

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Veterans' Affairs

Veterans' Entitlements Act 1986

*Veterans' Entitlements Amendment (Medical Expenses Reimbursement) Regulations
2017*

The *Veterans' Entitlements Act 1986* (the Act) provides for the payment of pensions and other entitlements (including medical and other treatment) for veterans and certain other persons.

Section 216 of the Act provides, in part, that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters which are by the Act required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The *Veterans' Entitlements Regulations 1986* (the Principal Regulations), amongst other matters, prescribes the amount to be reimbursed for medical expenses incurred under sections 170A and 196ZN of the Act.

The purpose of the Regulations is to increase the amount available for reimbursement for medical evidence provided by an applicant for a review of a decision to the Veterans' Review Board (VRB) or by an applicant to the Specialist Medical Review Council (SMRC).

The Regulations will increase the amount available for reimbursement from \$467.50 to \$1000 (GST inclusive).

Since 1 July 1994, claimants under the Act who appealed to the VRB or the SMRC, were entitled to seek reimbursement for the sum of \$425 to cover expenses incurred in respect of relevant documentary medical evidence submitted to the VRB or SMRC for the purposes of the review.

Following the introduction of the Goods and Services Tax (GST) on 1 July 2000, this amount was increased by 10% to \$467.50.

Sections 170A and 196ZN of the Act set out the conditions applicable to the payment of medical expenses incurred by applicants to the VRB or SMRC in obtaining medical evidence. Subsections 170A(3) and 196ZN(2) of the Act state that the amount to be reimbursed for medical expenses is a "prescribed amount".

Sections 8A and 13A of the Principal Regulations set out the prescribed amount for the purposes of paragraphs 170A(3)(a) and (b) and 196ZN(2)(a) and (b) of the Act. The prescribed amount is currently set at \$467.50. The amount will be further increased to \$1000 (GST inclusive) by the amendment made by these Regulations.

The increase is designed to encourage the early submission of medical evidence leading to a more timely resolution of VRB/SMRC applications.

This change ensures veterans seeking a review of a decision in relation to their claim by the VRB, or a submission to the SMRC, will be able to have a greater amount reimbursed for medical evidence for which they have paid.

Details of the Regulations are set out in the Attachment.

The authority to amend the Principal Regulations is found in subsection 33(3) of the *Acts Interpretation Act 1901* which provides that where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

Consultation

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

These Regulations implement a measure that is beneficial in nature in terms of its impact on clients. The measure formed part of the Government's election commitment announced in "The Coalition's Policy to Support Veterans and Their Families" (June 2016).

Further, the proposal was approved via the 2016-17 Mid-Year Economic and Fiscal Outlook (MYEFO) which details that this measure will have an attributed cost of \$1.1 million over the forward estimates. The Department of Finance was consulted as part of the MYEFO approval process.

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

Retrospectivity

None.

Documents Incorporated-by-Reference

No.

Regulatory Impact

None.

Human Rights Statement

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

The attached Regulations can be considered to be either neutral or positive, in terms of their engagement with human rights. Arguably, the Regulations engage positively with the right to a fair trial and a fair hearing.

That right is contained in Article 14(1) of the International Covenant on Civil and Political Rights.

The Principal Regulations, amongst other matters, prescribe the amount available for reimbursement for medical evidence provided by an applicant to the Veterans' Review Board (VRB) or by an applicant to the Specialist Medical Review Board (SMRC). This proposed amendment increases this amount from \$467.50 to \$1000.

The increase in the reimbursement amount is designed to encourage the early provision of evidence by applicants leading to a more timely resolution of their applications to the VRB and SMRC. In addition, the removal of the cost barrier may support an applicant in obtaining medical evidence, or additional comprehensive medical evidence, to advance their application. In this way, the Regulations can be said to ensure costs associated with completing medical reports do not deter applicants from applying to these review bodies, thus supporting the right to a fair hearing.

Conclusion

The attached legislative instrument is considered to be compatible with human rights because it advances the right to a fair hearing.

Rule-Maker

The Minister for Veterans' Affairs

ATTACHMENT

Details of the *Veterans' Entitlements Amendment (Medical Expenses Reimbursement) Regulations 2017*

Section 1 – Name

This section provides that the name of the Regulations is the *Veterans' Entitlements Amendment (Medical Expenses Reimbursement) Regulations 2017*.

Section 2 – Commencement

This section provides for the Regulations to commence on 1 April 2017.

Section 3 – Authority

This section provides that the *Veterans' Entitlements Amendment (Medical Expenses Reimbursement) Regulations 2017* are made under the *Veterans' Entitlements Act 1986*.

Section 4 – Schedules

This section provides that the amendments to the *Veterans' Entitlements Regulations 1986* (the Regulations), outlined in Schedule 1 to the *Veterans' Entitlements Amendment (Medical Expenses Reimbursement) Regulations 2017* have effect.

Schedule 1 – Amendments

Item 1

This section omits the prescribed amount of \$467.50 and substitutes the prescribed amount of \$1000 in sections 8A and 13A of the Regulations.

Item 2

This section inserts a new section 17 into the Regulations. This section is an application provision which provides that the amendments made by the proposed Regulations will only apply to an application for payment made under section 170A or 196ZN of the *Veterans' Entitlements Act 1986* that is lodged on or after the commencement of the *Veterans' Entitlements Amendment (Medical Expenses Reimbursement) Regulations 2017*.