

EXPLANATORY STATEMENT

Veterans' Entitlements (Provisional Access to Medical Treatment) Amendment Determination 2019 (Instrument 2019 No. R28)

EMPOWERING PROVISION

Subsection 88A(2) of the *Veterans' Entitlements Act 1986* (VEA).

PURPOSE

The attached instrument (Instrument 2019 No. R28) amends the *Veterans' Entitlements (Provisional Access to Medical Treatment) Determination 2017* (the determination) to extend the registration stage of the Provisional Access to Medical Treatment (PAMT) Trial for an additional three months from 1 April 2019 to 1 July 2019.

The 2017–2018 Budget provided funding for an initiative to provide provisional access to medical treatment for a “top 20” list of specified conditions.

The determination provides that provisional treatment for those specified conditions will be available to veterans on or after 1 July 2017 and before 1 April 2019, for a 2-year trial period from 1 July 2017 to 30 June 2019.

The PAMT Trial consists of two stages. Firstly, the registration stage where clients register to access medical treatment. Secondly, the access to treatment stage where the Department of Veterans' Affairs (DVA) pays for treatment for a person who has registered. Under the determination, the registration stage ceases on 1 April 2019 which means that no new clients can register after this date. However, the access to treatment stage ceases on 30 June 2019.

The attached instrument varies the determination to extend the first stage, the registration stage, for an additional three months from 1 April 2019 to 1 July 2019. The attached instrument makes no other changes to the determination. The second stage may be extended in the future once funding has been secured.

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.

Consultation has occurred within DVA. As the proposed extension continues access to the PAMT Trial, the consultation that occurred during the development of the original beneficial Legislative Instrument is considered as still relevant.

The measure implemented by this instrument is entirely beneficial in nature in terms of its impact on Australian Defence Force members and former members.

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

RETROSPECTIVITY

The instrument will be taken to have commenced on 1 April 2019 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

None.

REGULATORY IMPACT

Nil.

HUMAN RIGHTS STATEMENT

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

The attached legislative instrument engages and promotes the Right to Health.

The Right to Health is 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 varies the determination to extend the first stage, the registration stage, of the PAMT Trial for an additional three months from 1 April 2019 to 1 July 2019. This will allow new clients to register for treatment during this period.

Conclusion

The attached instrument promotes the Right to Health by extending the registration period for provisional treatment under the PAMT Trial. This proposal will help improve health outcomes of new claimants.

Accordingly, the attached instrument is considered to be “human rights compatible”

Repatriation Commission
Rule-Maker

FURTHER EXPLANATION OF PROVISIONS *See:* Attachment A

Attachment A

FURTHER EXPLANATION OF PROVISIONS

Section 1

This section provides that the name of the instrument is the *Veterans' Entitlements (Provisional Access to Medical Treatment) Amendment Determination 2019*.

Section 2

This section provides that the instrument is taken to have commenced on 1 April 2019.

Section 3

This section sets out the primary legislation that authorises the making of the instrument, namely subsection 88A(2) of the *Veterans' Entitlements Act 1986* (VEA).

Section 4

This section provides that the *Veterans' Entitlements (Provisional Access to Medical Treatment) Determination 2017* is varied in accordance with the item in the Schedule to this instrument.

Schedule

Item 1

Item 1 omits “1 April 2019” wherever it occurs in the *Veterans' Entitlements (Provisional Access to Medical Treatment) Determination 2017* and replaces it with “1 July 2019”.