



Australian Government
Repatriation Medical Authority

REPATRIATION MEDICAL AUTHORITY

INSTRUMENT NO. 31 OF 2014

VETERANS' ENTITLEMENTS ACT 1986
MILITARY REHABILITATION AND COMPENSATION ACT 2004

EXPLANATORY NOTES FOR TABLING

1. The Repatriation Medical Authority (the Authority) has determined, under subsection 196B(2) & (8) of the *Veterans' Entitlements Act 1986* (the VEA) Amendment Statement of Principles Instrument No. 31 of 2014 concerning **substance use disorder**.
2. This Instrument amends Statement of Principles Instrument No. 3 of 2009 concerning drug dependence and drug abuse by:
 - changing the name of this Instrument to 'Statement of Principles concerning substance use disorder No. 3 of 2009';
 - replacing the phrases 'drug dependence and drug abuse' and 'drug dependence or drug abuse' with the words 'substance use disorder' wherever these phrases appear in this instrument, with the exception of clause 2(a);
 - replacing the existing definition of 'drug dependence and drug abuse' in clause 3 with the definition of 'substance use disorder';
 - revising existing factor 6(e) concerning 'having a medical or psychiatric condition for which a substance was medically prescribed';
 - revising the existing definition of 'a clinically significant psychiatric condition' in clause 9;
 - inserting definitions of 'a specified disorder of mental health', 'DSM-5' and 'substance' in clause 9; and
 - deleting the definitions of 'drug' and 'DSM-IV-TR' in clause 9.
3. This Instrument gives effect to changes consequent upon the introduction of American Psychiatric Association: *Diagnostic and Statistical Manual of Mental Disorders*, Fifth Edition (DSM-5), Arlington, VA, American Psychiatric Association, 2013, which simplify the diagnosis of substance related illness.
4. This Instrument specifies a date of effect for the amendment in accordance with subsection 12(1)(a) of the *Legislative Instruments Act 2003*.
5. This Instrument incorporates by reference the *Diagnostic and Statistical Manual of Mental Disorders*, Fifth Edition (DSM-5), Arlington, VA, American Psychiatric Association, 2013. A copy of this document is available from the offices of the

Repatriation Medical Authority, Level 8, Bank of Queensland Building, 259 Queen St, Brisbane Queensland 4000, by contacting the Registrar on telephone (07) 3815 9404.

6. Prior to determining this Instrument, the Authority advertised its intention to undertake an investigation in relation to drug dependence and drug abuse in the Government Notices Gazette of 21 August 2013, and circulated a copy of the notice of intention to investigate to a wide range of organisations representing veterans, service personnel and their dependants. The Authority invited submissions from the Repatriation Commission, organisations and persons referred to in section 196E of the VEA, and any person having expertise in the field. No submissions were received for consideration by the Authority during the investigation.
7. This 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*. A Statement of Compatibility with Human Rights follows.
8. The determining of this Instrument finalises the investigation in relation to drug dependence and drug abuse as advertised in the Government Notices Gazette of 21 August 2013.
9. A list of references relating to the above condition is available to any person or organisation referred to in subsection 196E(1)(a) to (c) of the VEA. Any such request must be made in writing to the Repatriation Medical Authority at the following address:

The Registrar
Repatriation Medical Authority
GPO Box 1014
BRISBANE QLD 4001



Australian Government
Repatriation Medical Authority

Statement of Compatibility with Human Rights

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

Instrument No.: **Amendment Statement of Principles No. 31 of 2014**

Kind of Injury, Disease or Death: **Substance use disorder**

This 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 Legislative Instrument

1. This Legislative Instrument is determined pursuant to subsection 196B(8) of the *Veterans' Entitlements Act 1986* (the VEA) for the purposes of the VEA and the *Military Rehabilitation and Compensation Act 2004* (the MRCA).
2. This Legislative Instrument:-
 - facilitates claimants in making, and the Repatriation Commission in assessing, claims under the VEA and the MRCA respectively, by specifying the circumstances in which medical treatment and compensation can be extended to eligible persons who have substance use disorder;
 - facilitates the review of such decisions by the Veterans' Review Board and the Administrative Appeals Tribunal;
 - includes a revised factor, and revised and new definitions relating to factors, which the current sound medical-scientific evidence indicates must as a minimum exist, before it can be said that a reasonable hypothesis has been raised, connecting substance use disorder with the circumstances of eligible service rendered by a person;
 - amends Instrument No. 3 of 2009; and
 - reflects developments in the available sound medical-scientific evidence concerning substance use disorder which have occurred since that earlier instrument was determined.

3. The Instrument is assessed as being a technical instrument which improves the medico-scientific quality of outcomes under the VEA and the MRCA.

Human Rights Implications

4. This Legislative Instrument does not derogate from any human rights. It promotes the human rights of veterans, current and former Defence Force members as well as other persons such as their dependents, including:
- the right to social security (Art 9, *International Covenant on Economic, Social and Cultural Rights*; Art 26, *Convention on the Rights of the Child* and Art 28, *Convention on the Rights of Persons with Disabilities*) by helping to ensure that the qualifying conditions for the benefit are 'reasonable, proportionate and transparent'¹;
 - the right to an adequate standard of living (Art 11, ICSECR; Art 27, CRC and Art 28, CRPD) by facilitating the assessment and determination of social security benefits;
 - the right to the enjoyment of the highest attainable standard of physical and mental health (Art 12, ICSECR and Art 25, CRPD), by facilitating the assessment and determination of compensation and benefits in relation to the treatment and rehabilitation of veterans and Defence Force members; and
 - the rights of persons with disabilities by facilitating the determination of claims relating to treatment and rehabilitation (Art 26, CRPD).

Conclusion

This Legislative Instrument is compatible with human rights as it does not derogate from and promotes a number of human rights.

Repatriation Medical Authority

¹ In General Comment No. 19 (The right to social security), the Committee on Economic, Social and Cultural Rights said (at paragraph 24) this to be one of the elements of ensuring accessibility to social security.