



Australian Participants in British Nuclear Tests (Treatment) Regulations 2007¹

Select Legislative Instrument 2007 No. 154

I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Australian Participants in British Nuclear Tests (Treatment) Act 2006*.

Dated 21 June 2007

P. M. JEFFERY
Governor-General

By His Excellency's Command

BRUCE BILLSON
Minister for Veterans' Affairs

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Part 1 Preliminary

1 Name of Regulations

These Regulations are the *Australian Participants in British Nuclear Tests (Treatment) Regulations 2007*.

2 Commencement

These Regulations are taken to have commenced on 1 December 2006.

3 Definitions

In these Regulations, unless the contrary intention appears:

Act means the *Australian Participants in British Nuclear Tests (Treatment) Act 2006*.

attendant means a person who is authorised by the Commission under subsection 19 (2) of the Act to accompany an eligible person as his or her attendant.

commercial accommodation means accommodation provided by a commercial establishment, such as a hotel or motel.

private accommodation means accommodation that is not commercial accommodation or subsidised accommodation.

residence, for a person at a time, means the permanent or temporary place of residence of that person at that time.

subsidised accommodation means accommodation provided on a cost-recovery basis by an organisation that receives a subsidy for providing the accommodation, such as a hostel.

travel, for an eligible person, means travel, referred to in section 19 of the Act, from his or her residence to his or her destination and return.

Note Several other words and expressions used in these Regulations have the meaning given by the Act. For example:

- Commission
- eligible person
- testing
- treatment.

Regulation 4

Part 2 Travelling expenses**4 Composition (Act s 19)**

(1) Subject to this regulation, travelling expenses comprise the amount required to reimburse in whole or in part expenditure on:

- (a) transport; or
- (b) accommodation; or
- (c) meals;

necessarily incurred by or on behalf of an eligible person in connection with travel referred to in section 19 of the Act.

(2) Subject to subregulations (3) and (4), the amount of travelling expenses payable to an eligible person in relation to transport for travel will not exceed an amount calculated by the Commission as the cost of transport by the most appropriate form of transport over the relevant distance.

Note For the calculation of the cost of transport, see regulation 7.

(3) Where the cost incurred by an eligible person in relation to transport for travel referred to in subregulation (2) is less than the amount calculated by the Commission under that subregulation, the cost will be the amount of travelling expenses payable to the person for transport.

(4) If an eligible person incurs parking fees at or near 1 or more places to which the person has travelled for the purpose of obtaining treatment, the travelling expenses payable to the person are the costs necessarily incurred.

Note For examples of the travelling expenses that are payable in particular circumstances, see Schedule 1.

Regulation 6

5 Forms of transport (Act s 19)

For subregulation 4 (2), the most appropriate form of transport is the form of transport determined by the Commission to be the most appropriate for that travel with reference to:

- (a) the forms of transport that were reasonably available to the person for that travel; and
- (b) the cost of each of those forms of transport including, where a form of transport was reasonably available in more than one class, differences in cost between those classes; and
- (c) the desirability of using the cheapest form of suitable transport for that travel; and
- (d) the degree of any mental or physical disablement of the person; and
- (e) the distance travelled; and
- (f) whether the route taken in that travel was the most direct, practical route.

6 Relevant distance (Act s 19)

- (1) For subregulation 4 (2), the relevant distance for travel by an eligible person under section 19 of the Act is:
 - (a) if the distance from the residence of the eligible person to the treatment location is more than 50 km and the eligible person's application is endorsed for treatment — that distance; or
 - (b) if the distance from the residence of the eligible person to the treatment location is more than 50 km and the eligible person's application is not endorsed for treatment — the greater of:
 - (i) the distance determined by the Commission to be the distance between the eligible person's residence and the closest practical treatment location; and
 - (ii) 50 km; or
 - (c) if the distance from the residence of the eligible person to the treatment location is 50 km or less — that distance.

Regulation 7

- (2) For subregulation (1), *endorsed for treatment* means:
- (a) written confirmation has been made by the eligible person's treating practitioner on the application to the effect that:
 - (i) the eligible person's treatment comprised treatment of malignant neoplasia, or testing for malignant neoplasia, or both; and
 - (ii) the treatment location was as close as practical to the eligible person's residence; and
 - (b) the Commission has confirmed that the treatment location was as close as practical to the eligible person's residence.

7 Cost of transport (Act s 19)

The cost of transport for travel between 2 places over the most direct route between the places is taken to be the following:

- (a) for travel by private motor vehicle — 26.7 cents per kilometre;
- (b) if paragraph (a) applies — the costs necessarily incurred by an eligible person for tolls paid in relation to travel by private motor vehicle;
- (c) for travel by any other means — the costs necessarily incurred by an eligible person.

Note 1 Travelling expenses incurred for travel outside Australia are not payable — see subsection 19 (3) of the Act.

Note 2 For examples of the travelling expenses that are payable in particular circumstances, see Schedule 1.

8 Accommodation and meals (Act s 19)

- (1) Subject to subregulations (2), (3), (4) and regulation 9 (3), the amount of travelling expenses payable to an eligible person for each night's accommodation and meals during travel is the amount specified for whichever of the following kinds of accommodation was used on each night:
- (a) for commercial accommodation that is not in a capital city — \$110.10 each night;
 - (b) for commercial accommodation that is in a capital city — \$130.80 each night;

Regulation 9

- (c) for subsidised accommodation — \$68.80 each night;
 - (d) for private accommodation — \$34.40 each night.
- (2) If an eligible person and an attendant share commercial accommodation for a night, the amount of travelling expenses payable to the eligible person for the night's accommodation and meals for both the person and the attendant is \$178.90.
 - (3) A person is not entitled to payment of an amount mentioned in paragraph (1) (a), (b) or (c) or subregulation (2) unless he or she first produces proof of expenditure for the relevant accommodation.
 - (4) The amount of travelling expenses payable to an eligible person for meals during travel on a day on which overnight accommodation is not required is:
 - (a) if the distance from the residence of the eligible person to the person's destination exceeds 50 km but does not exceed 200 km — \$10.90 each day; or
 - (b) if the distance from the residence of the eligible person to the person's destination exceeds 200 km — \$22.10 per day.

Note For examples of the travelling expenses that are payable in particular circumstances, see Schedule 1.

9 Attendant entitlements (Act s 19)

- (1) If an attendant accompanies an eligible person to a hospital or other institution to which the eligible person is admitted, the attendant is entitled to travelling expenses in accordance with subregulation (2), in addition to the expenses payable for the journeys to and from the hospital or other institution with the eligible person:
 - (a) to return to his or her residence at the time of the admission; and
 - (b) to return to the hospital or other institution when the eligible person is discharged.

Regulation 10

- (2) The travelling expenses payable to an attendant under subregulation (1):
- (a) are based on the same mode of transport as was used to accompany the eligible person; and
 - (b) include any applicable amounts for accommodation and meals.
- (3) If an attendant:
- (a) accompanies an eligible person to a hospital or other institution to which the eligible person is admitted; and
 - (b) stays in commercial accommodation, subsidised accommodation or private accommodation while the eligible person is in the hospital or other institution;
- the attendant is entitled to travelling expenses in accordance with subregulation (4).
- (4) Under subregulation (3) the attendant is entitled to payment of travelling expenses, in addition to the expenses payable for the journeys to and from the hospital or other institution with the eligible person, equal to the lesser of:
- (a) the travelling expenses that would have been payable under subregulation (1), excluding any amounts for accommodation and meals, if the attendant had returned home and returned to the hospital or other institution using a private motor vehicle; and
 - (b) the travelling expenses payable under subregulation 8 (1) for the period from the admission of the eligible person until his or her discharge.

Note For examples of the travelling expenses that are payable in particular circumstances, see Schedule 1.

10 Travelling expenses to more than one location within the same city or town (Act s 19)

If an eligible person travels to more than 1 location in the same city or town for the purpose of obtaining treatment, the amount of travelling expenses that the person is entitled to be paid is:

- (a) the greatest amount payable under section 19 of the Act for travel to the city or town; and

Regulation 12

- (b) the greatest amount payable under section 19 of the Act for travel between each location within that city or town.

Example

A person who travels to a medical practice in a city for treatment, and then goes to another location in the same city for a medical examination before returning home, will be paid once for the return travel to the city, and once for the travel from the medical practice to the other location (being the greatest amount of travelling expenses payable under section 19 of the Act for that travel).

11 Annual increase in rates

A rate prescribed by regulation 7 or subregulation 8 (1), (2) or (4) is increased, as applicable, in accordance with regulation 12, on each anniversary of 1 July 2006.

12 Calculation of increase

- (1) In this regulation:

CPI number means the All Groups Consumer Price Index number (that is, the weighted average of the 8 Australian capital cities) published by the Australian Statistician.

earlier CPI number, for a financial year, means the CPI number for the last March quarter before the beginning of the financial year.

latest CPI number, for a financial year, means the CPI number for the last March quarter before the end of the financial year.

rate means a rate prescribed by regulation 7 or subregulation 8 (1), (2) or (4).

relevant financial year means a financial year beginning on or after 1 July 2006.

relevant rate, for a financial year, means the rate applying in the financial year.

Regulation 12

- (2) If, for a relevant financial year, the latest CPI number is greater than the earlier CPI number, a rate is taken to increase, on 1 July of the next financial year, in accordance with the following formula:

$$\frac{\text{Relevant rate} \times \text{Latest CPI number}}{\text{Earlier CPI number}}$$

- (3) If, apart from this subregulation, a rate prescribed by regulation 7 and increased under subregulation (2) is not a multiple of 0.1 cents, the rate is to be rounded to the nearest multiple of 0.1 cents and, if the amount to be rounded is 0.05 cents, rounded up.
- (4) If, apart from this subregulation, a rate prescribed by subregulation 8 (1), (2) or (4) and increased under subregulation (2) is not a multiple of 10 cents, the rate is to be rounded to the nearest multiple of 10 cents and, if the amount to be rounded is 5 cents, rounded up.
- (5) If, at any time, whether before or after the commencement of this regulation, the Australian Statistician publishes for a particular March quarter a CPI number in substitution for a CPI number previously published by the Australian Statistician for the quarter, the publication of the later CPI number is to be disregarded for this regulation.
- (6) However, if, at any time, whether before or after the commencement of this regulation, the Australian Statistician changes the reference base for the Consumer Price Index, then, in applying this regulation after the change is made, regard is to be had only to numbers published in terms of the new reference base.

Schedule 1 Examples

(regulations 4, 7, 8 and 9)

Examples

1 An eligible person and attendant drive by private motor vehicle to an appointment 100 km from home, and return on the same day. The travelling expenses are:

Eligible person:	meals	\$10.90	paragraph 8 (4) (a)
	transport	\$53.40	subregulation 4 (4) and
		plus the cost of tolls	paragraphs 7 (a) and (b)
		and parking fees	— 200 km @ 26.7c/km
			plus the cost of tolls and
			parking fees
Attendant:	meals	\$10.90	paragraph 9 (2) (b)
Total:		\$75.20	
		plus the cost of tolls	
		and parking fees	

2 An eligible person and attendant drive by private motor vehicle to an appointment in a capital city 300 km from home, stay overnight in non-shared commercial accommodation, and return the next day. The travelling expenses are:

Eligible person:	accommodation	\$130.80	paragraph 8 (1) (b)
	& meals (1st day)		
	meals (2nd day)	\$22.10	paragraph 8 (4) (b)
	transport	\$160.20	subregulation 4 (4) and
		plus the cost of tolls	paragraphs 7 (a)
		and parking fees	and (b) — 600 km @
			26.7c/km plus the cost of
			tolls and parking fees
Attendant:	accommodation	\$130.80	paragraph 9 (2) (b) and
	& meals (1st day)		subregulation 9 (4)
	meals (2nd day)	\$22.10	paragraph 9 (2) (b)
Total:		\$466.00	
		plus the cost of tolls	
		and parking fees	

3 An eligible person and attendant drive by private motor vehicle to an appointment in a capital city 300 km from home, and stay overnight in non-shared commercial accommodation. The eligible person is admitted to a hospital the next morning. The attendant returns home and comes back to collect the eligible person, staying in commercial accommodation the night before the eligible person is discharged. The travelling expenses are:

Amount set out in example 2	\$466.00	
Less (for the eligible person's meals on 2nd day)	\$22.10	paragraph 8 (4) (b)
Subtotal	\$443.90	
Plus		
Eligible Person: meals on return journey	\$22.10	paragraph 8 (4) (b)
Attendant: transport	\$160.20	subregulation 4 (4), paragraphs 7 (a) and (b) and subregulation 9 (1) — journey to hospital and return with eligible person — 600 km @ 26.7c/km plus the cost of tolls and parking fees
	\$22.10	paragraph 9 (2) (b)
	\$130.80	paragraph 9 (2) (b) and subregulation 9 (4)
Total:	\$779.10	
		plus the cost of tolls and parking fees

4 The situation is the same as in example 3, except that the attendant stays in commercial accommodation while the eligible person is in the hospital (2 nights). The travelling expenses are:

Amount set out in example 2	\$466.00	
Less (for the eligible person's meals on 2nd day)	\$22.10	paragraph 8 (4) (b)
Subtotal	\$443.90	
Plus		
Eligible Person: meals on return journey	\$22.10	paragraph 8 (4) (b)

Attendant:

The lesser of:

(a) transport home and back to the hospital; and	\$160.20 plus the cost of tolls and parking fees	subregulation 4 (4), paragraphs 7 (a) and (b) and 9 (4) (a)
(b) 2 nights commercial accommodation	\$261.60	paragraph 9 (2) (b)
Total:	\$626.20 or \$727.60 (for both totals: plus the cost of tolls and parking fees)	

5 The situation is the same as in example 3 except that the attendant stays in subsidised accommodation and stays in subsidised accommodation while the eligible person is in the hospital (2 nights). The travelling expenses are:

Amount set out in example 2 (as if subsidised accommodation)	\$342.00	
Less (for the eligible person's meals on 2nd day)	\$22.10	paragraph 8 (4) (b)
Subtotal	\$319.90	
Plus		
Eligible person: meals on return journey	\$22.10	paragraph 8 (4) (b)

Attendant:

The lesser of:

(a) transport home and back to the hospital; and	\$160.20 plus the cost of tolls and parking fees	subregulation 4 (4), paragraphs 7 (a) and (b) and 9 (4) (a)
(b) 2 nights subsidised accommodation	\$137.60	paragraph 9 (2) (b)
Total:	\$502.20 or \$479.60 (for both totals: plus the cost of tolls and parking fees)	

6 The situation is the same as in example 3 except that the attendant stays in private accommodation and stays in private accommodation while the eligible person is in the hospital (2 nights). The travelling expenses are:

Amount set out in example 2 (as if private accommodation)	\$273.20	
Less (for the eligible person's meals on 2nd day)	\$22.10	paragraph 8 (4) (b)
Subtotal	\$251.10	
Plus		
Eligible person: meals on return journey	\$22.10	paragraph 8 (4) (b)
Attendant:		
The lesser of:		
(a) transport home and back to the hospital; and	\$160.20 plus the cost of tolls and parking fees	subregulation 4 (4), paragraphs 7 (a) and (b) and 9 (4) (a)
(b) 2 nights private accommodation	\$68.80	paragraph 9 (2) (b)
Total:	\$433.40 or \$342.00	
	(for both totals: plus the cost of tolls and parking fees)	

Note

- All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See www.frli.gov.au.