

## EXPLANATORY STATEMENT

### MRCA Pharmaceutical Benefits Scheme

#### Instrument No. M22/2004

#### The Purpose and Operation of the Attached Instrument

- To set out the circumstances in which, and the conditions subject to which, pharmaceutical benefits may be provided to a person entitled to treatment under Part 3 of Chapter 6 of the *Military Rehabilitation and Compensation Act 2004* (MRCA);
- To enable the Military Rehabilitation and Compensation Commission (MRCC) to accept financial liability on behalf of the Commonwealth for the provision of pharmaceutical benefits to a person entitled to treatment under Part 3 of Chapter 6 of the MRCA;
- The MRCA Pharmaceutical Benefits Scheme (new Instrument) is made under paragraph 286(1)(c) of the MRCA. It replaces that part of MRCA Instrument No.3 of 2004 (Determination for Providing treatment) (old Instrument) that applied the *Repatriation Pharmaceutical Benefits Scheme* made under the *Veterans' Entitlements Act 1986* to persons entitled to treatment under the *Military Rehabilitation and Compensation Act 2004* (MRCA).

Essentially the current exercise is a drafting exercise. The former Scheme was part of the old Instrument and was difficult to read. Also, the old Instrument regulated two other types of treatment in addition to pharmaceutical benefit treatment.

The old Instrument has been disassembled with each of its treatments being dealt with in separate Instruments. And these Instruments describe the relevant treatments in more readable form than did the old Instrument. The attached Instrument is that part of the old Instrument that dealt with pharmaceutical benefit treatment.

- Although the MRCC may incur a financial liability for the cost of pharmaceutical benefits provided to eligible persons it is the Commonwealth that actually pays for those benefits.

- An eligible person is a member (including former member) of the Defence Force or a dependant of a deceased member of the Defence Force.
- The main features of the MRCA Pharmaceutical Benefits Scheme are set out in Attachment A.

### **Documents Incorporated by Reference**

- The documents incorporated-by-reference into the MRCA Pharmaceutical Benefits Scheme by the attached Instrument are:

Australian Pharmaceutical Formulary (including previous editions)\*;

Authority Prescription Form, approved under subregulation 13(2) of the *National Health (Pharmaceutical Benefits) Regulations* or under paragraph 14 of declaration No.PB 10 of 1993 made under subsection 85(2) of the *National Health Act 1953*\*;

British Pharmacopoeia (including previous editions)\*;

European Pharmacopoeia\*;

Extra Pharmacopoeia\*;

*Health Insurance Act 1973*\*\*;

*Military Rehabilitation and Compensation Act 2004*\*\*;

*MRCA Treatment Principles*\*\*\*;

*National Health Act 1953*\*\*;

Pharmaceutical Benefits Schedule made under the *National Health Act 1953*\*\*;

Pharmaceutical Benefits Scheme made under the *National Health Act 1953*\*\*;

Pharamaceutical Codex (including previous editions)\*;

Pharmaceutical Texts of International Standing similar to: the Extra Pharmacopoeia, European Pharmacopoeia, and the United States Pharmacopoeia\*;

Pharmacopoeia\*;

Prescribed Pharmacology text of international standing\*;

Repatriation Health Card - For All Conditions\*;

Repatriation Health Card - For Specific Conditions\*;

Repatriation Pharmaceutical Benefits Scheme Schedule prepared by the Department of Veterans' Affairs dated 1 February 2002\*;

Schedule of Pharmaceutical Benefits for Approved Pharmacists and Medical Practitioners, ISSN 1037-3667 dated 1 February 2002\*;

Standard Prescription Form approved under paragraph 19(1)(a) of the *National Health (Pharmaceutical Benefits) Regulations*\*;

*Therapeutic Goods Act 1989*\*\*;

United States Pharmacopoeia\*;

*Veterans' Entitlements Act 1986*\*\*.

\* These documents are available for inspection in the Health Services Branch, National Office of the Department of Veterans' Affairs, Lovett Tower, Woden ACT.

\*\* These documents are available on "SCALE":  
<http://scaletext.law.gov.au/browse.htm>

\*\*\* The *MRCAs Treatment Principles* are available on the Web Page of the Department of Veterans' Affairs:

<http://www.dva.gov.au/> [search for "CLIK"]

## **Consultation**

- The rule-maker, in this case the Military Rehabilitation and Compensation Commission, considered that consultation with

interested parties in respect of the attached Instrument was not appropriate because the attached Instrument merely re-made the former MRCA Pharmaceutical Benefits Scheme as it was contained in MRCA Instrument No.3 of 2004 (Determination For providing Treatment).

## **ATTACHMENT A**

The MRCA Pharmaceutical Benefits Scheme (Scheme) consists of six parts.

### ***Part 1***

- contains definitions. Many terms in the Scheme are defined by reference to terms in other pieces of Commonwealth legislation such as the *National Health Act 1953*.
- the health providers under the Scheme are medical practitioners and Community Pharmacists. A Community Pharmacist may be a "registered pharmacist" in charge of a community pharmacy or the Manager of a registered Friendly Society Dispensary or may be an approved Hospital Authority or approved Medical Practitioner.
- drugs or medicines provided under the Scheme mean "goods for therapeutic use" as defined in the *Therapeutic Goods Act 1989*.
- "eligible person" under the Scheme is a person who holds a Gold Card (entitles the holder to treatment for all conditions) or a White Card (entitles the holder to treatment of only service-related conditions).

### ***Part 2***

- sets out the process whereby pharmaceutical benefits may be prescribed by medical practitioners for eligible persons.
- a medical practitioner may prescribe pharmaceutical benefits for an eligible person in accordance with Part 2 of the Scheme. Part 2 requires, among other things, that prescriptions in respect of drugs listed on the Pharmaceutical Benefits Schedule (PBS) or the Repatriation Pharmaceutical Benefits Schedule (RPBS) comply with the restrictions in those Schedules.

- if a medical practitioner seeks to prescribe a drug without the restrictions in the Schedules or without any of the other restrictions in Part 2, then the prior approval of the MRCC must be obtained.
- prescriptions are to conform with conditions imposed by the MRCC or the Department of Veterans' Affairs and may be written by a medical practitioner on an Authority Prescription Form or Standard Prescription Form or produced on a computer. Computer-generated prescriptions are only permissible if the relevant medical practitioner is approved under the *National Health (Pharmaceutical Benefits) Regulations* to issue computer-generated prescriptions.
- prescriptions are subject to a number of prohibitions:
  - (i) the same medical practitioner is not to prescribe the same drug for the same person on the same day;
  - (ii) a prescription in respect of an addictive drug and another drug is, in general, not to permit repeat-supplies.
  - (iii) a medical practitioner is not to prescribe a narcotic drug for himself/herself.
  - (iv) a drug not listed on the PBS or RPBS, or a drug that contravenes a restriction on the PBS or RPBS, is not to be prescribed on a Standard Prescription Form.

### ***Part 3***

- sets out the process whereby pharmaceutical benefits prescribed by a medical practitioner for an eligible person may be supplied by a Community Pharmacist.
- pharmaceutical benefits are only to be supplied pursuant to a valid Standard Prescription Form or a valid Authority Prescription Form or a valid Repeat Authorisation Form.
- Community Pharmacists may, with the approval of the prescriber, supply cheaper alternative brands of the prescribed pharmaceutical benefit.

- before supplying a pharmaceutical benefit, a Community Pharmacist must be satisfied the intended recipient of the benefit is eligible to receive it. In this regard a Community Pharmacist may demand that a person produce proof of their eligibility in the form of their Gold Card (pharmaceutical benefits for all conditions) or White Card (pharmaceutical benefits for service-related conditions only).
- the Commonwealth will pay all of the dispensed price of a pharmaceutical benefit supplied to an eligible person but for the amount that would be payable by the person if the person was a "concessional beneficiary" under the *National Health Act 1953*.
- if an eligible person could not satisfy the dispensing pharmacist that he or she was eligible for the relevant pharmaceutical benefit because, for example, the person could not produce his or her Gold or White Card and, accordingly, was charged an amount for the pharmaceutical benefit that the person would not otherwise have been required to pay, then the MRCC may refund the person the amount the person paid for the pharmaceutical benefit that he or she would not otherwise have been required to pay.
- where an eligible person incurred expenses in obtaining a pharmaceutical benefit, being a benefit the person was eligible for under the Scheme, and the person would have been eligible for a pharmaceutical allowance (allowance) under section 300 of the MRCA at the time when the expenses were incurred but the MRCC did not pay the allowance because it did not have all the necessary information, then if and when MRCC obtains the relevant information and decides the person would have been paid the allowance at the time the expenses were incurred if the information had been available at that time, MRCC may reimburse the person for any or all of those expenses provided the maximum amount of reimbursement does not exceed the amount of allowance that would have been payable to the person for the period in which the expenses were incurred.

#### ***Part 4***

- sets out the procedures for the making of claims by Community Pharmacists for payment for pharmaceutical benefits supplied to eligible persons.

- generally speaking, the procedure for making a claim under the Scheme is the same as the procedure for making a claim under the *National Health Act 1953* for payment for the supply of a pharmaceutical benefit under that Act.
- the amount to be paid to a Community Pharmacist for the supply of a pharmaceutical benefit to an eligible person is, generally speaking, set out in the PBS. Where an amount for a pharmaceutical benefit is not set out in the PBS, then the MRCC may determine the amount to be paid.
- as a rule, Community Pharmacists are not to charge eligible persons for the supply to them of Pharmaceutical Benefits. The exceptions are:
  - (i) the benefits are supplied in an emergency.
  - (ii) the benefits are supplied after hours.
  - (iii) the charge is for packaging, postage or freight.
  - (iv) the charge is for the difference between the cost of the benefit prescribed and supplied and the cost of the lowest priced brand of the same benefit.
  - (v) the charge is for the difference between the cost of the benefit supplied and the amount the Commonwealth is required to pay under the Scheme.

## ***Part 6***

- sets out the documents that prescribe the minimum acceptable standard for a Pharmaceutical Benefit. The latest authorised editions of the monographs of the British Pharmacopoeia is the primary reference point.
- enables the MRCC to authorise Community Pharmacists to make discretionary specified adjustments and/or endorsements to prescriptions and to make discretionary specified adjustments and/or endorsements to repeat authorisations forms.
- requires Community Pharmacists to retain such records/documents as notified by the MRCC or Department of Veterans' Affairs.

- authorises the MRCC to enter into agreements with the Pharmacy Guild of Australia concerning the administration of Part 6 of the Scheme (acceptable standards for a pharmaceutical benefit etc).

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Military Rehabilitation and Compensation Commission