Australian Government

Military Rehabilitation and Compensation Act 2004

Military Rehabilitation and Compensation Act
Education and Training Scheme (Scholarships)
Instrument 2011

Instrument No. M54/2011

I, Warren Snowdon, Minister for Veterans’ Affairs, pursuant to subsection 258(5) of the Military Rehabilitation and Compensation Act 2004, approve this instrument made by the delegates of the Military Rehabilitation and Compensation Commission.

Dated this 30th day of November 2011

Warren Snowdon

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WARREN SNOWDON

The delegates of the Military Rehabilitation and Compensation Commission, pursuant to subsection 258(4) of the Military Rehabilitation and Compensation Act 2004, vary the Military Rehabilitation and Compensation Act Education and Training Scheme (Instrument 2004 No. M4 as amended) in accordance with the Schedule.

Dated this 22nd day of November 2011

The Seal of the
Military Rehabilitation
and Compensation Commission
was affixed hereto in the
presence of:

Ian Campbell Shane Carmody Major General Mark Kelly

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IAN CAMPBELL SHANE CARMODY MAJOR GENERAL MARK KELLY
PSM AO DSC
CHAIR and DELEGATE MEMBER AND DELEGATE MEMBER AND DELEGATE

Federal Register of Legislative Instruments F2011L02588
[1] Name of Instrument

This instrument is the Military Rehabilitation and Compensation Act Education and Training Scheme (Scholarships) Instrument 2011

[2] Commencement

(1) This instrument does not commence if Schedule 1 and Schedule 2 (Part 1) (the SSA Schedules) of the Social Security Amendment (Student Income Support Reforms) Act 2011 have not commenced.

Note: the SSA Schedules are expected to commence on 1 January 2012.

(2) Subject to (1) this instrument commences, or is taken to have commenced, on 1 January 2012.

(1) If, on or after 1 January 2012, under the Military Rehabilitation and Compensation Act Education and Training Scheme as varied by this instrument, a person would receive an amount of relocation scholarship payment or student start-up scholarship payment that was less than the amount of relocation scholarship payment or student start-up scholarship payment the person would have received under the Military Rehabilitation and Compensation Act Education and Training Scheme immediately before it was varied by this instrument on 1 January 2012, and this instrument is not registered before 1 January 2012, the amount of relocation scholarship payment or student start-up scholarship payment payable to the person is the amount that would have been payable under the Military Rehabilitation and Compensation Act Education and Training Scheme had it not been varied by this instrument and such an amount is payable until the time this instrument is registered whereupon the Military Rehabilitation and Compensation Act Education and Training Scheme, as varied by this instrument, applies to the person.

(2) Subject to (1), paragraph 7.3.7 of the Military Rehabilitation and Compensation Act Education and Training Scheme, as inserted by this instrument, applies to amounts of relocation scholarship payments for which the qualification times are on or after 1 January 2012.

(3) In determining whether paragraph 7.3.7(1) applies, take account of payments and value received before, on or after 1 January 2012.

(4) In determining whether paragraph 7.3.7(4) applies, take account of prior years occurring before or after 1 January 2012.

Paragraph 7.3.8

(5) Paragraph 7.3.8 of the Military Rehabilitation and Compensation Act Education and Training Scheme, as inserted by this instrument, applies to payments received on or after 1 January 2012.
Schedule

1.  **Paragraph 7.2.7**

    *omit, substitute:*

    7.2.7 The amount of a student start-up scholarship payment for which a person is qualified on or after 1 January 2012 is $1,025 or 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.

2.  **Paragraphs 7.3.7-7.3.10 (inclusive)**

    *omit, substitute:*

    7.3.7

    (1) The amount of a *relocation scholarship payment* to a person 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) if the person has not received a student relocation payment (see subparagraph (5)) before.

    (2) Subsection (1) does not apply if:

        (a) the person has, at any time before the Calendar year containing the qualification time, undertaken full-time study in 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) at a time that was both while the person was undertaking that study and more than 6 months before the qualification time, the person either:

            (i) was in receipt of a homeless student education allowance under the *Scheme*; or

            (ii) 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.
The amount of a relocation scholarship payment to a person is $1000 (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 neither subsection (1) nor subsection (4) applies.

The amount of a relocation scholarship payment to a person is $2,000 (or the amount equal to the amount, including as indexed, under subsection 592L(4) of the Social Security Act 1991 (in force from time to time), whichever is higher) if:

(a) in 1 or more Calendar years (the prior years) that precede the Calendar year containing the qualification time, the person undertook full-time study in 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) in 1 or 2 (but no more) of the prior years:

(i) the person was, while undertaking such study, in receipt of a homeless student education allowance under the Scheme; or

(ii) the person, while undertaking such study, 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

(iii) the person received a student relocation payment (see subparagraph (5)).

A student relocation payment means any of the following:

(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 Veterans’
Entitlements Act 1986 known as the Veterans’ Children Education Scheme;

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

Debts in respect of scholarship payments

Person does not start to undertake course

7.3.8

(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) does not start to undertake full-time study in an approved scholarship 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 subparagraph does not apply if, in the Commission’s opinion, the person does not start to undertake full-time study in an approved scholarship course because of exceptional circumstances beyond the person’s control.

Person not continuing to undertake a 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 (the qualifying course); and

(b) starts to undertake an approved scholarship course; and

(c) is not undertaking full-time study in an approved scholarship course at the end of 35 days after the qualifying 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 received 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 full-time study in an approved scholarship 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 received the payment.

(4) Subparagraphs (2) and (3) do not apply if, in the Commission’s opinion, the person is not undertaking full-time study in an approved scholarship course because of exceptional circumstances beyond the person’s control.

3. The Military Rehabilitation and Compensation Act Education and Training Scheme

Ensure provisions are identified in numerical or alphabetical order.