EXPLANATORY STATEMENT

REPATRIATION PHARMACEUTICAL BENEFITS SCHEME

EMPOWERING PROVISION

Section 91 of the *Veterans' Entitlements Act 1986* (the Act).

PURPOSE

The attached instrument (2013 No.R43) (the Scheme) replaces the Repatriation Pharmaceutical Benefits Scheme (1995 No.12)(the revoked Scheme).

The Scheme is a legislative instrument made under section 91 of the Act and sets out the circumstances in which the Repatriation Commission (Commission) may arrange for pharmaceutical benefits to be provided to veterans or their dependants (eligible person) at a concessional rate.

The Scheme retains most of the revoked Scheme but contains the following new measures:

- refinements to the pharmaceutical reimbursement provisions (reimbursement measure)
- prescribing by authorised nurse practitioners and authorised midwives of pharmaceutical benefits on the Pharmaceutical Benefits Scheme (but not pharmaceutical benefits solely on the Repatriation Pharmaceutical Benefits Scheme) (nurse/midwife prescribing measure)
- prescribing by medication chart/continued dispensing (medication chart/continued dispensing measure)

THE REIMBURSEMENT MEASURE

The Pharmaceutical Reimbursement is covered by Part 5A.

The relevant amendments:

- alter provisions in Part 5A that refer to the calculation of the annual value of the pharmaceutical allowance component of pension supplement, veterans supplement and the MRCA supplement for the purposes of the pharmaceutical reimbursement (reimbursement of co-payments for pharmaceuticals);and
- make amendments to the provisions that govern the pharmaceutical reimbursement generally.

Pharmaceutical Allowance Component Amendments

The calculation of the pharmaceutical allowance for the purposes of the pharmaceutical reimbursement is necessary because the amount of reimbursement is to be a net amount (less amount of pharmaceutical allowance).

The amendments to the pharmaceutical allowance provisions are to cover the following cases:

- partnered veterans:

  (i) where the veteran receives pension supplement and the veteran's partner is not in receipt of income support payments the pharmaceutical allowance component of the pension supplement is calculated at $3 per fortnight.

  This amendment recognises the lower pharmaceutical allowance payable to the veteran thereby resulting in a greater amount of pharmaceutical reimbursement for the veteran.

  (ii) where the veteran receives pension supplement and the veteran and partner are an illness separated couple the pharmaceutical allowance component of the pension supplement is calculated at $6 per fortnight.

  This amendment ensures that for illness separated partnered veterans the value of the pharmaceutical allowance paid to the partner is also factored into the calculation for the pharmaceutical reimbursement.

  Unless this is done the reimbursement would be higher in these cases which would not be consistent with the policy intent to avoid unintended payments.

  Accordingly this amendment recognises the higher pharmaceutical allowance payable to the veteran thereby resulting in a lesser amount of pharmaceutical reimbursement for the veteran.

  (iii) where the veteran receives pension supplement and the veteran's partner is not illness-separated from the veteran but the veteran's partner is a veteran or member of the Defence Force the pharmaceutical allowance component of the pension supplement is calculated at $3 per fortnight.

  This amendment recognises the lower pharmaceutical allowance payable to the veteran thereby resulting in a greater amount of pharmaceutical reimbursement for the veteran.

- single and partnered veterans in receipt of a war widow(ers) pension in addition to other payment supplements.

  Where the veteran is a war widow(er) pensioner the pharmaceutical allowance component of the income support payments the veteran receives is calculated at $6 per fortnight.

  This amendment recognises income support payments the veteran receives that include a pharmaceutical allowance for the veteran and ensures that the pharmaceutical allowance is factored in to the calculation of the pharmaceutical reimbursement for the veteran otherwise the reimbursement would be higher in these cases which would not be consistent with the policy intent to avoid unintended payments.

General Amendments

The general amendments to Part 5A are as follow:

- enabling a co-payment for a pharmaceutical to be reimbursed where the pharmaceutical was not purchased under the Scheme but the liability of the Repatriation Commission to meet the cost of the pharmaceutical is backdated

to cover the period in which the purchase was made. In the Department of Veterans' Affairs (DVA) the payment is known as a "MEPI" (Medical Expense Privately Incurred).

- relaxing the rule that requires the pharmaceutical reimbursement to be paid in the first quarter of the calendar year following the year in which the co-payment was made, where the data needed to calculate the reimbursement is not available to DVA in which case the reimbursement is payable as soon as practicable after the date is available.

- imposing a limit (5 years) on the number of preceding "co-payment years" that the Repatriation Commission can take into account for the purpose of the pharmaceutical reimbursement – unless the Commission is of the opinion there are special circumstances in which case the limit does not apply. If the limit is not to apply then the Commission is to determine a date on and from which co-payments paid by the relevant person are to be counted for the pharmaceutical reimbursement for the person.

THE NURSE/MIDWIFE PRESCRIBING MEASURE

Under the *National Health Act 1953* an "authorised midwife" or an "authorised nurse" may prescribe pharmaceutical benefits under the Pharmaceutical Benefits Scheme (PBS). The attached Scheme will enable an authorised midwife or an authorised nurse to prescribe benefits under the Scheme that are listed on the PBS but not benefits that are only listed on the Repatriation Pharmaceutical Benefits Scheme (RPBS) i.e. not also listed on the PBS. The reason for the latter situation is that at the time the attached instrument was made DVA had not determined which RPBS medicines would be suitable for an authorised midwife or an authorised nurse to prescribe. It should be noted that under the *National Health Act 1953* an authorised midwife and an authorised nurse are only permitted to prescribe certain PBS medicines.

THE MEDICATION CHART/CONTINUED DISPENSING MEASURE

Medication Chart Prescribing

Medication Chart prescribing is only relevant to the prescription of pharmaceuticals for residents of aged care facilities. Residents receiving medication currently have a medication chart showing the medicines the person receives. A medical practitioner or authorised nurse practitioner (prescriber) inserts relevant information in an item in the chart. Essentially the attached Scheme makes an item in the Medication Chart, that is completed in accordance with the Scheme, a prescription for the purposes of the Scheme.

Medication chart prescribing will enable a prescriber to write a prescription for a patient in residential care by writing details of the medicine for the patient in an item in the chart. A copy of the chart is provided to a pharmacist i.e. it is the prescription. Ultimately it is proposed that medication charts be electronically transmitted to pharmacists.

The advantages of this method of prescribing is that "transcription errors" may be reduced, as there will be one medication management resource for residents for most of their medicines. Further the prescriber will not need to write prescriptions at a later

time once they have returned from their visit to the facility, which may prevent transcription error due to recall error. This would not only reduce the administrative burden for pharmacists in following up discrepancies, but would also improve resident medication safety.

By the pharmacist having access to the prescriber's ongoing order for supply from the medication chart, the risk of disruption to the resident's ongoing therapy is reduced.

There was a trial of medication chart prescribing in 20 or so selected residential care facilities in NSW. The Department of Health & Ageing managed the trial and obtained relevant amendments to the legislation it administers in order for medication charts to be recognised as prescriptions. The trial was for the period August 2012-January 2013.

From 19 March 2013, medication chart prescribing will be implemented in a phased approach.

The Scheme needed to provide for medication chart prescribing because a resident of a residential care facility may be an eligible person (veteran etc) and a prescriber may seek to prescribe a medicine for the person via a medication chart but the medicine is only available under the Scheme and is not available under the Pharmaceutical Benefits Scheme.

Medication chart prescribing can be confined to residential care facilities in particular States or Territories because in order for a prescription to be valid under the Scheme it must be recognised by State/Territory law. Accordingly if a State/Territory law does not permit medication chart prescribing then a medication chart prescription in that State or Territory would not be a prescription under the Scheme.

continued dispensing (dispensing without a prescription)

This initiative enables certain medicines to be supplied without a prescription, in certain situations.

Normally a pharmacist is not permitted to supply a medicine to a person without the person presenting a prescription for the medicine.

Situations arise where it is not practical for a person to obtain a prescription and in order to facilitate patient adherence to therapy and prevent treatment interruption, the attached Scheme enables pharmacists to supply certain medicines to the person in those situations (continued dispensing).

The medicine must be a standard Pharmaceutical Benefits Scheme/Repatriation Pharmaceutical Benefits Scheme supply of a chronic therapy medicine to a patient by a pharmacist on the basis of a previous prescription.

Chronic therapy medicines are considered to be those medicines which are taken as treatment for a medical condition over a long period of time.

Initially, a Continued Dispensing supply will be limited to two therapeutic categories:

• Oral Hormonal Contraceptives (OHC) for systemic use.
• Lipid Modifying Agents (LMA), specifically the *HMG CoA reductase inhibitors.*

CONSULTATION

The reimbursement measure —"no", because of the technical nature of the amendments. Further the amendments that relate to the effect of the pharmaceutical allowance on the pharmaceutical reimbursement are designed to protect the public revenue (avoid "unintended payments") and consultation was therefore considered inappropriate.

The nurse/midwife prescribing measure — "no", because the measure has been implemented for prescribing under the Pharmaceutical Benefits Scheme under the *National Health Act 1953* and consulting interested parties would have been unlikely to have been productive.

The medication chart/continued dispensing measure — "yes", direct consultation occurred with the Department of Health & Ageing (DoHA) which introduced a virtually identical measure.

The nature of the consultation was e-mail correspondence, telephone conversations and meetings.

In preparing its "medication chart/continued dispensing measure" DoHA undertook a public written consultation process in 2011. Responses were received from a broad cross section of stakeholders within key industry groups including prescribers, pharmacists, aged care and consumers. The responses provided both positive and constructive feedback that was used in finalising policy parameters for the initiative.

DoHA has continued to engage with stakeholder groups as individual issues are identified. In particular, throughout the development of the Residential Medication Chart the Australian Commission on Safety and Quality and Healthcare established an expert reference group made up of key industry representatives. This group was integral to the development of the implementation model for this initiative.

In addition, DoHA has also undertaken direct consultation with the Department of Human Services and has also engaged and consulted with State and Territory Departments of Health to seek their input and support for the initiative.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

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

The attached legislative instrument does engage an applicable right or freedom. It relates to the Right to Health contained in article 12(1) of the International Covenant on Economic Social and Cultural Rights.

The Right to Health is the right to the enjoyment of the highest attainable standard of physical and mental health. The UN Committee on Economic Social and Cultural Rights has stated that health is a fundamental human right indispensable for the exercise of other human rights. Every human being is entitled to the enjoyment of the highest attainable standard of health conducive to living a life in dignity.

The attached legislative instrument engages with, and promotes, the Right to Health. The new health initiatives introduced by the instrument could benefit the health of the relevant veterans or dependants by ensuring that:

(a) they could receive certain medications more quickly because the range of prescribers has been broadened to include authorised nurse practitioners and authorised midwives and because prescriptions are not needed for certain medicines e.g. contraceptives.

(b) they are more likely to receive the correct medications (better medication management).

Some measures in the attached instrument could be considered as not totally favouring the people in question. The UN Committee on Economic Social and Cultural Rights has stated that qualifying conditions for benefits must be reasonable, proportionate and transparent.

Refinements to the method of calculating the pharmaceutical allowance could mean a person receives less pharmaceutical reimbursement than before the new Scheme. But this change was necessary to protect the public revenue by preventing unintended payments.

A limit (5 years) has been imposed on the number of "preceding years" after 1 January 2012 in which co-payments for pharmaceutical benefits can be taken into account for the pharmaceutical reimbursement because verifying the co-payments for a period longer than 5 years is likely to place an unreasonable burden on DVA's resources. Nevertheless the Repatriation Commission is empowered to relax the limit in special cases and determine a date on and from when co-payments made more than 5 years before it accepts liability for the pharmaceutical reimbursement are to be counted for the reimbursement.

While authorised nurse practitioners and authorised midwives will be permitted to prescribe medicines under the Repatriation Pharmaceutical Benefits Scheme where those benefits are also listed on the Pharmaceutical Benefits Scheme, they will not be permitted to prescribe medicines under the Repatriation Pharmaceutical Benefits Scheme (RPBS) where those benefits are only listed on the Repatriation Pharmaceutical Benefits Scheme Schedule (incorporated-by-reference into the RPBS) i.e. the schedule referring to the pharmaceutical benefits that are available to veterans and their dependants but not to the community generally.

The reason for this limitation is that at the time the attached instrument was made, DVA had not determined which RPBS Schedule medicines would be suitable for an authorised midwife or an authorised nurse to prescribe. It should be noted that under the *National Health Act 1953* an authorised midwife and an authorised nurse are only permitted to prescribe certain PBS medicines.

Conclusion

The attached legislative instrument is considered to be compatible with the human right to health because it promotes that right (e.g. creates a new type of prescription that aids the medication management of people/enables certain medicines to be supplied more quickly) and the conditions it imposes on the payment of the pharmaceutical reimbursement and prescribing of medicines by authorised nurse practitioners and authorised midwives are considered reasonable in the circumstances,

particularly because one of the conditions relating to the pharmaceutical reimbursement can be relaxed if there are special circumstances.

Minister for Veterans' Affairs
Rule-Maker

FURTHER EXPLANATION

Attachment A.

Attachment A

This is an explanation of new items in the Scheme i.e. items that were not part of the revoked Scheme.

Items	**Explanation**
1A.	sets out the name of the instrument.
1B.	provides that the instrument commences on the day after it is registered on the Federal Register of Legislative Instruments.
1C.	specifies that a process commenced under the revoked Scheme that had not been completed under that Scheme when the attached instrument commenced is to be completed under the attached instrument as if it had commenced under the attached instrument.
1D.	ensures that a co-payment for a pharmaceutical benefit made under the revoked Scheme i.e. a co-payment that could have been counted toward a pharmaceutical reimbursement under the revoked Scheme but had not been used for a pharmaceutical reimbursement immediately before the attached instrument commenced, is covered by the attached instrument.
1.	sets out the legislative authority for the attached instrument.
2.	describes the purpose of the attached instrument.
3.	is a definition section. New definitions are: "**accepted disability**" means a war-caused injury or a war-caused disease, a defence-caused injury or a defence-caused disease or a *SRCA disability*. **"approval number"** means a number allotted by the *Secretary* under subregulation 8A(1) of the *National Health (Pharmaceutical Benefits) Regulations 1960* to an approval under the *National Health Act 1953* of a person described in the subregulation who, under the *Scheme*, is a *Community Pharmacist*; **"approved electronic communication"** means an electronic communication of a kind approved in writing by the *Secretary* under regulation 5E of the *National Health (Pharmaceutical Benefits) Regulations 1960* for the purposes of the provision in those regulations in which the expression is used. **"approved information technology requirements"** means information technology requirements of a kind approved in writing by the *Secretary* under regulation 5F of the *National Health (Pharmaceutical Benefits) Regulations 1960* for the purposes of the provision in those regulations in which the expression is used. **"Authorised Midwife"** has the meaning given by subsection 84 (1) of the *National Health Act 1953*;

"Authorised Nurse Practitioner" has the meaning given by subsection 84 (1) of the *National Health Act 1953*;

"**Authority Prescription Form**" means a *prescription* in one of the forms specified in paragraph 13(3)(a) of the *National Health (Pharmaceutical Benefits) Regulations 1960*;

"concession card" has the meaning given by subsection 84 (1) of the *National Health Act 1953*;

"continued dispensing supply" means the supply of *Pharmaceutical benefits* in the circumstances in paragraph 16A;

"**deferred supply authorisation**" means the situation described in regulation 26A of the *National Health (Pharmaceutical Benefits) Regulations 1960*;

Note: generally a deferred supply authorisation occurs where a prescription contains a direction to supply more than 1 *Pharmaceutical benefit* and the *Community Pharmacist* to whom the *prescription* is presented, at the request of the person for whom the prescription is written, defers the supply of one or more of the *Pharmaceutical benefits*.

"electronic prescription" means a *prescription* that is prepared and submitted:

(a) in accordance with *approved information technology requirements* (if any), by means of an *approved electronic communication*; and

(b) in accordance with a form approved by the *Secretary* under sub-subparagraph 19(1)(a)(iia)(B) of the *National Health (Pharmaceutical Benefits) Regulations 1960*;

"entitlement card" has the meaning given by subsection 84 (1) of the *National Health Act 1953*;

"medicare number" has the meaning given by subsection 84 (1) of the *National Health Act 1953*;

"**medication chart prescription**" means a *prescription* mentioned in paragraph 11B(1);

"paper-based prescription" means:

(a) a *medication chart prescription*; or

(b) a *prescription* other than a *medication chart prescription* that is prepared in duplicate in accordance with subparagraph 19(1)(a)(i), (ii) or (iii) of the *National Health (Pharmaceutical Benefits) Regulations 1960*;

"paperless claim for payment" means a claim for a payment from the Commonwealth, in relation to the supply of a *Pharmaceutical benefit*:

(a) using the Claims Transmission System, within the meaning given by subsection 99AAA (1) of the *National Health Act 1953*; and

(b) to which, or in which, prescriptions, repeat authorisations or *deferred supply authorisations* are not required to be attached or included.

"PBS prescriber" has the meaning it has in subsection 84(1) of the *National Health Act 1953*.

"PBS Schedule" means the collection of instruments made under Part VII of the *National Health Act 1953* (the Act) by the Minister who administers that Act, as those instruments are in force from time to time;

"pharmaceutical allowance" means the component of the *veterans supplement* or *pension supplement* or *MRCA supplement* or *war widow/war widower pension* that is to assist with the purchase of *Pharmaceutical benefits*, the calculated value of which is referred to in paragraph 37 (pharmaceutical allowance component) of Part 5A.

"**prescription**" means a *paper-based prescription* or an *electronic prescription*, and includes a prescription in an *Authority Prescription Form* and a *medication chart prescription*.

"Prior Approval" means the prior approval of the *Commission*.

"**repeat authorisation form**" means the form mentioned in subparagraph 26 (1A) (a) (i) of the *National Health (Pharmaceutical Benefits) Regulations 1960*, which is used, among other purposes, to support a claim for a payment from the Commonwealth under section 99AAA of the *National Health Act 1953* in relation to a supply of a pharmaceutical benefit;

"**RPBS prescriber**" means an *Approved Medical Practitioner*, an *Authorised Midwife* or an *Authorised Nurse Practitioner*;

"**residential care**" has the meaning given by section 41–3 of the *Aged Care Act 1997*;

"**residential medication chart**" has the meaning given by paragraph 11B(5);

"**residential care**" has the meaning given by section 41–3 of the *Aged Care Act 1997*;

"**residential medication chart**" has the meaning given by paragraph 11B(5);

"revoked scheme*"* means the *Repatriation Pharmaceutical Benefits Scheme* (1995 No.12);

"Scheduled item" means an item in the *PBS Schedule* or the *RPBS Schedule*;

"**SRCA disability"** means an injury (within the meaning of the *Safety, Rehabilitation and Compensation Act 1988*):

(a) for which the Military Rehabilitation and Compensation Commission has accepted liability to pay compensation under that Act; and

(b) for which the person with the injury is eligible to be provided with treatment under Part V of the *Act*.

Note 1:In the *Safety, Rehabilitation and Compensation Act 1988* the definition of *injury* includes a disease (see section 5A of that Act).

Note 2:Section 85(2A) of the *Act* provides eligibility for treatment of a person with an injury under the *Safety, Rehabilitation and Compensation Act 1988*.

"Standard Prescription Form" means a *prescription* prepared in accordance with subparagraph 19(1)(a)(i), (ii) or (iii) of the *National Health (Pharmaceutical Benefits) Regulations 1960*;

Note: a Standard Prescription Form does not include a *medication chart prescription*.

"streamlined authority code", for a *Pharmaceutical benefit*, means the streamlined authority code for the *Pharmaceutical benefit* mentioned in the Declaration under subsection 85 (2) of the *National Health Act 1953*, or the Determination under sections 85, 85A and 88, of that Act;

"supply certification form": see paragraph 11C.

*"***war widow/war widower pension***"* means a payment received by a war widow/war widower —pensioner comprised of:

(a) a pension under Part II or IV of the Act at a rate determined under or by reference to subsection 30(1) of the *Act*; or

(b) a lump sum mentioned in paragraph 234(1)(b) of the MRCA or a weekly amount mentioned in that paragraph.

Note: MRCA is defined in subsection 5Q(1) of the *Act* as the *Military Rehabilitation and Compensation Act 2004*.

Note: references in the *Scheme* to paragraphs, subparagraphs, sections and subsections are interchangeable. For example a reference to "paragraph 10" of the Scheme is the same as a reference to "section 10" of the Scheme and vice versa.

7.(e) adds authorised nurse practitioners and authorised midwives to the category of prescriber under the Scheme. The Note advises that under the Scheme a prescription by an authorised nurse practitioner or an authorised midwife for a medicine that is listed on the RPBS, but not on the PBS, will not be a valid prescription under the Scheme.

10. no longer contains the qualification that enabled a prescription to be recognised by the Repatriation Commission even though it did not comply with State/Territory law.

If the qualification remained it would mean prescriptions such as medication chart prescriptions would be recognised by the Repatriation Commission for the purposes of the Scheme even though they had not been recognised as prescriptions by State/Territory law when the policy is that a prescription, such

as a medication chart prescription, must conform to State/Territory law in order to be recognised by the Repatriation Commission.

11. replaces the former provision which enabled only medical practitioners to write prescriptions with a provision that enables Authorised Nurse Practitioners and Authorised Midwives to write prescriptions in addition to medical practitioners. Authorised Nurse Practitioners and Authorised Midwifes are defined in the *National Health Act 1953*.

A prescription written by a medical practitioner, Authorised Nurse Practitioner or Authorised Midwife is to conform with the requirements for prescriptions in the *National Health Act 1953,* and for prescriptions written by Authorised Nurse Practitioners or Authorised Midwives, must only be in respect of a pharmaceutical benefit the Authorised Nurse Practitioner or Authorised Midwife is permitted to prescribe under the *National Health Act 1953*.

The Note advises that under the Scheme a prescription by an authorised nurse practitioner or an authorised midwife for a medicine that is listed on the RPBS Schedule, but not on the PBS, will not be a valid prescription under the Scheme.

11B. introduces the concept of a completed item in a medication chart being a prescription and sets out the criteria for a Supply Certification Form.

11B Medication Chart Items

For the item in the residential medication chart to be taken as a prescription for a pharmaceutical benefit, the medical practitioner will be required to complete all the required fields in the item, write the date on which the order was written, write his or her signature and ensure that the letters PBS or RPBS appear against the item.

This provision defines a 'residential medication chart' as a document that contains the required fields for Pharmaceutical Benefits Schedule/Repatriation Pharmaceutical Benefits Schedule (PBS/RPBS) claiming, and safety-related characteristics, as per the determination under paragraph 93A(2)(b) of the *National Health Act 1953*. The required fields include, among other things, information sufficient to identify the prescribed pharmaceutical benefit, and how it should be administered. Some of the required fields on a residential medication chart are not required to be completed for every medication chart prescription, but only when the information is relevant to the prescription. For example, a streamlined authority code field is required for each prescribed medicine on the residential medication chart, although the medical practitioner will complete this field only when applicable.

A medical practitioner cannot use a single residential medication chart to prescribe pharmaceutical benefits for more than one person.

Development and testing of the National Residential Medication Chart by the Australian Commission on Safety and Quality in Health Care will drive change in the sector. The National Residential Medication Chart will be a compliant, standardised residential medication chart. Residential aged care facilities may choose to adopt other residential medication charts that are

compliant with legislation, although this is at the discretion of the facility, as no accreditation process will be put into place.

11C Supply Certification Form

This provision establishes the purpose of and minimum details required for the 'supply certification form'. The form will be utilised by a Community Pharmacist (defined in the Scheme) to certify that, within the specified claim period, the supply of a pharmaceutical benefit has occurred where the claim for that supply is not accompanied by a paper prescription, that is, the claim is being made by a 'paperless claim for payment'.

The supply certification form establishes the bulk certification of paperless claims for pharmaceutical benefits supplied within the same claim period.

The introduction of the form enables the Community Pharmacist to certify that the pharmaceutical benefit has been supplied by a paperless claiming mechanism for the claim period and replaces the need for individual certification on a physical prescription for each supply.

12. in its new general application ensures the provision also applies to prescriptions written by an Authorised Nurse Practitioner or an Authorised Midwife, in addition to applying to prescriptions written by a medical practitioner.

Paragraph 12 sets out the situations when a prescription will be invalid. Previously the provision only applied to prescriptions written by medical practitioners.

12.(a) also exempts a medication chart prescription from the requirement that in order to be a valid prescription a prescription must not be for a pharmaceutical benefit where another prescription for the same benefit has been written on the same day by the same prescriber.

This item allows a pharmaceutical benefit to be supplied from a 'medication chart prescription' on multiple occasions with the same date of prescribing. Each supply of the pharmaceutical benefit will be taken to be an original supply with the same date of prescribing but a different date of supply. The supplies must be consistent with the prescriber's intended duration of therapy, and multiple supplies provided only to fulfil the prescriber's order.

12.(f) provides that a prescription written by an Authorised Nurse Practitioner or an Authorised Midwife is not a valid Pharmaceutical benefit where it is for a Pharmaceutical benefit that is not available to the relevant Eligible Person under the PBS.

The Note advises that under the Scheme a prescription by an authorised nurse practitioner or an authorised midwife for a medicine that is listed on the RPBS Schedule, but not on the PBS, will not be a valid prescription under the Scheme.

13. in its new general application ensures the provision also applies to prescriptions written by an Authorised Nurse Practitioner or an Authorised Midwife, in addition to applying to prescriptions written by a medical

practitioner (previously the provision only applied to medical practitioners as prescribers).

The Note advises that under the Scheme a prescription by an authorised nurse practitioner or an authorised midwife for a medicine that is listed on the RPBS Schedule, but not on the PBS, will not be a valid prescription under the Scheme.

14. ...

15. in its general application ensures the provision also applies to prescriptions written by an Authorised Nurse Practitioner or an Authorised Midwife, in addition to applying to prescriptions written by a medical practitioner (previously the provision only applied to medical practitioners as prescribers).

The Note advises that under the Scheme a prescription by an authorised nurse practitioner or an authorised midwife for a medicine that is listed on the RPBS Schedule, but not on the PBS, will not be a valid prescription under the Scheme.

16. exempts a continued dispensing supply from the requirement that a Community Pharmacist is only to dispense a supply of a pharmaceutical on the presentation of a prescription (because continued dispensing supplies of pharmaceuticals do not require a prescription).

enables a Community Pharmacist to supply a pharmaceutical benefit on the surrender of a medication chart prescription (new paragraph 16(d)).

[Substituted paragraph 16(c)(repeat authorisation form) is the same as the former paragraph 16(c).]

The note explains, among other things, that there was a trial of medication chart prescribing in 20 or so selected residential care facilities in NSW and that from 19 March 2013, medication chart prescribing will be implemented in a phased approach.

makes it clear that a Community Pharmacist is only to supply a pharmaceutical benefit under the Scheme if the prescription for the benefit is in accordance with State/Territory law. The fact that the prescription complies with the Scheme but not with State/Territory law is not sufficient.

16A. introduces the concept of a continued dispensing supply.

Under this item the Community Pharmacist must be satisfied that certain conditions have been met prior to undertaking a supply in accordance with this section. The specific conditions which must be met as well as the limited pharmaceutical benefits eligible to be supplied are set out in a legislative instrument under the *National Health Act 1953* namely the *National Health (Continued Dispensing) Determination 2012*.

The Scheme contemplates that a pharmaceutical benefit can only be supplied upon presentation of a prescription. Section 16A provides for an exception

enabling a Community Pharmacist to supply a pharmaceutical benefit in the absence of a prescription.

Subsection 16A(2) operates to deem a record created at the point of supply of the pharmaceutical benefit as a prescription for the purposes of the Scheme.

Subsection 16A(3) defines a supply of a pharmaceutical benefit under section 16A as a "continued dispensing supply".

Subsection 16A(4) requires a Community Pharmacist to endorse a supply by continued dispensing on the repeat authorisation form that is part of the claim for pharmaceutical benefits.

Subsections 16A(5) and 16A(6) require the Community Pharmacist or Approved Medical Practitioner where applicable, to collect information about a person's status at the time of a continued dispensing supply. This provision allows the Community Pharmacist or Approved Medical Practitioner to collect information that for standard prescriptions would usually be included in the prescription by the prescriber, and requires that the information collected be included in the claim for the pharmaceutical benefit.

Subsection 16A(7) clarifies that when a Community Pharmacist makes a supply by continued dispensing under section 16A, the pharmacist cannot provide the patient with a supply of medicine greater than the PBS maximum quantity, regardless of the circumstances under which the previous supply to the patient was made, including a direction under regulation 24.

Subsection 16A(8) applies the principles of the 'four' and 'twenty' day supply rules, and allow a Community Pharmacist to certify that immediate supply is necessary within the period of time that the terms and conditions of supply usually allow (i.e. four or twenty days), for supplies made on the basis of a continued dispensing supply. For continued dispensing, 16A(8)(b) allows a Community Pharmacist to endorse 'immediate supply necessary' on the repeat authorisation form being used to support the claim.

Subsection 16A(9) requires the repeat authorisation form to be utilised for the purposes of making a claim for a supply of a pharmaceutical benefit made in accordance with subsection 89A(1) of the *National Health Act 1953*. The completed form cannot be used to issue repeated supplies of a pharmaceutical benefit where a continued dispensing supply is being undertaken.

Subsection 16A(10) requires a Community Pharmacist who makes a continuing dispensing supply to a person to obtain a written acknowledgement that the person has received the pharmaceutical benefit but if it is not practicable for the pharmacist to obtain the acknowledgement the pharmacist must write on the repeat authorisation form for the supply:

- the date the pharmaceutical benefit was supplied
- the reason for not obtaining the acknowledgement.

17. in its general application ensures the provision also applies to prescriptions written by an Authorised Nurse Practitioner or an Authorised Midwife, in

addition to applying to prescriptions written by a medical practitioner (previously the provision only applied to medical practitioners as prescribers). The Note advises that under the Scheme a prescription by an authorised nurse practitioner or an authorised midwife for a medicine that is listed on the RPBS Schedule, but not on the PBS, will not be a valid prescription under the Scheme.

21. Note 2 now informs the reader that *co-payments* not covered by the *pension supplement amount, veterans supplement* or *war widow/war widower pension* (the latter payment being new insertion) may be reimbursed under Part 5A up to the safety net amount for a person.

24A. ensures that paragraph 24 does not apply in relation to the supply of a pharmaceutical benefit on the basis of a medication chart prescription (new paragraph 24A(1)).

Paragraph 24 requires pharmacists to claim payments in accordance with the procedure in 99AAA of the *National Health Act 1953* and collect bundles of prescriptions.

However a claim for payment for pharmaceuticals dispensed on the basis of a medication chart prescription is to be made in accordance with the procedure in section 99AAA of the *National Health Act 1953* as a paperless claim for payment (new paragraph 24A(2)).

The note to new paragraph 24A points out that a claim using the Claims Transmission System within the meaning given by subsection 99AAA(1) of the *National Health Act 1953* is a paperless claim for payment.

24B. enables the supply of a pharmaceutical benefit on the basis of a medication chart prescription; which will allow Community Pharmacists and approved medical practitioners to supply pharmaceutical benefits from a medication chart prescription if a copy of the current residential medication chart, containing the medication chart prescription, is given to the Community Pharmacist or approved medical practitioner.

The period of validity of the medication chart will be no longer than four months from the date of prescribing of the first entry on the chart.

A residential medication chart will be required to contain pre-printed administration dates, consisting of the numerals 1 to 31, in the sections of the chart in which the administration of medicines to the resident is recorded, for each of the four calendar months set out in the chart.

Therefore, the chart validity period will be less than four full calendar months where the first order on the residential medication chart is not started on the first day of the first calendar month, as the chart will expire on the last day of the fourth calendar month regardless of the day the chart commenced.

For example, if the first prescription is written in a residential medication chart on 11 June, the period of validity of the residential medication chart starts on 11 June and ends on 30 September.

There are three possible scenarios that inform the duration of supply authorised by the medical practitioner from a medication chart prescription:

- ongoing to the end of the validity period of the chart – 'ongoing' being marked on the medication chart prescription (ongoing);
- stop date written on the medication chart prescription (stop date); or
- where neither option 1 nor option 2 is indicated, authorisation for supply defaults to up to one maximum PBS/RPBS quantity (single quantity).

Where the prescriber has indicated option 1 (ongoing) or option 2 (stop date) on the medication chart prescription, a Community Pharmacist or approved medical practitioner may supply multiples of up to the maximum PBS/RPBS quantity, as determined under paragraph 13 of the Scheme and subparagraph 85A(2)(a) of the *National Health Act 1953*, if required by the prescriber's order.

Each supply will be treated as an 'original supply' and there are no 'repeat authorisations'. The quantity required to be supplied on each occasion and the number of supplies required throughout the validity period of the chart will be determined by the prescribed dose and frequency of administration; the date of prescribing or start date of administration (if indicated) and the stop date (if indicated).

Where option 1 (ongoing) or option 3 (single quantity) apply, the administration of the last quantity/single quantity supplied from the residential medication chart may overrun the chart validity period. Where option 2 (stop date) is indicated, the quantity supplied must only be the quantity sufficient for administration to the resident up to and including the stop date, and not beyond that date.

The date of supply from a medication chart prescription must be during the validity period of the chart and no later than the stop date for that completed item (if any). The Community Pharmacist or approved medical practitioner will endorse each supply on the copy of the residential medication chart from which they have supplied the pharmaceutical benefit.

25. sets out the requirements for making a claim for payment under the Scheme. The claim must be made in accordance with paragraph 24B, if a claim based on a medication chart prescription, or paragraph 24 if a claim other than a claim based on a medication chart prescription (new paragraph 25(1)).

    A paperless claim for payment must include a completed supply certification form (new paragraph 25(2)).

26. in its general application ensures the provision does not apply to pharmaceuticals supplied by an Authorised Nurse Practitioner or an Authorised Midwife. Previously the provision only excluded medical practitioners as suppliers.

27. in its general application ensures the provision applies to an Authorised Nurse Practitioner and an Authorised Midwife as suppliers of pharmaceuticals. Previously the provision only applied to medical practitioners as suppliers of pharmaceuticals.

    The Note advises that under the Scheme a prescription by an authorised nurse practitioner or an authorised midwife for a medicine that is listed on the RPBS

Schedule, but not on the PBS, will not be a valid prescription under the Scheme.

Part 5A

contains new definitions:

"*member*" means a person eligible under the *MRCA Pharmaceutical Benefits Scheme* for the payment known as the "pharmaceutical reimbursement".

"***veteran***" means an *Eligible Person* eligible for payment of a *pharmaceutical reimbursement*.

34.(b) is a new provision and enables co-payments for pharmaceuticals supplied to a person other than under the Scheme but during a period for which the person was later found to be eligible for treatment, to be counted toward the pharmaceutical reimbursement for the person.

Note 2 to paragraph 34 is new and explains that the paragraph refers to what is known in veterans' entitlements parlance as a MEPI (Medical Expense Privately Incurred).

37. substitutes a new paragraph 37. Paragraph 37 sets out the means by which the annual value of the pharmaceutical allowance component of various payments is calculated. Once calculated, the pharmaceutical allowance is then offset against co-payments for pharmaceuticals and any amount by which co-payments exceed the pharmaceutical allowance is reimbursed as the "pharmaceutical reimbursement".

37(a) is in the same form as the former 37(a).

37(b) is in much the same form as the former 37(b) but includes the pharmaceutical allowance component of a "social security pension supplement" (SSA supplement) in the calculation of a veteran's pharmaceutical reimbursement where the veteran receives such a SSA supplement.

37(c)(i) is in much the same form as the former 37(c).

37(c)(ii) is new and recognises the situation of an illness separated couple. In this situation the pharmaceutical allowance is calculated at $6 per fortnight for each member of the couple.

This amendment is intended to avoid an "unintended payment". It ensures the higher pharmaceutical allowance payable to the veteran is taken into account for the calculation of the pharmaceutical reimbursement for the veteran thereby resulting in a lesser amount of reimbursement.

37(c)(iii) is new and recognises the situation of a veteran who is a member of a couple but the couple is not separated by illness. In this situation the pharmaceutical allowance is calculated at $3 per fortnight for the veteran.

This amendment ensures a lesser amount of pharmaceutical allowance payable to the veteran is taken into account for the calculation of the pharmaceutical

reimbursement for the veteran thereby resulting in a higher amount of reimbursement.

37(d) is new and recognises income support payments for a veteran who is a war widow(er) pensioner that include a pharmaceutical allowance for the veteran and will ensure that the pharmaceutical allowance is factored in to the calculation of the reimbursement for the veteran to avoid unintended payments.

The note to paragraph 37(d) makes it clear that the situation set out in the paragraph is not exclusive of the situations in 37(b) and 37(c) and that if a veteran in 37(d) also receives pharmaceutical allowance under 37(b) or 37(c), it will be factored in to the calculation of the pharmaceutical reimbursement.

38. includes a new paragraph (3) which relaxes the rule about DVA needing to make a pharmaceutical reimbursement in the first quarter of a calendar year for the co-payments in the previous year. If data is not available to DVA then the reimbursement may be made as soon as practicable after the data becomes available.

38A. imposes a limit on the number of preceding years in which co-payments for pharmaceuticals were made, for the purpose of calculating the pharmaceutical reimbursement. When deciding whether to accept financial responsibility for the pharmaceutical reimbursement for co-payments made in a previous year (not being a calendar year before 1 January 2012), the Commission need not take into account co-payments made in a year more than 5 years before the Commission's decision unless there are special circumstances.

39. includes an amendment to Steps 2 and 3 which ensure that the pharmaceutical allowance component of the war widow/war widower pension is included in the pharmaceutical reimbursement calculator. Under the Calculator the pharmaceutical allowance offsets co-payments for pharmaceuticals and reduces the reimbursement for the co-payments.

The note informs the reader that for the purposes of the pharmaceutical reimbursement calculator the amount of a *veterans supplement, MRCA supplement*, *pension supplement* or *war widow/war widower pension* may be zero.

45. sets out the periods for which Community pharmacists are to keep records in respect of the supply of pharmaceuticals under the Scheme.

Where the record is not in relation to a continued dispensing supply or is not a copy of a medication chart prescription, the period of retention is governed by regulation 32 of the *National Health (Pharmaceutical Benefits) Regulations 1960* (one year)(new paragraph 45(a)).

Where the record is in relation to a continued dispensing supply then the following information is to be kept for two years from the date of supply:

- the information that supports the claim for payment made under section 99AAA of the *National Health Act 1953* in relation to the supply of the pharmaceutical benefit

- the information, about the supply of the pharmaceutical benefit, that is given to the PBS prescriber or RPBS prescriber who most recently prescribed the pharmaceutical benefit for the person (new paragraph 45(b).

Where the record is a copy of a medication chart prescription, the period of retention is two years from the date on which the last pharmaceutical benefit was supplied by the pharmacist on the basis of a prescription in the residential medication chart (new paragraph 45(c)).

Schedule 1 sets out the documents that are incorporated-by-reference into the Scheme as they existed on 1 November 2013.

For the purposes of section 14 of the *Legislative Instruments Act 2003*, the Scheme does not purport to incorporate the documents mentioned in Schedule 1 as they may change from time to time. The version of the relevant document in existence on 1 November 2013 is the version incorporated into the Scheme.

The Department of Veterans' Affairs is able to advise members of the public as to where these documents could be examined.
Contact details:

Department of Veterans' Affairs (ACT Office), Lovett Tower, 13 Keltie St, Woden ACT 2606 / GPO Box 9998 Woden ACT 2606.
Tel.no:(02) 6289 6243.

Any State or Territory Office of the Department of Veterans' Affairs:
Tel.no: 133 254.