EXPLANATORY STATEMENT

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

EMPOWERING PROVISION

Section 117 of the Veterans’ Entitlements Act 1986 (the Act).

PURPOSE

The attached instrument (R24/2010) amends the Veterans’ Children Education Scheme (VCES). The VCES is a legislative instrument made under section 117 of the Act and sets out the circumstances in which the Repatriation Commission (Commission) may accept financial liability for education and training provided to eligible children of veterans (eligible children).

The purpose of the attached instrument is to enable the Commission to grant certain scholarships to eligible children. Those scholarships are:

- Student start-up scholarship payment
- Relocation scholarship payment

These scholarships were recommended by the Bradley Review into higher education (2008) and will eventually replace the scholarships known as the Commonwealth Education Costs Scholarship and the Commonwealth Accommodation Scholarship.

The value of the scholarships are:

- start-up scholarship ($650 per semester in 2010 and $1064 per semester in 2011)
- relocation scholarship ($4,000 for initial relocation; $1,000 per year)

The scholarships are available under the Social Security Act 1991 but not to eligible children under the VCES. This is because a prerequisite for the scholarships under the Social Security Act 1991 is that a person receives the Youth Allowance but a person cannot receive a Youth Allowance if he/she is an eligible child under the VCES. Accordingly, in order for eligible children under the VCES to be provided the scholarships, the VCES needed to make provision for them.
RETROSPECTIVITY

Yes. The attached instrument commenced before registration. For the purposes of subsection 12(2) of the *Legislative Instruments Act 2003* the instrument does not negatively affect any person.

CONSULTATION

Yes – Department of Education, Employment and Workplace Relations and Centrelink because identical scholarships are being provided under the *Social Security Act 1991*.

DOCUMENTS INCORPORATED-BY-REFERENCE

No.

FURTHER EXPLANATION

Attachment A.
Attachment A

<table>
<thead>
<tr>
<th>Items</th>
<th>Explanation</th>
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<tbody>
<tr>
<td>[1]</td>
<td>sets out the name of the instrument.</td>
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<tr>
<td>[2]</td>
<td>provides that the instrument is taken to have commenced on 1 April 2010.</td>
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</table>

**Schedule**

1. is a definition section.

2. is a consequential amendment. Previously a claim needed to be made for any benefit under the VCES. A claim will not need to be made for the student start-up scholarship payment or the relocation scholarship payment.

3. is a note informing a reader of the VCES that while a claim is generally required for VCES-benefits, one is not required for the student start-up scholarship payment or the relocation scholarship payment.

4. provides exceptions to the “double-dipping rule” (in paragraph 2.11.1) that an eligible child under the VCES is not to receive both a VCES benefit (primary benefit) and other Commonwealth financial support in the nature of educational assistance or income support (secondary benefit). The exceptions are:

   - the secondary benefit is provided by the Department of Veterans’ Affairs or the Commission;
   - the secondary benefit is provided under a Commonwealth Accommodation Scholarship, except if the primary benefit is a relocation scholarship;
   - the secondary benefit is provided under a Commonwealth Education Costs Scholarship, except if the primary benefit is a student start-up scholarship payment.

The reason for ensuring the double-dipping rule applies if the primary benefits are a relocation scholarship and a student start-up scholarship payment and the secondary benefits are, respectively, a Commonwealth Accommodation Scholarship and a Commonwealth Education Costs Scholarship, is because the primary benefits are to eventually replace the secondary
benefits. In short, they are the same type of benefit and therefore it would be inappropriate for a person to receive the same benefit twice.

5. establishes the part for the Student Start-up Scholarship Payment.

7.4 sets out the name of the Student Start-up Scholarship Payment (hereinafter called the start-up scholarship).

7.4.1 stipulates that a claim is not required for a student start-up scholarship.

7.4.2 empowers the Commission to grant a start-up scholarship to an eligible child if the child is qualified for the scholarship.

7.4.3 sets out the qualification criteria for a start-up scholarship for an eligible child, namely that at the time when qualification is sought to be established:

- the person is eligible for a VCES benefit, the benefit is payable and the person is receiving it; and
- the person is receiving the VCES benefit because the person is undertaking an approved scholarship course (defined in the attached instrument); and
- the Commission is satisfied that in the period of 35 days immediately after the qualification time the person proposes to start or continue the approved scholarship course; and
- the Commission is satisfied that in the period of 6 months immediately after qualification time the person is not likely to receive a Commonwealth Education Costs Scholarship (defined in the attached instrument).

7.4.4 sets out the circumstances when a person is not qualified for a start-up scholarship, namely that in the period of 6 months (or shorter period determined by the Commission) immediately before the qualification time:
• person has qualified for a start-up scholarship; or
• person has qualified for the ABSTUDY student start-up scholarship; or
• person has qualified for the student start-up scholarship under the *Social Security Act 1991*; or
• person has qualified for a student start-up scholarship under the *Military Rehabilitation and Compensation Act Education and Training Scheme*; or
• person has received a Commonwealth Education Costs Scholarship (or would have but for the scholarship being suspended).

7.4.5 sets out the circumstances in which the Commission may determine a lesser period (than 6 months) of disqualification for a scholarship under 7.4.4.

The circumstances are that the lesser period must be at least 2 months and the Commission action is taken to enable the person to qualify for the start-up scholarship around the day on which the relevant approved scholarship course started or starts.

7.4.6 stipulates that the Commission must not determine a lesser period if the effect would be to enable the person to receive more than 2 start-up scholarships in a Calendar year.

7.4.7 provides that the amount of the start-up scholarship is $650 for 2010 and $1064 for 2011 and $1064 in any subsequent Calendar year except that where in any Calendar year the amount of the student start-up scholarship under the *Social Security Act 1991* is more than the VCES start-up scholarship for a particular year, the higher amount under the *Social Security Act 1991* is to be the amount of a start-up scholarship under the VCES.

7.5 sets out the name of the Relocation Scholarship Payment.

7.5.1 stipulates that a claim is not required for a relocation scholarship payment.
7.5.2 empowers the Commission to grant a relocation scholarship payment to an eligible child if the child is qualified for the scholarship.

7.5.3 sets out the qualification criteria for a relocation scholarship payment for an eligible child, namely that at the time when qualification is sought to be established:

- the person is eligible for a living away from home allowance, a homeless allowance or a double orphan allowance, for a tertiary student under the VCES (VCES benefit), the VCES benefit is payable and the person is receiving it; and
- the person is receiving the VCES benefit because the person is undertaking an approved scholarship course (defined in the attached instrument); and
- the Commission is satisfied that in the period of 35 days immediately after the qualification time the person proposes to start or continue the approved scholarship course; and
- the Commission is satisfied that in the period of 12 months immediately after qualification time the person is not likely to receive a Commonwealth Accommodation Scholarship (defined in the attached instrument).

7.5.4 sets out the circumstances when a person is not qualified for a relocation scholarship payment, namely that in the period of 12 months (or shorter period determined by the Commission) immediately before the qualification time:

- person has qualified for the relocation scholarship payment; or
- person has qualified for the ABSTUDY relocation scholarship payment; or
- person has qualified for the relocation scholarship payment under the Social Security Act 1991; or
- person has qualified for the relocation scholarship payment under the Military
Rehabilitation and Compensation Act
Education and Training Scheme; or

- person has received a Commonwealth Accommodation Scholarship (or would have but for the scholarship being suspended).

7.5.5 sets out the circumstances in which the Commission may determine a lesser period (than 12 months) of disqualification for a scholarship under 7.5.4.

The circumstances are that the lesser period must be at least 3 months and the Commission action is taken to enable the person to qualify for the relocation scholarship payment around 1 January in a year.

7.5.6 stipulates that the Commission must not determine a lesser period if the effect would be to enable the person to receive more than 2 relocation scholarship payments in a period of 2 successive Calendar years.

7.5.7 provides that the amount of the relocation scholarship payment is $4000 or the amount equal to any higher amount worked out for the relocation scholarship payment under subsection 592L(1) of the Social Security Act 1991.

7.5.8 sets out circumstances when the amount of the relocation scholarship payment is $1000 or the amount equal to any higher amount worked out for the relocation scholarship payment under subsection 592L(2) of the Social Security Act 1991, namely:

- in the Calendar year before the Calendar year in which the person’s qualification time falls, the person undertook a course that would have been an approved scholarship course had the person undertaken it at qualification time; and
- more than 6 months before the person’s qualification time the person either received a VCES homeless student education allowance or a VCES living away from home allowance for a tertiary student or a VCES double orphan allowance for a tertiary student.
7.5.9 set out circumstances when the amount of the relocation scholarship payment is $1000 or the amount equal to any higher amount worked out for the relocation scholarship payment under subsection 592L(3) of the *Social Security Act 1991*, namely if the person seeking the payment has received any of the following payments before the period in 7.5.3:

- relocation scholarship payment
- ABSTUDY relocation scholarship payment
- relocation scholarship payment under the *Social Security Act 1991*
- relocation scholarship payment under the *Military Rehabilitation and Compensation Act Education and Training Scheme*
- Commonwealth Accommodation Scholarship.

7.5.10 (1) sets out the circumstances where a recipient of a student start-up scholarship payment or relocation scholarship payment incurs a debt to the Commonwealth, namely:

- person receives one of the scholarships because he or she is proposing to undertake an approved scholarship course
- person does not start to undertake the course

In these circumstances:

- the amount of the payment is a debt due to the Commonwealth
- the debt is taken to have arisen when the person receives the relevant payment

A debt will not arise in these circumstances if, in the Commission’s opinion, the person did not start to undertake the approved scholarship course because of exceptional circumstances beyond his or her control.

7.5.10 (2) sets out the circumstances where a recipient of a student start-up scholarship payment or relocation scholarship payment who fails to continue to undertake an approved scholarship course incurs a debt to the Commonwealth, namely:
- person receives one of the scholarships because he or she is proposing to undertake an approved scholarship course
- person starts to undertake the course
- person is not undertaking the course at the end of 35 days after commencement of the course

In these circumstances:

- the amount of the payment is a debt due to the Commonwealth
- the debt is taken to have arisen when the person receives the relevant payment

7.5.10 (3) sets out the circumstances where a recipient of a student start-up scholarship payment or relocation scholarship payment who fails to continue to undertake an approved scholarship course incurs a debt to the Commonwealth, namely:

- person receives one of the scholarships because he or she is undertaking an approved scholarship course
- person is not undertaking the course at the end of 35 days after qualifying for the relevant payment

In these circumstances:

- the amount of the payment is a debt due to the Commonwealth
- the debt is taken to have arisen when the person receives the relevant payment

7.5.10 (4) a debt will not arise in the circumstances in 7.5.10 (2) and 7.5.10 (3) if, in the Commission’s opinion, the person is not undertaking the approved scholarship course because of exceptional circumstances beyond his or her control.