



Australian Government

Treatment Benefits (Special Access) (Claims, Applications and Lodgements Procedures) Determination 2019

Instrument 2019 No. S25

I, Elizabeth Cosson, Secretary of the Department of Veterans' Affairs, make the following instrument under subsection 8(2) of the *Treatment Benefits (Special Access) Act 2019*.

Dated this 5th of June 2019

Elizabeth Cosson

ELIZABETH COSSON
Secretary of the Department of Veterans' Affairs

1 Name

This instrument is the *Treatment Benefits (Special Access) (Claims, Applications and Lodgements Procedures) Determination 2019*.

2 Commencement

This instrument commences on the day on which it is made.

3 Authority

This instrument is made under subsection 8(2) of the *Treatment Benefits (Special Access) Act 2019*.

4 Definitions

In this instrument:

Act means the *Treatment Benefits (Special Access) Act 2019*.

Department means the Australian Government Department of Veterans' Affairs.

5 Procedures for making claims or applications or giving other documents

- (1) A claim, application or other document under the Act:
 - (a) is to be in writing; and
 - (b) is to be made or given, as the case requires, by lodging it at an office of the Department in Australia.
- (2) Section 5T of the *Veterans' Entitlements Act 1986* is taken to apply to the lodgement of a claim, application or other document under the *Treatment Benefits (Special Access) Act 2019* as if it were a claim, application or other document that could be made or given under the *Veterans' Entitlements Act 1986*.

Note 1: Section 5T of the *Veterans' Entitlements Act* regulates the lodgement of claims, applications and other documents under that Act, and provides for physical and electronic lodgements.

Note 2: The *Veterans' Entitlements (Electronic Lodgement Approval) Instrument 2018* made under section 5T of the *Veterans' Entitlements Act 1986* applies to electronic lodgements. The *Veterans' Entitlements (Electronic Lodgement Approval) Instrument 2018* is available at: <http://clik.dva.gov.au/legislation-library>. It is not a legislative instrument within the meaning of the *Legislation Act 2003*.

6 Additional procedures – sections 9, 10, 24, 25, 33 and 37 of the Act

- (1) A claim under section 9 of the Act is to be in the form approved by the Secretary of the Department.
- (2) A notice to withdraw a claim under section 10 of the Act is to contain the name and address of the person withdrawing the claim including, if appropriate, the name and address of the person on whose behalf the claim is being withdrawn.
- (3) A claim under section 24 of the Act is to be in the form approved by the Secretary of the Department.
- (4) A notice to withdraw a claim under section 25 of the Act is to contain:
 - (a) the name and address of the person withdrawing the claim including, if appropriate, the name and address of the person on whose behalf the claim is being withdrawn; and
 - (b) details of the claim.
- (5) A request for a review under section 33 of the Act of a decision made by the Commission is to contain:
 - (a) the name and address of the person requesting the review including, if appropriate, the name and address of the person on whose behalf the request is made; and
 - (b) details of the decision to be reviewed; and
 - (c) the grounds for the review.
- (6) A notice to withdraw a request for review of a decision under section 37 of the Act is to contain:
 - (a) the name and address of the person withdrawing the request for review including, if appropriate, the name and address of the person on whose behalf the request is being withdrawn;
 - (b) details of the decision originally sought to be reviewed.

7 Other procedures

- (1) A claim, application, request or notice under the Act (in this section referred to as a claim) may be made or given:
 - (a) by the person eligible to be granted the benefit under the Act to which the claim relates; or
 - (b) with the approval of that person or of the Commission, by another person on behalf of that person.

- (2) If a person eligible to be granted a benefit under the Act is unable, by reason of physical or mental ailment, to approve a person to make a claim for that benefit on his or her behalf, the Commission may approve a person to make the claim on his or her behalf.
- (3) If a claim for a benefit under the Act is made by a person on behalf of another person, the other person on whose behalf the claim is made, and not the person making the claim on behalf of that other person, is to be treated as the claimant.
- (4) If:
 - (a) a person makes a claim for a benefit under the Act, but otherwise than in accordance with the appropriate form required by this determination; and
 - (b) the person subsequently makes a claim for the benefit in accordance with the appropriate form:
 - (i) at a time when the person had not been notified by the Department, in writing, that it would be necessary to make the claim in the appropriate form; or
 - (ii) within 3 months after the person had been so notified;

the Commission may treat the claim referred to in paragraph (b) as having been received on the date on which the claim referred to in paragraph (a) was received at an office of the Department in Australia or at the electronic address to which the claim was transmitted electronically, as the case requires.