

EXPLANATORY STATEMENT

Treatment Benefits (Special Access) (Modifications of the Treatment Principles) Instrument 2019

(Instrument 2019 No. R17)

EMPOWERING PROVISION

Subsection 18(2) of the *Treatment Benefits (Special Access) Act 2019*.

PURPOSE

The attached instrument (Instrument 2019 No. R17) modifies the Treatment Principles (VEA Treatment Principles) for the purposes of the *Treatment Benefits (Special Access) Act 2019* (Treatment Benefits Act). The VEA Treatment Principles, in force under section 90 of the *Veterans' Entitlements Act 1986* (VEA), set out the circumstances in which the Repatriation Commission (Commission) may accept financial liability for treatment provided to veterans or their dependents by health care providers. These circumstances apply to the types of treatment covered by the Treatment Principles including medical, dental and allied health treatment. The VEA Treatment Principles are a disallowable instrument for the purposes of the *Legislative Instruments Act 2003*.

The Treatment Benefits Act gives effect to a Government decision to provide medical treatment through a Department of Veterans' Affairs (DVA) Health Card for All Conditions (Gold Card) to those persons who served in the Australian Civilian Surgical Medical Teams (CSMTs) that gave medical aid, training and treatment to local Vietnamese people during the Vietnam War. Eligible CSMT members will have access to treatment for any injury or disease, including those unrelated to their CSMT work performed in South Vietnam.

Under section 18 of the Treatment Benefits Act, the VEA Treatment Principles are binding on the Repatriation Commission (Commission) in the exercise of its powers and discretions under that Act. Subsection 18(2) of the Treatment Benefits Act enables the Commission to prepare written modifications of the VEA Treatment Principles, which will then apply for the purposes of that Act. A modification is an alteration to the text of a law that is not permanent or only applies to particular locations or cases. Modifications have effect as if they were amendments, but do not actually amend the principal legislation. Modification of the VEA Treatment Principles is necessary for the application of such Principles to the Treatment Benefits Act as treatment under that Act is restricted to treatment for a different class of persons than those eligible under the VEA. Subsection 18(8) of the Treatment Benefits Act provides that a modification has no effect unless the Minister has, in writing, approved the instrument making the modification.

The VEA Treatment Principles, as modified by the attached instrument, sets out the circumstances in which the Commission may accept financial responsibility for treatment provided to eligible persons under the Treatment Benefits Act. Members of CSMTs who are Australian residents are eligible persons under section 7 of the Treatment Benefits Act.

The provision of treatment for eligible CSMT members under the Treatment Benefits Act has been modelled on the provision of treatment available to persons eligible under the

Australian Participants in British Nuclear Tests and British Commonwealth Occupation Force (Treatment) Act 2006 (British Nuclear Test Act). The VEA Treatment Principles were modified by the *Australian Participants in British Nuclear Tests and British Commonwealth Occupation Force (Treatment) (Modifications of the Treatment Principles) Instrument 2013* (British Nuclear Test instrument) to apply to persons eligible for treatment under the British Nuclear Test Act.

The modifications of the VEA Treatment Principles, made by the attached instrument, are modelled on the modified VEA Treatment Principles made by the British Nuclear Test instrument. This will ensure consistency in treatment provided to Gold Card holders under the Treatment Benefits Act and the British Nuclear Test Act.

The modifications of the VEA Treatment Principles are a legislative instrument. They will be effective upon registration on the Federal Register of Legislation and subject to the usual disallowance period of 15 sitting days for each House of Parliament.

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 and reasonably practicable, has been undertaken.

The modified Treatment Principles will give effect to a Government decision to provide those persons who served in the Australian Civilian Medical Teams (CSMTs) that gave medical aid, training and treatment to local Vietnamese people during the Vietnam War with treatment for all conditions.

Consultation was undertaken within the Department of Veterans' Affairs with the Veterans' Services Design Division.

Consultation was by way of phone calls, email correspondence and meetings.

External stakeholders will be notified of the changes in accordance with a communication plan to be implemented prior to the commencement date.

The measure is beneficial in nature in terms of the impact on the eligible persons.

In these circumstances, the requirements of section 17 of the *Legislation Act 2003* have been fulfilled.

RETROSPECTIVITY

None.

DOCUMENTS INCORPORATED BY REFERENCE

None.

REGULATORY IMPACT

None.

HUMAN RIGHTS STATEMENT

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

Human rights implications

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 (ICESCR). Article 12 of the ICESCR refers to the “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health”.

Overview

The Treatment Principles (as modified by the attached instrument) sets out the circumstances in which the Repatriation Commission will provide free treatment for all conditions to eligible persons under the Treatment Benefits Act. The attached legislative instrument enables those persons who are eligible to be provided with such treatment via a DVA Gold Card to receive that treatment.

Conclusion

The attached instrument engages with and promotes the right to health. Accordingly, the attached instrument is “human rights compatible”.

Darren Chester
Minister for Veterans and Defence Personnel
Rule Maker

FURTHER EXPLANATION OF PROVISIONS

See: [Attachment A](#)

FURTHER EXPLANATION OF PROVISIONS

The attached instrument modifies the application of the VEA Treatment Principles to eligible persons under the Treatment Benefits Act. In preparing the modifications, the “language of making amendments” has been used because modifications have effect as if they were amendments. Accordingly, in the attached instrument:

- a reference to a provision in the VEA Treatment Principles being substituted, means the provision no longer applies to an eligible person under the Treatment Benefits Act but the substituted provision does;
- a reference to a provision in the VEA Treatment Principles being amended means the provision applies to an eligible person under the Treatment Benefits Act as specified by the amendment;
- a reference to a provision in the VEA Treatment Principles being omitted means the provision no longer applies to an eligible person under the Treatment Benefits Act.

The attached instrument does not amend the VEA Treatment Principles and is intended to be read alongside the VEA Treatment Principles. The same drafting approach was used for the modifications made to the VEA Treatment Principles by the British Nuclear Test instrument to apply the VEA Treatment Principles to persons eligible for treatment under the British Nuclear Test Act.

Section 1

This section provides the name of the instrument is the *Treatment Benefits (Special Access) (Modifications of the Treatment Principles) Instrument 2019*.

Section 2

This section provides the instrument commences on 1 July 2019.

Section 3

This section provides the authority for making the instrument is section 18 of the *Treatment Benefits (Special Access) Act 2019*.

Section 4

This section provides the modifications to the Treatment Principles made by the Schedule will take effect according to the terms of the items in the Schedule.

Schedule—Modifications of the Treatment Principles

The *Treatment Principles* as made under section 90 of the *Veterans’ Entitlements Act 1986* (VEA Treatment Principles) are modified as set out by the provisions in the Schedule to this instrument for the purposes of the *Treatment Benefits (Special Access) Act 2019* (Treatment Benefits Act).

Item 1 substitutes the title of the ‘Treatment Principles’ to *Treatment Benefits (Special Access) (Modifications of the Treatment Principles) Instrument 2019*. Subsection 18(2) of the Treatment Benefits Act empowers the Commission to modify the Treatment Principles in their application and purpose. The modified Treatment Principles are binding on the Commission in the exercise of their powers and discretions under the Treatment Benefits Act (subsection 18(1)).

Item 2 substitutes paragraphs 1.1.1 and 1.1.2. New paragraph 1.1.1 refers to the provision of treatment to “entitled persons” under the modified Treatment Principles, which may be provided “subject to the Treatment Benefits Act.”

New paragraph 1.1.2 makes it clear that the modified Treatment Principles state the rules under which the Commission may arrange or accept financial responsibility for the cost of treatment of entitled persons.

Item 3 omits the words, “The Repatriation Private Patient Principles (the RPPPs), determined by the Commission under section 90A of the Act,” in paragraph 1.2.1 and substitutes it with “The RPPPs.” This simplifies the paragraph as there is already a definition of “RPPPs” under paragraph 1.4.1 (the interpretation provisions, albeit modified by Item 18 of this Schedule.)

Item 4 omits the words, “under the *Act*” and substitutes the words, “under the *Treatment Benefits Act*” in paragraph 1.3.1. The Treatment Principles defines “Act” as the *Veterans’ Entitlements Act 1986* as this is the empowering Act, whereas, the modified Treatment Principles empowering Act is the Treatment Benefits Act.

The revised paragraph 1.3.1 of the modified instrument enables the Commission to delegate its powers under the Principles in the same manner and conditions under the Treatment Benefits Act.

Item 5 omits the words “section 213 of the *Veterans’ Entitlements Act 1986*” and substitutes the words “section 42 of the Treatment Benefits Act” in the Note after paragraph 1.3.1. This is consequential to the amendment made at Item 4 and signposts that under section 42 of the Treatment Benefits Act the Commission may delegate its powers.

Item 6 omits the definitions - “ACPMH treatment”, “approved provider” (second occurring), “Australian Centre for Posttraumatic Mental Health”, “ACPMH”, “Authorised Representative”, “community patient”, “community services” and “consumable rehabilitation appliance” from paragraph 1.4.1.

The definitions of “ACPMH treatment”, “Australian Centre for Posttraumatic Mental Health” and “ACPMH” are not required because they all appear in Principle 2.7B which relates to the Australian Centre for Posttraumatic Mental Health Treatment, which is omitted by Item 28.

Principle 2.7B is omitted, as it is not applicable to entitled persons under the Treatment Benefits Act.

Also omitted is the second occurring definition of “approved provider.” This definition, in relation to *short-term restorative care*, has the meaning it has in the *Aged Care Act 1997*. This definition is not required because it appears only in Part F of Part 10 (short-term restorative care co-payment) of the VEA Treatment Principles, which will not apply, to entitled persons under the Treatment Benefits Act (see Item 63).

For the purposes of the modified Treatment Principles, the definition of “Authorised Representative” is omitted. This definition is not required because it is used in Part 6B of the VEA Treatment Principles for the Telemonitoring Treatment Initiative (omitted by Item 47) which does not apply to eligible persons under the Treatment Benefits Act.

The modified Treatment Principles also omit the definitions of “community patient” and “community services” from paragraph 1.4.1. These terms are omitted as they are not currently used in either the modified Treatment Principles or the VEA Treatment Principles.

The definition of the term “consumable rehabilitation appliance” is also omitted as the term is not used in the Treatment Principles and is therefore not required for the modified Treatment Principles.

Item 7 omits the words “eligible persons” and substitutes the words “entitled persons” in the definition of “contracted private hospital” in paragraph 1.4.1.

The change in terminology is necessary because an “entitled person” is eligible for treatment under the modified Treatment Principles in accordance with section 7 of the Treatment Benefits Act.

Item 8 omits the words “(including a former *prisoner of war* or a person awarded the Victoria Cross)” from paragraph (b) of the definition of “daily care fee”. The reference to a “prisoner of war” for the purpose of the definition is only relevant for Principle 10.2 which is omitted by Item 58.

Item 9 omits the definitions of “data repository”, “data repository controller”, “Department of Prime Minister and Cabinet”, “DVA Telemonitoring Practice Incentive”, “determined condition”, “determined residential care condition”, “eligible person” and “enrolment day” in paragraph 1.4.1.

The definitions of “data repository”, “data repository controller”, “DVA Telemonitoring Practice Incentive” and “enrolment day” are not required because they appear in Part 6B (Telemonitoring Treatment Initiative) and is omitted by Item 47 as it does not apply to persons eligible for treatment under the Treatment Benefits Act.

The reference to the “Department of Prime Minister and Cabinet” is not required for the purposes of the modified Treatment Principles.

The definitions of “determined condition” and “determined residential care condition” are not required for the purposes of the modified Treatment Principles as they relate to treatable conditions for which persons are eligible for treatment because of a determination made under section 88A or 88B of the VEA.

The definition of “eligible person” is omitted as it is not required for the purposes of the modified Treatment Principles.

Item 10 substitutes the definition of “entitled person” in paragraph 1.4.1. The new definition means that an entitled person is a person who is eligible for treatment under section 7 of the Treatment Benefits Act.

The amendment removes references to persons who are entitled to treatment under sections 86 and 88A of the VEA or who have a SCRA disability as these persons are not entitled to treatment under the Treatment Benefits Act.

Item 11 omits the definitions of “entitled veteran”, “entitled widow” and “entitled widower” in paragraph 1.4.1. The definitions are not required for the purposes of the modified Treatment Principles as they relate to persons who are not eligible for treatment under the Treatment Benefits Act.

Item 12 substitutes the definition of “Gold Card” to mean “an identification card, or written authorisation, provided to an “entitled person” in relation to treatment for all injuries or diseases” in paragraph 1.4.1.

Item 13 omits the definitions of “home care”, “in-home telemonitoring equipment”; “In-Home Telemonitoring for Veterans Initiative”; “internet carriage service”; “ISP Provider”; “Level A attendance”; “limited VHC – type service”; “National Broadband Network”; “NBN”; “NBN wave site”; “nominated residence”; “outpatient service”, “participating LMO” and “prisoner of war” in paragraph 1.4.1.

The term “home care” is referenced only in Part D of Part 10 of the VEA Treatment Principles which is omitted by Item 63 of the modified Treatment Principles.

The definitions of “in-home telemonitoring equipment”; “In-Home Telemonitoring for Veterans Initiative”; “internet carriage service”; “ISP Provider”; “Level A attendance”; “National Broadband Network”; “NBN”; “NBN wave site”; “nominated residence”; and “participating LMO” are in paragraph 1.4.1. These definitions are not required because they appear in Part 6B (Telemonitoring Treatment Initiative) of the VEA Treatment Principles which is omitted by Item 47 and are not applicable to eligible persons under the Treatment Benefits Act.

The term “limited VHC – type service” is used only for the purposes of paragraphs 7.3A.19 to 7.3A.22. Those services are provided only to dependents under the express provisions in Part V of the VEA or by Determination 7/2001 made under paragraph 88A(1)(b) of that Act. Treatment under the modified Treatment Principles is provided only to entitled persons who hold a Gold Card.

The definition of “outpatient service” is not required as it is redundant and is not required for the purposes of either the Treatment Principles or the modified Treatment Principles

The definition of “prisoner of war” is not required for the purposes of the modified Treatment Principles as it refers to an “eligible civilian” (within the meaning of the VEA) who was detained by the enemy during World War 2 and is eligible for a Gold Card under subsection 85(4) of the VEA.

Item 14 substitutes the definition of “Principles” to mean the Treatment Principles made under section 90 of the *Veterans’ Entitlement Act 1986* as modified by the *Treatment Benefits (Special Access) (Modifications of the Treatment Principles) Instrument 2019* (Instrument 2019 No. R17).

Item 15 substitutes the definition, in paragraph 1.4.1, of “Repatriation Pharmaceuticals Benefits Scheme” to mean the *Repatriation Pharmaceuticals Benefits Scheme* as modified by the *Treatment Benefits (Special Access) (Modifications of the Treatment Principles) Instrument 2019*. The *Repatriation Pharmaceuticals Benefits Scheme* is made under section 91 of the *Veterans’ Entitlements Act 1986*.

Item 16 omits the Note to the definition of “Respite Care” in paragraph 1.4.1. The Note refers to the effect of “Determination 4/2001” which was made under section 88A of the *Veterans’ Entitlements Act 1986*. That determination has been revoked.

Item 17 omits the definitions of “revoked Treatment Principles” and “Rural Enhancement Scheme” in paragraph 1.4.1. The term “revoked Treatment Principles” refers to the legislative instrument known as the *Treatment Principles* (2004 No. R8) made under section 90 of the *Veterans’ Entitlements Act 1986* and referenced in the Transitional Provisions of the VEA Treatment Principles. The Transitional Provisions of the modified Treatment Principles do not refer to the “revoked Treatment Principles”.

The term “Rural Enhancement Scheme” is redundant and is not required for the purposes of either the Treatment Principles or the modified Treatment Principles.

Item 18 substitutes the definition, in paragraph 1.4.1, of “RPPPs” to mean the Repatriation Private Patient Principles as modified by the *Treatment Benefits (Special Access) (Modification of Repatriation Private Patient Principles) Instrument 2019*.

The definition under the Treatment Principles refers to the “Repatriation Private Patient Principles determined by the Commission under section 90A of the *Veterans’ Entitlements Act 1986*.” However, the RPPS definition is changed to ensure it is applicable to persons who are covered by the modified Treatment Principles.

Item 19 omits the definitions of “short-term restorative care”; “telemonitoring care plan”; “telemonitoring equipment”; “telemonitoring initiative data”; “telemonitoring initiative participant”; “telemonitoring treatment”; “TRCP treatment” and “TRCP provider” in paragraph 1.4.1.

The term “short-term restorative care” is referenced only in Part F of Part 10 of the VEA Treatment Principles, which is omitted by Item 63.

The terms “telemonitoring care plan”; “telemonitoring equipment”; “telemonitoring initiative data”; “telemonitoring initiative participant”; “telemonitoring treatment”; “TRCP treatment” and “TRCP provider” are not required because they relate to Part 6B (Telemonitoring Treatment Initiative) of the VEA Treatment Principles. This Part does not apply to eligible persons under the Treatment Benefits Act and is omitted by Item 47.

Item 20 inserts the definition of the “Treatment Benefits Act” as meaning the *Treatment Benefits (Special Access) Act 2019*.

Item 21 inserts a new definition of “Treatment Principles” into paragraph 1.4.1 to mean the Treatment Principles made under section 90 of the *Veterans’ Entitlements Act 1986* as modified by a legislative instrument, the *Treatment Benefits (Special Access) (Modifications of the Treatment Principles) Instrument 2019*, made under the Treatment Benefits Act.

Item 22 omits and substitutes the definition of “veteran” in paragraph 1.4.1. This will ensure that persons eligible for treatment under section 7 of the Treatment Benefits Act will receive treatment available to “veterans” under the modified Treatment Principles.

Item 23 of the modified Treatment Principles omits the words, “made under section 90 of the *Act*” from paragraph (a) of the definition of “Veterans’ Home Care Program” in paragraph 1.4.1. This removes the redundant reference to the provision of the *Veterans’ Entitlements Act 1986* under which the Treatment Principles are made.

Item 24 omits the definitions of “Victoria Cross” and “Vietnam veteran” in paragraph 1.4.1. These terms are not required for the purposes of the modified Treatment Principles as they are used in those Parts of the Treatment Principles, which have been omitted from the modified Treatment Principles.

Item 25 amends the definition of “VVCS criterion” in paragraph 1.4.1. It is necessary to amend the VVCS criterion definition because under the Treatment Principles, the “VVCS criterion” definition refers to “a person who is eligible for treatment under the *Act*” which is a reference to the *Veterans’ Entitlements Act 1986*. The amended definition refers to an “entitled person” as defined in paragraph 1.4.1.

Item 26 omits the definitions of “war-caused” and “White Card” in paragraph 1.4.1.

The term “war caused” is used frequently in the VEA Treatment Principles to distinguish between treatment, which may or may not be provided to persons with a “war-caused” injury or disease and is not relevant for the purposes of the modified Treatment Principles.

The term “White Card” refers to the treatment card referred to in the VEA Treatment Principles. Treatment under the modified Treatment Principles is provided to entitled persons as the holder of a Gold Card.

Item 27 substitutes paragraph 2.1.1 for the purposes of the modified Treatment Principles.

New paragraph 2.1.1 provides that the Repatriation Commission, subject to the modified Treatment Principles, may provide treatment in Australia for entitled persons who have been issued with a Gold Card or with a written authorisation issued on behalf of the Repatriation Commission.

Item 28 omits Principles 2.2, 2.3, 2.4, 2.5, 2.5A, 2.7A and 2.7B. The Principles are not applicable for the purposes of the modified Treatment Principles.

Item 29 substitutes paragraph 2.8.1 of the Treatment Principles. New paragraph 2.8.1 provides that the Repatriation Commission will not provide, arrange or accept financial responsibility for treatment for a person if the person is no longer eligible under section 12 of the Treatment Benefits Act.

Subsection 12(1) of the Treatment Benefits Act provides that the Commission may revoke the determination that a person is an eligible person where they are satisfied that information that was false in a material particular was before it when they made the determination.

Subsection 12(2) of the Treatment Benefits Act provides that the Commission must provide written notice to a person that their eligibility for treatment is revoked.

Item 30 omits the Note to subparagraph 3.2.1(e). Paragraph 3.2.1 refers to the circumstances where the prior approval of the Commission is required for treatment. The Note refers to prior approval for the treatment provided to the holder of a White Card. Treatment under the modified Treatment Principles is provided only to entitled persons who hold a Gold Card.

Item 31 omits the reference to the “Act” and substitutes a reference to the “*Treatment Benefits Act*” in subparagraph 3.2.2(a).

The amendment to subparagraph 3.2.2(a) of the modified Treatment Principles to replace the reference to the “*Act*” with a reference to the “Treatment Benefits Act” is necessary because the VEA Treatment Principles defines “Act” as the *Veterans’ Entitlements Act 1986*.

Paragraph 3.2.2 of the modified Treatment Principles sets out the considerations under which prior approval will be provided for the treatment types set out in paragraph 3.2.1 of the modified Treatment Principles.

Item 32 omits the word “Act” and substitutes the words “*Treatment Benefits Act*” in subparagraph 3.4.1(a).

Paragraph 3.4.1 of the Treatment Principles provides that upon application, the Repatriation Commission may approve, and pay the cost of, any treatment that was provided to an entitled person which was undertaken in the period between the effective date of eligibility under “the Act” (paragraph 3.4.1(a)) and the date on which the person is notified of entitlement.

The amendment to paragraph 3.4.1(a) of the modified Treatment Principles replaces the reference to “the Act” with a reference to “the Treatment Benefits Act”.

Item 33 omits the words “and, subject to Principle 2.2, for emergency treatment overseas for a war-caused injury or disease” from paragraph 3.4.3. The reference is not relevant for the purposes of the modified Treatment Principles.

Item 34 substitutes the Note to paragraph 3.4.3. The revised Note is consequential to the amendment made by Item 33 and does not include a reference to the overseas provision of “residential care” or “residential care (respite)”.

Item 35 omits the references in paragraphs 3.4.4(b), 3.4.5(b) and 3.5.2(a) of an “eligible person” and substitutes them with an “entitled person”. These amendments ensure that an entitled person under the *Treatment Benefits Act* may be subject to the Commission’s authority to allow retrospective approvals for treatment and the limits of the Commission’s liability.

Paragraph 3.4.4 of the modified Treatment Principles refers to the Repatriation Commission’s financial liability for retrospective approvals under paragraphs 3.4.1 (treatment provided prior to notification) and 3.4.3 (emergency treatment) and limits that liability to the difference between the reasonable cost of treatment and the amount that an “eligible person” has claimed or is entitled to claim from the Department of Human Services as a medicare benefit, a health insurance fund or another third party.

Paragraph 3.4.5 of the modified Treatment Principles refers to the Repatriation Commission’s financial liability for retrospective approval under paragraph 3.4.2. Paragraph 3.4.2 provides that the Repatriation Commission may provide approval for treatment that has already been given or has commenced to be given in circumstances where:

- it would have accepted financial responsibility if prior approval had been sought before the service was provided; and
- there are exceptional circumstances justifying the failure to seek prior approval;

or where a request for prior approval was incorrectly processed or failed to be processed due to an administrative error or processing error.

Paragraph 3.4.5 of the Treatment Principles provides that the financial liability of the Repatriation Commission under paragraph 3.4.2 is limited to the difference between the cost of treatment for which it is financially responsible under paragraph 3.5.1 (the general financial liability of the Repatriation Commission for the provision of treatment to an entitled person by various health care providers) and the amount that an “eligible person” has claimed or is entitled to claim from the Department of Human Services as a medicare benefit, a health insurance fund or another third party.

Paragraph 3.5.2 provides that the Repatriation Commission will only accept financial responsibility for treatment:

- that is reasonably necessary for the adequate treatment of the “eligible person”;
- that is given by an appropriate category of health care provider; and
- if a claim for payment in respect of treatment:
 - is in the form, if any, approved by the Repatriation Commission for this purpose; and
 - contains, or is accompanied by, any information required by any direction in any approved form; and
 - is lodged at an appropriate place or with an appropriate person within the period of 2 years (or such longer period as is allowed in accordance with paragraph 3.5.2A) from the date of rendering the service to which the claim relates.

Item 36 substitutes paragraph 4.3.1. Paragraph 4.3.1 refers to the acceptance of financial responsibility for treatment and included at subparagraph 4.3.1.(b) a reference to the treatment provided to the holder of a White Card.

The new paragraph 4.3.1 provides that subject to paragraph 3.5.1 and unless otherwise indicated in the Treatment Principles, the Repatriation Commission will accept the financial responsibility for treatment costs where a medical practitioner or a specialist provides or arranges for treatment to be provided to:

- an entitled person who has been issued with a Gold Card; or
- a person who has been issued with a written authorisation on behalf of the Repatriation Commission.

Item 37 substitutes Note 1 to paragraph 4.8.1 of the Treatment Principles. Subparagraph 4.8.1(k) states that the Repatriation Commission will not accept financial responsibility for the cost of vaccinations for persons who propose to travel outside Australia unless the person holds a Gold Card, is in Australia at the time the vaccination is provided and the vaccination is provided under the Repatriation Pharmaceutical Benefits Scheme.

New Note 1 clarifies that a vaccination is not treatment of an injury or disease, but rather is preventive treatment and not normally provided to an entitled person.

Item 38 omits paragraph 5.2.5. Paragraph 5.2.5 refers to the exceptions to the annual monetary limit for dental treatment that are allowed for certain persons. Those exceptions do not apply to a person entitled to hold a Gold Card under the modified Treatment Principles.

Item 39 omits the words “, White Card” from paragraph 5.3.1. Paragraph 5.3.1 refers to the provision of dental services. Treatment under the modified Treatment Principles is provided only to entitled persons who hold a Gold Card.

Item 40 substitutes paragraph 5.3.2. New paragraph 5.3.2 provides that a person who holds a Gold Card will be provided with:

- (a) the dental services listed in Schedules A, B and C of the document “Fee Schedule of Dental Services for dentists and Dental Specialists” referred to in Schedule 1 of the Treatment Principles on the condition that the services are provided in accordance with those Schedules; and
- (b) the dental services listed in the document “Fee Schedule of Dental Services for Dental Prosthetists” referred to in Schedule 1 of the Treatment Principles on the condition that the services are provided in accordance with that Schedule.

Item 41 omits paragraphs 5.3.3, 5.34 and 5.42.

Paragraph 5.3.3 refers to the entitlement to dental treatment of a person who was a former “prisoner of war”. Treatment under the modified Treatment Principles is provided only to entitled persons who hold a Gold Card.

Paragraph 5.3.4 refers to the entitlement to dental treatment of a person with a “White Card”. Treatment under the modified Treatment Principles is provided only to entitled persons who hold a Gold Card.

Paragraph 5.4.2 refers to the provision of emergency dental treatment of a person with a “White Card”. Treatment under the modified Treatment Principles is provided only to entitled persons who hold a Gold Card.

Item 42 omits principle 5.5 of the Treatment Principles. Principle 5.5 refers to the provision of orthodontic treatment to the children of deceased veterans. The provision is not applicable for the purposes of the modified Treatment Principles.

Item 43 substitutes paragraphs 5.7.3 and 5.7.4 of the Treatment Principles which both refer to the holder of a “White Card”. Both paragraphs 5.7.3 and 5.7.4 refer to the acceptance of financial responsibility for the provision of pharmaceutical benefits that are and are not respectively available under the Pharmaceutical Benefits Scheme that are required for dental treatment.

The revised paragraphs 5.7.3 and 5.7.4 refer only to the acceptance of financial responsibility for the provision of pharmaceutical benefits for dental treatment for entitled persons who hold a Gold Card.

Item 44 amends paragraph 6.1.1 of the Treatment Principles by removing the reference to “(Part 1 of the Scheme prepared under section 91 of the Act)”. The reference is not applicable for the purposes of the modified Treatment Principles.

Item 45 omits subparagraph 6.2.1(a) of the Treatment Principles which refers to persons who hold a “White Card”. Paragraph 6.2.1 refers to the provision of benefits under the Repatriation Pharmaceutical Benefits Scheme. Treatment under the modified Treatment Principles is provided only to entitled persons who hold a Gold Card.

Item 46 substitutes subparagraph 6A.5.1(2). The new subparagraph refers to “the person is an entitled person; and”. An entitled person is a person who is eligible for treatment under section 7 of the Treatment Benefits Act. Paragraph 6A.5.1 refers to the provision of benefits under the Repatriation Pharmaceutical Benefits Scheme.

Item 47 omits Part 6B. Part 6B provides for the implementation of the Telemonitoring Treatment Initiative, which is not applicable for the purposes of the modified Treatment Principles.

Item 48 omits the heading “Transitional” before paragraph 7.3A.14.

Item 49 omits paragraphs 7.3A.14 to 7.3A.22.

Paragraphs 7.3A.14 to 7.3A.17 concern the transitional arrangements that had applied to persons who had previously received services under a “Home and Community Care Program” prior to the commencement of the “Veterans’ Home Care Program”. The provisions are not applicable for the purposes of the modified Treatment Principles.

Paragraphs 7.3A.19 to 7.3A.22 concern the provision of “Limited VHC – type services for dependents and former dependents”. Those services are provided only to dependents under the express provisions in Part V of the VEA or by Determination 7/2001 made under paragraph 88A(1)(b) of the VEA. Treatment under the modified Treatment Principles is provided only to entitled persons who hold a Gold Card.

Item 50 omits the words “as well as urgent treatment for Vietnam veterans, not otherwise entitled, and their dependants as indicated in principle 2.5” in paragraph 9.1.1. The reference to urgent treatment for Vietnam veterans is removed as it is not applicable for the purposes of the modified Treatment Principles.

Paragraph 9.1.1 of the modified Treatment Principles provides that the Repatriation Commission will accept financial responsibility for the provision of treatment to entitled persons who have been admitted to a hospital or an institution.

Item 51 amends the Note to paragraph 9.1.1 by omitting the reference to section “93 of the Act” and substituting section “59 of the Treatment Benefits Act”.

The reference to section 59 of the Treatment Benefits Act is a reference to the provision that allows for the recovery of the cost of medical treatment where compensation or damages are payable to the entitled person in respect of the condition for which treatment has been provided.

Item 52 of the modified Treatment Principles replaces the words “eligible person” with “entitled person” in paragraph 9.1.3. This amendment will ensure the acceptance by the Repatriation Commission of financial responsibility for the emergency admission of an eligible person to a hospital for treatment.

Item 53 substitutes paragraph 9.3.2 of the Treatment Principles. Paragraph 9.3.2 provides that if entitled persons are eligible for a residential care subsidy and are receiving nursing home type care, the Commission will accept financial responsibility for the standard hospital fee for nursing home-type patients under the *National Health Act 1973* or an agreed fee (less the daily care fee), unless an exemption has been granted or they are a former prisoner of war or a Victoria Cross recipient, in which case financial responsibility will be accepted for the full amount of the hospital charge.

The revised paragraph 9.3.2 provides that the Commission will only accept financial responsibility for entitled persons for the standard hospital fee or an agreed fee. Exemptions have been omitted by item 58 and references to former prisoners of war and Victoria Cross recipients are not required for the purposes of the modified Treatment Principles.

Item 54 omits the words “the *Veterans’ Entitlements Act 1986*” and substitutes the words “the Treatment Benefits Act” in paragraph 9.3.3. This amendment will prevent double payments under the Treatment Benefits Act and various other Acts.

Item 55 substitutes paragraph 10.1.1 and Notes (1), (2) and (3) of the Treatment Principles. The omitted paragraph had a reference to the provision of residential care to the holder of a “White Card”.

New paragraph 10.1.1 refers to the provision of residential care, in accordance with Part 10, to a person who holds a Gold Card.

The new Note to paragraph 10.1.1 refers to the definition of “residential care” in paragraph 1.4.1.

Item 56 substitutes the Note to paragraph 10.1.3 of the Treatment Principles.

The new Note to paragraph 10.1.3 of the modified Treatment Principles explains the arrangements concerning the provision of residential care to persons eligible for treatment under the Treatment Benefits Act. It refers to the provisions of the *Aged Care Act 1997* that provide for such care to be funded under the appropriation provisions of the Treatment Benefit Act.

Item 57 omits the words “the *Veterans’ Entitlements Act 1986*” and substitutes “the Treatment Benefits Act” in paragraph 10.1.4. This amendment prevents double payments under the Treatment Benefits Act and the *Aged Care Act 1997*.

Item 58 omits Principles 10.2, 10.3 and 10.4 of the Treatment Principles.

Principle 10.2 refers to the daily care fee for former prisoners of war. The provisions are not required for the purposes of the modified Treatment Principles.

Principle 10.3 refers to the exceptional circumstances in which the daily care fee would be payable for a veteran in residential care. The provisions are not required for the purposes of the modified Treatment Principles.

Principle 10.4 refers to the payment of residential care fees for Victoria Cross recipients. The provisions are not required for the purposes of the modified Treatment Principles.

Item 59 omits Note (3) to paragraph 10.6.2 which refers to a Determination, *Determination 4/2001*, which is not applicable for the purposes of the modified Treatment Principles.

Item 60 substitutes the Table (including the supporting definitions) in paragraph 10.6.2. The new Table and supporting definitions set out the limits and the conditions which must be met for the Repatriation Commission to accept financial responsibility for the provision of residential care (respite) to entitled persons. The amendment removes the references to a former prisoner of war and recipient of the Victoria Cross as they are not required for the purposes of the modified Treatment Principles.

Item 61 substitutes Note 1 to paragraph 10.6.8 of the Treatment Principles.

New Note 1 to paragraph 10.6.8 explains the arrangements concerning the provision of residential care (respite) to persons eligible for treatment under the Treatment Benefits Act. It refers to the provisions of the *Aged Care Act 1997* that provide for such care to be funded under the appropriation provisions of the Treatment Benefit Act.

Item 62 omits the words “*Veterans’ Entitlements Act 1986*” and substitutes the words “*Treatment Benefits Act*” in paragraph 10.6.9.

This amendment prevents double payments under the Treatment Benefits Act and the *Aged Care Act 1997*.

Item 63 omits Parts D, E and F of Part 10.

Part D of Part 10 (Home Care Co-Payment) refers to the acceptance of financial responsibility for the co-payment a former prisoner of war, or an entitled veteran awarded the Victoria Cross would normally pay for Home Care. The provisions are not required for the purposes of the modified Treatment Principles.

Part E of Part 10 (Transition Care Co-Payment) refers to the acceptance of financial responsibility for the co-payment a former prisoner of war, or an entitled veteran awarded the Victoria Cross would normally pay for Transition Care. The provisions are not required for the purposes of the modified Treatment Principles.

Part F of Part 10 (Short-Term Restorative Care Co-Payment) refers to the acceptance of financial responsibility for the co-payment a former prisoner of war, or an entitled veteran awarded the Victoria Cross would normally pay for Short-Term Restorative Care. The provisions are not required for the purposes of the modified Treatment Principles.

Item 64 omits paragraph 11.3.1 which lists certain items available under the Rehabilitation Appliance Program to persons who have a medically assessed need for the items due to a “war-caused” injury or disease or a “determined condition”. The provisions are not required for the purposes of the modified Treatment Principles.

Item 65 substitutes subparagraph 11.3.3(d) of the Treatment Principles which included a reference to the supply of an “assistive communication device” to persons who have a “White Card”. The revised subparagraph refers to the eligibility of an entitled person who is a Gold Card holder. Treatment under the modified Treatment Principles is provided only to entitled persons who hold a Gold Card.

Item 66 omits the words “, or dependant of a *veteran*, eligible under the *Act*” and substitutes the words “eligible under the *Treatment Benefits Act*” in Note 2 after paragraph 11.3.3.

Dependants of Gold Card holders under the Treatment Benefits Act will not be eligible for treatment under that Act.

Item 67 omits Note 3 to paragraph 11.3.3 which refers to the holder of a “White Card”. Treatment under the modified Treatment Principles is provided only to entitled persons who hold a Gold Card.

Item 68 omits paragraph 11.3.8 which refers to the installation of a telephone deaf aid and/or touch phone and rental, in the workplace of a “veteran” (as defined in the VEA) who has a medically assessed need for the item because of a war-caused injury or disease. Treatment under the modified Treatment Principles is provided only to entitled persons who hold a Gold Card.

Item 69 substitutes paragraph 11.5.1 of the Treatment Principles. New paragraph 11.5.1 provides that the Repatriation Commission will approve the supply of a “spectacle hearing aid” when it is the only type of hearing aid that is appropriate and the person is a Gold Card holder.

Item 70 omits paragraph 11.5.2. Paragraph 11.5.2 refers to the provision of lenses to persons with a “determined condition” who have been supplied with a “spectacle hearing aid” under paragraph 11.5.1. The new paragraph 11.5.1 only provides for the supply of a “spectacle hearing aid” to persons eligible for a Gold Card under the Treatment Benefits Act.

Item 71 omits the words “eligible person” and substitutes “*entitled person*” in paragraph 11.5.4. This change in terminology is necessary because it is entitled persons under the Treatment Principles who are eligible for treatment.

Item 72 substitutes paragraph 11.6.1 of the Treatment Principles. New paragraph 11.6.1 provides that the Repatriation Commission may arrange for a wig to be supplied where an entitled person requires a wig as part of the medical treatment for disfigurement.

Item 73 substitutes paragraph 11.7.4 of the Treatment Principles. New paragraph 11.7.4 provides that the Repatriation Commission will not take any responsibility for the repair or replacement of a rehabilitation appliance supplied under Part 11 of the Treatment Principles while the entitled person is travelling overseas.

Item 74 omits the words “the Act” and substitutes the words “the *Treatment Benefits Act*” in paragraph 12.2.3. This amendment ensures the correct Act is referenced in the paragraph.

Item 75 omits the words “93 or 93A of the Act” from the Note to paragraph 12.3.1 and substitute the words “59 of the *Treatment Benefit Act*”. Section 59 provides that section 93 of the VEA (Recovery of cost of treatment) applies to the provision of treatment under the

Treatment Benefit Act in a corresponding way to the way that section applies to the provision of treatment under Part V of the VEA.

Item 76 omits the words “eligible person” and substitutes the words “entitled person” in paragraph 12.4.1. This change in terminology is necessary because it is entitled persons under the Treatment Principles who are eligible for treatment.

Item 77 omits principle 12.5 of the Treatment Principles which is a savings provision applicable to those eligible persons who had been assessed as being in need of home-help services at 15 September 1987 and were receiving assistance under the Veterans’ Home Services program. The provisions are not required for the purposes of the modified Treatment Principles.