

## EXPLANATORY STATEMENT

### **Military Rehabilitation and Compensation (Coordinated Veterans' Care Mental Health Pilot) Determination 2018** (Instrument 2018 No. MRCC41)

#### **EMPOWERING PROVISION**

Subsection 287A(2) of the *Military Rehabilitation and Compensation Act 2004* (MRCA).

#### **PURPOSE**

The attached instrument (Instrument 2018 No. MRCC41) determines a class of persons who will be eligible (subject to selection by the Military Rehabilitation and Compensation Commission) to participate in the program established by the Commonwealth and known as the Coordinated Veterans' Care Mental Health Pilot (the CVC Mental Health Pilot).

The *Veterans' Affairs Legislation Amendment (Veteran-centric Reforms No.1) Act 2018* inserted new section 287A into the MRCA to establish the legislative framework for the provision of services under the CVC Mental Health Pilot. Section 287A(2) provides for the Military Rehabilitation and Compensation Commission (the Commission), by legislative instrument, to determine a class of persons who will be entitled to services under the CVC Mental Health Pilot.

The attached instrument determines, as the class of persons who will be eligible for participation in the Pilot, former members of the Permanent Forces who are Australian residents living in Australia, who have a mild to moderate form of anxiety disorder or depressive disorder, and a chronic physical condition accompanied by pain. Further, they must have a White Card and, in the opinion of their General Practitioner, be likely to benefit from participation in the Pilot.

The Commission is further empowered (by paragraph 287A(1)(b) of the Act) to determine in writing that section 287A of the Act (Provision of services under the Coordinated Veterans' Care Mental Health Pilot) applies to a person who falls within the class determined by this instrument. This will enable the Commission to select suitable clients for participation in the CVC Mental Health Pilot from the class determined by this instrument.

The CVC Mental Health Pilot will trial the effectiveness of veterans using a digital coach application on a smart phone or smart device to improve their mental health support. The Pilot will build on the existing CVC Program which uses a team-based model of care led by a General Practitioner and supported by a practice nurse. In this Pilot, the General Practitioner will assess and diagnose clients, undertake care planning, and refer clients to the program. The Pilot is designed to support veterans living in selected rural and regional areas who have mild to moderate anxiety or depression and a chronic physical condition accompanied by pain.

The CVC Mental Health Pilot will engage up to 125 participants each year over a 2 year period (250 in total). It will be particularly targeted to provide support for veterans in rural and regional areas of Australia.

## **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.

In the 2017-18 Budget, funding was provided over the forward estimates for two new pilots on suicide prevention and to improve the mental health support available to veterans. The CVC Mental Health Pilot is funded at \$3.6 million over the forward estimates.

The Department of Finance was consulted as part of the Budget approval process.

Consultation about the implementation of this measure has been undertaken within the Department of Veterans' Affairs and with Joint Health Command, Department of Defence.

In addition, a Clinical Reference Group was established for the CVC Mental Health Pilot comprising veteran representatives, general practitioners, psychologists, and nurses. The Group was advised and consulted about the implementation of this Budget measure after its announcement.

Consultation was by way of phone calls and meetings.

The measure implemented by this instrument is entirely beneficial in nature in terms of its impact on members and former members of the Australian Defence Force.

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

## **RETROSPECTIVITY**

None.

## **DOCUMENTS INCORPORATED-BY-REFERENCE**

None.

## **REGULATORY IMPACT**

Nil.

## **HUMAN RIGHTS STATEMENT**

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

The attached legislative instrument engages and promotes the Right to Health.

The Right to Health is 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 attached instrument establishes a class of persons who will be eligible (if selected by the Commission) to participate in a new pilot program (the CVC Mental Health Pilot) to trial the effectiveness of veterans using a digital coach application on a smart phone or device to improve their mental health.

The CVC Mental Health Pilot will target those with anxiety or depression at the mild to moderate status with a chronic physical health condition accompanied by pain. The Pilot will provide coaching based upon cognitive behaviour therapy via a smart device application in combination with a care plan. The Pilot will engage up to 125 participants each year over 2 years (250 in total).

The Pilot is a voluntary early intervention measure designed to promote better health and wellbeing outcomes for veterans through the use of a smart device application. The device includes educational material and coaching to encourage health literacy and assist veterans in developing and reaching personal goals with the aim of improving resilience and developing coping mechanisms.

### *Conclusion*

The attached instrument promotes the Right to Health by improving mental health outcomes by enhanced and targeted service delivery to veterans in rural and regional areas.

Accordingly, the attached instrument is considered to be “human rights compatible”

Military Rehabilitation and Compensation Commission  
Rule-Maker

**FURTHER EXPLANATION OF PROVISIONS** See: [Attachment A](#)

## Attachment A

### **FURTHER EXPLANATION OF PROVISIONS**

#### Section 1

This section provides that the name of the instrument is the *Military Rehabilitation and Compensation (Coordinated Veterans' Care Mental Health Pilot) Determination 2018*.

#### Section 2

Section 2 provides for the instrument to commence immediately after the commencement of Schedule 3 to the *Veterans' Affairs Legislation Amendment (Veteran-centric Reforms No. 1) Act 2018*.

The note to the section 2 informs readers that Schedule 3 to the *Veterans' Affairs Legislation Amendment (Veteran-centric Reforms No. 1) Act 2018* is to commence on the 28th day after the Act receives the Royal Assent.

#### Section 3

This section sets out the primary legislation that authorises the making of the instrument, namely subsection 287A(2) of the *Military Rehabilitation and Compensation Act 2004* (MRCA).

At the time of making the instrument, that provision had not commenced. Schedule 3 of the *Veterans' Affairs Legislation Amendment (Veteran-centric Reforms No.1) Act 2018* (the Act) inserted new section 287A into the MRCA. Schedule 3 commences 28 days after the Act receives Royal Assent.

Accordingly, the instrument is made in reliance on section 4 of the *Acts Interpretation Act 1901* which provides for the exercise of the instrument-making power as if the relevant empowering provision had occurred.

#### Section 4

This section is the purpose provision. It provides that the purpose of the instrument is to determine a class of persons who will be entitled (subject to further selection by the Commission) for services under the program established by the Commonwealth and known as the Coordinated Veterans' Care Mental Health Pilot.

The first note to the section explains that the Commission is empowered, under paragraph 287A(1)(b) of the Act to determine in writing that section 287A of the Act applies to a person who falls within the class determined by this instrument. The effect of this provision is to enable the Commission, by determination in writing, to select persons from the class determined by this instrument to be provided with services under the Coordinated Veterans' Care Mental Health Pilot.

The second note explains that details of the Coordinated Veterans' Care Mental Health Pilot can be found at a publicly accessible website and provides the link to that website.

### Section 5

This is the interpretation section. It defines key terms used in the instrument.

The note to the section informs readers that certain terms used in the instrument are defined in the Act, and will have the meaning given to those terms in the Act. Specifically, the note explains that “former member” and “service injury or disease” are defined in subsection 5(1) of the Act and will have that meaning for the purposes of this instrument.

### Section 6

Subsection 287A(2) of the MRCA empowers the Military Rehabilitation and Compensation Commission (the Commission) to determine a class of persons for the purposes of paragraph 287A(1)(a) – entitlement (subject to selection by the Commission) to services under the program established by the Commonwealth and known as the Coordinated Veterans’ Care Mental Health Pilot.

Section 6 of the instrument determines the following class of persons for that purpose:

A person who:

- is a *former member* or has separated from the *Permanent Forces* (for whatever reason) and is a member of the *Reserves*;
- is an Australian resident living in Australia;
- has a mild to moderate form of *anxiety disorder* or a mild to moderate form of *depressive disorder*, and a chronic physical condition accompanied by pain;
- is, in the opinion of the person’s general practitioner, likely to benefit from participation in the Coordinated Veterans’ Care Mental Health Pilot; and
- has been issued with a *White Card*.

The class is designed to cover former members and those who are separated from the Permanent Forces but who may still be a member of the Reserves. It does not cover current serving permanent members of the Forces.

The terms “anxiety disorder” and “depressive disorder” are defined in section 5 of the instrument and take their meaning from the relevant and most recent “Statement of Principles” in force dealing with those disorders.

The term “White Card” is defined in section 5 to mean the Health Card known as the Repatriation Health Card – For Specific Conditions issued by the Department. The definition covers the full range of White Cards issued by the Department including those issued to indicate eligibility for funding for a mental health condition on a non-liability health care basis.