

## EXPLANATORY STATEMENT

### Veterans' Entitlements (Vehicle Assistance Scheme) Determination 2025

#### EMPOWERING PROVISION

The Repatriation Commission and the Minister for Veterans' Affairs make this instrument under subsections 105(1) and (10) of the *Veterans' Entitlements Act 1986* (the *Act*).

#### PURPOSE

This instrument revokes schedule 1 to the *Veterans' Affairs (Legislative Instrument Re-making Exercise) Instrument 2014* (the **2014 Instrument**) and remakes it as a new standalone instrument ahead of its sunset date. Schedule 1 contains the *Vehicle Assistance Scheme*. On 1 April 2025 that instrument will “sunset” (expire) unless it is re-made.

#### OVERVIEW

Subsections 105(1) and (10) of the Act provide that the Repatriation Commission and Minister for Veterans' Affairs may determine (in writing) a scheme to assist eligible veterans with the provision of a suitable motor vehicle and assistance with the running, maintenance, and replacement of a motor vehicle under the scheme.

The purpose of the instrument is to set out the parameters of the scheme. Under the scheme, eligible veterans may be provided with a suitable motor vehicle, financial assistance for running and maintenance of the vehicle, and a replacement motor vehicle.

The instrument has been re-made with no substantive changes from schedule 1 to the 2014 Instrument. Minor technical changes have been made to the drafting of schedule 1 to the 2014 Instrument.

#### EXPLANATION OF PROVISIONS

**Part 1** deals with preliminary matters.

**Paragraph 1.1** specifies the name of the instrument.

**Paragraph 1.2** specifies that the instrument will commence the day after it is registered.

**Paragraph 1.3** specifies the provision giving authority to make the instrument.

**Paragraph 1.4** repeals schedule 1 to the 2014 instrument. Section 1.4 will be automatically repealed under section 48C of the *Legislation Act 2003* after commencement.

**Part 2** deals with the purpose and general operation of the scheme including eligibility, the making of applications, and disqualifications under the scheme.

**Paragraph 2.1.1** sets out the purpose of the scheme.

**Paragraph 2.2.1** defines terms used in the instrument.

**Paragraph 2.2.2** specifies that a note in the instrument is taken to be part of the provision that it follows.

**Paragraph 2.3.1** specifies the types of financial assistance available under the scheme.

**Paragraph 2.4.1** specifies that an eligible veteran under paragraph 3.1.1 may apply under the scheme in the approved form.

**Paragraph 2.4.2** specifies when an application is made.

**Paragraph 2.4.3** specifies that the application must include the required documents.

**Paragraph 2.4.4** requires the Commission to consider and decide an application.

**Paragraph 2.4.5** allows the Commission to require a person receiving assistance under the scheme to give a written undertaking to comply with the conditions of the scheme.

**Paragraph 2.4.6** makes the scheme conditions binding even if no undertaking is given under paragraph 2.4.5.

**Part 3** deals with eligibility for the scheme, including what the Commission must consider when determining whether a veteran would ‘derive a benefit’ from the scheme.

**Paragraph 3.1.1** specifies that a veteran is eligible for assistance under the scheme if the veteran is an ‘eligible veteran’ and can ‘derive benefit’ from that assistance.

‘Eligible veteran’ is ultimately defined in section 105 of the Act – see paragraph 2.2.1.

Whether a veteran can ‘derive benefit’ from assistance under the scheme is defined in paragraphs 3.2.1, 3.2.2 and 3.2.3.

**Paragraph 3.2.1** defines ‘derive benefit’ where the veteran can drive.

**Paragraph 3.2.2** defines ‘derive benefit’ for an initial vehicle, where the veteran cannot drive.

**Paragraph 3.2.3** defines ‘derive benefit’ for a replacement vehicle, where the veteran cannot drive.

**Part 4** outlines requirements relating to the provision of an initial motor vehicle, including:

- the initial motor vehicle must meet certain requirements e.g. it must be new vehicle and be registered in the state or territory which the veteran resides in.
- the veteran must register and insure the vehicle;
- that the Commonwealth will divest all interest in the vehicle once the veteran has fulfilled the relevant requirements; and
- the veteran is eligible to apply for a replacement vehicle following theft or destruction of the initial vehicle.

**Paragraph 4.1.1** allows the Commission to grant an eligible veteran financial assistance to purchase a vehicle.

**Paragraph 4.1.2** sets requirements for a grant for an initial motor vehicle.

**Paragraph 4.1.3** specifies that the amount of the grant is worked out under Schedule 1, and is subject to the conditions of the scheme.

**Paragraph 4.1.4** prevents a grant for an initial motor vehicle if the veteran has received, or could receive, a vehicle under another compensation scheme or in settlement of a damages claim.

**Paragraph 4.2.1** requires a veteran who has obtained an initial vehicle under the scheme to register and comprehensively insure the vehicle.

**Paragraph 4.2.2** extinguishes any interest the Commonwealth may have in the vehicle once the veteran has complied with paragraph 4.2.1.

**Paragraph 4.2.3** provides that the Commission may determine that a veteran is not eligible for further assistance under the scheme if:

- the veteran ceases to ‘derive benefit’ from the scheme (unless there are exceptional circumstances);
- the veteran disposes of an initial vehicle and no replacement vehicle is provided under Part 6; or
- the vehicle was stolen or destroyed, and the veteran was at least partly at fault.

**Paragraph 4.2.4** allows a veteran to apply for a replacement vehicle grant if the initial vehicle was stolen or destroyed through no fault of the veteran.

**Paragraph 4.2.5** clarifies that the Commonwealth is not liable for any expenses relating to the sale of a vehicle acquired under the scheme.

**Part 5** deals with running and maintenance allowance, including the documents required from the veteran in order to receive the allowance, and the amount of the allowance.

**Paragraph 5.1.1** allows the Commission to grant a running and maintenance allowance to a veteran who has been provided an initial or replacement vehicle under the scheme.

**Paragraph 5.1.2** specifies the purpose of the running and maintenance allowance.

**Paragraph 5.1.3** requires a veteran granted a running and maintenance allowance to provide specified documents to the Department each year.

**Paragraph 5.1.4** allows the Department to require a veteran granted a running and maintenance allowance to provide certain evidence on request.

**Paragraph 5.1.5** specifies that the maximum rate of a running and maintenance allowance is set out in Schedule 2.

**Paragraph 5.1.6** prevents a veteran from being granted a running and maintenance allowance if the veteran is receiving:

- mobility allowance under the *Social Security Act 1991*; or
- another benefit for mobility related disabilities under any other law or contract.

**Part 6** deals with grants for driving devices and vehicle modifications, and grants for replacement motor vehicles. Including:

- the factors the Commission may consider when determining the grant amount for driving devices and vehicle modifications e.g. the nature of the veteran's incapacity from war-caused injury or diseases;
- that the Commission shall pay the relevant motor vehicle dealer directly for the fitting of driving devices or modifications;
- that an application for a replacement vehicle grant may be made two years after an initial or previous replacement motor vehicle grant, with the maximum amount set in Schedule 3; and
- that a veteran may apply for a replacement vehicle earlier than the prescribed two-year period where their previous vehicle is stolen or destroyed (see Part 4).

**Paragraph 6.1.1** provides for the Commission to grant an eligible veteran a driving devices and modifications grant, or a replacement vehicle grant.

**Paragraph 6.1.2** sets out how the Commission is to work out the amount of a grant.

**Paragraph 6.1.3** requires a veteran who has received a grant to provide the Department specified documents, if requested.

**Paragraph 6.2.1** specifies the purpose of a driving devices and modifications grant.

**Paragraph 6.2.2** specifies the requirements for approval of a driving devices and modifications grant.

**Paragraph 6.2.3** specifies that the Commission will pay the vehicle dealer directly for approved driving devices and modifications.

**Paragraph 6.2.4** prevents a veteran from receiving a driving device and modifications grant if they have received a benefit under another law, or contract, for such devices or modifications.

**Paragraph 6.3.1** specifies the purpose of a replacement vehicle grant.

**Paragraph 6.3.2** prevents a replacement vehicle grant from being made within two years of a vehicle being provided under the scheme, unless the previous vehicle was stolen or destroyed through no fault of the veteran.

**Paragraph 6.3.3** requires the previous vehicle to be traded in or sold, and the proceeds offset against the cost of the replacement vehicle, unless the previous vehicle was stolen or destroyed.

**Paragraph 6.3.4** requires the insurer's write-off payment for a previous vehicle that was stolen or destroyed to be used towards the cost of the new vehicle.

**Paragraph 6.3.5** prevents a replacement vehicle grant from being made if the veteran received another vehicle, or payment for another vehicle, since obtaining the initial vehicle.

**Part 7** deals with the review of determinations made under the scheme.

**Paragraph 7.1.1** allows a veteran to apply for review of a decision under the scheme.

**Paragraph 7.1.2** provides that a review must be lodged within three months of a veteran receiving a decision.

**Paragraph 7.1.3** gives the Commission power to review a decision even where no application has been made.

**Paragraph 7.1.4** provides that a decision cannot be reviewed by the person who made the original decision.

**Part 8** deals with the determination of claims and delegation of powers.

**Paragraph 8.1.1** requires the Commission to determine all claims and requests for review under the scheme.

**Paragraph 8.2.1** allows the Commission to delegate its powers under the scheme to an officer of the Department.

**Paragraph 8.2.2** provides that a power exercised by a delegate is treated as having been exercised by the Commission.

**Paragraph 8.2.3** provides that the Commission may exercise a power that it has delegated to an officer.

**Part 9** deals with the transitional provisions relating to motor vehicles provided under previous schemes.

**Paragraph 9.1.1** provides that a veteran who was provided a vehicle, grant or allowance under the former scheme is taken to have been provided it under this scheme, and is subject to the conditions of this scheme.

**Paragraph 9.1.2** transfers to the veteran any interest that the Commonwealth had in a vehicle provided under the previous scheme to that veteran, provided the veteran had not contravened any conditions of the previous scheme.

**Paragraph 9.1.3** makes any obligations on a veteran under the previous scheme operate as equivalent obligations under this scheme.

## **Schedule 1—Financial Assistance for an Initial Motor Vehicle**

### **Paragraph 1—Maximum value of an initial motor vehicle**

This item sets the maximum value of an initial motor vehicle grant (subject to paragraph 4).

### **Paragraph 2—Placing the order and authorisation of payment**

This item provides that where the Commission has determined that a veteran is eligible under the scheme the veteran may place an order for an initial motor vehicle of their choice directly with a motor vehicle dealer. The Commission shall then authorise payment directly to the dealer (subject to paragraph 3).

### **Paragraph 3—Retail price greater than maximum value**

This item outlines that the Commission shall only authorise payment to the relevant motor vehicle dealer up to the amount specified in paragraph 1 (subject to paragraph 4).

### **Paragraph 4—Where more than the maximum value can be authorised**

This item allows the Commission to authorise payment of the whole or part of the difference in cost between the amount specified in paragraph 1, and the actual purchase price of the initial motor vehicle, where it is satisfied that a more expensive motor vehicle is necessary due to the nature of the veteran's incapacity from war-caused injury or war-caused disease.

### **Paragraph 5—Payment by Commonwealth only a contribution**

This item sets out that any amount authorised by the Commission is only a contribution towards the purchase of a motor vehicle and the Commonwealth is not liable to pay the motor vehicle dealer either in whole or in part the difference between that contribution and the price of the motor vehicle (subject to paragraph 4).

## **Schedule 2—Running and Maintenance Allowance**

### **Paragraph 1—Rate of the allowance**

This item sets the rate of the running and maintenance allowance, which is to be calculated in respect of the Recreation Transport Allowance, set out in item 1 of the Table in subsection 104(1) of the Act.

This item also outlines that this rate is to be indexed in line with section 198D of the Act.

### **Schedule 3—Replacement Motor Vehicle Grant**

#### **Paragraph 1—Maximum replacement motor vehicle grant**

This item sets the maximum value of a replacement motor vehicle grant (subject to paragraph 3).

#### **Paragraph 2—Placing the order and authorisation of payment**

This item provides that where the Commission has determined that a veteran is eligible under the scheme, the veteran may place an order for an initial motor vehicle of their choice directly with a motor vehicle dealer. The Commission shall then authorise payment directly to the dealer (subject to paragraph 3).

#### **Paragraph 3—Where price of replacement motor vehicle exceeds maximum grant**

This item provides that the Commission shall only authorise payment to the relevant motor vehicle dealer up to the amount specified in item 1 (subject to paragraph 4), even if the trade-in value, sale price or insurer's write-off payment is more than that amount.

#### **Paragraph 4—Where more than the maximum value can be authorised**

This item allows the Commission to authorise payment of the whole or part of the difference in cost between the amount specified in paragraph 1, and the actual purchase price of the replacement motor vehicle, where it is satisfied that a more expensive vehicle is necessary due to the nature of the veteran's incapacity from war-caused injury or war-caused disease.

#### **Paragraph 5—Payment by Commonwealth only a contribution**

This item sets out that any amount authorised by the Commission is only a contribution towards the purchase of a replacement motor vehicle and the Commonwealth is not liable to pay the motor vehicle dealer either in whole or in part the difference between that contribution and the price of the motor vehicle (subject to paragraph 4).

## 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 remake is administrative in nature to prevent the instrument from arbitrarily sunsetting on 1 April 2025. The remaking of this instrument will maintain the same policy intent as embodied in the 2014 Instrument.

## HUMAN RIGHTS IMPLICATIONS

This 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 A**.

### **Approved by the rule-maker:**

Matthew James Keogh  
Minister for Veterans' Affairs

## **Attachment A**

### **Statement of Compatibility with Human Rights**

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

#### **Veterans' Entitlements (Vehicle Assistance Scheme) Determination 2025**

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 *Veterans' Entitlements (Vehicle Assistance Scheme) Determination 2025* revokes schedule 1 to the *Veterans' Affairs (Legislative Instrument Re-making Exercise) Instrument 2014* (the **2014 Instrument**) and remakes it as a standalone instrument ahead of its sunset date of 1 April 2025.

Subsections 105(1) and (10) of the Act provide that the Repatriation Commission may determine (in writing) a scheme to assist eligible veterans with the provision of a suitable motor vehicle and assistance with the running, maintenance, and replacement of a motor vehicle under the scheme.

The purpose of the instrument is to set out the parameters of the scheme and enables severely disabled veterans to have the use of a motor vehicle, whether as a modified vehicle or as driven by a carer.

#### **Human rights implications**

This disallowable legislative instrument promotes the right to an adequate standard of living in article 11 of the International Covenant on Economic Social and Cultural Rights. The right to an adequate standard of living requires that a system be established under domestic law, and that public authorities must take responsibility for the effective administration of the system.

The instrument is compatible with human rights as it ensures an eligible veteran may receive compensation to assist the veteran in deriving a benefit from motor vehicle transport, which improves their standard of living.

#### **Conclusion**

This disallowable legislative instrument is compatible with human rights as it enables access to compensation which will improve their standard of living.

Matthew James Keogh  
Minister for Veterans' Affairs  
**Rule-Maker**