

EXPLANATORY STATEMENT

Veterans' Affairs (Treatment Principles - Community Nursing) Amendment Instrument 2016 (Instrument 2016 No. R30/MRCC30)

EMPOWERING PROVISIONS

For Schedule 1 of the attached instrument — subsection 90(5) of the *Veterans' Entitlements Act 1986* (the VEA).

For Schedule 2 of the attached instrument — subsection 286(3) of the *Military Rehabilitation and Compensation Act 2004* (the MRCA).

For Schedule 3 of the attached instrument — subsection 16(7) of the *Australian Participants in British Nuclear Tests (Treatment) Act 2006* (the APBNT(T)A).

PURPOSE

The attached instrument (2016 No. R30/MRCC30) varies the legislative instruments known as the *Treatment Principles*, the *MRCA Treatment Principles* and the *Treatment Principles (Australian Participants in British Nuclear Tests) 2006* (hereinafter these 3 legislative instruments are referred to collectively as the Treatment Principles).

The Treatment Principles set out the circumstances in which treatment may be provided to clients of the Department of Veterans' Affairs (DVA).

Section 7.3 of the Treatment Principles makes provision for community nursing and outlines the circumstances in which the Commissions will accept financial responsibility for community nursing services for entitled persons.

The purpose of the variations to the Treatment Principles made by the attached instrument is to change the “community nursing terminology” to reflect new arrangements about the engagement of community nurses by DVA for the provision of nursing services within the veteran community.

From 1 July 2016, community nursing providers will be engaged by way of a public contract process. This will replace the traditional “request for tender” arrangement under which providers are engaged by way of a formal contract for a defined period of time (generally 3 to 5 years). Under the new arrangements, community nursing providers will enter into a more flexible arrangement or “agreement” with the Department.

The attached instrument updates relevant terminology in the Treatment Principles. Specifically, the term “DVA-contracted community nursing provider” is replaced with “community nursing provider”, relevant references to “contract” and “Deed of Standing Offer” are replaced with “agreement” and a corresponding change is made to the definition of “community nurse”.

Further, the opportunity has been taken to shorten and simplify the title of the applicable fee schedule for Community Nursing Services.

Details of the attached instrument are set out in Attachment A.

CONSULTATION

Section 17 of the *Legislation Act 2003* requires the rule-maker to be satisfied that any consultation that is considered appropriate and reasonably practicable to undertake, has been undertaken.

The amendments implemented by the attached instrument are consequential in nature; they change terminology used in the Treatment Principles to reflect new arrangements in the way in which the nursing service providers are engaged by the Department. There are no impacts on DVA clients; the measures could be said to be neutral in terms of their impact on both entitled persons and community nursing providers. Stakeholders could reasonably be expected to agree to the changes. Accordingly, no external consultation was undertaken.

In these circumstances it is considered that the requirements of section 17 of the *Legislation Act 2003* have been met.

RETROSPECTIVITY

None, if the attached legislative instrument is made before the commencement (1 July 2016).

If made after that date, the instrument will be taken to have commenced on 1 July 2016 and will operate retrospectively from that date.

The changes to the Treatment Principles made by the attached instrument will not disadvantage any person or impose a liability on a person other than the Commonwealth. As such, subsection 12(2) of the *Legislation Act 2003* will not apply to render any of its provisions inoperative.

DOCUMENTS INCORPORATED BY REFERENCE

The attached instrument changes the name of one of the documents incorporated by reference into the Treatment Principles.

The name of the document currently known as the “Australian Government Department of Veterans’ Affairs Classification system and Schedule of Item Numbers and Fees – Community Nursing Services” will be simplified and shortened to “DVA Community Nursing Schedule of Fees.”

This document is already incorporated by reference into the Treatment Principles – the amendments simply give effect to a change of name of this document.

REGULATORY IMPACT

The amendments reflect changed arrangements for the engagement of community nursing providers by the Department. These new arrangements will reduce the regulatory burden on Community Nursing Providers.

HUMAN RIGHTS STATEMENT

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

The attached legislative engages 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.

Overview

The instrument changes terminology and definitions concerning community nursing providers to reflect new arrangements in place by the Department. It supports the efficient engagement of community nursing service providers for the benefit of DVA clients.

Conclusion

The attached legislative instrument is considered to be “human rights compatible” as it promotes the Right to Health by supporting the continued provision of community nursing services to entitled veterans.

Dan Tehan
Minister for Veterans’ Affairs
Rule-Maker

FURTHER EXPLANATION OF PROVISIONS

See [Attachment A](#).

Attachment A**FURTHER EXPLANATION OF PROVISIONS**

Section 1

This section sets out the name of the instrument - *Veterans' Affairs (Treatment Principles - Community Nursing) Amendment Instrument 2016*.

Section 2

This section provides that the instrument commences, or is taken to have commenced, on 1 July 2016. This commencement date is designed to align with the start date of new agreements for community nursing providers.

Section 3

This section sets out the primary legislation that authorises the making of the instrument, namely the *Veterans' Entitlements Act 1986* (in respect of the amendments to the Treatment Principles under that Act), the *Military Rehabilitation and Compensation Act 2004* (in respect of the amendments to the MRCA Treatment Principles) and the *Australian Participants in British Nuclear Tests (Treatment) Act 2006* (in respect of the variations to the modifications of the *Treatment Principles* in force under that Act).

Section 4

This is the operative section of the instrument; it provides for the variations to Treatment Principles set out in the Schedules to have effect.

Schedule 1 - Variations to the Treatment Principles (Instrument 2013 No. R52)

The items in this Schedule amend the Treatment Principles in place under the *Veterans' Entitlements Act 1986* (VEA Treatment Principles).

The amendments change the terminology in those Principles surrounding community nursing providers.

Specifically, references in the VEA Treatment Principles to:

- “DVA-contracted community nursing provider” are changed to “community nursing provider”
- relevant references to “nurse” are changed to “community nurse”
- relevant references to “contract” are changed to “agreement”
- the definitions of “DVA-Contracted community nursing provider” and “community nurse” are substituted and updated respectively.

These terms appear in section 7.3 of the VEA Treatment Principles (Community nursing) and, in respect of the defined terms, in section 1.4 (Interpretation).

Further, the name of the document known as the “*Australian Government Department of Veterans’ Affairs Classification System and Schedule of Item Numbers and Fees*” as it appears in paragraph 6A.4.2(b) and Schedule 1 of the Treatment Principles is changed to the “*DVA Community Nursing Schedule of Fees*”.

This document is incorporated by reference into the VEA Treatment Principles.

Schedule 2 - Variations to the MRCA Treatment Principles (Instrument 2013 No. MRCC53)

The items in this Schedule amend the Treatment Principles in place under the *Military Rehabilitation and Compensation Act 2004* (MRCA Treatment Principles).

The amendments change the terminology in those Principles surrounding community nursing providers.

Specifically, references in the MRCA Treatment Principles to:

- “DVA-contracted community nursing provider” are changed to “community nursing provider”
- relevant references to “nurse” are changed to “community nurse”
- relevant references to “contract” are changed to “agreement”
- the definitions of “DVA-Contracted community nursing provider” and “community nurse” are substituted and updated respectively.

These terms appear in section 7.3 (Community nursing) and, in respect of the defined terms, in section 1.4 (Interpretation) of the MRCA Treatment Principles.

Further, the name of the document known as the “*Australian Government Department of Veterans’ Affairs Classification System and Schedule of Item Numbers and Fees*” as it appears in paragraph 6A.4.2(b) and Schedule 1 of the MRCA Treatment Principles is changed to the “*DVA Community Nursing Schedule of Fees*”.

This document is incorporated by reference into the MRCA Treatment Principles.

Schedule 3 - Variations to the Treatment Principles (Australian Participants in British Nuclear Tests) 2006 (Instrument 2013 No. R54)

The Treatment Principles in force for the purposes of the *Australian Participants in British Nuclear Tests (Treatment) Act 2006* - the APBNT(T)A - are the VEA Treatment Principles as modified under subsection 16(7) of the APBNT(T)A.

Modifications made to the VEA Treatment Principles under that section are found in *Treatment Principles (Australian Participants in British Nuclear Tests) 2006* (Instrument 2013 No. R54) – modifying instrument.

The modifying instrument changes the VEA Treatment Principles in their application under the APBNT(T)A by, among other things, replacing the definitions part of the

VEA Treatment Principles with a modified definitions part, and replacing Schedule 1 of the VEA Treatment Principles with a modified Schedule 1.

The items in schedule 3 of the attached instrument amend the modifying instrument by replacing certain definitions in it with new definitions (section 1.4). Specifically, items 1 and 2 of Schedule 3 amend the definitions of “community nurse” and “DVA-contracted community nursing provider” as they appear in the interpretation provision of the modifying instrument.

Item 3 of Schedule 3 amends the title in item 21 of Schedule 1 to the DVA Community Nursing Schedule of Fees in the modifying instrument.

Changes to the VEA Treatment Principles to unmodified provisions will be automatically incorporated.