EXPLANATORY STATEMENT

Veterans’ Entitlements Income (Exempt Lump Sum – Redress WA) Determination

Instrument No. R10 /2008

Paragraph 5H(12)(c) of the Veterans’ Entitlements Act 1986

The Purpose and Operation of the Attached Instrument
A payment is deemed not to be ordinary income for means-testing under the Veterans’ Entitlements Act 1986 (VEA) once it is stated to be an exempt lump sum by a determination under paragraph 5H(12)(c) of the VEA. The amount specified in the attached Determination at Part 2 of the Schedule as an exempt lump sum is an exempt lump sum for the purposes of the definition of ‘ordinary income’ in subsection 5H(1) of the VEA.

The attached instrument provides for the exemption of these payments from the income assessment of the person’s or the person’s partner’s service pension or income support supplement.

Background
On 17 December 2007, the State of Western Australia announced a scheme, to be known as Redress WA for individuals who, as children, were abused while in State care. Redress WA will provide ex-gratia payments from 1 May 2008 to eligible individuals. It is estimated that there are approximately 10,000 individuals who may be eligible for payments under Redress WA.

To be eligible for Redress WA applicants must:

- be over 18 years of age OR the legal guardian of a person aged over 18 years with a legal disability;

  AND

- for payments up to $10,000 (Option 1) be able to show reasonable likelihood that she or he has experienced abuse and/or neglect while in State care, either institutional or non-institutional;

- for payments up to $80,000 (Option 2) provide medical and/or psychological evidence that she or he has been abused and/or neglected while in State care, either institutional or non-institutional.

The State of Western Australia will determine who is eligible for an ex-gratia payment in accordance with its own criteria, including the criteria outlined above. In accordance with the criteria set down by the State of Western Australia, the maximum total payment available to an individual under Redress WA is $80,000. The payment is not intended to provide compensation for any harm experienced.
The purpose of an *ex-gratia payment* is to assist individuals with the healing process. The payment is part of a range of support services offered by the State of Western Australia including financial and psychological counselling and legal advice, as well as the offer of an apology. An *ex-gratia payment* does not represent a receipt of money for services rendered directly or indirectly.

The purpose of the attached instrument is to ensure that an *ex-gratia payment* made by the State of Western Australia under the scheme known as Redress WA is an exempt lump sum for the purposes of paragraph 5H(12)(c) of the VEA.

The effect of this instrument is that people who are in receipt of an income support pension under the VEA will not have their income support payment reduced because of receiving an *ex-gratia payment* made by the State of Western Australia under the scheme known as Redress WA because an *ex-gratia payment* will not be regarded as income for the purposes of the VEA income test.

**Consultation**

In the interest of consistency of approach, the Department has worked closely with the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) to ensure that the attached instrument has the same effect as a similar instrument executed under the social security law. The relevant instrument under social security law operates from 1 May 2008.

The attached instrument is beneficial to eligible Department of Veterans' Affairs income support recipients because it exempts from the VEA income test an *ex-gratia payment* made by the State of Western Australia under the scheme known as Redress WA. Public consultation was therefore seen as unnecessary.