

EXPLANATORY STATEMENT

Veterans' Affairs (Treatment Principles – Updating of RAP National Schedule of Equipment) Amendment Instrument 2017 (Instrument 2017 No. R1/MRCC1)

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 (2017 No. R1/MRCC1) varies the following legislative instruments:

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

Hereinafter, these 3 legislative instruments are collectively referred to 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 purpose of this instrument is to vary the Treatment Principles to refer to the updated version of the Rehabilitation Appliances Program National Schedule of Equipment (RAP Schedule) and other documents that are incorporated by reference into the Treatment Principles.

The effect of this instrument is to ensure that the changed (updated) version of the RAP Schedule as it exists on the date mentioned in the instrument (1 April 2017) 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 including eligibility and the role of the assessing health provider.

The revised version of the RAP Schedule incorporates four new measures.

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.

- *Measure 1 – Sports aids for amputees*

The RAP Schedule has been broadened to include prosthetic recreational sports aids and adaptive recreational sports aids for amputees as items that are available for eligible persons with amputated limbs under the prostheses category of the RAP Schedule. Access to these aids would enhance the quality of life of amputees by facilitating participation in sports and recreational activities for amputees.

The type of prosthetic recreational sports aids to be supplied include upper limb prosthetic hand extensions which enable participation in sports and recreational activities such as basketball, swimming, golf and cycling.

The prostheses category of the RAP Schedule has also been amended to update the terminology relating to the supply of limb prostheses. The current terminology does not reflect the language or practice of the specialist medical field of prosthetics.

These language changes will assist assessing health providers by more clearly defining and explaining the available range of prosthetic limbs, prosthetic recreational sports aids and adaptive recreational sports aids for amputees.

- *Measure 2 – Mobility aid devices*

The RAP Schedule has also been broadened to include a knee walker as an additional item that is available for eligible persons under the RAP Schedule.

A knee walker is a mobility device for people who are non-weight bearing due to foot and ankle surgery or a lower limb injury.

- *Measure 3 – Diabetes product supply arrangements*

Terminology in the RAP Schedule about the supply of diabetic products has been updated in the light of new supply arrangements implemented on 1 July 2016 under the National Diabetes Support Scheme (NDSS). The NDSS is responsible for supplying a range of diabetic products to persons with diabetes. The terminology changes will ensure that relevant stakeholders including health providers are aware of the diabetic products still available under the RAP Schedule and which products will be supplied directly by the NDSS. The changes will also mean more efficient distribution through the existing community pharmacy distribution network.

- *Measure 4 – Minor and technical amendments*

Finally, changes have been made to the RAP Schedule to update terminology, remove redundant references and make minor updates relating to:

- the “comments” fields of *Home Modifications – Minor* to include additional comments to guide assessing health providers;
- the creation of a separate item code for “ceiling hoists” to reduce confusion for the assessing health providers; and
- the removal of wording in the comments field relating to “Wheelchair Manual” as they are no longer relevant.

All changes to the RAP Schedule impact beneficially on stakeholders: the addition of new items provides a greater choice of aids for eligible DVA clients and the updates to terminology and other minor changes provide clearer and more detailed information to health providers.

Other Incorporated Documents

As the reference in the Treatment Principles to the RAP Schedule is being updated, the opportunity has been taken to update the reference to other incorporated documents in the Treatment Principles so that any later version of these documents in existence on 1 April 2017 is the version that 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.

Consultation was undertaken with stakeholders including prosthetists, prosthetic suppliers, and adaptive sports aid and other aid suppliers. In addition, consultation was undertaken with the DVA Senior Medical Advisor, DVA Health Advisors and DVA Service Access Branch staff.

Consultation was by way of phone calls, email correspondence and meetings.

The result of the consultation was that the Commissions endorsed the amendment of the RAP Schedule to include these additional appliances.

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 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.

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

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

RETROSPECTIVITY

No.

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 April 2017 and not in the form they may be in from time to time.

The documents are available for inspection at:

Department of Veterans' Affairs, Level 5 Gnabra 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 instrument engages the following human rights:

- the right to health as recognised in Article 25 of the Convention on the Rights of Persons with Disabilities (CRPD);
- the right to participate in cultural life, recreation, leisure and sport as recognised in Article 30 of the CRPD; and
- the right to health as recognised in Article 12(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR).

Article 25 of the CRPD recognises that persons with disabilities have rights to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability.

Further, the right to participate in cultural life, recreation, leisure and sport, as recognised by Article 30 of the CRPD, is the right of persons with disabilities to take part on an equal basis with others, including having the ability to participate on an equal basis with others in recreational, leisure and sporting activities.

Overview

The instrument provides for the inclusion of various additional aids in the RAP Schedule as additional items available for eligible persons under the Treatment Principles. Access to mobility aid devices will facilitate community interaction and enhance the person's physical and mental health and well-being.

Further, the revised RAP Schedule provides sports aids for amputees thus recognising the rights of a person with a disability to have access to assistive devices and technologies designed for people with disabilities and to participate in various recreational sporting activities.

Conclusion

The attached legislative instrument promotes the health and rehabilitation of DVA clients by providing access to a greater range of aids and appliances and facilitating an enhanced community participation and a higher quality of life. Accordingly, it is considered to be compatible with human rights.

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 2017*.

Section 2

This section provides that the instrument commences on 1 April 2017.

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 Schedules, have effect.

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

Section 1

This section substitutes 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 April 2017 (the “as-in-force” date).

The RAP Schedule is at item 25 of Schedule 1 of the *Treatment Principles*.

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

Section 1

This section substitutes Schedule 1 of the *MRCA Treatment Principles* and provides that the documents listed in the Schedule are incorporated into the *MRCA Treatment Principles* in the form in which those documents exist on 1 April 2017 (the “as-in-force” date).

The RAP Schedule is at item 24 of Schedule 1 of the *MRCA Treatment Principles*.

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

Section 1

This section substitutes item 59 – Schedule 1 of the *Treatment Principles (Australian Participants in British Nuclear Tests) 2006*.

Under section 16 of the *Australian Participants in British Nuclear Tests (Treatment) Act 2006* (APBNT(T)A) the *Treatment Principles* under the *Veterans' Entitlements Act 1986* apply under the APBNT(T)A as modified.

The *Treatment Principles* have been modified in their application under the APBNT(T)A. Those modifications are contained in the *Treatment Principles (Australian Participants in British Nuclear Tests) 2006*. The modifications include (at item 59) a modified version of Schedule 1 of the *Treatment Principles*.

This amendment substitutes the modified Schedule 1 at item 59 with a new Schedule 1 to update the “as-in-force” date to 1 April 2017.

The RAP Schedule is at item 22 of the modified Schedule 1.