Military Rehabilitation and Compensation Act Education and Training Scheme 2004

Instrument 2004 No. M4 as amended

made under the

Military Rehabilitation and Compensation Act 2004

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PART 1 — Introduction

1.1 Commencement

1.1.1 This Scheme commences on gazettal.

1.2 Interpretation

1.2.1 In this Scheme, unless the contrary intention appears:

“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.


“appropriate person” in relation to a student means:

(a) a parent, guardian, trustee, or person approved by a parent, guardian or trustee; or

(b) a person approved by the Commission if none of the persons in subparagraph (a) who acted on behalf of the student is alive, willing, able, and suitable to act on the student’s behalf.

“approved full-time tertiary or technical and further education course” means an approved course of education or study under Part 2.11 of the Social Security Act 1991.

Note (1): see paragraph 3.5.1;
Note (2): paragraph 541B(1)(c) and subsection 541B(5) of the Social Security Act 1991 refer to approved courses.

“approved scholarship course” means a course under section 592M of the Social Security Act 1991.

“Board” means a Board established under Part 6 - being a Veterans’ Children Education Board in existence, under Part 6 of the Veterans’ Children Education Scheme, at the time this Determination commences.

“Commission” means the Military Rehabilitation and Compensation Commission.

“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.

“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.

“course not otherwise approved” means a course that is not an approved course of education or study under Part 2.11 of the Social Security Act 1991.

Note (1): see paragraph 7.1.3;
Note (2): paragraph 541B(1)(c) and subsection 541B(5) of the Social Security Act 1991 refer to approved courses.

“Department” means the Department of Veterans’ Affairs.

“eligible child” means the person described in paragraph 2.1.1.

“fare” means the amount of money a student must pay in order to use public or private transport to travel
between the student’s home and the student’s place of study.

Note: see paragraph 5.1.1

“member” means a member of a Board.

“Military Rehabilitation and Compensation Commission” means the body established under section 361 of the Military Rehabilitation and Compensation Act 2004.

“payday” means the interval specified by the Commission under section 430 of the Act.

“relocation scholarship payment” means the payment of that name in paragraph 7.3.

“Repatriation Commission” means the body continued in existence under section 179 of the VEA.

“responsible Departments” means the Commonwealth Departments of State responsible for administering, respectively, the Student Assistance Act 1973 and the Social Security Act 1991.

Note: the Administrative Arrangements Order sets out Commonwealth Departments and the legislation they administer. See: http://scaleplus.law.gov.au/docs/legtables/aaoo.htm

“Secretary” means the employee of the Department appointed to the position of Secretary to a Veterans’ Children Education Board.

“Scheme” means this Scheme, as determined by the Military Rehabilitation and Compensation Commission, under section 258 of the Military Rehabilitation and Compensation Act 2004, and known as the Military Rehabilitation and Compensation Act Education and Training Scheme.


“student” means an eligible child in respect of whom assistance is provided under this Scheme.
“student start-up scholarship payment” means the payment of that name in paragraph 7.2.

“sub-committee” means a sub-committee of a Board.

“VEA” means the Veterans’ Entitlements Act 1986.

“Veterans’ Children Education Board” means a Veterans’ Children Education Board established under Part 6 of the Veterans’ Children Education Scheme.

“Veterans’ Children Education Scheme” means the Scheme established by the Repatriation Commission under section 117 of the VEA.

1.3 Authority for the Scheme

1.3.1 The Scheme is established under Part 3 of Chapter 5 of the Act and has been prepared in accordance with section 258 of the Act by the Commission and approved by the Minister.

1.4 Purpose of the Scheme

1.4.1 The purpose of this compensatory Scheme is to:

(a) provide financial assistance;

(b) provide student support services; and

(c) arrange for guidance and counselling,

for eligible children to help them achieve their full potential in education or career training.

1.4.2 This purpose of the Scheme is achieved by co-operation between the Commission, the eligible children and their parents, guardians or trustees.

1.5 Administration of the Scheme

1.5.1 The Commission, assisted by a Board in each State, is responsible for the administration of the Scheme.
PART 2 — Eligibility Conditions

2.1 Eligible child

2.1.1 “eligible child” is an eligible young person as defined in section 258 of the Act - except that an eligible child is not an eligible young person to whom section 260 of the Act applies.

2.2 Claim for benefits

2.2.1 Except where otherwise provided, a claim for a benefit under the Scheme shall be in writing and in accordance with the form, if any, approved by the Repatriation Commission for a claim for a similar benefit under the Veterans’ Children Education Scheme.

Note: a claim is not required for the student start-up scholarship payment or the relocation scholarship payment in paragraphs 7.2 and 7.3.

2.3 Who may claim

2.3.1 A claim for benefits under the Scheme may be made:

(a) by a member or former member, as described in paragraph 258(1)(a) of the Military Rehabilitation and Compensation Act 2004, of whom the eligible child, in respect of whom the claim is made, is a dependant; or

(b) by a dependant of the member or former member referred to in paragraph (a) – being a dependant who has attained the age of 16 years; or

(c) with the approval of the member or former member (in paragraph (a)) or dependant (in paragraph (b)) — by another person on behalf of the member, former member or dependant; or
(d) if the member or former member (in paragraph (a)) or dependant (in paragraph (b)) is unable to make the claim by reason of physical or mental incapacity on behalf of the member or former member — by a person approved by the Commission; or

(e) on behalf of a dependant (in paragraph (b)) who has not attained 16 years of age — by:

   (i) a parent or guardian of the dependant; or

   (ii) another person approved by the parent or guardian of the dependant; or

   (iii) if there is no parent or guardian of the dependant alive, or willing, or able to make application on behalf of the dependant or there is no other person approved by the parent or guardian of the dependant alive, or willing, or able to make application on behalf of the dependant — another person approved by the Commission.

2.4 Commencement of assistance under the Scheme

2.4.1 A student may be eligible for payment of benefits under the Scheme with effect from either:

   (a) the date of commencement of the first formal year of primary schooling; or

   (b) the first payday in January of the calendar year in which the claim is made for an eligible child; or

   (c) the first payday after the student meets the eligibility requirements of the Scheme,

whichever date is the later, providing that on that date, the student has not yet attained 25 years of age, and subject to clearances for the purpose specified in paragraph 2.11.1 with the responsible Departments for those students aged sixteen years and over.
2.5 Cessation of assistance under the Scheme

2.5.1 If a Board is of the opinion that a primary or secondary student’s progress is not satisfactory it shall refer the matter to the Commission.

2.5.2 Where a matter has been referred to the Commission under paragraph 2.5.1, it may determine that the student cease to receive benefits under the Scheme.

2.5.3 Subject to paragraph 2.5.5 below, where a Board is of the opinion that a tertiary student aged sixteen years or over would have failed to satisfy the progress rules in Part 2.11A of the Social Security Act 1991 in respect of tertiary students (if Part 2.11A had applied to the student), it shall refer the matter to the Commission.

Note: the “progress rules” are mentioned in section 569H of the Social Security Act 1991.

2.5.4 Where a matter has been referred to the Commission under 2.5.3, if the Commission is of the opinion that the student would have failed to satisfy the progress rules in Part 2.11A of the Social Security Act 1991 in respect of tertiary students (if Part 2.11A had applied to the student), it may determine that the student cease to receive benefits under the Scheme.

Note: the “progress rules” are mentioned in section 569H of the Social Security Act 1991.

2.5.5 Where the Board is of the opinion that a tertiary student would have failed to satisfy the progress rules in Part 2.11A of the Social Security Act 1991 in respect of tertiary students (if Part 2.11A had applied to the student), the Board may approve continuing benefits under the Scheme.

Note: the “progress rules” are mentioned in section 569H of the Social Security Act 1991.
2.5.6 Benefits withdrawn under paragraphs 2.5.2 and 2.5.4 may be restored by the Commission if it is satisfied that the student has resumed satisfactory progress.

2.6 Place of Study

2.6.1 Subject to paragraph 2.6.2 or unless the Commission considers the particular circumstances of a student to be exceptional, to be eligible for benefits under the Scheme a student must:

(a) be undertaking study within Australia; or

(b) have made application, or have been accepted, to undertake study within Australia.

2.6.2 Continuation of allowances may only be approved for up to twelve months for students awarded a place within a formal overseas exchange Scheme or a scholarship to study overseas.

2.6.3 Where allowances are continued under paragraph 2.6.2, benefits are to be limited to the appropriate “at home” education allowance.

Note (1) rent assistance, where the student is outside Australia, is also subject to paragraph 5.5.

Note (2) as at 1 April 2003, rent assistance, where the student is outside Australia, was, among other things, limited to premises in Australia and for a maximum period of 26 weeks.

2.7 Course coverage

2.7.1 A student may receive benefits under the Scheme if the student is undertaking on a full-time basis:

(a) general primary or secondary education; or

(b) a tertiary course of education or study that would qualify the student for a youth allowance under Part 2.11 of the Social Security Act 1991; or
(c) a course of tertiary study that would not qualify the student for a youth allowance under Part 2.11 of the Social Security Act 1991, but which:

(i) the Commission considers essential for achievement of the student’s vocational aim; and

(ii) no other tertiary course that would qualify the student for a youth allowance under Part 2.11 of the Social Security Act 1991 is suitable or available.

Note: paragraph 2.7.2 permits the payment of benefits to students for part-time study in special circumstances.

2.7.2 Benefits may be provided to a student for part-time study and such a student shall be deemed for the purposes of the Scheme to be undertaking full-time study, where:

(a) the Commission is satisfied that the amount of study that the student must complete in order to finish a course constitutes less than one year full-time study; or

(b) through geographical isolation, the student is unable to take advantage of full-time study facilities; or

(c) for health, economic or academic reasons, the student has shown ability to undertake full-time studies but needs to study part-time temporarily.

2.10 Absences from study for primary and secondary students

2.10.1 Where a primary or secondary student ceases to participate in the normal activities of a course for more than fifteen days in any year without reasonable cause, the Commission may review the student’s eligibility for continuing benefits under the Scheme and may suspend the payment of allowances.
2.10.2 Where the Board is satisfied that absences referred to in paragraph 2.10.1 are due to sickness or to reasons beyond the student’s control, such absences may be disregarded.

2.10.3 Where the Board is satisfied that absences referred to in paragraph 2.10.1 are without reasonable cause and the student’s progress has been affected, the case may be referred to the Commission and the Commission may determine that the education allowance and/or other benefits shall be suspended.

2.10.4 The Commission may determine that benefits withdrawn under paragraph 2.10.3 be restored if it is satisfied that the student has resumed satisfactory progress.

2.11 Effect of other assistance on eligibility

2.11.1 Subject to paragraph 2.11.2, a student is not to be paid a benefit under the Scheme if, apart from under the Scheme, the student receives a financial benefit from the Commonwealth in the nature of educational assistance or income support.

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.
2.12 Allowances mutually exclusive

2.12.1 If a student receives an education allowance under the Scheme, that student is, in the absence of a contrary intention, ineligible to receive any other education allowance under the Scheme.

PART 3 — Education Allowances

3.1 Purpose of education allowances

3.1.1 The education allowances under the Scheme are paid as compensation and are designed to provide financial assistance towards the cost of an eligible child’s education.

3.2 Allowances for Primary education

3.2.1 Students who are enrolled in primary education are eligible for an annual education allowance.

3.2.2 The annual education allowance referred to in paragraph 3.2.1 shall be paid in full in respect of any initial part year.

3.2.3 Payment of the allowance will be made to the person who is entitled to be paid family tax benefit under A New Tax System (Family Assistance) (Administration) Act 1999 (entitled person) and if there is no entitled person - to a person approved by the Commission to receive the payment on the student’s behalf.

3.3 Allowances for Secondary and Tertiary students living at home

3.3.1 An education allowance shall be payable fortnightly in advance, in respect of a student living at home and undertaking education as approved by the Commission.

3.3.2 Payment under paragraph 3.3.1 for secondary students under the age of sixteen will be made to the person who
is entitled to be paid family tax benefit under *A New Tax System (Family Assistance) (Administration) Act 1999* (entitled person) and if there is no entitled person - to a person approved by the *Commission* to receive the payment on the student’s behalf.

3.3.3 Payment under paragraph 3.3.1 for secondary *students* aged sixteen years and over will be made to the person who is entitled to be paid family tax benefit under *A New Tax System (Family Assistance) (Administration) Act 1999* (entitled person), who will then have the option of directing payment to the *student* or spouse, and if there is no entitled person - to a person approved by the *Commission* to receive the payment on the student’s behalf.

3.3.4 Payment will be made directly to tertiary *students*.

### 3.4 Living away from home allowance for secondary students

3.4.1 Living away from home rates of education allowance may be paid in respect of a *student* undertaking full time secondary education if the *Commission* is satisfied that additional expenses are incurred as a result of the *student* living away from home, and

(a) educational facilities are not readily accessible from the *student’s* place of residence; or

(b) the *student* is enrolled in a special course approved for the payment of allowance under the Commonwealth Assistance for Isolated Children *Scheme*; or

Note: the Assistance for Isolated Children *Scheme* is a non-statutory *Scheme* administered by that Department of the responsible Departments that administers the *Student Assistance Act 1973*.

(c) the *student* is physically or intellectually handicapped; or

(d) the *student* requires specialised remedial tuition; or

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(e) the student is a member of an itinerant family; or

(f) the academic needs of that student are not met by local secondary facilities; or

(g) home conditions are detrimental to the student’s educational progress.

3.4.2 Payment under paragraph 3.4.1 for secondary students living away from home will be made to:

(a) the person who is entitled to be paid the family tax benefit under A New Tax System (Family Assistance) (Administration) Act 1999; or

(b) to the institution or person, if any, providing Board to the student; or

(c) if the payment methods in paragraphs (a) and (b) are inappropriate or non-existent – a person approved by the Commission to receive the payment on behalf of the student.

3.4.3 Payment under sub-paragraph 3.4.2 may be made either in part or in full, and:

(a) may be made to an institution a term in advance; or

(b) may be made to a person either a term in advance or fortnightly, as determined by the Commission.

3.4.4 A person in receipt of education allowance under sub-paragraph 3.4.2(a) may direct payment of the allowance to the student or to a parent, guardian or trustee of the student.

3.4.5 If only part of the payment is made to the institution or person providing Board, the other part shall be paid to the person described at subparagraph 3.4.2(a) or, if relevant, to the person to whom they have directed payment and if there is no person for the purposes of subparagraph 3.4.2(a), the part-payment shall be paid to a person approved by the Commission to receive the payment on the student’s behalf.
3.5 Living away from home allowance for Tertiary students

3.5.1 Living away from home rates of education allowance may be paid to a student undertaking an approved full-time tertiary or technical and further education course, where the Commission is satisfied that additional expenses are incurred as a result of the student living away from home; and

(a) educational facilities are not readily accessible from the student’s place of residence; or

(b) it is a compulsory requirement for the student undertaking an approved course to reside at a hall of residence; or

(c) home conditions provide an inadequate study environment.

3.5.2 Allowances paid under paragraph 3.5.1 shall be payable to the student.

3.6 Homeless student education allowance

3.6.1 A student may, upon reaching minimum school leaving age as determined by the authorities of the State in which that student resides, be granted Homeless Student status where the Commission is satisfied that the student is not receiving or likely to receive continuous support either direct or indirect, in cash or in kind, from parents or any other person other than as provided for in this Scheme; and

(a) there is no family home; or

(b) the parents will not allow the student to reside in the family home; or

(c) it would be unreasonable to expect the student to live with the parents because of domestic violence, or comparable circumstances.
3.6.2 If a student has been granted homeless student status under paragraph 3.6.1, education allowance is to be paid at a rate equivalent to the maximum basic rate payable under point 1067G-B3 of the Social Security Act 1991 in respect of a person who is independent.

3.6.3 Fortnightly payment of the allowance under paragraph 3.6.2 is to be made to the student, or to an appropriate person if the Commission considers it unlikely that the student would be capable of managing his or her own finances.

Note: ‘appropriate person’ is defined in paragraph 1.2.1.

3.7 Part-time students

3.7.1 Where a student, referred to in paragraph 2.7.2, has been approved for benefits while undertaking part-time study, that student shall receive the appropriate full-time rate of education allowances.

3.8 Indexing and increasing education allowances

3.8.1 With effect from 1 January 1999, or from any earlier date that may be determined by instrument in writing by the Commission, the following allowances shall be indexed annually in accordance with paragraph 3.8.2.

(a) the annual allowance payable in respect of primary students; and

(b) the fortnightly education allowance payable in respect of secondary students who are under sixteen years and living at home.

3.8.2 The allowances specified in paragraph 3.8.1 are to be indexed annually in accordance with the procedure set out in section 1191(1)(table item 3A) of the Social Security Act 1991 for the indexation of benefits under that Act except that the reference to ‘YA MBR’ in item 3A of the CPI Indexation Table in subsection 1191(1) is, for the purpose of the indexation of the relevant allowances under the Scheme, taken to be a reference to

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the relevant allowance specified in sub-paragraph 3.8.1(a) or (b).

3.8.3 The fortnightly education allowance payable in respect of secondary students under the age of sixteen years who are living away from home shall be increased annually so that it is the same as the maximum rates payable to secondary students in receipt of Assistance for Isolated Children.

Note the Assistance for Isolated Children Scheme is a non-statutory Scheme administered by that Department of the responsible Departments that administers the Student Assistance Act 1973.

3.8.4 The fortnightly education allowances payable in respect of all students aged sixteen years and over shall be increased annually to a rate equivalent to the maximum basic rate of youth allowance payable under Part 3.5 of the Social Security Act 1991.

PART 4 — Guidance, Counselling and Country Visits

4.1.1 The Commission may arrange for a student to be given, or directed to, guidance and counselling for matters affecting that student’s continuing progress in a course of study.

4.1.2 Guidance and counselling of beneficiaries of the Scheme and their families shall be:

(a) in the case of a student under 18 years of age — at the request of:

(i) the student; or

(ii) the student’s parent, guardian or trustee; or

(iii) the principal of the school, college or institution at which the student is enrolled;
(b) in any other case, at the request of the student; or
(c) in all cases at the discretion of the Commission.

4.1.3 Where a significant proportion of the State’s beneficiaries live outside the capital city, country visits should be made to ensure that as far as possible these beneficiaries have contact with the Scheme.

PART 5 — Other Assistance

5.1 Fares allowance

5.1.1 Where the Commission has approved payment to a student of an education allowance under paragraph 3.5.1, it may accept financial liability for a fare (or part thereof) paid, or to be paid, by the student for a journey between the student’s home and place of study.

Note: a fare may be the cost of using private transport.

5.1.2 In making a decision under paragraph 5.1.1 in respect of whether to accept liability for a fare, the Commission is to take into account Part 2.26 of the Social Security Act 1991 as it relates to the circumstances in which fares allowance under that Act is payable and as it relates to the level of fares allowance payable in those circumstances.

Note: under Part 2.26 of the Social Security Act 1991 (SSA) a determination may be made amending levels of fares allowance in the Act (Henry VIII clause). The SSA as amended by any such determination would constitute the SSA “in force from time to time” (see definition of SSA) and therefore the Commission could lawfully consider those new levels of fares allowance as introduced by the determination.

5.2 Additional Tuition

5.2.1 Where an education authority has established that a discrepancy exists between the student’s intellectual potential and the student’s actual academic achievement, the Board or the Commission may arrange
for provision of Additional Tuition in respect of that student.

5.2.2 The Commission may approve payment for Additional Tuition arranged under paragraph 5.2.1.

5.2.3 Request for Additional Tuition must be accompanied by an appropriate assessment, from a suitably qualified education authority, as to the value of the proposed tuition or the continuing need for such assistance.

5.3 Special Financial Assistance

5.3.1 Where a Board or the Commission considers that exceptional circumstances, beyond the control of the student, have hindered or will hinder a student’s progress:

(a) the Board may recommend payment of Special Financial Assistance in respect of that student; or

(b) the Commission may approve payment of Special Financial Assistance in respect of that student.

5.3.2 The Commission may approve payment of Special Financial Assistance recommended by the Board under paragraph 5.3.1.

5.4 Rates for Additional Tuition and Special Financial Assistance

5.4.1 The Commission shall determine from time to time the maximum value of Additional Tuition and Special Financial Assistance which may be provided to a student in any year.

5.5 Rent assistance

5.5.1 Subject to paragraph 5.5.2, a student who has been granted a Homeless Student Education Allowance or an education allowance at a ‘living away from home’ rate is entitled to the payment of rent assistance.
5.5.2 Rent assistance payable under the Scheme, whether to a student in or outside Australia, is only payable in the same circumstances that rent assistance would have been payable to the student under the Social Security Act 1991 if the student had not been a student receiving benefits under the Scheme but had been a person receiving youth allowance under that Act.

Note 1 – as at 1 April 2003, rent assistance must, among other things, be only for premises in Australia and the maximum period that rent assistance is payable, while a student is outside Australia, is 26 weeks.

Note 2 – in order to receive rent assistance for premises in Australia, while studying outside Australia, a student must also satisfy paragraph 2.6.

Note 3 – if the rent assistance provisions of the Social Security Act 1991 are amended then those amended provisions apply to rent assistance under the Scheme (see the definition of Social Security Act 1991 in paragraph 1.2.).

PART 6 — Military Rehabilitation and Compensation Act Education and Training Boards

Note: in this Part “Commission” means the Military Rehabilitation and Compensation Commission and “Repatriation Commission” means the body continued in existence under section 179 of the VEA.

6.1 Establishment

6.1.1 Each Veterans’ Children Education Board, established in the capital city of each State under the Veterans’ Children Education Scheme, is established as a Board for the purposes of this Scheme, and each Board is called the MRCA Education and Training Board.

6.2 Membership

6.2.1 The membership of a Board in a State is to consist of the same members as constitute the Veterans’ Children Education Board in that State.
6.2.2 Members of Boards shall serve in an honorary capacity but the Commission may reimburse them for expenses incurred in connection with the Scheme during their term of appointment.

6.2.3 A member of a Board who incurs a legal liability in the performance of his or her duties as a member of the Board is in the same legal position as an employee of the Department.

6.3 Appointment

6.3.1 Subject to paragraph 6.3.2, a member of a Veterans’ Children Education Board in a State, as referred to in paragraph 6.2.1, is taken to be appointed to the Board in that State established by this Scheme when he or she is appointed to the Veterans’ Children Education Board in that State by the Repatriation Commission and he or she shall be a member of the Board established by this Scheme in that State for the same period (including any period of re-appointment) that he or she is a member of the Veterans’ Children Education Board in that State.

6.3.2 A member of a Veterans’ Children Education Board in a State is only taken to be a member of a Board in that State established by this Scheme if the member has notified the Commission in writing (which notice may be in electronic form) of his or her acceptance of the membership of that Board.

6.4 Termination of appointment

6.4.1 If a member of a Veterans’ Children Education Board in a State ceases to be a member of that Board then the person also ceases to be a member of the Board in that State established by this Scheme on the same day and at the same time on that day that he or she ceased to be a member of the Veterans’ Children Education Board
6.5 Functions of Boards

6.5.1 A Board may perform such functions in connection with the operation of the Scheme as are conferred on them under the Scheme.

6.5.2 The functions referred to in paragraph 6.5.1 include:

(a) providing and arranging expert guidance to assist students in the planning of their studies;

(b) assisting in supervising the education of primary and secondary students and in monitoring their progress;

(c) referring students and their families to community welfare, education, guidance and counselling services where appropriate;

(d) making recommendations to the Commission on matters relating to the education of the students; and

(e) dealing with all matters in connection with students’ education or career training that are referred to them by the Commission.

6.6 Exercise of functions by a sub-committee

6.6.1 A sub-committee of a Board may consist of one or more members and may exercise such functions as the Board determines.

6.7 Chairperson

6.7.1 At the first meeting in each calendar year the members of each Board shall elect one of their members to be the Chairperson and another to be the Deputy Chairperson, of the relevant Board.
6.8 Meetings

6.8.1 Boards shall meet at least four times in each calendar year.

6.8.2 In the absence of the Chairperson from any meeting of a Board, the Deputy Chairperson shall preside, and in the absence of the Deputy Chairperson, the members present at the meeting shall elect one of their members to preside at the meeting.

6.8.3 Three members of a Board shall form a quorum.

6.9 Statistical Return

6.9.1 As soon as practicable after 30 June each year each Board shall submit a statistical return for inclusion in the Commission’s annual report. A Board in a State may combine its statistical return (return) with a return of the Veterans’ Children Education Board in that State.

PART 7 — Scholarships

7.1.1 A Board may create scholarships from trust funds to be administered at the direction of the Commission and may determine the duration and value of such scholarships.

7.1.2 A person must be an eligible child who is or has been an eligible student assisted under the Scheme in order to qualify for the grant of a scholarship.

7.1.3 A scholarship under paragraph 7.1.1 of this Scheme may be awarded in a course not otherwise approved for the purpose of this Scheme.
7.2. Student Start-up Scholarship Payment

Claim not required

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

Grant of scholarship

7.2.2 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

7.2.3 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

7.2.4 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; or

(d) the person has qualified for a payment known as a “student start-up scholarship payment” under the scheme made under the Veterans’ Entitlements Act 1986 known as the Veterans’ Children Education Scheme; 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

7.2.5 For 7.2.4, 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.

7.2.6 For 7.2.5, 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

7.2.7 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.

7.3 Relocation Scholarship Payment

Claim not required

7.3.1 A claim is not required for a relocation scholarship payment.
Grant of scholarship

7.3.2 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

7.3.3 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) or homeless 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 (living away from home) or homeless 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 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

7.3.4 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; 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; or

(d) the person has qualified for 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; 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

7.3.5 For 7.3.4, 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.

7.3.6 For 7.3.5, 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

7.3.7

(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.

(3) 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.

(4) 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)).

(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.

PART 8 — Determination of Assistance

8.1 Determinations

8.1.1 The Commission may, under the Scheme, determine:

(a) eligibility;

(b) levels of benefits; and

(c) claims for benefits.

8.1.2 The Commission may delegate any of its powers under the Scheme to an employee of the Department.
8.2 Review of decisions

8.2.1 Where an application for benefit has been declined, reasons for that decision shall be provided, in writing, to the applicant.

8.2.2 Where a student or a student’s parent, guardian or trustee is dissatisfied with a decision of the Commission or of a Board, that student, parent, guardian or trustee may make an application to the Commission for a review of the decision (applicant).

8.2.3 The application for review must be made within 3 months of the student, parent, guardian or trustee receiving a copy of that decision.

8.2.4 The Commission must, within 3 months after receipt of the application or within such longer period as is agreed in writing by the applicant, review the decision, or cause the decision to be reviewed by a person to whom the Commission has delegated its power under this paragraph (not being the person who made the decision).

8.2.5 On the completion of its review of a decision, the Commission shall:

(a) if it is satisfied that the decision is unsatisfactory, set aside the decision and substitute for that decision such decision as the Commission considers to be appropriate; or

(b) if it is not so satisfied, affirm the decision.

8.2.6 The Commission must make a written record of the decision it makes after reviewing a decision. The record must include a statement that:

(a) sets out the Commission’s findings on relevant questions of fact; and

(b) refers to the evidence or other material on which those findings are based; and
(c) provides reasons for the Commission’s decision.

8.2.7 As soon as practicable after the Commission reviews a decision, it must give to the applicant a copy of the written record it made under paragraph 8.2.6 and the copy may be in electronic form.

8.2.8 Application under the Administrative Appeals Tribunal Act 1975 may be made to the Administrative Appeals Tribunal for a review of a decision of the Commission under paragraph 8.2.5.

PART 9 — Revocation and Application

9.1 Revocation

9.1.1 The Veterans’ Children Education Scheme taken to have been determined as the Scheme under section 258 of the Act due to the application of section 20 of the Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Act 2004 is revoked upon the commencement of this Scheme.

9.2 Application

9.2.1 A determination by the Repatriation Commission of an allowance or other benefit in respect of an eligible child under the Veterans’ Children Education Scheme is taken to have been determined by the Commission under this Scheme.

PART 10. Transitional Arrangements

10.1 Consent of Members

10.1.1 A member of a Veterans’ Children Education Board in a State, as at the commencement of this Determination, is only taken to be a member of a Board established by this Scheme in that State if the member has advised the
Commission of the member’s consent to also be a member of the Board in that State established by this Scheme.

10.1.2 For the purposes of paragraph 10.1.1, a member is taken to have advised the Commission of his or her consent if the member so advises the Secretary of the Veterans’ Children Education Board in the State.

10.1.3 For the purposes of paragraphs 10.1.1 and 10.1.2, advice is to be in writing and may be by electronic means.

10.1.4 The Secretary is to forward advice he or she receives under paragraph 10.1.2 to the Commission and for this purpose may reduce any advice electronically received to physical form.

PART 11 — Terms of members

11.1 If a person is a member of a Veterans’ Children Education Board (the VCEB) in a State immediately before the commencement of this Determination then, despite any other provision of this Determination and subject to paragraph 10.1.1, the person is taken for the purposes of paragraph 6.2.1 to have been appointed to the Board in that State for the period beginning on the commencement of this Determination and ending on the day specified in the instrument appointing him or her to the VCEB as the day on which the person’s appointment ends.

PART 12 — Board Secretary

12.1 A Secretary of a Veterans’ Children Education Board in a State, as at the commencement of this Determination, is taken to be a Secretary of the Board in that State established by this Scheme.

Note: a Secretary of a Veterans’ Children Education Board is an employee of the Department.
Notes to the *Military Rehabilitation and Compensation Act Education and Training Scheme 2004*

**Note 1**


**Table of Legislative Instruments**

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(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.