EXPLANATORY STATEMENT

Military Rehabilitation and Compensation Act Education and Training Scheme (Numbering/Double Orphan Amendments) Determination

2005 No.M4

Section 258 of the Military Rehabilitation and Compensation Act 2004

The Purpose and Operation of the Attached Instrument

To correct several numbering and formatting errors in the Contents Page, and in paragraphs 7.2-12 of the Military Rehabilitation and Compensation Act Education and Training Scheme 2004 (MRCAETS) and to remove a redundant reference in the MRCAETS to the "double orphan rate".

Documents Incorporated by Reference


Document (i) is available on the COMLAW site: http://www.frli.gov.au/
Document (ii) is available on the Military Rehabilitation and Compensation Scheme site: www.mrcs.gov.au

Consultation

- No consultation was undertaken in relation to the attached Instrument because the Rule-Maker (in this case the Minister for Veterans' Affairs taking into account the recommendation of the Branch Head, Legal Services Group, Department of Veterans' Affairs) did not consider that general consultation was appropriate because the amendments were minor and technical.

Retrospective Operation

None. The attached Instrument commences after registration.

Further Details - See Attachment A
Attachment A

Paragraph [1] sets out the name of the Determination.


Paragraph [4] states that the Schedule to the Determination varies the Principal Determination.

Paragraph [5] re-arranges the references, in the Contents Page of the Principal Determination, to Parts 7 to 9 of the Principal Determination so that the references to the relevant Parts in the Contents Page match the Parts as they actually appear in the Principal Determination. Previously the references to the relevant Parts in the Contents Page did not match the actual Parts of the Principal Instrument.

Paragraph 5 also amends the reference to Part 9 by omitting "Transitional Arrangements", because "Transitional Arrangements" now fall within new Part 10, and inserts references to new Parts viz Parts 10-12.
Paragraph [6] amends the reference to subparagraph 7.2.3 in recognition of the new numbering of the subparagraph ie. 7.1.3.

Paragraph [7] omits the reference to ‘double orphan rate’ in subparagraph 5.5.1 of the Principal Determination because it is redundant.

Subparagraph 5.5.1 purported to enable rent assistance to be granted to a student in receipt of an education allowance at the "double orphan rate".

The reference to the "double orphan rate" appears in the Principal Determination because the Principal Determination was modelled on the Veterans' Children Education Scheme (VCES) made under section 117 of the Veterans' Entitlements Act 1986 but unlike the situation under the VECS, an education allowance at the "double orphan rate" is not payable under the Principal Determination because the concept of "double orphan" does not exist in the Military Rehabilitation and Compensation Act 2004. Accordingly the reference to the "double orphan rate" has been omitted from the Principal Determination.

Paragraph [8] makes a more appropriate reference to Part 7.2 of the Principal Determination by making it Part 7 (there was no Part 7.1 and therefore the reference to Part 7.2 was erroneous).

Paragraphs [9]/[10] re-arrange paragraph numbers as a consequence of substituting Part 7 for Part 7.2 (see previous amendment).

Paragraph [11] alters the heading to Part 9 by omitting the reference to "Transitional Arrangements" because "Transitional Arrangements" will be the heading to the new Part 10.
Paragraphs [12]-[19] make paragraphs 10, 11 and 12 into, respectively, Parts 10, 11 and 12;

alter the numbering of paragraphs 10.2-10.5 so as to make the style of numbering consistent with the dominant style of numbering in the Principal Determination; and

make consequential changes to various references to paragraph-numbers in the Principal Determination so as to reflect the changes in numbering to paragraphs 10.2 - 10.5.