Veterans’ Entitlements (Veterans’ Children Education Scheme – Scholarships) Instrument 2010

Instrument No. R24/2010

I, Alan Griffin, Minister for Veterans’ Affairs, pursuant to subsection 117(3) of the Veterans’ Entitlements Act 1986, approve this instrument made by the Repatriation Commission.

Dated this 8th day of April 2010
Alan Griffin

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ALAN GRIFFIN

The Repatriation Commission, pursuant to subsection 117(2) of the Veterans’ Entitlements Act 1986, varies the Veterans’ Children Education Scheme (Instrument 1992 No. 11 as amended) in accordance with the Schedule.

Dated this 8th day of April 2010
Ian Campbell Shane Carmody Brigadier W D Rolfe AO (Rtd)

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IAN CAMPBELL SHANE CARMODY BRIGADIER W D ROLFE AO (Rtd)
PRESIDENT DEPUTY PRESIDENT COMMISSIONER
[1] Name of Instrument

This instrument is the *Veterans’ Entitlements (Veterans’ Children Education Scheme – Scholarships) Instrument 2010*

[2] Commencement

This instrument is taken to have commenced on 1 April 2010.
Schedule

1. Paragraph 1.2.1 (Interpretation)

   *insert:*

   “ABSTUDY Scheme” means the Australian Government program designed to rectify the educational disadvantages faced by Aboriginal and Torres Strait Islander people by improving educational outcomes to a level commensurate with the Australian population in general.

   Note: in 2010 the ABSTUDY Scheme was administered and delivered by Centrelink on behalf of the Department of Education, Employment and Workplace Relations.

   “approved scholarship course” means a course under section 592M of the *Social Security Act 1991* (in force from time to time).

   “Commonwealth Accommodation Scholarship” means a scholarship of that name provided for under the Commonwealth Scholarships Guidelines made for the purposes of Part 2-4 of the *Higher Education Support Act 2003* (in force from time to time).

   “Commonwealth Education Costs Scholarship” means a scholarship of that name provided for under the Commonwealth Scholarships Guidelines made for the purposes of Part 2-4 of the *Higher Education Support Act 2003* (in force from time to time).

   “student start-up scholarship payment” means the payment of that name in paragraph 7.4.

   “relocation scholarship payment” means the payment of that name in paragraph 7.5.

2. Paragraph 2.2 (Claim for benefits)

   *omit:*

   2.2.1 A claim

   *substitute:*

   2.2.1 Except where otherwise provided, a claim

3. Paragraph 2.2.1

   *add as a note:*

Federal Register of Legislative Instruments F2010L00836
Note: a claim is not required for the student start-up scholarship payment or the relocation scholarship payment in paragraphs 7.4 and 7.5.

4. Paragraph 2.11.2 (Effect of other assistance on eligibility)

omit, substitute:

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 Commonwealth Accommodation Scholarship - except where the benefit under the Scheme is a relocation scholarship payment; or
(c) is provided under a Commonwealth Education Costs Scholarship - except where the benefit under the Scheme is a student start-up scholarship payment.

5. Paragraph 7.3.6

after the note, insert:

7.4 Student Start-up Scholarship Payment

Claim not required

7.4.1 A claim is not required for a student start-up scholarship payment.

Grant of scholarship

7.4.2 The Commission may grant a student start-up scholarship payment to an Eligible child who is qualified for one.

Circumstances in which Person is Qualified for Student Start-up Scholarship Payment

7.4.3 An Eligible child is qualified for a student start-up scholarship payment if at a time (the qualification time):
(a) the person is eligible for an education allowance for a tertiary student under the Scheme, the allowance is payable to the person and the person is receiving it; and

(b) the person is receiving the education allowance because the person is undertaking an approved scholarship course; and

(c) the Commission is satisfied that in the period of 35 days starting immediately after the qualification time, the person proposes to start to undertake the course or to continue to undertake the course; and

(d) the Commission is satisfied that the person is not likely to receive the amount or value of a Commonwealth Education Costs Scholarship in the period of 6 months starting immediately after the qualification time.

Circumstances in which Person is Not Qualified for Student Start-up Scholarship Payment

7.4.4 A person is not qualified for a student start-up scholarship payment if one or more of the following circumstances apply to the person in the period of 6 months (or shorter period determined by the Commission) ending immediately before the person’s qualification time:

(a) the person has qualified for a student start-up scholarship payment under the Scheme; or

(b) the person has qualified for a payment under the ABSTUDY Scheme known as an “ABSTUDY student start-up scholarship payment”; or

(c) the person has qualified for a payment known as a “student start-up scholarship payment” under Part 2.11B of the Social Security Act 1991 (in force from time to time); or

(d) the person has qualified for a payment known as a “student start-up scholarship payment” under the scheme made under the Military Rehabilitation and Compensation Act 2004 known as the Military Rehabilitation and Compensation Act Education and Training Scheme (in force from time to time); or

(e) the person has received the amount or value of a Commonwealth Education Costs Scholarship or the person was entitled to the amount or value of such a scholarship but has not received the full entitlement only because the scholarship was suspended.
**Commission may determine period less than 6 months**

**7.4.5** For 7.4.4, the *Commission* may determine a period in relation to a person that is at least 2 months but less than 6 months if the *Commission* considers that the determination would enable the person to qualify for a *student start-up scholarship payment* on or near the day on which the *approved scholarship course* concerned started or starts.

**7.4.6** For 7.4.5, the *Commission* must not make a determination if the effect of the determination would be to enable the person to receive more than 2 *student start-up scholarship payments* in a Calendar year.

Note: The *Acts Interpretation Act 1901* defines Calendar year (s.22)

**Amount of student start-up scholarship payment**

**7.4.7** The amount of a *student start-up scholarship payment* is $650 for 2010 and $1064 for 2011 and for each subsequent Calendar year or, for any Calendar year, the amount equal to the amount, including as indexed, under section 592H of the *Social Security Act 1991* (in force from time to time), whichever is higher.

Note: The *Acts Interpretation Act 1901* defines Calendar year (s.22)

**7.5 Relocation Scholarship Payment**

**Claim not required**

**7.5.1** A claim is not required for a *relocation scholarship payment*.

**Grant of scholarship**

**7.5.2** The *Commission* may grant a *relocation scholarship payment* to an *Eligible child* who is qualified for one.

**Circumstances in which Person is Qualified for Relocation Scholarship Payment**

**7.5.3** An *Eligible child* is qualified for a *relocation scholarship payment* if at a time (the qualification time):

(a) the person is eligible for an education allowance (living away from home allowance; homeless allowance or double orphan allowance) for a tertiary student under the *Scheme*, the allowance is payable to the person and the person is receiving it; and

(b) the person is receiving the education allowance in (a) because the person is undertaking an *approved scholarship course*; and
(c) the Commission is satisfied that in the period of 35 days starting immediately after the qualification time, the person proposes to start to undertake the course or to continue to undertake the course; and

(d) the Commission is satisfied that the person is not likely to receive the amount or value of a Commonwealth Accommodation Scholarship in the period of 12 months starting immediately after the qualification time.

Circumstances in which Person is Not Qualified for a Relocation Scholarship Payment

7.5.4 A person is not qualified for a relocation scholarship payment if one or more of the following circumstances apply to the person in the period of 12 months (or shorter period determined by the Commission) ending immediately before the person’s qualification time:

(a) the person has qualified for a relocation scholarship payment under the Scheme; or

(b) the person has qualified for a payment under the ABSTUDY Scheme known as an “ABSTUDY relocation scholarship payment”; or

(c) the person has qualified for a payment known as a “relocation scholarship payment” under Part 2.11B of the Social Security Act 1991 (in force from time to time); or

(d) the person has qualified for a payment known as a “relocation scholarship payment” under the scheme made under the Military Rehabilitation and Compensation Act 2004 known as the Military Rehabilitation and Compensation Act Education and Training Scheme (in force from time to time); or

(e) the person has received the amount or value of a Commonwealth Accommodation Scholarship or the person was entitled to the amount or value of such a scholarship but has not received the full entitlement only because the scholarship was suspended.

Commission may determine period less than 12 months

7.5.5 For 7.5.4, the Commission may determine a period in relation to a person that is at least 3 months but less than 12 months if the Commission considers that the determination would enable the person to qualify for a relocation scholarship payment on or near 1 January in a year.
7.5.6 For 7.5.5, the *Commission* must not make a determination if the effect of the determination would be to enable the person to receive more than 2 *relocation scholarship payments* in a period of 2 successive Calendar years.

Note: The *Acts Interpretation Act 1901* defines Calendar year (s.22)

**Amount of relocation scholarship payment**

7.5.7 Subject to 7.5.8 and 7.5.9, the amount of a *relocation scholarship payment* is $4,000 or the amount equal to the amount, including as indexed, under subsection 592L(1) of the *Social Security Act 1991* (in force from time to time), whichever is higher.

*Previously undertaken approved scholarship course and homeless or required to live away from home*

7.5.8 The amount of a *relocation scholarship payment* to a person is $1,000 or the amount equal to the amount, including as indexed, under subsection 592L(2) of the *Social Security Act 1991* (in force from time to time), whichever is higher, if:

(a) in the Calendar year before the Calendar year in which the person’s qualification time falls, the person undertook a course that, had the person undertaken it at the qualification time, would have been an *approved scholarship course* at that time; and

Note: The *Acts Interpretation Act 1901* defines Calendar year (s.22)

(b) either of the following applied to the person at a time that was more than 6 months before the person’s qualification time:

(i) the person received a homeless student education allowance under the *Scheme*;

(ii) the person did not receive a homeless student education allowance under the *Scheme* but received, under the *Scheme*, a living away from home allowance for a tertiary student or a double orphan allowance for a tertiary student.

*Subsequent Payment*

7.5.9 The amount of a *relocation scholarship payment* is $1,000 or the amount equal to the amount, including as indexed, under subsection 592L(3) of the *Social Security Act 1991* (in force from time to time),
whichever is higher, if the person has received any of the following before the period in 7.5.4:

(a) a relocation scholarship payment;

(b) a payment under the ABSTUDY Scheme known as an “ABSTUDY relocation scholarship payment”;

(c) a payment known as a relocation scholarship payment under Part 2.11B of the Social Security Act 1991;

(d) a payment known as a “relocation scholarship payment” under the scheme made under the Military Rehabilitation and Compensation Act 2004 known as the Military Rehabilitation and Compensation Act Education and Training Scheme;

(e) the amount or value of a Commonwealth Accommodation Scholarship.

**Debts in respect of scholarship payments**

**Person does not start to undertake course**

7.5.10 (1) If a person:

(a) has received a student start-up scholarship payment or a relocation scholarship payment because the person is proposing to undertake an approved scholarship course; and

(b) the person does not start to undertake the course;

then:

(c) the amount of the payment is a debt due to the Commonwealth; and

(d) the debt is taken to have arisen when the person receives the payment.

However, this paragraph does not apply if, in the Commission’s opinion, the person does not start to undertake the course because of exceptional circumstances beyond the person’s control.

**Person not continuing to undertake course**

(2) If a person:

(a) has received a student start-up scholarship payment or a relocation scholarship payment because the person is proposing to undertake an approved scholarship course; and
(b) the person starts to undertake the course; and
(c) the person is not undertaking the course at the end of 35 days after the course commences;
then:
(d) the amount of the payment is a debt due to the Commonwealth; and
(e) the debt is taken to have arisen when the person receives the payment.

(3) If a person:

(a) has received a student start-up scholarship payment or a relocation scholarship payment because the person is undertaking an approved scholarship course; and
(b) is not undertaking the course at the end of 35 days after qualifying for the payment;
then:
(c) the amount of the payment is a debt due to the Commonwealth; and
(d) the debt is taken to have arisen when the person receives the payment.

(4) Subparagraphs (2) and (3) do not apply if, in the Commission’s opinion, the person is not undertaking the course as mentioned in those subparagraphs because of exceptional circumstances beyond the person’s control.