Veterans' Entitlements (Provisional Access to Medical Treatment) Determination 2017

made under paragraphs 88A(1)(a) and (d) of the *Veterans' Entitlements Act 1986*

Compilation No. 2

Compilation date:	1 July 2019
Includes amendments up to:	F2019L00987
Registered:	12 August 2019

Prepared by the Office of Parliamentary Counsel, Canberra

About this compilation

This compilation

This is a compilation of the *Veterans' Entitlements (Provisional Access to Medical Treatment) Determination 2017* that shows the text of the law as amended and in force on 1 July 2019 (the ***compilation date***).

The notes at the end of this compilation (the ***endnotes***) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

Part 1-Introduction

1 Name

This instrument is the *Veterans' Entitlements (Provisional Access to Medical Treatment) Determination 2017*.

3 Authority

This instrument is made under paragraphs 88A(1)(a) and (d) of the *Veterans' Entitlements Act 1986.*

4 Purpose

The purpose of this instrument is to enable a person within a class specified in Part 2 to receive treatment (provisional treatment) for a *specified condition* during the period from the time the person has made a claim for liability under the MRCA, or a defence-related claim under the SRCA (or if the DRCA is in force, a defence-related claim under the DRCA) and before liability for that claim has been determined.

Provisional treatment is available in respect of claims made on or after 1 July 2017 and before 1 April 2020.

Entitlement to provisional treatment for a s*pecified condition* under this instrument will however cease in the circumstances set out in subsections 9(2),(3),(4) and (5).

5 Definitions

In this instrument:

Act means the *Veterans' Entitlements Act 1986.*

cadet has the same meaning as it has in section 5 of the *MRCA*.

Commission means the body corporate known as the Military Rehabilitation and Compensation Commission established under section 361 of the *MRCA*.

declared member has the same meaning as it has in section 5 of the *MRCA*.

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DRCA means the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988* created upon enactment of the *Safety, Rehabilitation and Compensation Legislation Amendment (Defence Force) Bill 2016.*

former member has the same meaning as it has in section 5 of the *MRCA*.

member has the same meaning as it has in section 5 of the *MRCA.*

member of the Defence Force has the same meaning as it has in the *MRCA*.

MRCA means the *Military Rehabilitation and Compensation Act 2004.*

part-time Reservist has the same meaning as it has in section 5 of the *MRCA*.

Pharmaceutical Benefits Scheme means the scheme for the provision of pharmaceutical benefits prepared by the Repatriation Commission under section 91 of the *Act* (the *Repatriation Pharmaceutical Benefits Scheme)* or the determination made by the Commission under paragraph 286(1)(c) of the *MRCA* (the *MRCA Pharmaceutical Benefits Scheme*), as applicable.

Private Patient Principles means the principles determined by the *Repatriation Commission* under section 90A of the *Act* (the *Repatriation Private Patient Principles*) or the determination made by the *Commission* under paragraph 286(1)(b) of the *MRCA* (the *MRCA Private Patient Principles*), as applicable.

specified condition – see section 6.

SRCA means the *Safety, Rehabilitation and Compensation Act 1988*.

Statement of Principles means a determination made by the Repatriation Medical Authority, for the purposes of the *Act* and the *MRCA*, under subsection 196B(3) of the *Act*.

Treatment Principles means the document prepared by the *Repatriation Commission* under section 90 of the *Act* (the *Treatment Principles*), or the determination made by the *Commission* under paragraph 286(1)(a) of the *MRCA* (the *MRCA Treatment Principles*), as applicable.

6 Meaning of specified condition

In this instrument, a *specified condition* means a condition listed in column 1 of the table in this section.

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Each *specified condition* in column 1 has the meaning given in the provision of the *Statement of Principles*, as in force from time to time, listed in column 2 for the corresponding condition, or the meaning given in any subsequent *Statement of Principles*, as in force from time to time, for that condition.

Column 1		Column 2
1.	Achilles Tendinopathy and Bursitis	subsection 7(2) of the Statement of Principles concerning *Achilles Tendinopathy and Bursitis* (Balance of Probabilities) (No. 97 of 2015)
2.	Chondromalacia Patella	paragraph 3(b) of the Statement of Principles concerning *Chondromalacia Patella* (Balance of Probabilities) (No. 80 of 2010)
3.	Cut, Stab, Abrasion and Laceration	subsection 7(2) of the Statement of Principles concerning *Cut, Stab, Abrasion and Laceration* (Balance of Probabilities) (No. 54 of 2016)
4.	Dislocation	paragraph 3(b) of the Statement of Principles concerning *Dislocation* (Balance of Probabilities) (No. 25 of 2010)
5.	Fracture	subsection 7(2) of the Statement of Principles concerning *Fracture* (Balance of Probabilities) (No. 95 of 2015)
6.	Internal Derangement of the Knee	paragraph 3(b) of the Statement of Principles concerning *Internal Derangement of the Knee* (Balance of Probabilities) (No. 52 of 2010)
7.	Intervertebral Disc Prolapse	subsection 7(2) of the Statement of Principles concerning *Intervertebral Disc Prolapse* (Balance of Probabilities) (No. 44 of 2016)
8.	Joint Instability	paragraph 3(b) of the Statement of Principles concerning *Joint Instability* (Balance of Probabilities) (No. 33 of 2010)
9.	Labral Tear	paragraph 3(b) of the Statement of Principles concerning *Labral Tear* (Balance of Probabilities) (No. 95 of 2010)
10.	Lumbar Spondylosis	paragraph 3(b) of the Statement of Principles concerning *Lumbar Spondylosis* (Balance of Probabilities) (No. 63 of 2014)

11.	Non-melanotic Malignant Neoplasm of the Skin	subsection 7(2) of the Statement of Principles concerning *Non-melanotic Malignant Neoplasm of the Skin* (Balance of Probabilities) (No. 8 of 2016)
12.	Osteoarthritis	paragraph 3(b) of the Statement of Principles concerning *Osteoarthritis* (Balance of Probabilities) (No. 14 of 2010)
13.	Plantar Fasciitis	paragraph 3(b) of the Statement of Principles concerning *Plantar Fasciitis* (Balance of Probabilities) (No. 52 of 2015)
14.	Rotator Cuff Syndrome	paragraph 3(b) of the Statement of Principles concerning *Rotator Cuff Syndrome* (Balance of Probabilities) (No. 101 of 2014)
15.	Sensorineural Hearing Loss	paragraph 3(b) of the Statement of Principles concerning *Sensorineural Hearing Loss* (Balance of Probabilities) (No. 6 of 2011)
16.	Shin Splints	paragraph 3(b) of the Statement of Principles concerning *Shin Splints* (Balance of Probabilities) (No. 10 of 2015)
17.	Solar Keratosis	paragraph 3(b) of the Statement of Principles concerning *Solar Keratosis* (Balance of Probabilities) (No. 74 of 2012)
18.	Sprain and Strain	paragraph 3(b) of the Statement of Principles concerning *Sprain and Strain* (Balance of Probabilities) (No. 95 of 2011)
19.	Thoracic Spondylosis	paragraph 3(b) of the Statement of Principles concerning *Thoracic Spondylosis* (Balance of Probabilities) (No. 65 of 2014)
20.	Tinnitus	paragraph 3(b) of the Statement of Principles concerning *Tinnitus* (Balance of Probabilities) (No. 34 of 2012)

Part 2 - Specified classes of person

7 Former members, part-time reservists etc.

For paragraphs 88A(1)(a) and (d) of the *Act*, the following class of person is specified:

(1) A person who:

(a) on or after 1 July 2017 and before 1 April 2020, makes:

(i) a defence-related claim within the meaning of section 141 of the *SRCA*, or, if the *DRCA* is in force, a defence-related claim within the meaning of section 141 of the *DRCA*; or

(ii) a claim under paragraph 319(1)(a) of the *MRCA*; and

(b) that claim relates to one or more *specified conditions*; and

(c) prior to making the claim, the person had rendered defence service within the meaning of paragraph 6(1)(d) of the *MRCA*; and

(d) at the time of making the claim, the person is either:

(i) a *former member*, *part-time Reservist*, *cadet* or *declared member*; or

(ii) a *member of the Defence Force* who, after the claim is made and before 1 April 2020, becomes a *former member*.

(2) A person specified in subparagraph (1)(d)(ii) is included in the class only from the time that person becomes a *former member*.

8 Current full-time ADF members

For paragraphs 88A(1)(a) and (d) of the *Act*, the following class of person is specified:

A person who:

(a) on or after 1 July 2017 and before 1 April 2020 makes a claim under paragraph 319(1)(a) of the *MRCA*; and

(b) that claim relates to one or more *specified conditions*; and

(c) at the time of making the claim, the person is a *member* who is entitled to medical and dental treatment under section 49 of the *Defence Regulation 2016*; and

(d) in respect of whom, the *Commission* has made a determination under paragraph 279(d) of the *MRCA* that it is more appropriate to provide treatment for the person's injury or disease under Part 3 of Chapter 6 of the *MRCA* than to provide treatment under section 49 of the *Defence Regulation 2016.*

Part 3 - Specified treatment

9 Treatment

For the classes of persons specified in Part 2 of this instrument, the following kind of treatment is specified:

(1) Treatment that:

(a) can be applied to a *specified condition*, under, and subject to:

i. the *Treatment Principles*; or
ii. the *Pharmaceutical Benefits Scheme*; or
iii. the *Private Patient Principles*; or
iv. an arrangement between the *Repatriation Commission* and a health care provider pursuant to Part V of the *Act*; and

(b) is appropriate having regard to the nature of the claim and the *specified conditions* involved in that claim; and

(c) is provided within the trial period from 1 July 2017 to 30 June 2020.

(2) Entitlement of a person to treatment for a *specified condition* under this instrument ceases on the making of a determination at primary level to accept liability in respect of the *specified condition.*

(3) Subject to subsection (4), entitlement of a person to treatment for a *specified condition* under this instrument ceases on the making of a determination at primary level to refuse liability in respect of the *specified condition.*

(4) Subsection (3) does not apply if an application for review or appeal is made in relation to the determination at primary level to refuse liability in respect of the *specified condition*.

(5) However, entitlement to treatment for a *specified condition* under this instrument ceases on the making of a decision on review or appeal referred to in subsection (4) if the decision, or the effect of the decision, is to accept or refuse liability in respect of the *specified condition.*

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Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes
Endnote 2—Abbreviation key
Endnote 3—Legislation history
Endnote 4—Amendment history

Abbreviation key—Endnote 2
The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4
Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes
The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments
A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation "(md)" added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation "(md not incorp)" is added to the details of the amendment included in the amendment history.

Endnote 2—Abbreviation key

ad = added or inserted

am = amended

amdt = amendment

c = clause(s)

C[x] = Compilation No. x

Ch = Chapter(s)

def = definition(s)

Dict = Dictionary

disallowed = disallowed by Parliament

Div = Division(s)

ed = editorial change

exp = expires/expired or ceases/ceased to have effect

F = Federal Register of Legislation

gaz = gazette

LA = *Legislation Act 2003*

LIA = *Legislative Instruments Act 2003*

(md) = misdescribed amendment can be given effect

(md not incorp) = misdescribed amendment cannot be given effect

mod = modified/modification

No. = Number(s)

o = order(s)

Ord = Ordinance

orig = original

par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)

pres = present

prev = previous

(prev…) = previously

Pt = Part(s)

r = regulation(s)/rule(s)

reloc = relocated

renum = renumbered

rep = repealed

rs = repealed and substituted

s = section(s)/subsection(s)

Sch = Schedule(s)

Sdiv = Subdivision(s)

SLI = Select Legislative Instrument

SR = Statutory Rules

Sub-Ch = Sub-Chapter(s)

SubPt = Subpart(s)

underlining = whole or part not commenced or to be commenced

Endnote 3—Legislation history

Name	Registration	Commencement	Application, saving and transitional provisions
Veterans' Entitlements (Provisional Access to Medical Treatment) Determination 2017	27 June 2017	1 July 2017	
Veterans' Entitlements (Provisional Access to Medical Treatment) Amendment Determination 2019	15 April 2019	1 April 2019	
Veterans' Entitlements (Provisional Access to Medical Treatment) Amendment Determination No.2 2019	15 July 2019 (F2019L00987)	Sch (items 1–5): 1 July 2019 (s 2(1)) Sch (item 6): 1 July 2017 (s 2(2))	—

Endnote 4—Amendment history

Provision affected	How affected
Part 1	
s 2	rep LA s 48D
s 4	am F2019L00613; F2019L00987
Part 2	
s 7	am F2019L00613; F2019L00987
s 8	am F2019L00613; F2019L00987
Part 3	
s 9	am F2019L00987
	ed C2

Endnote 5—Editorial changes

In preparing this compilation for registration, the following kinds of editorial change(s) were made under the *Legislation Act 2003*.

Paragraph 9(1)(c)

Kind of editorial change

Correct a typographical error

Details of editorial change

Item 5 of the Schedule to the *Veterans' Entitlements (Provisional Access to Medical Treatment) Amendment Determination No.2 2019* instructs to omit and substitute paragraph 9(1)(c). The substituted paragraph 9(1)(c) refers to "trail".

This compilation was editorially changed to omit the word "trail" and substitute the word "trial" in paragraph 9(1)(c) to correct the typographical error.