EXPLANATORY STATEMENT


The Purpose and Operation of the Attached Instrument

- To amend the Veterans' Children Education Scheme (VCES) in order to:
  
  (i) relax the prohibition on children receiving VCES benefits if they also receive certain other Commonwealth education/income support benefits. This amendment will enable VCES children to receive VCES benefits in addition to Commonwealth Learning Scholarships;

  (ii) enable VCES Boards to also act as Boards under the Military Rehabilitation and Compensation Act Education and Training Scheme, a scheme almost identical to the VCES and under which education and training may be provided to children of seriously impaired members and former members of the Australian Defence Force.

  (iii) dispense with the need for VCES Boards to provide annual reports. VCES Boards need now only lodge a statistical return for a financial year.

  (iv) make minor and technical amendments.

- The VCES is made under section 117 of the Veterans’ Entitlements Act 1986 (the VEA) and empowers the Repatriation Commission (Commission) to accept financial liability for education and training provided to children of seriously impaired veterans.

- All the amendments made by the attached Instrument are explained in more detail in Attachment A.

Retrospectivity

- None.
Documents Incorporated by Reference

- None.

Consultation

- VCES Boards. The Rule-Maker (in this case the Repatriation Commission) was satisfied that in the circumstances this was the type of consultation that was appropriate.
ATTACHMENT A


Section [5] inserts a number of definitions into the VCES.

These definitions relate to the new function vested in VCES Boards by the Instrument — namely that of also being Boards under the *Military Rehabilitation and Compensation Act Education and Training Scheme 2004* (hereafter called MRCAETS or MRCA Childrens' Scheme)) made under the *Military Rehabilitation and Compensation Act 2004* (MRCA).

The MRCAETS establishes Boards in every State to assist the Military Rehabilitation and Compensation Commission (MRCC) (established by the MRCA) administer the MRCAETS but rather than create new Boards, the MRCC co-opted VCES Boards to act as MRCAETS Boards.

Section [6] highlights the new function of VCES Boards, namely that they are now also Boards under the MRCAETS.

Section [7] increases the types of Commonwealth education/income support benefits (other than VCES benefits) that a VCES child may receive without being ineligible for benefits under the VCES.

The general rule is that an eligible child may only receive VCES benefits if they don't receive any other Commonwealth education/income support benefits. This is to prevent "double-dipping."
However there are exceptions to the general rule.

Before the attached instrument, educational assistance or income support (other than VCES benefits) provided by the Department of Veterans' Affairs or by the Repatriation Commission constituted exceptions to the general rule eg Long Tan bursaries.

The attached Instrument has increased those exceptions to include educational assistance or income support provided under scholarships known as the "Commonwealth Education Costs Scholarship" and the "Commonwealth Accommodation Scholarship" (either scholarship hereafter called a "Commonwealth Learning Scholarship").

An eligible child will now not be rendered ineligible for VCES benefits because they receive a Commonwealth Learning Scholarship.

Sections [8] [9] before the attached Instrument VCES allowances were payable to the person (eg parent) who is paid the family tax benefit under the *A New Tax System (Family Assistance)(Administration) Act 1999*. 

However in some cases there might not be a person who receives a family tax benefit.

The attached Instrument provides that in these cases, VCES allowances are to be paid to a person approved by the Commission to receive the allowance on the VCES child's behalf.

Sections [10][11] replaces an outdated reference in paragraphs 3.4.2 and 3.4.5 to the person who receives the family allowance supplement (being the person who can be paid the relevant VCES allowance on behalf of a VCES child) with a reference to the person who is paid the family tax benefit.
under the *A New Tax System (Family Assistance)(Administration) Act 1999*, and also provides that if there is no such person, then the relevant allowance is to be paid to a person approved by the Commission to receive the payment on the VCES child's behalf.

Section [12] omits a Note that contained outdated references to the *Social Security Act 1991*.

Section [13] is a drafting-type variation that omits an unnecessary reference to a provision in the VEA.

Section [14] relates to the new additional function of VCES Boards (that function being to act as Boards under the MRCA Childrens' Scheme).

Accordingly, when potential members of VCES Boards are being scrutinised for membership of a Board, both they and the organisation that nominates them are to be interested not only in the educational welfare of VCES children (ie children of veterans) but also in the educational welfare of MRCA children (ie children of members of the Australian Defence Force).

Section [15] updates and refines the provision dealing with the legal liability of members of VCES Boards.

Essentially Board Members, while about Board business, are to be in the same position as Australian Government employees (public servants).

The former provision linked a Board member's legal protection to the legal protection provided to a public servant under certain Finance Directions. These Directions related to a time when the Australian Government was not insured. The Australian Government now has an insurer - COMCARE.
It is now no longer accurate to refer to the relevant Finance Directions in the current context and such references have been omitted.

Section [16] provides that the Repatriation Commission is only to appoint a person as a member of a VCES Board if the MRCC agrees to the appointment.

This is because VCES Boards now have the additional function of assisting MRCC provide education and training to MRCA children and therefore MRCC should have a say in who is being appointed to VCES Boards.

New paragraph 6.3.2(d) also requires the Repatriation Commission to notify the MRCC of proposed appointments to a Board and requires the MRCC to approve or reject proposed appointments.

Sections [17] [18] invest VCES Boards with a new function - namely that of being MRCA Children's Boards (if the members of a Board agree). This new function requires VCES Boards to assist the MRCC provide education and training to eligible children of members of the Australian Defence Force.

Section [19] removes a requirement that VCES Boards are to lodge an annual report but requires VCES Boards to lodge a statistical return at the end of each financial year.

Previously VCES Boards were to submit an annual report and a statistical return.

Because the same requirement to submit a statistical return is imposed on MRCA Children's Boards (ie VCES Boards), it was convenient to allow a VCES Board, acting as both a VCES Board and a MRCA Childrens'
Board, to combine statistical returns for both Boards, if a VCES Board so desired.


ensures that any variation of the VCES by the attached Instrument does not have the effect of interfering with the continued existence of VCES Boards, continuing membership of VCES Boards or continued protection from liability of VCES Board members.

provides that where a VCES Board is comprised of members appointed before the attached Instrument was made, then in order for that Board to have the new function of acting as a MRCA Childrens' Board, members of the Board must consent to the Board having that new function.

Board members can notify the Secretary of the Board of their consent to the new function. A Board Secretary is an employee of the Department of Veterans' Affairs and a delegate of the Repatriation Commission.

If, on or after the commencement of the attached Instrument, a Board is comprised of re-appointed members (being members who were members of the Board before the attached Instrument) or is comprised of new members (being members who were appointed as members of the Board on or after the attached Instrument), then the consent of such members is not required in order for the Board to which they belong to have the new function of acting as a MRCA Childrens' Board.

Repatriation Commission