

EXPLANATORY STATEMENT

Guide to the Assessment of Rates of Veterans' Pensions (No. 2) 2016 (Instrument 2016 No. R43)

EMPOWERING PROVISIONS

Section 29 of the *Veterans' Entitlements Act 1986* (the Act).

PURPOSE

The attached instrument (2016 No. R43) revokes and re-makes the *Guide to the Assessment of Rates of Veterans' Pensions 2016* (Instrument 2016 No. R1)

The *Guide to the Assessment of Rates of Veterans' Pensions 2016* (GARP V) was recently remade for the purposes of the sunsetting exercise. In the course of that exercise, some formatting (bullet points) was lost from tables in the instrument setting out the impairment criteria. As a matter of precaution, the instrument is being remade with the correct formatting restored.

Accordingly, the purpose of this instrument is to remake GARP V with the impairment tables correctly formatted.

The purpose of GARP V, as outlined in subsection 29(1) of the Act, is to set out the criteria and methodology used to assess the extent of incapacity for veterans who have served in Australia's Defence Force and have suffered a war-caused or defence-caused injury or disease.

GARP V is used to determine a medical impairment rating and a lifestyle rating for a veteran. These ratings are then converted, under the relevant tables in GARP V, to arrive at a "degree of incapacity" for the veteran, expressed as a percentage. The degree of incapacity is in turn used to work out the amount of disability pension to be paid to a veteran under the Act.

The provisions of GARP V are binding on the Repatriation Commission, the Veterans' Review Board and the Administrative Appeals Tribunal.

CONSULTATION

Section 17 of the *Legislation Act 2003* requires a rule-maker to be satisfied, before making a legislative instrument that any consultation the rule-maker considered appropriate or reasonably practicable, has been undertaken.

No new policy is implemented by the attached instrument. It is a corrective exercise to remake the instrument with the relevant impairment tables correctly formatted.

Consultation was not considered necessary or appropriate in these circumstances. Accordingly, it is considered that the requirements of section 17 of the *Legislation Act 2003* have been met.

RETROSPECTIVITY

None.

DOCUMENTS INCORPORATED-BY-REFERENCE

No.

HUMAN RIGHTS STATEMENT

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

The attached legislative instrument does not engage an applicable right or freedom. Although the instrument contains methods for working out a person's impairment for compensation purposes and to that extent relates to a person with disabilities, the nexus is technical and has no bearing on the provision of services for people with disabilities. Accordingly, the Right to Full and Effective Participation in Society, on an equal basis with others, by people with a disability (Right to Full and Effective Participation in Society), contained in the Convention on the Rights of Persons with Disabilities, is not engaged.

Conclusion

The attached legislative instrument does not engage a human right and therefore is compatible with human rights.

Dan Tehan
Minister for Veterans' Affairs
Rule-Maker

FURTHER EXPLANATION OF PROVISIONS

See: [Attachment A](#)

Attachment A**Section 1**

This section sets out the name of the instrument - *Guide to the Assessment of Rates of Veterans' Pensions (No. 2) 2016*.

Section 2

This section provides that the short title for the instrument is GARP V.

Section 3

This section provides that the instrument commences on the day after it is registered on the Federal Register of Legislation.

GARP CONTENTS**Introduction**

The Guide includes an introduction which outlines its purpose, provides the legal background and defines terms used in the Guide.

How to Use this Guide

These pages provide an overview of the operation of the Guide and explain its main concepts including “Whole person impairment”, “Functional loss”, “Lifestyle effects”, “Conditions and their Sequelae”, the “Combining of Impairment Ratings”, “Application of the Tables” etc.

The section outlines the methodology for determining a veteran’s overall “degree of incapacity” by assessing and assigning ratings for “medical impairment” and “lifestyle effects” and then combining those two ratings.

Medical Impairment

Medical Impairment is dealt with in Chapters 1 – 21 of the Guide.

These chapters are split into 3 parts - Parts A, B and C - which deal with System Specific Assessments, Non-system Specific Assessments, and Impairment Ratings, respectively.

Part A (Chapters 1 to 12) covers the assessment of medical impairment of system specific injuries or diseases. Medical impairment is expressed in impairment points out of a maximum rating of 100. It is measured chiefly by loss of vital functions, addressed in the following twelve chapters of the Guide:

- Cardiorespiratory Impairment
- Hypertension and Non-Cardiac Vascular Conditions
- Impairment of Spine and Limbs
- Emotional and Behavioural

- Neurological Impairment
- Gastrointestinal Impairment
- Ear, Nose and Throat Impairment
- Visual Impairment
- Renal and Urinary Tract Function
- Sexual Function, Reproduction and Breasts
- Skin Impairment
- Endocrine and Haemopoietic Impairment

Part B sets out the methodologies for assessing medical impairment for non-system specific injuries or diseases. It is arranged in 5 chapters covering the following types of impairment:

- Negligible Impairment
- Malignant Conditions
- Intermittent Impairment
- Activities of Daily Living
- Disfigurement and Social Impairment

Part C deals with miscellaneous Impairment Ratings matters. These chapters are briefly described as follows:

- Chapter 18 sets out the formula to be applied to arrive at single value for a “combined impairment rating” and gives an example of the formula’s application.
- Chapter 19 outlines the methodology to be applied for assessing an impairment rating where an impairment is not due solely to the effect of accepted conditions.
- Chapter 20 outlines the methodology for the apportionment of impairment ratings where a veteran may be assessed under multiple parts of GARP.
- Chapter 21 sets out the policy to be applied in relation to the assessment of impairment to “paired organs” such as hearing, vision, renal function and adrenal function.

Lifestyle Effects

Lifestyle effects are dealt with separately in Chapter 22 of the Guide. A lifestyle effect is described as a disadvantage resulting from an accepted condition that limits or prevents the fulfilment of a role that is normal for a veteran of the same age without the accepted condition.

Chapter 22 provides three options for the assessment of lifestyle effects by way of self-assessment by the veteran completing: a “Lifestyle Rating Self-Assessment Form”; or a “Lifestyle Questionnaire”; or by the determining authority allocating a lifestyle rating based on the level of medical impairment.

Degree of Incapacity

Chapter 23 outlines the tables and methodology for converting the Combined Impairment Rating and Lifestyle Rating to a single value to establish the degree of incapacity from all accepted conditions. It is expressed by a number which is a percentage.

Chapter 24 sets out minimum incapacity ratings for certain specified disabilities such as loss of two or more limbs (100%), severe facial disfigurement (80%), etc.

Index

The final pages of the Guide contain an Index.