EXPLANATORY STATEMENT

Select Legislative Instrument 2005 No. 196

Issued by the Authority of the Minister for Veterans' Affairs

Veterans’ Entitlements Act 1986

Veterans’ Entitlements (DFISA-like Payment) Amendment Regulations 2005 (No. 1)

Section 216 of the Veterans’ Entitlements Act 1986 (the Act) provides, in part, that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters which are by the Act required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

On 20 September 2004, an allowance called the Defence Force Income Support Allowance (DFISA) was introduced under the Act. DFISA is payable to persons whose social security income support payment is reduced or not payable because of certain service-related disability benefits (referred to as adjusted disability pension).

The Veterans' Entitlements (DFISA-like Payment) Regulations 2005 (the Principal Regulations) enable DFISA-like payments to be paid to persons eligible for income support payments (primary payment) under certain Commonwealth programs but who miss out on those benefits either totally or partially because they or their partner receive an adjusted disability pension which is included as income in the means test for the primary payment.

The purpose of the Regulations is to:

- recognise a new primary payment which attracts DFISA-like payments, payable under the Australian Government Citrus Canker Assistance Package; and

- omit references to the Sugar Industry Reform Program - Income Support Payment.

On 11 February 2005, the Minister for Agriculture, Fisheries and Forestry announced a comprehensive assistance package which included income support for Queensland citrus growers and citrus production nurseries facing serious financial pressure due to the recent citrus canker outbreak. These income support payments may be affected by an adjusted disability pension. Accordingly, people otherwise eligible for income support payments may not receive them or may receive only some income support as the payments are means-tested and an adjusted disability pension is taken into account in that means test.
The Regulations make provision for DFISA-like payments in respect of the Australian Government Citrus Canker Assistance Package - Income Support Payment paid under the Department of Agriculture, Fisheries and Forestry guidelines.

The Regulations also omit references to the Sugar Industry Reform Program 2004 - Income Support Payment which ceased on 1 March 2005.

Details of the Regulations are set out in the Attachment.

The Act specifies no conditions that need to be met before the power to make the Regulations may be exercised.

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulations are taken to have commenced:

- on 11 February 2005 in relation to the amendments relating to the Australian Government Citrus Canker Assistance Package - Income Support Payment; and

- on the day after they are registered in relation to the omission of the provisions relating to the Sugar Industry Reform Program 2004 - Income Support Payment.

For the purposes of subsection 12(2) (retrospective legislative instruments) of the *Legislative Instruments Act 2003*, the Regulations do not disadvantage a person or impose liabilities on a person.

For the purposes of the definition of "explanatory statement" in subsection 4(1) of the *Legislative Instruments Act 2003* (documents incorporated in legislative instruments) the documents incorporated -by-reference in the Regulations are:

1. **Veterans' Entitlements Act 1986**;

This document is available on the website (COMLAW [http://www.comlaw.gov.au](http://www.comlaw.gov.au)) of the Australian Government Attorney-General's Department.

2. **The Australian Government Citrus Canker Assistance Package Guidelines**.

This package is available from the Department of Agriculture, Fisheries and Forestry.

For the purposes of the definition of "explanatory statement" (consultation) in subsection 4(1) of the *Legislative Instruments Act 2003*, the Rule-Maker decided that consultation in respect of the Regulations was not necessary because interested parties had been consulted about the issues leading to the implementation of the DFISA legislation and the Principal Regulations in the course of the Clarke Review 2004.

Further, the significant amendments made by the Regulations to the Principal Regulations are beneficial in that they introduce a new DFISA-like payment in respect of the Australian Government Citrus Canker Assistance Package which has been
introduced by the Government as part of a comprehensive assistance package for Queensland citrus growers and therefore could be expected to be approved by affected parties.

The other amendments made by the Regulations to the Principal Regulations are minor and technical in nature in that they remove references to a redundant payment - the Sugar Industry Reform Program 2004 - Income Support Payment, as this payment ceased on 1 March 2005.
ATTACHMENT

Details of the Veterans’ Entitlements (DFISA-like Payment) Amendment Regulations 2005 (No. 1)

Regulation 1 provides that the name of the Regulations is the Veterans’ Entitlements (DFISA-like Payment) Amendment Regulations 2005 (No. 1).

Regulation 2 specifies the date on which the Regulations are taken to have commenced as:

- 11 February 2005 for Schedule 1, relating to the Australian Government Citrus Canker Assistance Package - Income Support Payment; and
- on the day after they are registered for Schedule 2, relating to the repeal of the references to the Sugar Industry Reform Program 2004 - Income Support Payment.

Regulation 3 provides that Schedules 1 and 2 amend the Veterans’ Entitlements (DFISA-like Payment) Regulations 2005 (the Principal Regulations).

Schedule 1 - Amendments commencing on 11 February 2005


Item [3] inserts reference to the new Australian Government Citrus Canker Assistance Package - Income Support Payment in paragraph 6(b) of the Principal Regulations which describes the means for working out the rate of the DFISA-like payment, namely via the Method Statement 2 in Part 2 of Schedule 1 of the Principal Regulations.

Item [5] inserts reference to the new Australian Government Citrus Canker Assistance Package - Income Support Payment in the definition of \textit{daily provisional payment rate} in Schedule 1, Part 2, paragraph (b) of the Principal Regulations.

\textbf{Schedule 2 - Amendments commencing on registration}


