

EXPLANATORY STATEMENT

Military Rehabilitation and Compensation (Specified Rate per Kilometre) Determination 2020 (Instrument 2020 No. M37)

EMPOWERING PROVISION

Section 293 of the *Military Rehabilitation and Compensation Act 2004* (the MRCA).

PURPOSE

The proposed instrument (Instrument 2020 No. M37) specifies the rate per kilometre to be used for calculating the amount of compensation payable for travel to obtain medical treatment under section 293 of the MRCA.

Subsection 293(3) of the MRCA allows the Minister to determine, by legislative instrument, the rate per kilometre that will apply in respect of compensation for journeys for medical treatment under section 290 of the MRCA.

Section 290 of the MRCA provides for payment of a person's reasonably incurred costs for a journey to obtain compensable treatment under the MRCA. The section also provides for payment of an attendant's travel costs if approved by the Military Rehabilitation and Compensation Commission (the MRCC).

In determining an amount payable for travel for medical treatment, the MRCC may use the formula set out in subsection 293(2) – the length of the journey in kilometres multiplied by the rate specified by the Minister in this instrument.

One of the measures included in the 2020-21 Budget concerns 'Increased Support for Veterans Who Have to Travel for Treatment' with funding of \$1.7 million across the forward estimates. That measure provides for the rate of compensation payable for travel for treatment provided under the MRCA and the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988* (DRCA) to increase from 60 cents per kilometre to 68 cents per kilometre to align with the rate payable under the *Safety, Rehabilitation and Compensation Act 1988* (SRCA).

The instrument revokes and replaces the *Military Rehabilitation and Compensation (Specified Rate per Kilometre) Determination 2019* (Instrument 2019 No. M16 made on 28 March 2019 [F2019L00495]).

This instrument will commence on 1 November 2020 to coincide with the commencement of the *Safety, Rehabilitation and Compensation (Defence-related Claims) (Specified Rate per Kilometre) Determination 2020*. This will ensure alignment of future sunset dates for this instrument and the equivalent instrument under the DRCA.

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.

No external consultation was considered necessary as the attached instrument implements a 2020-21 Budget measure to increase the rate per kilometre of 60 cents to 68 cents.

The consultation process involved the Policy Development Branch who have responsibility for the implementation of the Budget measure which also provides for a similar increase in the rate of reimbursement for travel for treatment specified in the equivalent instrument under the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988* (the DRCA).

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

The Explanatory Statement of the equivalent SRCA instrument, the *Safety, Rehabilitation and Compensation (Specified Rate per Kilometre) Instrument 2019* [F2019L01251] states that the Office of Best Practice Regulation was consulted regarding the preparation of that instrument and indicated that a Regulation Impact Statement was not required (OBPR ID: 23963).

HUMAN RIGHTS STATEMENT

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

The attached legislative instrument is consistent with human rights, in particular the Rights of Persons with a Disability and the Right to Health.

The Rights of Persons with a Disability are set out in the Convention on the Rights of Persons with Disabilities. Article 26 requires countries to organise and strengthen rehabilitation programs for people with disability, particularly in health, employment, education and social services.

The Right to Health (contained in article 12(1) of the International Covenant on Economic Social and Cultural Rights) 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 purpose of this legislative instrument is to specify the rate per kilometre to be used for calculating the amount of travel expenses payable to persons covered by section 290 of the *Military Rehabilitation and Compensation Act 2004* (the MRCA) for making a journey to obtain medical treatment.

The attached instrument supports provisions in the MRCA that are used for calculating compensation for reasonable travel expenses for a patient, and if approved, a person accompanying them on the journey to obtain treatment. This compensation is in addition to the compensation for the costs of treatment payable under the MRCA.

Conclusion

The instrument ensures an equitable amount of compensation is payable for travel expenses where former members, and certain current members, are required to travel for medical treatment for their compensable injuries. In this way, it can be said to be compatible with the Rights of Persons with Disabilities and the Right to Health.

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

Darren Chester
Minister for Veterans’ Affairs
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 (Specified Rate per Kilometre) Determination 2019*.

Section 2

This section provides that the instrument is to commence on 1 November 2020.

Section 3

This section sets out the primary legislation that authorises the making of the instrument, namely, subsection 293(3) of the *Military Rehabilitation and Compensation Act 2004* (the MRCA).

Section 4

This section repeals the *Military Rehabilitation and Compensation (Specified Rate per Kilometre) Determination 2019* (Instrument 2019 No. M16), dated 28 March 2019.

The authority for this repeal provision is subsection 33(3) of the *Acts Interpretation Act 1901*.

Section 5

This section determines the rate per kilometre for the purposes of the definition of *specified rate per kilometre* in subsection 293(3) of the MRCA. The rate determined by this instrument is 68 cents.