

Treatment Principles (Australian Participants in British Nuclear Tests) 2006 [F2013L02031]

Portfolio: Veteran's Affairs

Authorising legislation: Australian Participants in British Nuclear Tests (Treatment) Act 2006

Last day to disallow: 19 March 2014 (Senate)

Purpose

2.48 The Treatment Principles (Australian Participants in British Nuclear Tests) 2006 modifies the Treatment Principles (No. R52/2013) made under the *Veterans' Entitlements Act 1986* (VEA) in the application of the principles to persons eligible for treatment under the *Australian Participants in British Nuclear Tests (Treatment) Act 2006*.

Background

2.49 The committee reported on the instrument in its *Second Report of the 44th Parliament*.

Committee view on compatibility

Right to health

'Double-dipping' provision

2.50 The committee sought further information from the Minister for Veterans' Affairs on the measure addressing 'double-dipping' and how it is compatible with the right to health.

Minister's response

In 2013, several new provisions were inserted into the Treatment Principles. One of these measures required the Repatriation Commission to refuse an application for a rehabilitation appliance if the appliance could be provided under another piece of DVA [Department of Veterans' Affairs] administered legislation. It is not unusual for some clients to have dual eligibility under different pieces of legislation and there is considerable potential for overlap. The purpose of the measure was to preclude the possibility of clients with dual eligibility obtaining additional, unnecessary rehabilitation appliances for the same condition ("double-dipping").

[...]

The Statement of Compatibility with Human Rights for the instrument under discussion states that there was only one change to "existing

arrangements" (community nursing measure) but then refers to the "double dipping measure" and is confusing in this regard.

Under the existing VEA Treatment Principles, the Repatriation Commission has a discretion to approve a rehabilitation appliance for a DVA client. It would be a relevant for the exercise of that discretion to consider whether the client had already obtained a rehabilitation appliance under other DVA administered legislation, or if it was more appropriate for the client to obtain the rehabilitation appliance under that other DVA legislation.

All that has occurred is that the Repatriation Commission's implied power to refuse to approve a rehabilitation appliance in double-dipping circumstances has been made express. Clearly stating the Commission's power in this situation benefits administrators and beneficiaries alike.¹

Committee response

2.51 The committee thanks the Minister for Veterans' Affairs for his response and has concluded its examination of this instrument.

1 See Appendix 2, Letter from Senator the Hon Michael Ronaldson, Minister for Veterans' Affairs, to Senator Dean Smith, 19 March 2013, pp 3-4.