

EXPLANATORY STATEMENT

Veterans' Entitlements (Defence, Veterans' and Families' Acute Support Package) Amendment Instrument 2024

EMPOWERING PROVISIONS

The Repatriation Commission makes this instrument under section 115S of the *Veterans' Entitlements Act 1986* (the *VEA*).

PURPOSE

This instrument amends the *Veterans' Entitlements (Defence, Veterans' and Families' Acute Support Package) Instrument 2022* (the *VEA ASP Instrument*).

OVERVIEW

The Defence, Veterans' and Families' Acute Support Package (*Acute Support Package*) provides short-term flexible support to eligible veterans and veteran families who are experiencing new and challenging life circumstances that may result in the family being at risk of, or experiencing, crisis. A person may be eligible for the Acute Support Package if they meet certain eligibility criteria, and it is appropriate to grant a package to assist them to adjust to the new and challenging life circumstances that are impacting the veteran or veteran family.

The VEA ASP Instrument provides that for the purposes of the Acute Support Package, the Repatriation Commission (*RC*) must prepare a support plan for the eligible person, which outlines among other things, the persons who will be provided with assistance or benefits under the support plan, the kinds of assistance or benefits that will be provided, and the periods during which the assistance or benefits will be provided.

A person granted a package may include other eligible persons in a support plan, including children under 18 years of age, if they meet certain eligibility criteria and are experiencing, or are at risk of experiencing, crisis.

The amendments made by this instrument consist of technical amendments, corrections to typographic errors, and corrections to unintentional errors which resulted from the commencement of the *Veterans' Entitlements (Defence, Veterans' and Families' Acute Support Package) Amendment (2023 Expansion of Acute Support Package) Instrument 2023 (2023 Instrument)* on 1 July 2023.

EXPLANATION OF PROVISIONS

Section 1 states the name of the instrument.

Section 2 provides that the instrument commences at the start of the day after it is registered.

Section 3 states the provision in the VEA that authorises the RC to make the instrument i.e. section 115S.

Section 4 is a standard provision used in instruments that amend or repeal other instruments. It gives effect to Schedule 1.

Schedule 1—Veterans’ Entitlements (Defence, Veterans’ and Families’ Acute Support Package) Instrument 2022

Item 1—Paragraph 5(1), definition of *related person*

This item substitutes the definition of *related person* to refer to the correct section of the Act. This amendment corrects a typographical error made by the 2023 Instrument.

Item 2—Paragraph 6(1)(a)

This item substitutes paragraph 6(1)(a) to clarify that a person must satisfy one of the sets of criteria for an acute support package at the time their eligibility for the package is determined.

Items 3, 4, 5, 7, 9 and 11—Paragraphs 6(2), 6(3), 6(4), 6(5) and 6(6)

These items make technical amendments to paragraphs 6(2), 6(3), 6(4), 6(5) and 6(6) as a consequence of the amendments to paragraph 6(1)(a) made by item 2.

Items 6, 12, 13 and 14—Paragraph 6(5) (heading), paragraphs 7(2)(a), 7(2)(b) and paragraph 7(3) (heading)

These items replace the archaic plural “persons” with the plainer “people”. The amendments do not change the operation of the provisions.

Items 8, 10, 17, 19 and 20—Paragraphs 6(5)(a), 6(5)(e), 7(3)(d)(iii), 9(1)(a)(ii) and 9(1)(b)

These items correct typographical errors. The amendments do not change the operation of the provisions.

Item 15—Paragraph 7(3)

This item amends paragraph 7(3) so it more clearly sets out when a person can be included in a support plan. It does not change the operation of the provision.

Item 16—After paragraph 7(3)(a)

This item adds paragraph 7(3)(b).

The 2023 Instrument inadvertently omitted paragraph 7(3)(b), that allowed a related person experiencing, or at risk of experiencing, crisis to be included in a support plan for an Acute Support Package granted to a veteran under paragraph 6(2)(d).

This item corrects that unintentional error and restores paragraph 7(3)(b) to the VEA ASP Instrument in the form it existed in that instrument before the 2023 Instrument commenced on 1 July 2023. Paragraph 7(3)(b) gives effect to paragraph 6(2)(d) by allowing the Commission to include a related person of a veteran in a veterans’ support plan if the related person is experiencing, or is at risk of experiencing, crisis. This amendment ensures that assistance and benefits are provided to both veterans and veteran families, either collectively or individually, as appropriate to the veteran or veteran family’s circumstances.

The new paragraph 7(3)(b) will apply to determinations of eligibility made on or after 1 July 2023, but only to the extent that the substituted provision would not disadvantage a person (see new section 13, inserted by item 23 of Schedule 1).

Item 18—Paragraph 7(3)(e)

This item substitutes paragraph 7(3)(e) with new paragraphs 7(3)(e), (f) and (g). The new provisions more clearly set out when a person can be included in a support plan for an acute

support package granted to a parent or step-parent of certain people. The new provisions operate in the same way as the current provision.

Item 21—Paragraph 9(1)(c)

This item substitutes paragraph 9(1)(c). The new provision sets out more clearly the total value of assistance or benefits that may be included in a support plan prepared for a parent or step-parent of certain people. The amendment does not change the operation of the provision.

Item 22—Paragraph 9(2)(b)

This item substitutes paragraph 9(2)(b) with new paragraphs 9(2)(b) and (c). The new provisions more clearly specify the end of the period during which assistance or benefits included in certain support plans may be provided. The new provisions operate in the same way as the current provision.

Item 23—After section 12

This item inserts new Division 5 into Part 2 of the VEA ASP Instrument.

Division 5 consists of new section 13. New section 13 ensures that the retrospective operation of the substituted definition of related person in paragraph 5(1), the substituted paragraph 6(5)(b), and new paragraph 7(3)(b) (inserted by items 1, 9 and 16 of Schedule 1) cannot disadvantage any person. Section 13 confirms the effect of subsection 12(2) of the *Legislation Act 2003* in relation to the amendments mentioned in section 13.

CONSULTATION

The Acute Support Package was implemented in response to the Senate Foreign Affairs, Defence and Trade References Committee's report *The Constant Battle: Suicide by Veterans*. It also responds to Recommendation 19.2 of the Productivity Commission's inquiry report *A Better Way to Support Veterans*. The Principal Instrument also addresses feedback received through the Female Veterans' and Veterans' Families Policy Forums.

The amendments made by the instrument include technical amendments, corrections to typographic errors, and corrections to unintentional errors which resulted from the commencement of the 2023 Instrument on 1 July 2023. Therefore, no further additional consultation was undertaken in relation to this Instrument.

HUMAN RIGHTS IMPLICATIONS

This instrument is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in **Attachment A**.

MAKING THE INSTRUMENT

The instrument is made by the Repatriation Commission.

Attachment A

Statement of Compatibility with Human Rights

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

Veterans' Entitlements (Defence, Veterans' and Families' Acute Support Package) Amendment Instrument 2024

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

Overview of the Disallowable Legislative Instrument

The *Veterans' Entitlements (Defence, Veterans' and Families' Acute Support Package) Amendment Instrument 2024* (the **Instrument**) amends the *Veterans' Entitlements (Defence, Veterans' and Families' Acute Support Package) Instrument 2022* (the **Acute Support Package Instrument**) to make technical amendments, corrections to typographic errors, and corrections to unintentional errors which resulted from the commencement of the *Veterans' Entitlements (Defence, Veterans' and Families' Acute Support Package) Amendment (2023 Expansion of Acute Support Package) Instrument 2023* on 1 July 2023.

Human rights implications

The Instrument engages and promotes the right to social security under article 9 of the *International Covenant on Economic Social and Cultural Rights (ICESCR)*, and the right to health under article 12(1) of the ICESCR.

The amended Acute Support Package Instruments will better enable the provision of targeted, flexible support to veterans and families experiencing new and challenging life circumstances. This support to veterans and their families complements other services provided by DVA and other Government services.

Right to social security

The right to social security in article 9 of the ICESCR requires that a system be established under domestic law, and that public authorities must take responsibility for the effective administration of the system. The social security scheme must provide a minimum essential level of benefits to all individuals and families that will enable them to acquire at least essential health care, basic shelter and housing, water and sanitation, foodstuffs, and the most basic forms of education.

The Instrument promotes the right to social security by amending the Acute Support Package Instruments so that they better facilitate the provision of additional support and services to veterans and their families when faced with challenging circumstances.

Right to health

The right to health in article 12(1) of the ICESCR is the right to the enjoyment of the highest attainable standard of physical and mental health. Every human being is entitled to the enjoyment of the highest attainable standard of health conducive to living a life in dignity.

The Instrument promotes the right to health by amending the Acute Support Package Instruments so that they better facilitate the provision of counselling to veterans and their families, for critical mental health and wellbeing support when experiencing challenging life situations.

Conclusion

The attached Instrument is compatible with human rights because it promotes the right to social security and right to health.

Repatriation Commission
Rule-Maker