

## EXPLANATORY STATEMENT

### Veterans' Entitlements (Health and Wellbeing Program) Determination 2025

#### EMPOWERING PROVISION

A delegate of the Repatriation Commission (the **Commission**) makes this instrument under subsections 88A(1) and (2) of the *Veterans' Entitlements Act 1986* (the **VEA**).

#### PURPOSE

Paragraph 88A(1)(b) of the VEA allows the Commission to determine in writing that a veteran included in a specified class is eligible for treatment of a specified kind under Part V of the VEA.

The *Veterans' Entitlements (Point Cook Firefighters) Determination 2021* (the **Firefighters Determination**), made under paragraph 88A(1)(b), determines that certain Defence firefighters are eligible for a 12-month, non-clinical Health and Wellbeing Program. The Program is designed to enhance physical health, fitness, and overall wellbeing through a range of interventions, including regular supervised fitness training and education on risks to cardiovascular health. The Program may be delivered by the Commission, the Department of Veterans' Affairs or a third-party supplier engaged by the Commission or the Department.

This instrument allows access to the Program by a broader class of veterans, and allows the Repatriation Commission to approve a person's re-enrolment into the Program where appropriate.

This instrument also amends the Firefighters Determination to align the definition of a Health and Wellbeing Program and clarify the definition of the specified class of veteran.

#### OVERVIEW

The broader class of veterans who will be eligible for the Program is those who have rendered eligible operational or peacekeeping service under the VEA or the Military Rehabilitation and Compensation Act 2004 (the **MRCA**).

Such a veteran will not be eligible if they have previously participated in the Program, unless the Commission or delegate determines that in the circumstances they should be able to re-enrol.

The specified kind of treatment is the current Health and Wellbeing program. Firefighters are also eligible for certain cancer screening.

#### EXPLANATION OF PROVISIONS

##### Part 1—Preliminary

**Section 1** states the name of the instrument.

**Section 2** provides that the instrument commences on the day after the day it is registered.

**Section 3** sets out the authority for the Commission making this instrument, namely subsections 88A(1) and (2) of the VEA.

**Section 4** defines terms used in the instrument. This includes what a ‘health and wellbeing program’ must deliver, ie a program which improves or maintains an individual’s physical or mental health or social well-being through structured fitness activities and educational modules.

**Section 5** is a standard provision used in instruments that amend or repeal other instruments. It gives effect to Schedule 1.

## **Part 2—Specified classes and kind of treatment**

### **Section 6—Veterans in specified class eligible for health and wellbeing program**

Subsection 6(1) specifies an additional class of people to be eligible for the health and wellbeing program known as the Heart Health Program. The new class comprises veterans (as defined in the VEA) who have rendered operational or peacekeeping service. If the veteran has participated in the Program before, they are only eligible to participate again if the Commission determines they should in the circumstances.

If the person is one of those persons specified in subsection 6(1), that person is eligible for the treatment specified in subsection 6(2), ie the Heart Health Program.

### **Section 7—Members in specified class eligible for health and wellbeing program**

Subsection 7(1) specifies an additional class of people to be eligible for the -Heart Health Program. The new class comprises members (as defined in the *Military Rehabilitation and Compensation Act 2004*) who are entitled to treatment under Part 3 of that Act because of section 279 of the same Act. If the member has participated in the Program before, they are only eligible to participate again if the Commission determines they should in the circumstances.

If the person is one of those persons specified in subsection 7(1), that person is eligible for the treatment specified in subsection 7(2), ie the Heart Health Program.

## **Schedule 1**

**Items 1 and 2** amend section 4 of the Firefighters Determination to:

- align the definition of Health and Wellbeing Program with the definition in this instrument; and
- more clearly describe the specified class of person to be considered a ‘Point Cook firefighter’.

**Item 3** substitutes section 5 of the Firefighters Determination.

Subsection 5(1) specifies the class of Point Cook Firefighters to be eligible for the Program. If the firefighter has participated in the Program before, they are only eligible to participate again if the Commission determines they should in the circumstances.

If the person is one of those persons specified in subsection 5(1), that person is eligible for the treatment specified in subsection 5(2), ie the Heart Health Program, and certain types of cancer screening.

## **Consultation**

Consultation was not undertaken in regard to this instrument. As the instrument is extending eligibility for the Heart Health Program, with no reduction service provision, the changes expand entitlements and do not disadvantage any person.

## **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**.

## **Approved by**

Luke Brown, First Assistant Secretary  
Delegate of the Repatriation Commission  
Rule-maker

## **Attachment A**

### **Statement of Compatibility with Human Rights**

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

#### **Veterans' Entitlements (Health and Wellbeing Program) Determination 2025**

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 legislative instrument**

Under the *Veterans' Entitlements Act 1986* (the ***VEA***), certain veterans, their dependents and in some cases other people are eligible for treatment of medical conditions.

In this legislative instrument, the Repatriation Commission, through its delegate, has determined 2 additional classes of people to be eligible for the health and wellbeing program known as the Heart Health Program. The 2 new classes comprise:

- veterans (as defined in the VEA) who have rendered operational or peacekeeping service; and
- members (as defined in the *Military Rehabilitation and Compensation Act 2004*) who are entitled to treatment under Part 3 of that Act because of section 279 of that Act.

The new classes of people are in addition to the firefighters already specified as a class in the *Veterans' Entitlements (Point Cook Firefighters) Determination 2021* (the Firefighter Instrument), which was also made under section 88A of the VEA. Schedule 1 to this legislative instrument amends the Firefighter Instrument so it is consistent with the style and language used in the body of this legislative instrument.

The Heart Health Program covers a range of topics including setting healthy goals, eating well, lowering alcohol consumption, back-stretching, anger management, improving sleep quality, stress management, diabetes, taking care of your body, solving problems, managing your weight and maintaining a healthy heart.

Participants can choose to participate in the program in either but not both of the two formats, if both forms are available in their local area:

- the Heart Health Group Program; or
- the Individual Heart Health Program.

Both forms run over 12 months (52 weeks). The program includes free 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.

The measure recognises the potential for adverse health outcomes because of a person's service in the ADF.

### **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. The UN Committee on Economic, Social and Cultural Rights said that the 'right to health must be understood as a right to the enjoyment of a variety of facilities, goods, services and conditions necessary for the realisation of that standard' instead of a general right to be healthy.<sup>1</sup> Article 12.2(c) provides 'the steps to be taken by the State Parties ... to achieve the full realization of this right ... include those necessary for...[t]he prevention, treatment and control of epidemic, endemic, occupational and other diseases'. Article 12.2(d) also requires the provision of equal and timely access to basic preventive, curative, rehabilitative health services and health education, regular screening programmes...appropriate mental health treatment and care.<sup>2</sup>

This instrument provides people in the eligible classes with access to a 12 month preventative health training program which includes access to a team of health and fitness experts to provide support and tailored exercise training.

### **Conclusion**

The instrument promotes the right to health by providing the specified classes of people with access to specified treatment, including preventative health measures.

**Luke Brown**  
**First Assistant Secretary**  
**Delegate of the Repatriation Commission**  
**Rule-Maker**

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<sup>1</sup> Committee on Economic, Social and Cultural Rights, *General Comment No. 14: The right to the highest attainable standard of health (article 12 of the International Covenant on Economic, Social and Cultural Rights)*, 22<sup>nd</sup> sess, UN Doc E/C.12/2000/4 (11 August 2000) 3 [8]–[9].

<sup>2</sup> Ibid 6 [17].