 of 2016**

Kind of Injury, Disease or Death: **Anxiety disorder**

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

1. This Legislative Instrument is determined pursuant to subsection 196B(8) of the *Veterans' Entitlements Act 1986* (the VEA) for the purposes of the VEA and the *Military Rehabilitation and Compensation Act 2004* (the MRCA). Part XIA of the VEA requires the determination of these instruments outlining the factors linking particular kinds of injury, disease or death with service such being determined solely on the available sound medical-scientific evidence.
2. This Legislative Instrument:-
 - facilitates claimants in making, and the Repatriation Commission in assessing, claims under the VEA and the MRCA respectively, by specifying the circumstances in which medical treatment and compensation can be extended to eligible persons who have anxiety disorder;
 - facilitates the review of such decisions by the Veterans' Review Board and the Administrative Appeals Tribunal;
 - includes new factors which the current sound medical-scientific evidence indicates must exist before it can be said that, on the balance of probabilities, anxiety disorder is connected with the circumstances of eligible service rendered by a person;
 - amends Instrument No. 103 of 2014; and
 - reflects developments in the available sound medical-scientific evidence concerning anxiety disorder which have occurred since that earlier instrument was determined.
3. The Instrument is assessed as being a technical instrument which improves the medico-scientific quality of outcomes under the VEA and the MRCA.

Human Rights Implications

4. This Legislative Instrument does not derogate from any human rights. It promotes the human rights of veterans, current and former Defence Force members as well as other persons such as their dependents, including:

- the right to social security (Art 9, *International Covenant on Economic, Social and Cultural Rights*; Art 26, *Convention on the Rights of the Child* and Art 28, *Convention on the Rights of Persons with Disabilities*) by helping to ensure that the qualifying conditions for the benefit are 'reasonable, proportionate and transparent'¹;
- the right to an adequate standard of living (Art 11, ICSECR; Art 27, CRC and Art 28, CRPD) by facilitating the assessment and determination of social security benefits;
- the right to the enjoyment of the highest attainable standard of physical and mental health (Art 12, ICSECR and Art 25, CRPD), by facilitating the assessment and determination of compensation and benefits in relation to the treatment and rehabilitation of veterans and Defence Force members;
- the rights of persons with disabilities by facilitating the determination of claims relating to treatment and rehabilitation (Art 26, CRPD); and
- ensuring that those rights "will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status" (Art 2, ICESCR).

Conclusion

This Legislative Instrument is compatible with human rights as it does not derogate from and promotes a number of human rights.

Repatriation Medical Authority

¹ In General Comment No. 19 (The right to social security), the Committee on Economic, Social and Cultural Rights said (at paragraph 24) this to be one of the elements of ensuring accessibility to social security.