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, the Act was amended to enable a new payment to be made to eligible people. The new payment was payable under a new Part VIIAB and was called the Defence Force Income Support Allowance (DFISA).

DFISA is payable where a person’s social security income support payment (the primary payment) is reduced or not payable because the person (or his or her partner) receives certain service-related disability benefits (an adjusted disability pension). This situation occurs where the means test for the primary payment takes adjusted disability pension into account. Generally speaking, DFISA is a payment made to off-set the reduction in the person’s social security payment.

In addition, primary payments other than social security income support payments may also be reduced or extinguished because the person receives an adjusted disability pension and the means test for the relevant primary payment takes the adjusted disability pension into account. In these cases, DFISA is not payable under Part VIIAB of the Act but “DFISA-like payments” are payable under regulations made under that Part. The regulations are the *Veterans’ Entitlements (DFISA-like Payment) Regulations 2005* (the Principal Regulations).

The purpose of the Regulations is to recognise a new primary payment, the Equine Workers Hardship Wage Supplement Payment, as a payment that attracts DFISA-like payments because the means tests for this primary payment may take adjusted disability pension into account with the result the primary payment could be reduced or extinguished.

This new primary payment was announced on 9 September 2007 by the then Minister for Agriculture, Fisheries and Forestry as ex-gratia assistance for people and businesses facing additional costs and significant financial hardship, as a direct result of the Equine Influenza quarantine measures.

The means tests for the “Equine Workers Payment” may take into account adjusted disability pension. Accordingly, people otherwise eligible for the payment may not receive it or may receive only part of the payment. The Regulations will enable DFISA-like payments to be paid to such people.
The Equine Workers Payment is paid in accordance with Guidelines administered by the Department of Families, Housing, Community Services and Indigenous Affairs.

Further details of the Regulations are contained in the Attachment.

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

The Regulations commenced on the day after they were registered on the Federal Register of Legislative Instruments.

The Regulations incorporate a document by reference. For the purposes of the definition of "explanatory statement" in subsection 4(1) of the *Legislative Instruments Act 2003* (documents incorporated in legislative instruments/how such documents can be obtained) the following document is incorporated-by-reference in the Regulations and may be requested from the Department of Veterans’ Affairs:

- guidelines known as the “Australian Government Guidelines for Ex-Gratia Equine Workers Hardship Wage Supplement Payment”.

No consultation was undertaken in respect of the Regulations. For the purposes of the definition of "explanatory statement" in subsection 4(1) of the *Legislative Instruments Act 2003* (reason for no consultation to be given), the Rule-Maker was satisfied that consultation in respect of the Regulations was inappropriate because the Regulations were beneficial and, because of the single purpose of the regulations, which, generally speaking, is to restore a full benefit to a beneficiary, it was difficult to see that consultation could have produced any useful results.

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ATTACHMENT

Details of the Veterans’ Entitlements (DFISA-like Payment) Amendment Regulations 2008 (No. 1)

Regulation 1 sets out the name of the Regulations - Veterans’ Entitlements (DFISA-like Payment) Amendment Regulations 2008 (No. 1).

Regulation 2 specifies that the Regulations commence on the day after they are registered on the Federal Register of Legislative Instruments.

Regulation 3 provides that Schedule 1 amends the Principal Regulations.

Schedule 1

Item [1] defines, for the purposes of the Principal Regulations, the primary payment that is payable to workers in the equine industry whose livelihoods have been negatively affected by the Government’s equine-influenza prevention measures. The payment is known as the Equine Workers Hardship Wage Supplement Payment (hereinafter referred to as the “Equine Workers Payment”). The payment is payable under guidelines, in force on 7 September 2007, administered by the Department of Families, Housing, Community Services and Indigenous Affairs.

Item [2] amends the definition of “primary payment” to include the Equine Workers Payment.

Item [3] has the result that the rate of DFISA-like payment payable under the Principal Regulations in respect of the Equine Workers Payment is worked out using Method Statement 2 set out in Part 2 of Schedule 1 to the Principal Regulations.

Item [4] amends the explanatory note in Part 2 of Schedule 1 to the Principal Regulations by adding a reference to the Equine Workers Payment so as to make it clear that the rate of the DFISA-like payment payable under the Principal Regulations in respect of the Equine Workers Payment is worked out under Method Statement 2 to Schedule 1 of the Principal Regulations and not Method Statement 1 of Schedule 1 to the Principal Regulations.

Item [5] is a drafting change to enable the Equine Workers Payment to be included in the definition of “daily provisional payment rate” in Part 2 of Schedule 1 to the Principal Regulations.

Item [6] defines, for the purposes of the reference to “daily provisional payment rate” in Method Statement 2 of Schedule 1 to the Principal Regulations, the “daily provisional payment rate” for the Equine Workers Payment as the provisional fortnightly payment rate.
mentioned in Benefit Rate Calculator B used under the Social Security Act 1991 to work out the Equine Workers Payment, converted to a daily rate by dividing the rate by 14.