##### EXPLANATORY STATEMENT

**Veterans' Entitlements (Provisional Access to Medical Treatment) Amendment Determination 2022** (Instrument 2022 No. R10)

**EMPOWERING PROVISION**

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

**PURPOSE**

The Veterans' Entitlements (Provisional Access to Medical Treatment) Amendment Determination 2022(Instrument 2022 No. R10) (the Amendment Instrument) amends the *Veterans' Entitlements (Provisional Access to Medical Treatment) Determination 2017* (the Principal Instrument) to extend the intake period of the Provisional Access to Medical Treatment Program (the Program) by twenty four months to 1 July 2024 and the closing date of the provision of treatment under the Program by twenty four months to 31 December 2024.

The 2017–2018 Budget provided the original funding for an initiative to provide provisional access to medical treatment for a “top 20” list of specified conditions. It enables certain persons to receive treatment (provisional treatment) for a specified condition during the period from the time the person has made a claim for liability and before liability for that claim has been determined.

Following previous extensions an additional $33.6 million in funding has been provided under the 2022-2023 Budget Measure “Supporting veteran wellbeing through early access to medical treatment” to extend the Program into the 2022-23 and 2023-2024 financial years.

The Program consists of two stages. Firstly, the registration (intake) stage where clients register to access medical treatment. Secondly, the access to treatment stage where the Department of Veterans’ Affairs (DVA) pays for treatment that has been provided to a person who has registered for the Program.

While the current extension of the provision of treatment under the Program was scheduled to cease 31 December 2022, the intake period of the Program is being extended by a further twenty four months to 1 July 2024.

Flowing from the extended intake period, the provision of treatment has also been extended by twenty four months to 31 December 2024, which reflects processing times and capacity amid unprecedented increases in claims intakes as well as workforce capacity within the COVID-19 pandemic environment. The purpose of this extension is to remove barriers and allow participants to continue to receive treatment while their claim is being determined.

**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 concerning the extension of the Program. The proposed extension continues access to the Program and is consistent with how DVA has provided treatment under the Program since it commenced on 1 July 2017. Consequently, the additional consultation that occurred during the development of the original beneficial legislative instrument is considered as still relevant for the purposes of the extension.

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**

Not applicable.

**DOCUMENTS INCORPORATED BY REFERENCE**

None.

**REGULATORY IMPACT**

Nil as previously determined for the earlier extensions.

**FURTHER EXPLANATION OF PROVISIONS**

*See*: Attachment A

**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.

*Human rights implications*

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 intake period of the Program by a further twenty four months to 1 July 2024 and the provision of treatment by twenty four months to 31 December 2024. This will allow new clients to register for treatment under the Program during the extension period, and extend the treatment period for those people as well as existing clients.

*Conclusion*

The attached instrument promotes the Right to Health by extending the intake period and the provision of treatment under the Program. DVA clients will benefit from the extension as they will be able to access medical treatment by participating in the Program.

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

Repatriation Commission

Rule-Maker

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 2022*.

Section 2

This section provides that the instrument commences on 1 July 2022.

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 items in Schedule 1 to this instrument, and any other item in Schedule 1 to this instrument has effect according to its terms.

**Schedule 1- Amendments**

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

The following amendments to the *Veterans’ Entitlement (Provisional Access to Medical Treatment) Determination 2017* (the Principal Instrument) relate to the extension of the provision of treatment under the Provisional Access to Medical Treatment Program (the Program). The intake period of the Program is being extended by a further twenty four months to 1 July 2024 and the provision of treatment has also been extended by twenty four months to 31 December 2024.

Item 1

This item omits from section 4 of the Principal Instrument the reference to “1 July 2022” and substitutes a reference to “1 July 2024”.

Item 2

This item omits from paragraph 7(1)(a) of the Principal Instrument the reference to “1 July 2022” and substitutes a reference to “1 July 2024”.

Item 3

This item omits from subparagraph 7(1)(d)(ii) of the Principal Instrument the reference to “1 July 2022” and substitutes a reference to “1 July 2024”.

Item 4

This item omits from paragraph 8(a) of the Principal Instrument the reference to “1 July 2022” and substitutes a reference to “1 July 2024”.

Item 5

This item omits from paragraph 9(1)(c) of the Principal Instrument the reference to “31 December 2022” and substitutes a reference to “31 December 2024”.