
Dated 9 December 2004

MARK SULLIVAN
PRESIDENT

IAN CAMPBELL
DEPUTY PRESIDENT

SIMON HARRINGTON
COMMISSIONER

Repatriation Commission
[1] Name of Instrument


[2] Commencement

This Instrument commences upon its approval by the Minister for Veterans' Affairs.

Note: subsection 117(3) of the Veterans' Entitlements Act 1986 provides that a variation of the Veterans' Children Education Scheme is of no effect unless approved by the Minister for Veterans' Affairs.

[3] Definitions

(a) “Veterans’ Children Education Scheme” means the scheme in force under section 117 of the Veterans' Entitlements Act 1986.

(b) A term referred to in this Instrument has the same meaning given it (if any) in the Veterans' Children Education Scheme, as varied by this Instrument, or in the Act.

[4] Variation of the Veterans' Children Education Scheme

Schedule 1 varies the Veterans' Children Education Scheme.
Schedule 1  Variations

[5]  Paragraph 1.2.1 (definition of “member”)

    after this definition, insert:

"MRCA" means the Military Rehabilitation and Compensation Act 2004 in force from time to time.

"MRCC" means the Military Compensation and Rehabilitation Commission established under section 361 of MRCA.

"MRCA Childrens’ Board” means an education and training board established under the MRCA Childrens’ Scheme.

"MRCA Childrens’ Scheme” means the education and training scheme for eligible young persons, in force from time to time, determined by the MRCC under Part 3 of Chapter 5 of MRCA, and known as the Military Rehabilitation and Compensation Act Education and Training Scheme 2004.

[6]  Paragraph 1.4.2

    after this paragraph, insert:

1.4.3 An ancillary purpose of this Scheme is to enable Boards established under the Scheme to also act as MRCA Childrens’ Boards for the purposes of the MRCA Childrens’ Scheme.

[7]  Paragraphs 2.11.1 and 2.11.2

    omit, substitute:

2.11.1 Subject to paragraph 2.11.2, a student is not to be paid a benefit under the Scheme if, apart from under the Scheme, the student receives a financial benefit from the Commonwealth in the nature of educational assistance or income support.

2.11.2 A student who receives a financial benefit from the Commonwealth in the nature of educational assistance or income support (other than a benefit under the Scheme) may be paid a benefit under the Scheme if the educational assistance or income support:

(a) is provided (whether directly or indirectly) by the Department or the Commission; or

(b) is provided under a scholarship from the Commonwealth known as the Commonwealth Education Costs Scholarship; or
(c) is provided under a scholarship from the Commonwealth known as the Commonwealth Accommodation Scholarship.

[8] Paragraphs 3.2.3, 3.3.2,

after “1999”, insert:

(enthiled person) and if there is no entitled person - to a person approved by the Commission to receive the payment on the student’s behalf

[9] Paragraph 3.3.3

after:

1999

insert:

(enthiled person) after:

spouse

insert:

and if there is no entitled person - to a person approved by the Commission to receive the payment on the student’s behalf.

[10] Paragraph 3.4.2

omit paragraph (a), substitute:

(a) the person who is entitled to be paid family tax benefit under A New Tax System (Family Assistance) (Administration) Act 1999; or

omit “student.” in paragraph (b), substitute:

student; or

after paragraph (b), insert:

(c) if the payment methods in paragraphs (a) and (b) are inappropriate or non-existent – a person approved by the Commission to receive the payment on behalf of the student.
Paragraph 3.4.5

*after (second occurring):*

payment

*insert:*

and if there is no person for the purposes of subparagraph 3.4.2(a), the part-payment shall be paid to a person approved by the Commission to receive the payment on the student’s behalf.

Paragraph 5.5.2

*omit Note 1 in its entirety.*

*re-number the Notes.*

Paragraph 6.1.1

*omit:*

Pursuant to paragraph 117(5)(e) of the Act a Board,

*substitute:*

A Board,

*at the end of the paragraph insert:*

Note: Boards are established under paragraph 117(5)(e) of the Act.

Paragraphs 6.2.1(a) and (b)

*after:*

eligible students

*insert:*

including eligible children under the MRCA Childrens’ Scheme.
Paragraph 6.2.3

**omit, substitute:**

6.2.3 A member of a Board who incurs a legal liability in the performance of his or her duties as a member of the Board is in the same legal position as an employee of the Department.

Paragraph 6.3.2(d)

**omit, substitute:**

(d) the appointment of a member to a Board shall be made by the Commission subject to the MRCC approving the appointment. The Commission is to notify the MRCC of a proposed appointment to a Board (which notice may be in electronic form) and the MRCC is to notify the Commission of its approval or rejection of the proposed appointment (which notice may be in electronic form).

Paragraph 6.5.2 (d)

**omit:**

and

Paragraph 6.5.2(e)

**after this paragraph, insert:**

(f) subject to paragraph 9.2 (consent of original members), acting as MRCA Childrens’ Boards.

Paragraph 6.9.1

**omit, substitute:**

6.9.1 As soon as practicable after 30 June each year each Board shall submit a statistical return for inclusion in the Commission’s annual report. A Board in a State may combine its statistical return with a statistical return of the Veterans’ Children Education Board in that State.
PART 9 - TRANSITIONAL ARRANGEMENTS

9.1 Continuation of Boards, members, legal cover

9.1.1 Despite any variation to the Scheme made by this Instrument:

(a) a Board in existence immediately before the commencement of this Instrument continues in existence after the commencement of this instrument under the Scheme as varied by this Instrument; and

(b) a person who is a member immediately before the commencement of this Instrument continues to be a member, after the commencement of this instrument, under the Scheme as varied by this Instrument, for the period for which the person was appointed as a member that has not expired.

(c) a member who, immediately before the commencement of this Instrument, incurred a liability in the performance of his or her duties as a member (whether or not the member was aware of the liability), being a liability that, on the commencement of this Instrument still existed, is taken to have incurred that liability under the Scheme as varied by this Instrument.

9.2 Need for Member’s consent to MRCA duties

9.2.1 A Board comprised of members who were members immediately before the commencement of the MRCA Childrens’ Scheme in 2004 is not taken to have the function of acting as a MRCA Childrens’ Board (function) unless such members have each notified in writing (which notice may be in electronic form) the Secretary of the Board that they consent to being a member of the Board with that function.

9.2.2 The Secretary is to forward notifications of consent received under paragraph 9.2.1 to the Commission.

9.2.3 Paragraph 9.2.1 does not apply to a Board comprised of members re-appointed on or after the commencement of the MRCA Childrens’ Scheme.