

EXPLANATORY STATEMENT

Veterans' Vocational Rehabilitation Scheme 2024

EMPOWERING PROVISION

The Repatriation Commission and the Minister for Veterans' Affairs make this instrument under section 115B of the *Veterans' Entitlements Act 1986* (the *Act*).

PURPOSE

This instrument repeals the *Veterans' Vocational Rehabilitation Scheme* (Instrument 2015 No. R11) (the *former VVRS*) and makes a new scheme.

OVERVIEW

The new scheme is substantively the same as the former VVRS, apart from changes required to reflect the replacement of the Administrative Appeals Tribunal (*AAT*) with the new Administrative Review Tribunal (*ART*). Those changes maintain a veteran's right to apply for external merits review of a VVRS decision.

EXPLANATION OF PROVISIONS

Chapter 1 contains formal provisions, the objectives and principles of the scheme, interpretation provisions and rehabilitation plan requirements.

Paragraph 1.1 contains formal provisions (the instrument's name, commencement, the authority for making and provisions repealing the former VVRS).

Most of the instrument commences on the day after the day it is registered.

However, the ART commenced operation on 14 October 2024, when the *Administrative Review Tribunal Act 2024* (the *ART Act*) commenced. Some provisions in this instrument need to commence on that date (see paragraph 1.1.2(2)), so that a person's right to merits review under the VVRS is not affected by the gap between ART commencement and registration of this instrument.

The former VVRS is repealed in two stages. The AAT review provisions of the former VVRS (paragraph 5.3) are repealed and replaced with paragraphs 5.3.1 and 5.3.2 of this instrument beginning on 14 October 2024 (see paragraphs 1.1.2(2)(b) and 1.1.4(1)).

No person will be disadvantaged by the retrospective operation of these provisions. They are consistent with subsection 12(2) of the *Legislation Act 2003*.

Paragraph 1.2 sets out the objectives and principles of the scheme.

The objectives of VVRS are to assist veterans to find, or continue in, suitable paid employment, with particular emphasis on:

- facilitating the transition from service in the Australian Defence Force to suitable paid employment;
- assisting those veterans whose jobs are in jeopardy to retain suitable paid employment; and

- in conjunction with Part VIA of the Act, providing an income safety net for certain veterans in receipt of pensions under sections 23 or 24 of the Act, or invalidity service pension, who wish to engage in suitable paid employment.

The principles of the VVRS are that:

- participation in the Scheme is voluntary;
- a rehabilitation plan is to be approved only if the veteran has undergone an assessment of rehabilitation capability by a suitably qualified person;
- rehabilitation services are to be provided only in accordance with an approved plan that has been developed and agreed with the veteran;
- rehabilitation services are to be provided only if the Repatriation Commission is satisfied that these services will result in a suitable paid employment outcome;
- rehabilitation services are to be approved according to principles of cost-effectiveness and will generally be the minimum necessary to achieve a suitable paid employment outcome;
- there are no penalties for withdrawal from or failure to complete an approved program, although rehabilitation services may be discontinued in such circumstances;
- rehabilitation services are not to be provided concurrently with another vocational rehabilitation program.

Paragraph 1.3 contains definitions, a description of the possible content of an approved program under the scheme, and provisions about making an application.

Paragraph 1.4 provides for the Secretary to obtain necessary information about and from an applicant under the scheme, and provide that information to the Commission.

Paragraph 1.5 contains requirements for a rehabilitation plan.

Chapter 2 sets out the arrangements for VVRS programs for veterans in receipt of special rate and intermediate rate and invalidity service pensioners.

Paragraph 2.1 sets requirements for an application under Chapter 2.

Paragraph 2.2 contains requirements for participation in the scheme, including a vocational rehabilitation program.

Paragraph 2.3 provides for commencement and cessation of a vocational rehabilitation program.

Chapter 3 sets out the arrangements for VVRS programs for other veterans i.e. those to whom Chapter 2 does not apply.

Paragraph 3.1 sets requirements for an application under Chapter 3.

Paragraph 3.2 contains requirements for participation in the scheme, including a rehabilitation program.

Chapter 4 sets out the criteria on which applications for other available assistance are assessed.

Paragraph 4.1 sets out the other kinds of assistance available under the scheme, and the way to apply for a grant for that assistance.

Paragraph 4.2 provides for grants for transport and accommodation assistance.

Paragraph 4.3 provides for grants for aids, appliances, and workplace modifications.

Paragraph 4.4 provides for education programs and related grants for education expenses.

Paragraph 4.5 allows the Secretary to require a person to provide evidence that the grant funds were applied to the purpose of the grant.

Chapter 5 provides for notification of decisions and review rights.

Paragraph 5.1 provides for the Commission to notify a veteran of a decision under the scheme, and provide reasons.

Paragraph 5.2 provides for internal review of a Commission decision under the scheme.

Paragraph 5.3 provides for review by the ART rather than the AAT, and maintains the 3 month application time limit in the former VVRS. Paragraph 5.3.2 modifies the operation of section 18 of the ART Act under the authority of subsection 115B(12) of the Act.

Chapter 6 provides transitional arrangements for the new scheme commences. Broadly, action taken under the former VVRS will be treated as having been taken under the new scheme.

Paragraph 6.6 ensures that a decision under the scheme made between 14 October 2024 (when the ART commenced) and the commencement of the new scheme can be reviewed by the ART. This beneficial provision operates retrospectively beginning on 14 October 2024. The provision is beneficial to the veterans because subsection 5(3) of the *Administrative Review Tribunal Rules 2024* prescribes only 28 days as the default period within which a person must apply to the ART for review of a decision. While this paragraph ensures that the affected veterans have 3 months to apply for review by the ART.

CONSULTATION

The Department did not consult directly with individuals likely to be affected by the remake of this instrument. This was not considered necessary given the remaking of this instrument will maintain the same policy settings of the former VVRS, while ensuring external merits review will continue to be available (in the new ART).

Attachment A

Statement of Compatibility with Human Rights

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

Veterans' Vocational Rehabilitation Scheme 2024

This disallowable legislative 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*.

Overview of the Disallowable Legislative Instrument

This instrument repeals the *Veterans' Vocational Rehabilitation Scheme* (Instrument 2015 No. R11) (the **former VVRS**) and makes a new scheme. The new scheme is substantively the same as the former VVRS, apart from changes required to reflect the replacement of the Administrative Appeals Tribunal (**AAT**) with the new Administrative Review Tribunal (**ART**). Those changes maintain a veteran's right to apply for external merits review of a VVRS decision.

The objectives of VVRS are to assist veterans to find, or continue in, suitable paid employment, with particular emphasis on:

- facilitating the transition from service in the Australian Defence Force to suitable paid employment;
- assisting those veterans whose jobs are in jeopardy to retain suitable paid employment; and
- in conjunction with Part VIA of the *Veterans' Entitlements Act 1986* (the **Act**), providing an income safety net for certain veterans in receipt of pensions under sections 23 or 24 of the Act, or invalidity service pension, who wish to engage in suitable paid employment.

Human rights implications

This instrument positively engages with, and promotes, the right to work.

The right to work is contained in articles 6(1), 7 and 8(1)(a) of the International Covenant on Economic, Social and Cultural Rights.

The instrument is compatible with the right to work as it enables the Department of Veterans' Affairs to assist veterans find, or continue in, suitable paid employment. This facilitates the transition for veterans from service to paid employment, by providing services to support vocational rehabilitation for veterans.

Conclusion

This disallowable legislative instrument is compatible with human rights because it increases the likelihood of members of the veterans' community finding work or remaining in work.

Matthew James Keogh
Minister for Veterans' Affairs

Rule-Maker