

EXPLANATORY STATEMENT

Military Rehabilitation and Compensation (Defence, Veterans' and Families' Acute Support Package) Instrument 2022

EMPOWERING PROVISIONS

Section 268B of the *Military Rehabilitation and Compensation Act 2004* (the **MRCA**).

PURPOSE

The *Military Rehabilitation and Compensation (Defence, Veterans' and Families' Acute Support Package) Instrument 2022* (the **Instrument**) sets out provisions for, and in relation to, the granting of an acute support package of assistance or benefits to specified kinds of persons for the purposes of the amendments to the *Military Rehabilitation and Compensation Act 2004* made by the *Defence Veterans' and Families' Acute Support Package Act 2022* (the **Amendment Act**).

The Amendment Act extends and consolidates the initial response to Recommendation 19 of the Senate Foreign Affairs, Defence and Trade References Committee's report *The Constant Battle: Suicide by Veterans*. It also responds to Recommendation 19.2 of the Productivity Commission's inquiry report *A Better Way to Support Veterans*.

The Amendment Act provides more vulnerable veterans and their families with more flexible support through the acute support package. The acute support package extends more assistance and benefits to a wider group of persons compared to those available under the repealed Family Support Package. The acute support package seeks to provide choice and flexibility for families to access the help that will be most beneficial to them. A support plan, developed between the family and a Department of Veterans' Affairs (DVA) service coordinator, will set out the services on which the capped amount may be spent, based on individual family needs.

The purpose of the Instrument is to implement the acute support package introduced by the Amendment Act and provide for targeted and intensive assistance and benefits to veterans and their families. The assistance and benefits that form part of the acute support package include the provision of child care services, counselling, household assistance, education, transport and equipment services to veterans and their families.

To be eligible for the acute support package, the person must be at a minimum, a member or a former member of the Australian Defence Force (ADF), wholly dependent partner of a deceased member of the ADF, or former partner of a member or former member of the ADF, and satisfy the other prescribed eligibility criteria set out in the Instrument. Assuming the prescribed eligibility criteria are satisfied, the Military Rehabilitation and Compensation Commission (the Commission) may decide to grant a package of assistance or benefits to a person, if the Commission is satisfied that it is appropriate to grant an acute support package to assist the person to adjust to new and challenging life circumstances.

Some support and assistance provided can be accessed by veterans and their families up to an annual financial cap, for one or more periods, that add up to a total of 24 months. The financial assistance can be spent on a variety of services that include child care, household assistance and services to build capacity. Generally, for a member, former member or former partner of a member or former member, the annual cap in relation to one or more periods during which assistance or benefits are to be provided that add up to 12 months (the first accumulated 12 months period) is \$7,500, and \$5,000 in relation to one or more periods during which assistance or benefits are to be provided that add for a further accumulated 12 months period. Where a person who is included in a support plan is a child who is attending, or not yet attending, primary school, additional financial benefits or assistance

may be included in the support plan and be made available to the member, former member or former partner of a member or former member, ending on the first anniversary of the start of the period for which the child has completed primary school.

For a wholly dependent partner of a deceased member, the maximum value of support is \$27,835 every 12 months for a continuous 24 month period starting on the day the support plan comes into effect.

In addition, there are further support and benefits in relation to counselling which are not limited by the prescribed 12-month cap.

For the purposes of the acute support package, the Commission must prepare a support plan for the eligible person which outlines among other things, the persons who will be provided with assistance or benefits under the support plan, the kinds of assistance or benefits that will be provided, and the periods during which the assistance or benefits will be provided.

CONSULTATION

The acute support package was implemented in response to the Senate Foreign Affairs, Defence and Trade References Committee's report *The Constant Battle: Suicide by Veterans*. It also responds to Recommendation 19.2 of the Productivity Commission's inquiry report *A Better Way to Support Veterans*. This instrument also addresses feedback received through the Female Veterans and Veterans' Families Forum. Therefore no further additional consultation was required in relation to this Instrument.

DETAILS/OPERATION

The Instrument is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in **Attachment B**.

The Instrument is a legislative instrument for the purposes of the *Legislation Act 2003*.

MERITS REVIEW

New section 345B provides that decisions made by the Commission are reviewable and Chapter 8 (Review and Reconsideration of Decisions) of the *Military Rehabilitation and Compensation Act 2004* applies to decisions made by the Commission under this instrument.

CONFERRAL AND EXERCISE OF DISCRETIONARY POWERS

To effectively implement the acute support package, discretionary decision making powers are provided to the Commission. This includes the power to grant an acute support package under section 7 of the Instrument. Section 8 of the Instrument provides that the Commission must prepare a support plan for the person. Whilst section 9 of the Instrument enables the Commission to vary or revoke a support plan.

Delegations

The program's focus is on providing case management support for contemporary widow(er)s and dependants, families of veterans whose deaths have been reported as suicide, and families eligible for the Defence, Veterans' and Families' Acute Support Package.

The powers and functions under 7(1)(c), 7(2)(d), 7(3)(d)(ii), 7(4)(e), 8(3)(b)(ii), 8(3)(c)(iii), 8(3)(d)(iii), 8(4)(h), 9(1)(b) and 9(3) in the Instrument are delegated to all levels from SES Band 3 down to APS 5 officers.

In practice, only officers whose official duty is to manage these cases and who have the appropriate skills, qualifications and experience will be exercising these powers or functions.

Appropriate skills, qualifications and experience

Delegates of the Commission are provided with specialised in-house training prior to making any delegated decisions, to ensure they have the experience and skills necessary to perform the role. There will be a Quality Assurance review process introduced in 2023 and until this is introduced, a peer review is undertaken prior to any decisions being made by a delegate.

Delegate decisions are made taking into account a range of evidence, including a psychosocial assessment of clients, which is undertaken by Complex Case Managers (Clinical). Delegates work closely with Complex Case Managers (Clinical) to ensure that the assessment and decision making process is completed in accordance with a trauma informed approach.

The psychosocial assessment uses the domains of DVA's Wellbeing Framework:

- Employment
- Health
- Social Support
- Income and Finance
- Education and Skills
- Recognition and Respect, and
- Housing.

It is mandatory for Complex Case Managers (Clinical) to have the following qualifications/skills:

- tertiary qualifications (Bachelor's degree or higher) in a relevant health field including Nursing, Psychology, Occupational Therapy, or Social Work
- at least 2 years of experience working as a case manager, or equivalent clinical role
- extensive experience working within a mental health or community case management setting, including working with people who present with complex mental health conditions
- experience in coordinating and assisting in the management of a caseload of complex and potentially at-risk clients in community mental health teams
- excellent written and oral communication skills, including capacity to liaise with and develop productive relationships with other organisations
- experience and interest in triage, assessment, and case management via telephone, and
- a current Police Check.

Factors to consider in exercising discretion

The purpose of the acute support package is to provide flexible and targeted support to veteran families at risk of, or in crisis to adjust to new and challenging life circumstances. The acute support package policy, which is available through DVA's Consolidated Library

of Information and Knowledge (CLIK), (which is publicly available), provides policy guidance to delegates on the types of crisis and the kinds of circumstances that the Acute Support Package is designed to alleviate.

The central factor that underpins the delegate's discretion is considering whether the holistic needs of the eligible person are being met.

Delegates consider an assessment of the needs of the family to determine whether their circumstances would be mitigated by the provision of funding for structured supports to build the family's functioning and/or capability.

New and challenging circumstances

In considering whether a support plan will assist the eligible person to adjust to new and challenging life circumstances, an assessment of the family's needs must be undertaken to determine what services are appropriate to fund to support the eligible person or their family to build their wellbeing, functioning, and resilience.

The following factors may be considered:

- any assessment made by a qualified person in relation to the eligible person
- the nature of the relationship between a related person and the veteran
- any benefit or improvement expected in the eligible person's life circumstances
- any evidence the service results in benefit to the eligible person's circumstances
- whether a similar support is provided by DVA or another government agency
- the relative merits of any alternative and appropriate program/service
- whether the service meets the goals of the family unit

Suicide arising out of or occurred in the course of the member's employment

In considering whether the deceased member's death was a death by suicide that arose out of or occurred in the course of the member's employment, a connection must be established between the member's death and their service in the Australian Defence Force.

In most cases, delegates will require DVA to have made a death determination before they can establish eligibility for the acute support package. However, where a member or former member has rendered war like service under the MRCA and died by suicide, for the purpose of acute support package the death is considered related to service and a delegate may grant support before a formal death determination is made. A formal death determination would, however, override any previous decisions made by an acute support package delegate.

Experiencing or is at risk of experiencing crisis

In considering whether the eligible person is experiencing, or is at risk of experiencing, crisis, an assessment of the family's needs must be undertaken to determine that the family's situation would be mitigated by the provision of funding for structured supports for the purposes of building their capability and/or functioning. This is to ensure that the family's crisis situation satisfies the intent of the acute support package to provide short-term, intensive support to help families adjust to new and challenging circumstances.

The acute support package policy lists the following situations that may be considered crisis circumstances where the functioning of the family may be impacted and they would benefit from support:

- mental and physical health episodes including attempted suicide
- substance abuse issues

- addiction
- family and domestic violence incidents, including child abuse
- homelessness
- family conflicts and breakdowns
- sudden, significant events such as loss of employment or death in the family
- at risk of disengagement with the community (particularly young people)
- at risk of engagement with the criminal justice system.

The following situations would not, in and of themselves, be considered circumstances that make a family eligible:

- financial distress
- routine/known events
- legal proceedings, court costs or fines, or
- natural/environmental disaster.

Safeguards and limitations

The above factors are set out in the policy accessible by delegates exercising these powers and functions. Delegates are to consider the factors as set out in the policy to ensure decisions are made consistently and within the scope of their powers.

Further, decisions made by delegates are reviewable either by reconsideration by the Commission or, on application, review by the Veterans' Review Board and the Administrative Appeals Tribunal.

FURTHER EXPLANATION OF PROVISIONS

Details of the Instrument including commencement details are set out in **Attachment A**.

Attachment A

Details of Military Rehabilitation and Compensation (Defence, Veterans' and Families' Acute Support Package) Instrument 2022

Part 1 - Preliminary

Section 1 - Name

This section provides that the name of the Instrument is the *Military Rehabilitation and Compensation (Defence, Veterans' and Families' Acute Support Package) Instrument 2022* (the **Instrument**).

Section 2 - Commencement

This section sets out the date on which the Instrument commences operation.

Subsection 2(1) provides that each provision of the Instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Table item 1 provides that the whole of the Instrument commences on the later of the day after it is registered on the Federal Register of Legislation and the day on which the *Defence, Veterans' and Families' Acute Support Package Act 2022* (the **Amendment Act**) commences.

The effect of this section is that the Instrument will commence on the later of the day after it is registered and the date the Amendment Act commences.

Section 3 - Authority

This section provides that the legislative authority for the Instrument is section 268B of the *Military Rehabilitation and Compensation Act 2004* (the **Act**).

Section 4 - Schedules

This section provides that each Instrument that is specified in the Schedule to this Instrument is amended or repealed as set out in the applicable items in the Schedule, and any other item in the Schedule to this Instrument has effect according to its terms. In particular, the *Military Rehabilitation and Compensation (Family Support) Instrument (No.2) 2018 set out in Schedule 1* is repealed.

Section 5 – Simplified outline of this instrument

This section provides a simplified outline of the Instrument.

The simplified outline is included to assist the reader to understand the substantive provisions of this Instrument; however, it is not intended to be comprehensive. It is intended that the reader will rely on the substantive provisions of this Instrument to which the outline relates.

Section 6 - Definitions

This section provides for definitions and terms used in the Instrument.

Subsection 6(1) defines the following:

“**Act**” means the *Military Rehabilitation and Compensation Act 2004*.

“**acute support package**” is a signpost definition to draw the readers' attention to subsection 7(1) for its meaning.

“*support plan*” is a signpost definition to draw the readers’ attention to section 8 which is the section that provides details about the support plan. The term being tagged in that section indicates that a support plan is a plan prepared in accordance with that section.

Subsection 6(2) provides that in this instrument, a reference to a “*child*” of a member, former member or deceased member, includes a reference to a stepchild of the member, former member or deceased member and a person in respect of whom the member or former member stands, or the deceased member stood, in the position of a parent. This expands on the meaning of the “*child*” as defined in section 5 of the Act to include stepchild and a person in respect of whom the member or former member stands or the deceased member stood, in the position of a parent to the child.

Part 2 – Commission may grant acute support package

Division 1—Eligibility for acute support package

Section 7 Commission may grant acute support package

This section provides that the Commission may decide to grant an acute support package to a person provided that they meet certain eligibility requirements and if satisfied that it is appropriate to grant assistance or benefits under the acute support package to assist the person to adjust to new and challenging life circumstances.

Subsection 7(1) provides that the Commission may decide to grant a package, otherwise known as an acute support package, of assistance or benefits to a person provided that:

- (a) the person is a person covered by subsections (2), (3) or (4); and
- (b) if the person has previously been granted an acute support package, either the period during which the assistance or benefits for that acute support package has ended or the support plan has been revoked; and
- (c) the Commission is satisfied that it is appropriate to grant an acute support package to the person to assist the person to adjust to new and challenging life circumstances.

Paragraph 7(1)(c) provides the Commission with discretion to make a decision to grant assistance or benefits to a particular eligible person so as to assist the person who is experiencing or is at risk of experiencing crisis, to cope with the new and challenging life circumstances being experienced by that person.

Subsection 7(1) allows the Commission to consider the granting of the package to persons who received assistance under the repealed Family Support Package provided under the *Military Rehabilitation and Compensation (Family Support) Instrument (No.2) 2018*, a person who has not received any assistance or benefits under the new acute support package, and a person who has previously received assistance or benefits under the new acute support package. In addition, paragraph 7(1)(c) allows the Commission to consider periods in relation to which assistance or benefits were granted to a person under the repealed Family Support Package. If the Commission considers it appropriate, the Commission may grant the person further assistance for a specified period under the acute support package even if the person has already accessed assistance or benefits under the repealed Family Support Package for or close to two years.

Members or former members

Subsection 7(2) sets out the eligibility criteria for members or former members to receive the acute support package. The following criteria must all be satisfied:

- the person is a member or former member;

- the person is under 65 years of age;
- the person is receiving, or is eligible to receive, compensation for incapacity under Part 3 or 4 of Chapter 4 of the Act or a Special Rate Disability Pension; and
- the Commission is satisfied that the person, or a related person of the person, is experiencing, or is at risk of experiencing, crisis.

Wholly dependent partners

Subsection 7(3) sets out the eligibility criteria for wholly dependent partners to receive the acute support package. The following criteria must all be satisfied:

- the person is a wholly dependant partner of a deceased member;
- the person is under 65 years of age;
- the deceased member's death occurred no more than 2 years ago; and
- either:
 - the deceased member's death was related to service rendered by the member; or
 - the Commission is satisfied that the deceased member's death was a suicide related to service rendered by the member.

Former partners of members or former members

Subsection 7(4) sets out the eligibility criteria for former partners of members or former members. This allows for assistance or benefits to a former partner of a member or former member of the Australian Defence Force where the relationship has ceased within the previous 12 months. A former partner is also eligible for assistance if a child of the member or former member who is under 18 years of age lives with the person, whether or not the relationship has ceased in the previous 12 months.

For a person to be eligible under this subsection the following criteria must all be satisfied:

- the person is a former partner of a member or former member;
- the person is under 65 years of age;
- the member or former member is receiving, or is eligible to receive, compensation for incapacity under Part 3 or 4 of Chapter 4 of the Act or a Special Rate Disability Pension;
- either or both of the following apply:
 - the person ceased being the member's or former member's partner within the previous 12 months;
 - a child of the member or former member who is under 18 years of age lives with the person; and
- the Commission is satisfied that the person is experiencing, or is at risk of experiencing, crisis.

Division 2—Support plan for acute support package

Division 2 of Part 2 requires that if an acute support package has been granted by the Commission to a person, the Commission must prepare a support plan for the person.

Division 2 of Part 2 also sets out that a support plan must include specified details such as the persons who are to be provided with the assistance or benefits, the kinds of assistance or benefits, the period or periods during which those assistance or benefits are to be provided, a list of providers, payment arrangements and commencement date

of the support plan. The Commission may vary a support plan and revoke a support plan in specified circumstances.

Section 8 Commission must develop support plan

This section provides that the Commission must develop a support plan.

Subsection 8(1) provides that, where the Commission has decided to grant an acute support package to a person, the Commission must prepare a support plan for the person.

Contents of support plan

Subsection 8(2) requires that a support plan must specify details set out in paragraphs (a) to (f) in relation to the provision of assistance or benefits to the person. The support plan must include the following:

- the persons who are to be provided with assistance or benefits under the support plan;
- the kinds of assistance or benefits that the Commission is satisfied are appropriate to be provided to those persons;
- the period or periods during which those assistance or benefits are to be provided;
- the providers that are to provide the assistance or benefits;
- the payment arrangements relating to the provision of the assistance or benefits; and
- the day on which the support plan comes into effect.

Persons included in support plan

Subsection 8(3) provides that a person must not be included in a support plan for an acute support package for the purposes of paragraph 8(2)(a) unless certain circumstances exist. The effect of this provision is to set out who can be included in the support plan for the acute support package.

If a person has been granted the package the person may be included in a support plan.

If the package has been granted to a member or former member, the support plan can include a person who is related to the member or former member. However, the Commission must be satisfied that the person is experiencing, or is at risk of experiencing, crisis.

If the package has been granted to a wholly dependent partner of a deceased member, the package can include a person who is a child under 18 years of age of the deceased member. However the wholly dependent partner must be parenting the child and the Commission must be satisfied that the child is experiencing, or is at risk of experiencing, crisis.

If the package has been granted to a former partner of a member or former member, the package can include a person who is a child under 18 years of age of the member or former member. However, the former partner must be parenting the child and the Commission must be satisfied that the child is experiencing, or is at risk of experiencing, crisis.

Kinds of assistance or benefits included in support plan

Subsection 8(4) lists the kinds of assistance or benefits that may be included in the support plan for the purposes of paragraph 8(2)(b). The kind of assistance or benefits that may be included in a support plan include:

- child care services for children attending or not yet attending primary school;
- counselling;
- household assistance;
- services to build capacity;
- academic and extra-curricular support services for a child who is under 18 years of age;
- transport services in relation to assistance or benefits being provided under the support plan;
- equipment and other goods; and
- any other kind of assistance or benefits that the Commission is satisfied will assist the person being provided with the assistance or benefits to adjust to new and challenging life circumstances.

Paragraph 8(4)(h) allows the Commission to provide additional assistance or benefit, in addition to those listed in paragraphs 8(4)(a) to (g) if the Commission is satisfied it is appropriate.

Child care service providers

Subsection 8(5) limits the providers that can, for the purpose of paragraph 8(2)(d), provide child care services under the acute support package. A provider of child care services must not be included in a support plan unless the provider is an approved child care service (within the meaning of the *A New Tax System (Family Assistance) (Administration) Act 1999*) or a person registered under section 73E of the *National Disability Insurance Scheme Act 2013* in relation to the provision of child care services.

Section 9 Varying and revoking support plan

This section provides for the variation and revocation of a support plan.

Varying support plan

Subsection 9(1) provides that the Commission may vary a support plan either on request by the person for whom the support plan was prepared or a person who is included in the support plan, or on the Commission's own initiative. The Commission may only vary a support plan if satisfied that it is appropriate to do so.

Revoking support plan

Subsection 9(2) requires the Commission to revoke a support plan that was prepared for a member, former member or former partner of a member or former member, if the relevant member or former member is no longer receiving, or is no longer eligible to receive, compensation for incapacity under Part 3 or 4 of Chapter 4 of the Act or a Special Rate Disability Pension.

Subsection 9(3) provides that the Commission may revoke a support plan in certain circumstances.

A support plan may be revoked in any of the following circumstances:

- if the support plan was prepared for a member or former member, the Commission is satisfied that the member or former member, or a related person of the member or former member, is no longer experiencing, or is no longer at risk of experiencing, crisis;
- if the support plan was prepared for a former partner, the Commission is satisfied that the former partner is no longer experiencing, or is no longer at risk of experiencing, crisis;

- a person who is included in the support plan does not comply with a request made to the person under section 13 to provide information;
- the Commission is satisfied that it is appropriate to revoke the support plan in order to grant a further acute support package to the person due to new and challenging life circumstances.

Effect of revocation

Subsection 9(4) sets out the effect of revocation. If a support plan is revoked, the assistance or benefits will no longer be provided to the person.

Division 3—Conditions and limits on assistance and benefits

Section 10 Assistance or benefits generally

This section provides for the total financial value of assistance or benefits that may be included in the support plan. The total value and total annual cap can be used for any of the services or assistance listed in subsection 8(4). Additional benefits are provided under sections 11 (additional counselling) and 12 (additional assistance or benefits in relation to children).

The total value of assistance or benefits for a member, former member or former partner of a member or former member is a maximum of \$7,500 for one or more periods during which the assistance or benefits add up to 12 months (the first year) and a maximum of \$5,000 for one or more periods during which the assistance or benefits add up to a further 12 months (the second year).

That is, the assistance provided in subsection 10(1) does not have to be accessed during one continuous period of time; the member, former member or former partner of a member or former member can access support included in a support plan to cover multiple periods of crisis. However, limitations and the ending of support in relation to the overall period covering the assistance or benefits are set out in subsection 10(2).

The maximum period during which assistance or benefits included in a support plan can be accessed for a member, former member, or former partner of a member or former member is either:

- (a) the end of the further 12 month period referred to in subparagraph (1)(a)(ii);
or
- (b) if that latter 12 month period has not been accrued, the end of a 48 month period starting on the day the support plan comes into effect.

In the case of a wholly dependent partner of a deceased member, an eligible recipient will receive the assistance over a continuous 24 month period.

The total value of assistance or benefits for a wholly dependent partner of a deceased member is a maximum of \$27,835 for every 12 months for a continuous period of 24 months starting on the day the support plan comes into effect.

Subsection 10(2) provides for the ending of the period during which assistance or benefits is provided under section 10. Although the financial assistance provided under paragraph 10(1)(a) does not need to be accessed continuously for 24 months, the support plan prepared for the person and access to benefits ends immediately after the earlier of the end of the further 12 month period referred to in subparagraph (1)(a)(ii) or the end of the 48 month period starting on the day the support plan comes into effect. This means that persons who have been granted assistance under the acute support package generally have a maximum period of 4 years to use the assistance or benefits.

Further assistance or benefits included in a support plan that is not subject to the limitations imposed under section 10 are available if children who are under, or of, primary school age are included in the support plan.

Section 11 Additional counselling

This section provides for additional counselling assistance to be included in a support plan to a member, former member or former partner of a member or former member, in addition to assistance or benefits available under section 10. The maximum amount of additional counselling that may be included in a support plan is 4 courses of counselling every 12 months for a continuous period of 36 months.

The 36 month period starts on the day after the relevant period referred to in paragraph 10(2)(a) ends. The counselling is available only after a member, former member or former partner of a member or former member has received the total amount of assistance or benefits for which they are eligible for the total period referred to in paragraph 10(2)(a).

Section 12 Additional assistance or benefits in relation to children

This section provides additional assistance or benefits in respect of children who are under, or of, primary school age and are included in the support plan, in addition to those available under section 10. Subsection 12(1) provides that this section applies if a person who is included in a support plan for the purposes of paragraph (8)(2)(a) is a child who is either attending or not yet attending primary school.

Subsection 12(2) provides that in addition to section 10, assistance or benefits may be included for a continuous period starting on the later of the day the support plan comes into effect or the day the child is included in the support plan and ending on the first-occurring anniversary of the start of the period for which the child has completed primary school. The effect of this subsection is that assistance or benefits would be available for a child who is not yet in primary school and during the period that the child is attending primary school.

Subsection 12(3) sets out the maximum value of financial assistance or benefits that may be provided in relation to the eligible child. The value of the additional assistance or benefits included in the support plan is \$10,000 every 12 months until the first-occurring anniversary for which the child attends primary school (that is the 1-year anniversary of their starting primary school) and \$5,000 every 12 months thereafter until the first occurring anniversary of the start of the period for which the child has completed primary school. As the financial assistance relates to a particular child, a particular member, former member or partner of a member or former member who has several young or primary school age children would be able to access financial benefits for each of the children should they be included in a support package.

Subsection 12(4) clarifies that assistance or benefits provided under section 12 do not count towards the maximum amounts or periods referred to in section 10 (assistance or benefits generally available). It is possible that the benefits or assistance under section 12 in relation to a child can occur continuously for over four years.

Division 4—Other matters

Section 13 Commission may request information

The purpose of this section is to allow the Commission or delegates of the Commission to request information from a person to determine the eligibility and the kinds of assistance or benefits available to the person under the support plan. There is a note that failure to comply with the request may result in the revocation of the support plan.

The acute support package is designed to provide support without a significant administrative burden for the person, however, some reasonable evidence of need of services is required.

Nature and Scope

The purpose of section 13 is to allow the Commission (or delegates of the Commission) to request information from a person to determine the eligibility and the kinds of assistance or benefits available to the person under the support plan. The Acute Support Plan is designed to provide support without a significant administrative burden for the client, however some reasonable evidence of the need for services is required.

The types of information that may be requested are set out in DVA's policy database, Consolidated Library of Information and Knowledge (CLIK), which is publicly available, and must be adhered to by the Commission (or delegates of the Commission).

Types of information that may be requested include information about a family's circumstances to support a decision. This may include personal information in relation to:

- the person's health professionals and health records
- the person's school records
- proof of parenting status and share care arrangements (for example, enrolment in child care and eligibility for child care subsidy)
- any relevant final or interim court orders
- proof of housing status including tenancy agreements, and
- proof of services being provided by external agencies such as NDIS, Department of Defence etc.

Disclosure of Information

Information obtained from a person who is included in a support plan will not be disclosed to persons or entities outside of DVA without their consent, unless exceptions within the Privacy Act 1988 exist. In practice, sensitive information obtained as part of case management activities will be stored in ICT systems that are accessible only to approved users.

Safeguards

The *Privacy Act 1988* applies to the information collected by the Commission (or delegates of the Commission).

DVA has established practices and procedures to ensure that personal information of veterans and their families is protected from misuse, interference and loss, as well as unauthorised access, modification or disclosure.

Consistent with the Australian Privacy Principles (APP), particularly APP 6 and APP 11, personal information collected pursuant to section 12 will only be used for the purpose in which it was collected, will not be disclosed unless APP 6.1(a) or (b) apply and will be securely stored and protected. As discussed above, the information collected will only be used by the Commission (or delegates of the Commission) to determine eligibility and types of assistance or benefits for the person.

Schedule 1 – Repeals***Military Rehabilitation and Compensation (Family Support) Instrument (No.2) 2018*****Item 1 The whole of the instrument**

Item 1 of Schedule 1 repeals the *Military Rehabilitation and Compensation (Family Support) Instrument (No.2) 2018*.

Statement of Compatibility with Human Rights

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

Military Rehabilitation and Compensation (Defence, Veterans' and Families' Acute Support Package) Instrument 2022

The Instrument is compatible with the human rights and freedoms recognised or declared in the international Instruments listed in section 3 of the Human Rights (Parliamentary Scrutiny) Act 2011.

The Instrument engages and promotes the right to social security under article 9, and the right to health under article 12(1) of the *International Covenant on Economic Social and Cultural Rights* (ICESCR).

Right to social security

The right to social security is contained in article 9 of the ICESCR. The right to social security requires that a system be established under domestic law, and that public authorities must take responsibility for the effective administration of the system. The social security scheme must provide a minimum essential level of benefits to all individuals and families that will enable them to acquire at least essential health care, basic shelter and housing, water and sanitation, foodstuffs, and the most basic forms of education.

The Instrument promotes the right to social security by providing veterans and their families with additional support and services when faced with challenging circumstances.

Right to health

The right to health is contained in article 12(1) of the ICESCR. The right to health is the right to the enjoyment of the highest attainable standard of physical and mental health. Every human being is entitled to the enjoyment of the highest attainable standard of health conducive to living a life in dignity.

The Instrument provides for counselling to veterans and their families. It will ensure that critical mental health support is provided to veteran and their families when experiencing challenging life situations.

Overview

The Instrument will enable the provision of targeted, flexible support to veteran families managing challenging life circumstances. It provides intensive support to families, complementing other services provided by the DVA and other Government services.

Conclusion

The attached Instrument is compatible with human rights because it promotes the right to social security and right to health.

MILITARY REHABILITATION AND COMPENSATION COMMISSION

Rule-Maker