

## **EXPLANATORY STATEMENT**

*Veterans' Entitlements Act 1986*

Issued by the Repatriation Commission

### **Veterans' Entitlements (Point Cook Firefighters) Determination 2021**

Instrument 2021 No. R40

#### **EMPOWERING PROVISION**

Subsection 88A(1) of the *Veterans' Entitlements Act 1986* (VEA).

#### **PURPOSE**

The 2021-22 Budget announced a range of support measures for Australian Defence Force (ADF) Firefighters who served at Royal Australian Air Force (RAAF) Base Point Cook between 1 January 1957 and 31 December 1986 under the Budget measure "Supporting Australian Defence Force firefighters".

This Budget measure recognises this group has been directly exposed to a wide range of hazardous (and at times unknown) substances during fire suppression training, at a time when personal protective equipment was not of the same standard available today.

The effect of a determination by the Repatriation Commission under subsection 88A(1) of the VEA is to provide that certain classes of veterans (for the purpose of the VEA), dependents and/or other persons that are specified as a class of persons are eligible to be provided with treatment of a specified kind.

This Determination provides for Point Cook firefighters to receive treatment measures as a part of a preventative health strategy, including colorectal and melanoma screening. In addition, this Determination provides for treatment for the Point Cook firefighters through participation in a Healthy Lifestyle Program.

#### Specified Class of Persons – Firefighter (subsection 5(1) of the Determination)

This Determination provides that 'firefighters' are specified as a class of persons. Under section 4 of the Determination, 'firefighter' means a person who served as a firefighter, or participated in a firefighting training course; or was an instructor of a firefighter training course at RAAF Base Point Cook between 1 January 1957 and 31 December 1986.

#### Treatment of a Specified Kind - Healthy Lifestyle Program (paragraphs 5(2)(a) and (b) of the Determination)

Point Cook firefighters will also be eligible for treatment through the Healthy Lifestyle Program (also known as the Heart Health Program), which is provided in two forms:

- the Group Program; and
- the Individual Program (for those veterans who are unable to participate in a group program)

Both forms run over 12 months (52 weeks). The program includes weekly tailored exercise sessions and 12 health education seminars over the course of the year.

Both forms of the program include:

- access to a team of health and fitness experts to provide support;
- custom food diary reviews by a nutritionist; and
- a participant manual.

### *Group Program*

The Group Program includes weekly group exercise sessions and monthly health education workshops.

### *Individual Program*

The Individual Program includes a personalised exercise program, exercise resources, fortnightly health articles, fortnightly phone sessions with a health coach and access to monthly health education seminars.

### Treatment of a Specified Kind – Colorectal and Melanoma Screening (paragraphs 5(2)(c) and (d) of the Determination)

Point Cook firefighters will be eligible for treatment through the specified types of cancer screening. This is a General Practitioner (GP)-based program which provides participants with access to cancer screening that provides early detection for colorectal cancer and melanoma.

Two screening options are available for colorectal cancer screening. An eligible client's GP will determine which option is best, either a faecal occult blood test or a colonoscopy.

Melanoma screening is undertaken either through an examination by an eligible client's GP, or through dermoscopy or dermatoscopy and/or total body digital photography.

Clients must register for this program before undertaking screening and this will be done by contacting the Department. After an eligible client has been registered they will receive a letter of authority to show their GP to enable the Cancer Screening.

## **FURTHER EXPLANATION OF PROVISIONS**

Further details of the attached instrument are set out in Attachment A.

## **COMMENCEMENT**

These measures are to commence on 20 September 2021.

## **MERITS REVIEW**

Eligibility for the specified treatment is dependent upon the factual circumstances of service. If the person falls within the specified class, then the person is entitled to the specified services. There is no scope for merits review.

## **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. The Department of Veterans' Affairs has consulted with Mr Carl Schiller,

National President, Air Force Association and other key ex-serving Point Cook firefighters during 2020 and 2021. Feedback has been positive with representatives satisfied with the proposed scheme. Representatives have not identified any issues with the scheme.

The measure implemented by this instrument is entirely beneficial in nature in terms of its impact on Point Cook firefighters.

### **RETROSPECTIVITY**

Not applicable.

### **DOCUMENTS INCORPORATED BY REFERENCE**

None.

### **REGULATION IMPACT STATEMENT**

The Office of Best Practice Regulation has confirmed that a Regulation Impact Statement is not required (OBPR ID 43592).

## Statement of Compatibility with Human Rights

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

### Veterans' Entitlements (Point Cook Firefighters) Determination 2021

This legislative instrument is compatible with the human rights and freedoms recognised or declared by the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### Overview of the legislative instrument

The *Veterans' Entitlements Act 1986* (VEA) provides for pensions by way of compensation, social security payments and benefits for certain veterans and their dependents. In addition the VEA also provides for treatment of medical conditions for certain veterans, their dependents and in some cases other persons.

In the *Veterans' Entitlements (Point Cook Firefighters) Determination 2021* (Determination) the Repatriation Commission (Commission) has made a determination in writing that provides that a specified class of veterans and other persons (Point Cook Firefighters) may receive specified classes of treatment as outlined in the determination.

The Determination specifies that Point Cook Firefighters, that is persons who served in the Australian Defence Force as a firefighter, or participated in a firefighting training course, or was an Instructor of a firefighting training course at the Royal Australian Air Force (RAAF) Base Point Cook Fire Training School between 1 January 1957 and 31 December 1986, may receive the specified classes of treatment.

The Determination specifies that the Point Cook Firefighters may receive screening for melanomas and colorectal cancer. In addition the Determination also specifies that the Point Cook Firefighters may be eligible to participate in a 12 month program aimed at improving physical health.

The purpose of the Determination is to implement the 2021-22 Budget measure for ADF Firefighters who served at RAAF Base Point Cook between 1 January 1957 and 31 December 1986.

This group has been directly exposed to a wide range of hazardous (and at times unknown) substances during fire suppression training, at a time when personal protective equipment was not of the same standard available today. The measure recognises a potential for health effects from occupational exposures.

#### Human rights implications

Article 12(1) of the *International Covenant on Economic Social and Cultural Rights* provides for right of everyone to enjoyment of the highest attainable standard of physical and mental health. Article 12(2)(c) provides steps taken by the State Parties [...] to achieve the full realisation of this right [...] include those necessary for the 'prevention, treatment and control of epidemic, endemic, occupational and other diseases'.

The Determination provides eligible persons access to preventative health measures which includes ongoing screening for certain types of cancer and a 12 month (52 week) training

program which includes access to a team of health and fitness experts and to provide support and tailored exercise training.

If the cancer screening indicates the eligible person has cancer, then compensation and further treatment can be provided to them under the *Safety, Rehabilitation and Compensation (Defence-related) Claims Act 1986*.

### **Conclusion**

The attached instrument promotes the *Right to Health* by providing a class of persons (Point Cook Firefighters) with access to specified treatment, including preventative health measures.

This legislative instrument is compatible with human rights.

### **Repatriation Commission**

Rule-Maker

## **FURTHER EXPLANATIONS OF PROVISIONS**

### ***Veterans' Entitlements (Point Cook Firefighters) Determination 2021***

#### Section 1

This section sets out the name of the instrument – the *Veterans' Entitlements (Point Cook Firefighters) Determination 2021*.

#### Section 2

This section provides that the instrument will commence on 20 September 2021.

#### Section 3

This section sets out the empowering provisions in the primary legislation that authorises the making of this instrument – paragraph 88A(1)(d) of the *Veterans' Entitlements Act 1986*.

#### Section 4

This section provides for the interpretation provision. It defines the terms in the instrument, including importantly the definition of who is a 'firefighter' for the purposes of this determination. A 'firefighter' means a person who service as a firefighter, or participated in a firefighter training course, or was an instructor of a firefighter training course at RAAF Base Point Cook between 1 January 1957 and 31 December 1986.

#### Section 5

Subsection 5(1) determines, for the purpose of paragraph 88A(1)(d) of the VEA, the class of persons who are eligible for the specified kinds of treatment under subsection 5(2).

The class of persons is a ***firefighter***, which is defined in section 4.

Subsection 5(2) specifies four kinds of treatment that a firefighter is to be provided for the purposes of paragraph 88A(1)(d) of the VEA.

#### ***Paragraph 5(2)(a) – Group Program***

Paragraph 5(2)(a) provides that an eligible person may be provided treatment in the form of a one-off Healthy Lifestyle (Heart Health) 12 month group program aimed at improving physical health that includes:

- (i) weekly group exercise sessions; and
- (ii) monthly health education seminars; and
- (iii) access to a team of health and fitness experts; and
- (iv) custom food diary reviews by a nutritionist; and
- (v) a participant manual

#### ***Paragraph 5(2)(b) – Individual Program***

Paragraph 5(2)(b) provides that an eligible person may be provided treatment in the form of a one-off Health Lifestyle (Heart Health) 12 month individual program aimed at improving physical health that includes:

- (i) a personalised exercise program; and
- (ii) exercise resources; and
- (iii) fortnightly health articles; and
- (iv) fortnightly phone sessions with a health coach; and
- (v) access to monthly health education seminars; and
- (vi) custom food diary reviews by a nutritionist; and
- (vii) a participant manual

*Paragraph 5(2)(c) – Colorectal Cancer Screening*

Paragraph 5(2)(c) provides that an eligible person may be provided treatment in the form of colorectal screening.

Two screening options are available, either a faecal occult blood test or a colonoscopy. An eligible person's General Practitioner will determine which option is best for them.

*Paragraph 5(2)(d) – Melanoma Screening*

Paragraph 5(2)(d) provides that an eligible person may be provided treatment in the form of melanoma screening.

Three screening options are available, an examination by a general practitioner; dermoscopy or dermatoscopy; and total body digital photography. An eligible person's General Practitioner or specialist will determine which method or combination of methods are the best option for the eligible person.