

EXPLANATORY STATEMENT

Veterans' Affairs Pharmaceutical Benefits Schemes (Updating Incorporated Documents) Amendment Instrument 2017 (Instrument 2017 No. R14/MRCC14)

EMPOWERING PROVISIONS

Subsection 91(3) of the *Veterans' Entitlements Act 1986* (VEA) and subsection 286(3) of the *Military Rehabilitation and Compensation Act 2004* (MRCA).

PURPOSE

The attached instrument (2017 No. R14/MRCC14) varies, respectively:

- the *Repatriation Pharmaceutical Benefits Scheme* under the VEA;
- the *MRCA Pharmaceutical Benefits Scheme* under the MRCA

(collectively referred to as “the Schemes”).

The Schemes are legislative instruments that set out the circumstances in which the Repatriation Commission and the Military Rehabilitation and Compensation Commission (the Commissions) may arrange for pharmaceutical benefits to be provided to veterans, members (including former members) of the Defence Force, or their dependants at a concessional rate.

The *Repatriation Pharmaceutical Benefits Scheme* also applies, subject to modifications, to people entitled to treatment under the *Australian Participants in British Nuclear Tests (Treatment) Act 2006* (see s.18 of that Act).

The purpose of the attached instrument is to update references in the Schemes to the “as-in-force” date for documents that are incorporated-by-reference into the Schemes.

The Schemes incorporate-by-reference a number of documents. These documents are set out in Schedule 1 of the Schemes. One particular document, the Repatriation Pharmaceutical Benefits Scheme Schedule (or RPBS Schedule) will be updated from 1 July 2017 to include new listings and price variations for 34 currently listed items.

The RPBS Schedule is part of the Repatriation Pharmaceutical Benefits Scheme that enables eligible clients of the Department of Veterans' Affairs (DVA clients) to access pharmacy items at a concessional rate. The RPBS Schedule includes all items available to the general community under the Pharmaceutical Benefits Scheme (PBS) as well as separate listings that are exclusive to DVA clients at a concessional rate.

Specifically, from 1 July 2017, the RPBS Schedule will be updated to include one new listing (a sterile wound irrigation solution), five additional listings for generic brand items (medications for the treatment of conditions including insomnia, skin cancer, fungal mouth infections, and diarrhoea) and price increases for 34 currently listed items (including dressings, drugs to treat erectile dysfunction and a supplement to treat or prevent thiamine deficiency).

The addition of the 5 generic brand items will ensure eligible DVA clients have the benefit of further generic brand medications at a subsidised cost.

The price increases for the 34 listed items will not affect the amount DVA clients pay for these items. They will continue to pay the specified co-payment for pharmaceuticals (currently \$6.30). This co-payment may be discounted at the pharmacist's discretion in line with arrangements introduced since 1 January 2016.

The attached instrument amends the Schemes to ensure that the updated version of the RPBS Schedule as it exists on the relevant date (1 July 2017) is the version of the document that is incorporated into, and made part of, the Schemes.

Under current legislation, non-legislative material may only be incorporated by reference into the Schemes in the version in which it exists on a specific date, and not as it may exist "from time to time".

As the references in the Schemes to the RPBS Schedule are being updated, the opportunity has been taken to update the references to other incorporated documents (included in List A in the Schedules to the Schemes) so that any later version of these documents in existence on 1 July 2017 is the version that is recognised by the Schemes.

Further details of the attached instrument are set out in [Attachment A](#).

CONSULTATION

Yes. The Department of Health, the Department of Finance and the Repatriation Pharmaceutical Reference Committee (RPRC) were consulted in respect of the new listings and price variations in the RPBS Schedule.

The RPRC is an expert committee operating under the governance of DVA and comprised of members of various medical, pharmacy and ex-servicemen's organisations and clinical specialty members. The RPRC advises the Commissions and the Minister on potential new listings for the RPBS Schedule and associated matters.

The nature of the consultation included meetings and correspondence with the Departments of Health and Finance to identify any potential issues or concerns with the listings and agree the financial implications. The changes to the RPBS Schedule were endorsed by the Commissions on the recommendation of the RPRC.

RETROSPECTIVITY

None.

DOCUMENTS INCORPORATED BY REFERENCE

Yes. The documents in List A of the revised Schedule 1 are incorporated into the Schemes in the form in which they exist on 1 July 2017 and not in the form in which they may later change or exist "from time to time".

The RPBS Schedule and other incorporated documents are available for inspection at: Department of Veterans' Affairs (ACT Office), Level 5, Gnabra Building, Corner Bunda and Genge Streets, Civic, Canberra. Phone: (02) 6289 6243.

The RPBS Schedule (also known as the Repatriation Schedule of Pharmaceutical Benefits) is accessible on the Department of Health website at: <https://www.pbs.gov.au/browse/rpbs>.

HUMAN RIGHTS STATEMENT

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

The legislative instrument engages the Right to Health by:

- making one new item and five new generic brands of medicines available to DVA clients at a concessionary price;
- ensuring certain medicines remain on the RPBS by increasing the subsidy DVA will pay for those medicines. But for that increase, the manufacturers of the medicines might have had their medicines de-listed thereby denying their availability to DVA clients at a concessionary price.

Conclusion

The attached legislative instrument is considered to be compatible with the right to health because it provides new medicines at a concessionary price to the veteran community and ensures certain medicines continue to be available to that section of the community.

Dan Tehan
Minister for Veterans' Affairs

Rule-Maker

FURTHER EXPLANATION OF PROVISIONS

See: [Attachment A](#)

Attachment A**Veterans' Affairs Pharmaceutical Benefits Schemes (Updating Incorporated Documents) Amendment Instrument 2017**

Section 1

This section sets out the name of the instrument - *Veterans' Affairs Pharmaceutical Benefits Schemes (Updating Incorporated Documents) Amendment Instrument 2017*.

Section 2

This section provides that the instrument commences on 1 July 2017.

Section 3

This section sets out the primary legislation that authorises the making of the instrument, namely:

- subsection 91(2) of the *Veterans' Entitlements Act 1986* in respect of the variations to the *Repatriation Pharmaceutical Benefits Scheme* in Schedule 1; and
- subsection 286(2) of the *Military Rehabilitation and Compensation Act 2004* in respect of the variations to the *MRCA Pharmaceutical Benefits Scheme* in Schedule 2.

Section 4

This section provides for the variations to the Schemes outlined in the Schedules to have effect.

Schedule 1 - Variations to the Repatriation Pharmaceutical Benefits Scheme (the RPBS or the Scheme)

Item 1

This item replaces Schedule 1 to the *Repatriation Pharmaceutical Benefits Scheme*. Schedule 1 lists the documents that are incorporated by reference into the Scheme. It comprises List A and List B.

This amendment changes Schedule 1 to revise the “as-in-force” date for the documents included in List A from 1 January 2017 to 1 July 2017. The effect of this amendment is to ensure that the updated version of the RPBS Schedule as it exists on 1 July 2017 is the version that is incorporated into and forms part of the Scheme. The amendment will also ensure that any other documents mentioned in List A that have been updated since 1 January 2017 are incorporated into the Scheme in their more recent version.

Schedule 2 - Variations to the MRCA Pharmaceutical Benefits Scheme (the MRCA PBS or the Scheme)

Item 1

This item replaces Schedule 1 to the *MRCA Pharmaceutical Benefits Scheme*. Schedule 1 lists the documents that are incorporated by reference into the Scheme. It comprises List A and List B.

This amendment changes Schedule 1 to revise the “as-in-force” date for the documents included in List A from 1 January 2017 to 1 July 2017. The effect of this amendment is to ensure that the updated version of the RPBS Schedule as it exists on 1 July 2017 is the version that is incorporated into and forms part of the Scheme. The amendment will also ensure that any other documents mentioned in List A that have been updated since 1 January 2017 are incorporated into the Scheme in their more recent version.