

EXPLANATORY STATEMENT

Military Rehabilitation and Compensation (Treatment Principles) Amendment (Outreach Program Counsellor) Determination 2025

Veterans' Entitlements (Treatment Principles) Amendment (Outreach Program Counsellor) Determination 2025

EMPOWERING PROVISIONS

Subsection 286(5) of the *Military Rehabilitation and Compensation Act 2004* (the *MRCA*) – for the *Military Rehabilitation and Compensation (Treatment Principles) Amendment (Outreach Program Counsellor) Determination 2025* made by the Military Rehabilitation and Compensation Commission.

Subsection 90(5) of the *Veterans' Entitlements Act 1986* (the *VEA*) – for the *Veterans' Entitlements (Treatment Principles) Amendment (Outreach Program Counsellor) Determination 2025* made by the Repatriation Commission.

PURPOSE

These instruments amend the *MRCA Treatment Principles* (No. MRCC 53/2013) and the *Treatment Principles* (Instrument 2013 No. R52) – collectively the *Treatment Principles* – to expand the types of providers who can provide Outreach Program Counselling as an Outreach Program Counsellor (OPC) under the Veterans and Veterans Families Counselling Service (Open Arms).

OVERVIEW

The *Treatment Principles* set out the places at which, the circumstances in which, and the conditions subject to which, a particular kind or class of treatment may be provided for entitled persons under relevant provisions of the *MRCA* and the *VEA* and are to be read subject to those Acts. Part 7.7A of the *Treatment Principles* establishes Outreach Program Counselling.

Open Arms provides free and confidential counselling services for current and former serving Australian Defence Force members and their families. Open Arms provides services through a national network of multidisciplinary mental health professionals, both in dedicated Open Arms centres and by outreach partnerships with private psychologists and accredited mental health social workers, called outreach program counsellors (OPCs).

These instruments amend the definition of “outreach program counsellor” in the *Treatment Principles* to recognise occupational therapists, registered nurses, social workers (general) and counsellors as additional provider types eligible to apply to become an OPC.

EXPLANATION OF PROVISIONS

Section 1 states the name of the instrument.

Section 2 provides that the instrument commences on the day after the day it is registered.

Section 3 sets out the authority for the making of the instrument:

for the *Military Rehabilitation and Compensation (Treatment Principles) Amendment (Outreach Program Counsellor) Determination 2025* – subsection 286(5) of the *Military Rehabilitation and Compensation Act 2004*.

for the *Veterans' Entitlements (Treatment Principles) Amendment (Outreach Program Counsellor) Determination 2025* – subsection 90(5) of the *Veterans' Entitlements Act 1986*.

Section 4 is a standard provision used in instruments that amend or repeal other instruments. It gives effect to Schedule 1.

Schedule 1—Amendments

Item 1

Paragraph 1.4.1, Interpretation

This item inserts a new definition, AHPRA. It is defined to mean the Australian Health Practitioner Regulation Agency established under section 23 of the Health Practitioner Regulation National Law as in force in a State or Territory.

Item 2

Paragraph 1.4.1, definition of outreach program counsellor

This item replaces the definition of outreach program counsellor in the general interpretation provisions of the *Treatment Principles*. The new definition of outreach program counsellor lists the following categories of providers:

- a person who is registered with AHPRA to practise as a psychologist;
- a person who is registered with AHPRA to practise as an occupational therapist;
- a person who is registered with AHPRA to practise as a registered nurse;
- a person who is eligible for membership with the Australian Association of Social Workers; or
- a person who is registered:
 - as a registered clinical counsellor with the Psychotherapy and Counselling Federation of Australia;
 - at registration category Level 3 or Level 4 with the Australian Counselling Association Limited.

The new definition retains the requirement for the person to be approved by the Department or the Commission to provide outreach program counselling under Part 7.7A of the *Treatment Principles*.

Previously, the definition was limited to: a *psychologist* who is registered as a psychologist with the Psychology Board of Australia; or a *social worker (mental health)* who is accredited as a Mental Health Social Worker with the Australian Association of Social Workers.

Item 3

Subparagraph 3.5.1(1) (oa)

This item amends subparagraph 3.5.1(1)(oa) to omit the words “as the Notes apply to the person as a *psychologist or social worker (mental health)* as the case may be”. This amendment is intended to ensure the application of the subparagraph to all providers covered by the new definition of outreach program counsellor. Subparagraph 3.5.1(1)(oa) provides for outreach program counsellors to be paid in accordance with the Outreach Program Counsellor Schedule of Fees on the condition that they provide treatment in accordance with the Principles and the VVCS OPC Provider Notes. By omitting the words at the end of the subparagraph, the provision will apply to all categories of providers included in the new definition.

Item 4

Paragraph 7.1A.1

This item updates the table at rows 8 (Occupational Therapists), and 9 (Occupational Therapists – Mental Health) to add the following text: “(except where providing service as *outreach program counsellors*).” This amendment will ensure that these providers are required to provide outreach program counselling in accordance with the OPC Provider Notes, rather than the Notes for Allied Health Providers.

Item 5

Paragraph 11.3.5.4

This item omits the definition of AHPRA from this paragraph. It is no longer required given the inclusion of a new definition of AHPRA in the general interpretation provisions of the *Treatment Principles*.

Consultation

Consultation was not undertaken in relation to these specific instruments. The current amendments are consistent with changes made in 2024 to expand the types of mental health and counselling professionals directly employed by Open Arms. Discussions with provider peak bodies and other relevant stakeholders were held in relation to the 2024 changes. Discussions took place with the Psychotherapy and Counselling Federation of Australia and the Australian Counselling Association in June 2024 to determine the suitable registration level that is consistent across both national peak bodies to expand Open Arms provider types to include counsellors. The outcomes of these discussions are reflected in the revised definition of outreach program counsellor to be inserted by each of the instruments at paragraph 1.4.1 of the *Treatment Principles*.

Furthermore, discussions with the Australian College of Mental Health Nurses in May 2025 confirmed the College’s support for the recognition by Open Arms of nurses as mental health professionals.

Amendments to the *Treatment Principles* are expected to have a similar positive impact on relevant provider types as the 2024 changes. It is anticipated that the amendments will be welcomed by relevant providers as recognising their specialist skillsets, expertise, and qualifications as mental health and counselling professionals.

Documents incorporated by reference

Not applicable.

Human rights implications

The instruments are 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**.

Making the instruments

The instruments are determined by the:

Military Rehabilitation and Compensation Commission – for the *Military Rehabilitation and Compensation (Treatment Principles) Amendment (Outreach Program Counsellor) Determination 2025*;

Repatriation Commission – for the *Veterans' Entitlements (Treatment Principles) Amendment (Outreach Program Counsellor) Determination 2025*.

Approved by

Andrew Kefford PSM

A delegate of the Minister for Veterans' Affairs

Rule-maker

Attachment A

Statement of Compatibility with Human Rights

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

Military Rehabilitation and Compensation (Treatment Principles) Amendment (Outreach Program Counsellor) Determination 2025

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These Disallowable Legislative Instruments are 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 ***recognised rights***).

Overview of the Disallowable Legislative Instruments

These instruments amend the *MRCA Treatment Principles (No. MRCC 53/2013)* and the *Treatment Principles (Instrument 2013 No. R52)* – collectively the *Treatment Principles* – to expand the types of providers who can provide Outreach Program Counselling as an Outreach Program Counsellor (OPC) under the Veterans and Veterans Families Counselling Service (Open Arms). The instruments amend the definition of “outreach program counsellor” to recognise occupational therapists, registered nurses, social workers (general) and counsellors as additional provider types eligible to apply to become an outreach program counsellor.

Human rights implications

Article 12(1) of the *International Covenant on Economic Social and Cultural Rights* (the Covenant) provides for the right of everyone to enjoyment of the highest attainable standard of physical and mental health.

The United Nations Committee on Economic, Social and Cultural Rights (the Committee) states that health is a ‘fundamental human right indispensable for the exercise of other human rights’ and that ‘every human being is entitled to the enjoyment of the highest attainable standard of health conducive to living a life in dignity’. The Committee further states that the ‘right to health must be understood as a right to the enjoyment of a variety of facilities, goods, services and conditions necessary for the realisation of that standard’ instead of a general right to be healthy. Article 12.2(d) of the Covenant requires the provision of equal and timely access to basic preventive, curative, rehabilitative health services and health education, regular screening programmes...appropriate mental health treatment and care.

Outreach Program Counselling provides eligible people with access to mental health care and wellbeing support, provided by appropriately qualified and experienced health care providers. Expanding and diversifying the Outreach Program workforce to include mental health and counselling professionals from different disciplines with diverse training, backgrounds, experience and skills will allow clients to be matched with a provider whose skills and experience can best respond to the client's needs and goals. It will also assist Open Arms to respond to an increasing demand for services by supporting timely allocation of clients to providers, particularly in the high-demand areas of family and relationship counselling and wellbeing support.

Conclusion

These instruments are compatible with human rights as they promote the right to health by expanding the categories of providers who can provide eligible clients with access to mental health treatment and care, consistent with Article 12.2(d) of the *International Covenant on Economic Social and Cultural Rights*.

Andrew Kefford PSM

A delegate of the Minister for Veterans' Affairs

Rule-Maker