Veterans’ Children Education Scheme

Instrument 1992 No. 11 as amended

made under the

Veterans’ Entitlements Act 1986

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Prepared by the Legal Services & Assurance Branch,
Department of Veterans’ Affairs, Canberra
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PART 1 — Introduction

1.1 Commencement

1.1.1 This Scheme commences on 1 January 1993.¹

1.2 Interpretation

1.2.1 In this Scheme, unless the contrary intention appears:

“Act” means the Veterans' Entitlements Act 1986.

“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 sub-paragraph (a) who acted on behalf of the student is alive, willing, able, and suitable to act on the student’s behalf.

¹ Note: (a) The variations made by instrument no. 7 of 1998 commence on 1 July 1998.
(b) Upon commencement of the variations referred to in Note (a), paragraph 5.5 (Rent Assistance) in respect of the “Homeless Student Education Allowance” and the education allowance at the “double orphan” rate, shall be taken to have commenced on 1 January 1995.
“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 (in force from time to time).

“Board” means a Veterans’ Children Education Board established under paragraph 117(5)(e) of the Act.

“Commission” means the Repatriation 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 (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).

“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 7.2.3;

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.
“double orphan” means:

(a) an eligible child who does not have a parent; or

(b) an eligible child who has one parent and:

(c) the deceased parent was a member or veteran by reference to whom the child is an ‘eligible child’; and

(d) the Commission is satisfied the child is not being maintained by the surviving parent.

For the purposes of this definition “parent” includes an adoptive parent or step-parent, “member” means a member of the Forces or a member of a Peacekeeping Force and “veteran” means a veteran described in the definition of “eligible child of a veteran” in section 116 of the Act.

“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

"Long Tan Bursary" means the bursary that may be provided by the Commission under paragraph 7.3.2 of the Scheme to an appropriate Eligible child in order to assist the child with their tertiary education.

“member” means a member of a Board.

“MRCA” means the Military Rehabilitation and Compensation Act 2004 in force from time to time.

“MRCC” means the Military Compensation and Rehabilitation Commission established under section 361 of MRCA.

“MRCA Childrens’ Board” means an education and training board established under the MRCA Childrens’ Scheme.
“MRCA Childrens’ Scheme” means the education and training scheme for eligible young persons, in force from time to time, determined by the MRCC under Part 3 of Chapter 5 of MRCA, and known as the Military Rehabilitation and Compensation Act Education and Training Scheme 2004.

“payday” means the pension payday defined in subsection 5Q(1) of the Act.

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

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


“Shecetary” means the Departmental officer appointed to the position of Secretary to a Veterans’ Children Education Board.

“Scheme” means the Veterans’ Children Education Scheme.


“student” means an eligible child as defined in section 116 of the Act, in respect of whom assistance is provided under this Scheme.

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

“sub-committee” means a Board sub-committee.
1.2.2. **Clean Energy Payment Definitions**

In this instrument:

**ABSTUDY** has the same meaning it has in the *Social Security Act 1991*.

**ABSTUDY Living Allowance** means the allowance of that name under the ABSTUDY scheme.

**Act** means the *Veterans’ Entitlements Act 1986*.

**change day** means the day on which a person has a change in circumstances that results in a change to the type or rate of *clean energy base payment* that the person receives.

**clean energy advance**, unless a contrary intention appears, means the payment of that name under PART 3A.

**clean energy advance daily rate** means the rate worked out under paragraph 3A.3.1.

**clean energy advance eligibility day** means:

(a) for a person eligible for a *clean energy advance* because of a determination made under paragraph 3A.1.1 — the day that determination is made; or

(b) for a person eligible for a *clean energy advance* because of a determination made under paragraph 3A.1.2 or 3A.1.3 — the day specified in that determination because of paragraph 3A.1.4.

Note: The day specified in the determination because of paragraph 3A.1.4 is the first day during the *clean energy advance period* for which the person satisfies the eligibility requirements, disregarding any short temporary absence from Australia.

**clean energy advance period** means:

(a) for a person eligible under paragraph 3A.1.1 or 3A.1.2 for a *clean energy advance* — the period starting on 1 July 2012 and ending on 30 June 2013; or
(b) for a person eligible under paragraph 3A.1.3 for a clean energy advance—the period starting on 1 July 2013 and ending on 31 December 2013.

**clean energy base payment** means:
- an ABSTUDY Living Allowance; or
- a clean energy qualifying payment; or
- a clean energy underlying payment; or
- a clean energy underlying payment under the MRCA; or
- a clean energy underlying payment under the MRCAETS; or
- a clean energy underlying payment under the VEA.

Note: the MRCA, MRCAETS and VEA contain their own definitions of “clean energy underlying payment”.

**clean energy bonus** has the same meaning as in the Act.

**clean energy payment** means a payment under PART 3A.

**clean energy qualifying payment** has the same meaning it has in the Social Security Act 1991.

**clean energy supplement** means clean energy supplement payable under paragraph 3A.12.1 for a clean energy underlying payment at a rate determined under or by reference to the clean energy underlying payment.

**clean energy underlying payment** or **education allowance** means an education allowance under one of the following paragraphs in PART 3:
- paragraph 3.3 (allowance for secondary or tertiary student living at home)
- paragraph 3.4 (allowance for secondary student living away from home)
- paragraph 3.5 (allowance for tertiary student living away from home)
- paragraph 3.6 (allowance for homeless student)
- paragraph 3.6A (allowance for double-orphan)

**Commission** means the Repatriation Commission continued in existence by section 179 of the Act.

**Commonwealth scheme** means a set of regulatory provisions contained in an instrument made under an Act of the Commonwealth.

**disability pension** means a pension under Part II or IV of the VEA at a rate determined under or by reference to Division 4 of Part II of the VEA.

**most recent change day** means the change day that is closest in time to the day the person’s top-up payment is being calculated.

**most recent clean energy advance daily rate** means the clean energy advance daily rate that would have been used to calculate a person’s clean energy advance if the person’s clean energy advance eligibility day was the most recent change day.

**MRCA** means the Military Rehabilitation and Compensation Act 2004.

**MRCA wholly dependent partner payment** means the compensation payable to a person under Division 2 of Part 2 of Chapter 5 of the MRCA.

**MRCAETS** means the Military Rehabilitation and Compensation Act Education and Training Scheme made under subsection 258(1) of the MRCA.

**MRCAETS payment** means an education allowance under the MRCAETS.

**multiple entitlement exclusion** has the same meaning as in subsection 61F(4) of the Act.

**new change day**, in relation to a person, means a change day that occurs after the person has previously been eligible for a top-up payment under PART 3A.

**new clean energy advance daily rate** means the clean energy advance daily rate that would have been used to
calculate a person’s clean energy advance if the person was first eligible for a clean energy advance on the change day.

new clean energy advance period, in relation to a person, means the clean energy advance period that applies to the person from the change day.

original change day, in relation to a person, means the first change day for the person.

original clean energy advance daily rate, in relation to a person, means the clean energy advance daily rate that was used to calculate the person’s original payment.

original clean energy advance period means the clean energy advance period that applied to the original payment.

original payment, in relation to a person, means the clean energy advance (advance) originally paid to the person in respect of a clean energy underlying payment, for the clean energy advance period in respect of that advance.

original payment start day, in relation to a person’s original payment, means the later of the start of the clean energy advance period for the original payment or the person’s clean energy advance eligibility day.

quarterly clean energy supplement means the payment described in paragraph 3A.15.1.

seniors supplement has the same meaning as in the Act.

service pension has the same meaning as in the Act.


top-up payment means the payment of that name calculated under PART 3A.

top-up qualifying condition has the meaning given by paragraph 3A.5.2.

VCES means the scheme called the Veterans’ Children Education Scheme made under section 117 of the Act.

VEA means the Veterans’ Entitlements Act 1986.
war widow(er) pension means the pension payable under subsection 30(1) of the Act.

1.3 Authority for the Scheme

1.3.1 The Scheme is established under the provisions of Part VII of the Veterans’ Entitlements Act 1986 and has been prepared in accordance with section 117 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 beneficiaries and their parents, guardians or trustees.

1.4.3 An ancillary purpose of this Scheme is to enable Boards established under the Scheme to also act as MRCA Childrens’ Boards for the purposes of the MRCA Childrens’ Scheme.

1.5 Administration of the Scheme

1.5.1 The Repatriation 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 defined in section 116 of the Act.

2.1A Eligible child Entitlement Restrictions

2.1A.1 A person who is an Eligible child by virtue of a determination by the Commission under subsection 116C(2) of the Act that the person is within a class of persons determined by the Commission under section 116A of the Act, being a class of persons described in paragraph 2.1(c) of the Veterans’ Entitlements (Veterans’ Children Education Scheme) Eligible Child Determination 2006 No. R26/2006 (hereafter described as the Long Tan Class of Person) may be awarded a Long Tan Bursary but is not entitled to any other benefit under the Scheme if the person is an Eligible child only by virtue of being determined by the Commission to be an Eligible child because the person is within the Long Tan Class of Person.

Note: the intention is that in order for a person to be eligible under the Scheme for benefits generally, the person must be eligible for benefits on a ground other than that of being a person within a Long Tan Class of Person. A person who is an Eligible child under the Scheme solely because he or she falls within the Long Tan Class of Person is only eligible for the Long Tan Bursary and no other benefit under the Scheme. However there is nothing preventing an Eligible child eligible for benefits under the Scheme generally, from receiving a Long Tan Bursary if they are within the Long Tan Class of Person.

2.2 Claim for benefits

2.2.1 Except where otherwise provided, a claim for benefits under the Scheme shall be in writing and in accordance with a form approved by the Commission.
2.3 Who may claim

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

(a) by the veteran; or

(b) by a dependant of the veteran who has attained the age of 16 years; or

(c) with the approval of the veteran or dependant — by another person on behalf of the veteran or dependant; or

(d) if the veteran or dependant is unable to do so by reason of physical or mental incapacity, on behalf of the veteran or dependant — by a person approved by the Commission; or

(e) on behalf of a dependant 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.

Note: the Administrative Arrangements Order sets out Commonwealth Departments and the legislation they administer. See:
http://scaleplus.law.gov.au/docs/legtables/aa0.htm

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 Repatriation 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 with the exception of double orphans, to whom the appropriate double orphan rate of allowance may be payable.

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

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

(d) the student requires specialised remedial tuition; or

(e) the student is a member of an itinerant family; 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.
(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 shall be made to:

(a) the person who is entitled to be paid 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 sub-paragraph 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
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.

3.6A Double orphan education allowance

3.6A.1 A student who is a double orphan and who is also a secondary or tertiary student is entitled to be paid an education allowance at the double orphan rate for the purpose of the student’s education and training.

3.6A.2 Fortnightly payment of the allowance under paragraph 3.6A.1 is to be made:

(a) for secondary students under 16 years of age — to the person who is paid pension on behalf of the student;

(b) for secondary students 16 years of age or over — to an appropriate person who will have the option of directing payment to the student;

(c) for tertiary students — to the student.

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 The amount of allowance for:

(a) primary students is $242.50 (paid annually);

(b) secondary students who are under sixteen years and living at home is $49.80 (paid fortnightly);

(c) secondary students who are under sixteen years and living away from home is $338.03 (paid fortnightly);

and is to be indexed annually in accordance with paragraph 3.8.2.

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

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.

3.8.5 Notwithstanding any other provision of the Scheme or any Determination made thereunder, an education allowance payable under this Part is, on 1 July 2000, increased once only, by an amount of 4% of that allowance.
PART 3A CLEAN ENERGY PAYMENTS
Division 1 - Clean energy advance

Eligibility for days 14 May 2012 to 30 June 2012

3A.1.1 The Commission may determine that a person is eligible for a clean energy advance if, on a day during the period starting on 14 May 2012 and ending on 30 June 2012:

(a) the person receives a clean energy underlying payment; and
(b) the person’s rate of payment is greater than nil; and
(c) the person is in Australia.

Eligibility for days 1 July 2012 to 30 June 2013

3A.1.2 The Commission may determine that a person is eligible for a clean energy advance if, on a day during the period starting on 1 July 2012 and ending on 30 June 2013:

(a) the person receives a clean energy underlying payment; and
(b) the person’s rate of payment is greater than nil; and
(c) the person is in Australia.

Eligibility for days 1 July 2013 to 31 December 2013

3A.1.3 The Commission may determine that a person is eligible for a clean energy advance if, on a day during the period starting on 1 July 2013 and ending on 31 December 2013:
(a) the person receives a clean energy underlying payment; and
(b) the person’s rate of payment is greater than nil; and
(c) the person is in Australia.

First day of eligibility under paragraph 3A.1.2 or 3A.1.3

3A.1.4 A determination under paragraph 3A.1.2 or 3A.1.3 must specify the first day during the period set out in that paragraph for which the person:

(a) satisfies paragraphs (a) and (b) of that paragraph; and
(b) is in Australia, disregarding any temporary absence from Australia for a continuous period not exceeding 13 weeks.

Limits on eligibility for multiple advances

3A.1.5 A person is eligible for, at most, two clean energy advances under paragraphs 3A.1.1, 3A.1.2 and 3A.1.3:

(a) one under either paragraph 3A.1.1 or 3A.1.2; and
(b) one under paragraph 3A.1.3.

3A.1.6 A person’s eligibility for a clean energy advance is subject to paragraph 3A.10.1 (multiple entitlement exclusion).

Note: Top-up payments of clean energy advance may be payable under paragraph 3A.5.1 if the person’s circumstances change during the person’s clean energy advance period.

3A.1.7 A claim is not required for a clean energy advance.
Amount of a clean energy advance

3A.2.1 On the day (the decision day) that the Commission determines that a person is eligible for a clean energy advance for a clean energy underlying payment, the Commission must work out the amount of the advance.

Note: The advance will be paid in a lump sum as soon as is reasonably practicable: see paragraph 3A.6.1.

3A.2.2 The amount of the advance is the result of the following formula rounded up to the nearest multiple of $10:

\[
\text{Clean energy advance daily rate} \times \text{Number of advance days}
\]

where:

- clean energy advance daily rate is worked out under paragraph 3A.3.1.
- number of advance days is worked out under paragraph 3A.4.1.

Clean energy advance daily rate

3A.3.1 The clean energy advance daily rate for a person’s clean energy underlying payment is worked out by:

(a) working out 1.7% of the rate for the clean energy underlying payment, worked out:

(i) for the first day of the person’s clean energy advance period; and
(ii) for someone in circumstances the same as the person’s on the clean energy advance eligibility day; and

(b) rounding the result of paragraph (a) up or down to the nearest multiple of 10 cents (rounding up if that
result is not a multiple of 10 cents but is a multiple of 5 cents); and

(c) adding 20 cents to the result of paragraph (b); and

(d) dividing the result of paragraph (c) by 14.

Number of advance days

3A.4.1 The person’s number of advance days is the number of days in the person’s clean energy advance period that are on or after:

(a) if the person is eligible for the clean energy advance before 1 July 2012 —1 July 2012; or
(b) otherwise—the advance eligibility day.

Top-up payments of clean energy advance

3A.5.1 If:

(a) the Commonwealth pays a clean energy advance (the original payment) to a person; and

(b) the person’s circumstances change on a day (the change day) and the person satisfies any top-up qualifying condition in relation to that change of circumstances as set out in paragraph 3A.5.2; and

(c) either

(i) the change of circumstances means that a higher clean energy advance daily rate would be used to calculate the original payment if the person’s clean energy advance eligibility day were the change day; or

Veterans’ Children Education Scheme
(ii) except for the provisions of a multiple entitlement exclusion the person would be eligible for a clean energy bonus under the Act, another Act or a Commonwealth scheme;  

the person is eligible for a top-up payment calculated in accordance with paragraphs 3A.5.4 – 3A.5.7.

3A.5.2 For the purposes of paragraph 3A.5.1 a person satisfies a top-up qualifying condition if:

(a) the person was paid an original payment and as a result of the change in circumstances the person receives an education allowance at a higher rate in relation to the change day and the change of circumstances occurs before 1 January 2014; or

(b) the person was paid an original payment and as a result of the change in circumstances the person commences to receive, before 20 March 2013:

(i) service pension; or

(ii) war widow(er) pension; or

(iii) a payment listed in subsection 914(4) of the Social Security Act 1991; or

(iv) MRCA wholly dependent partner payment; or

(c) the person was paid an original payment and as a result of the change in circumstances the person no longer receives an education allowance but receives, before 1 January 2014:

(i) a payment listed in subsection 914A(5) of the Social Security Act 1991; or

(ii) ABSTUDY; or

(iii) a MRCAETS payment.
3A.5.3 Despite any other provision of the VCES if a person received an original payment under 3A.1.3 of the VCES and as a result of a change in circumstances the person starts to receive one of the payments listed in subsection 914(4) of the Social Security Act 1991, war widow(er) pension or service pension under the VEA or a MRCA wholly dependent partner payment, in relation to the change day, the person will not be eligible for a top-up payment.

Method of working out the top-up payment for a person

3A.5.4 If the person has not previously been eligible for a top-up payment in relation to the clean energy advance period, the amount of top-up payment is to be calculated in accordance with the Method Statement 1 at the end of paragraph 3A.5.5.

Top-up payment for first change of circumstances

3A.5.5 For the purposes of paragraph 3A.5.4 the top-up payment is to be worked out as follows:

Method Statement 1

Step 1: Multiply the original clean energy advance daily rate by the number of days from the original payment start day until the day before the change day.

Step 2: Multiply the new clean energy advance daily rate by the number of days remaining in the new clean energy advance period from the change day.

Step 3: Work out the sum of the amounts in steps 1 and 2.

Step 4: Round the result from Step 3 up to the nearest $10.

Step 5: Deduct the original payment from the result of Step 4. If the result is greater than zero the result becomes the top-up payment that is payable to the person.
Top-up payment for subsequent change of circumstances

3A.5.6 If a person has previously been paid a top-up payment calculated in accordance with paragraph 3A.5.4 and the person has a further change in circumstances any additional top-up payment is to be calculated in accordance with paragraph 3A.5.7.

3A.5.7 For the purposes of paragraph 3A.5.6, the method for calculating any further top-up payment is as follows:

<table>
<thead>
<tr>
<th>Method Statement 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Step 1: Multiply the original clean energy advance daily rate by the number of days from the original payment start day until the day before the first change day.</td>
</tr>
<tr>
<td>Step 2: Calculate the number of days from the first change day until the day before the second change day and multiply by the second clean energy advance daily rate. Repeat this step as needed for subsequent changes, excluding the most recent change day, multiplying the number of days between change days by the clean energy advance daily rate that applies as a result of the particular change in circumstances.</td>
</tr>
<tr>
<td>Step 3: Calculate the number of days from the most recent change day until the end of the new clean energy advance period and multiply by the most recent clean energy advance daily rate.</td>
</tr>
<tr>
<td>Step 4: Add up the amounts obtained in Steps 1, 2 and 3.</td>
</tr>
<tr>
<td>Step 5: Round the result from Step 4 up to the nearest $10.</td>
</tr>
<tr>
<td>Step 6: Calculate the sum of the original payment and any previous top-up payments paid to the person under this Part.</td>
</tr>
<tr>
<td>Step 7: Deduct the result of Step 6 from result of step 5. If the result is greater than zero this becomes the top-up payment that is payable to the person.</td>
</tr>
</tbody>
</table>

Veterans’ Children Education Scheme
Payment of clean energy advance

3A.6.1 An amount of clean energy advance for which a person is eligible is payable in a single lump sum on the day that the Commission considers to be the earliest day on which it is reasonably practicable for the amount to be paid.

3A.6.2 However, the clean energy advance is not payable if the Commission is aware that the person has died.

Debts relating to clean energy advances

3A.7.1 This paragraph applies if:

(a) a person has been paid a clean energy advance for a clean energy underlying payment; and

(b) after the advance was paid, one of the following events happens to a determination that directly or indirectly affected the payability or amount of the clean energy advance paid to the person:

(i) the determination is changed, revoked or set aside;
(ii) the determination is superseded by another determination; and

(c) the event happened wholly or partly because the person knowingly made a false or misleading statement or knowingly provided false information; and

(d) had the event happened on or before the day the advance was paid:

(i) the advance would not have been paid; or
(ii) the advance would have been reduced.
Note 1: Examples of determinations directly affecting the payability or amount of the *clean energy advance* include:

(a) a determination relating to the person’s eligibility for the *clean energy underlying payment* to which the advance related; and

(b) the determination of the person’s eligibility for the *clean energy advance*.

Note 2: An example of a determination indirectly affecting the amount of the advance is a determination relating to a change in circumstances that results in the person becoming eligible for a further payment of the advance under paragraph 3A.5.1 (top up of clean energy advance).

**Creation and amount of debt**

**3A.8.1** The *clean energy advance* is a debt due to the Commonwealth by the person in paragraph 3A.7.1 if paragraph 3A.7.1(d)(i) applies.

**3A.8.2** The amount by which the *clean energy advance* paid to the person in paragraph 3A.7.1 would have been reduced is a debt due to the Commonwealth by the person if paragraph 3A.7.1(d)(ii) applies.

**Relationship with sections of Act**

**3A.9.1** The provisions of the *Act* under which debts arise do not apply in relation to clean energy advances to which paragraph 3A.7.1 applies.

**3A.9.2** A debt that arises under paragraph 3A.8.1 or 3A.8.2 is a recoverable amount within the meaning of subsection 205(8) of the *Act*.

**Multiple entitlement exclusion - Clean Energy advance**

**3A.10.1** Despite any provision of the *VCES* a person is not eligible for a *clean energy advance* under the *VCES*: 

---

Veterans’ Children Education Scheme
(1) if the person has previously been paid, or is eligible or qualified for, a clean energy advance under:

(a) the *Social Security Act 1991*; or

(b) the *MRCA* in relation to a *MRCA wholly dependent partner payment*; or

(c) *ABSTUDY*; or

(d) the *MRCAETS* (in relation to the same period); or

(e) the *VEA*, except for a clean energy advance in relation to disability pension; or

(2) if the person has previously been paid a *clean energy advance* under the *VCES* in relation to the same period.

**3A.10.2** A person to whom paragraph 3A.10.1 applies may still be eligible for a *top-up payment*.

**Division 2 Clean energy supplement and quarterly clean energy supplement**

**Clean energy supplement**

**3A.11.1** This paragraph applies to a person for a day if:

(a) the person receives for the day a *clean energy underlying payment*; and

(b) the person’s rate of the payment is greater than nil; and

(c) the person is residing in Australia on the day; and

(d) on the day the person either:

(i) is in Australia; or

(ii) is temporarily absent from Australia and has been so for a continuous period not exceeding 13 weeks.

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Veterans’ Children Education Scheme
Note: paragraph 3A.15.2 (election to take quarterly clean energy supplement) may affect whether a person meets the conditions in paragraphs (a) and (b) of paragraph 3A.11.1.

**Clean energy supplement payable**

**3A.12.1** Subject to paragraph 3A.14.1 (multiple entitlement exclusion), if paragraph 3A.11.1 applies to a person, the Commonwealth is liable to pay the person for the day *clean energy supplement* for the person’s *clean energy underlying payment*.

Note 1: The supplement is a payment separate from the *clean energy underlying payment*.
Note 2: paragraph 3A.14.1 (multiple entitlement exclusion) may affect the person’s entitlement to the clean energy supplement.

**Rate of clean energy supplement**

**3A.13.1** The rate of *clean energy supplement* for a *clean energy underlying payment* is, subject to 3A.18.1, the rate worked out by:

(a) working out 1.7% of the *clean energy underlying payment* on 1 January 2014 (taking account of any indexation on that day); and
(b) rounding the result of paragraph (a) up or down to the nearest multiple of 10 cents (rounding up if that result is not a multiple of 10 cents but is a multiple of 5 cents).

Note: the rate in paragraph 3A.13.1 is indexed 12 monthly in line with CPI increases (see: paragraph 3A.18.1).

**3A.13.2** A clean energy supplement is to be added to the rate of *clean energy underlying payment* of a person mentioned in paragraph 3A.11.1.
3A.13.3 Paragraph 3A.13.2 does not apply if quarterly clean energy supplement is payable to a person to whom paragraph 3A.12.1 applies.

Multiple entitlement exclusion - Clean Energy Supplement

3A.14.1 Despite any provision of the VCES, a person is not eligible to have a clean energy supplement for an education allowance used to calculate the person’s rate of education allowance on a day if the person is also in receipt of a payment:

(a) under the VEA – being a war widow(er) pension; or

(b) under the MRCA – being a MRCA wholly dependent partner payment;

where the pension or payment under the VEA or MRCA respectively, includes a component of clean energy supplement covering the same instalment period for the person’s education allowance.

Quarterly payment of clean energy supplement

3A.15.1 A quarterly clean energy supplement is payable to a person for each day for which an election by the person under paragraph 3A.15.2 is in force in relation to a clean energy underlying payment the person is receiving.

Note: paragraph 3A.14.1 (multiple entitlement exclusion) may affect the person’s eligibility for quarterly clean energy supplement.

3A.15.2 If paragraph 3A.12.1 applies to a person, the person may, in a manner or way approved by the Commission, make an election to receive the person’s clean energy supplement as a quarterly payment.
3A.15.3 An election ceases to be in force if the person ceases to receive a clean energy underlying payment.

3A.15.4 The person may, in a manner or way approved by the Commission, revoke an election. A revocation takes effect as soon as practicable after it happens.

Rate of quarterly clean energy supplement

3A.16.1 A person’s daily rate of quarterly clean energy supplement, for a particular day, is 1/14 of the amount that, apart from paragraph 3A.15.1, would be the person’s clean energy supplement for that day.

Payment of quarterly clean energy supplement

3A.17.1 A quarterly clean energy supplement is to be paid by instalments.

3A.17.2 An instalment of quarterly clean energy supplement is to be paid to a person as soon as is reasonably practicable on or after the first supplement test day (the current test day) that follows a day for which quarterly clean energy supplement is payable to the person.

3A.17.3 The amount of the instalment is worked out by:

(a) working out the amount of the person’s quarterly clean energy supplement for each day during the test period for which quarterly clean energy supplement is payable to the person; and
(b) adding up the amounts resulting from paragraph (a).

3A.17.4 In paragraphs 3A.17.2 and 3A.17.3:

supplement test day means:
(a) 20 March; or
(b) 20 June; or
(c) 20 September; or
(d) 20 December.

test period means the period:

(a) starting on the most recent supplement test day before the current test day; and
(b) ending on the day immediately before the current test day.

3A.17.5 A claim is not required for quarterly clean energy supplement.

Indexation of clean energy supplement

3A.18.1 The rate of clean energy supplement is indexed as if it is the “Clean energy (under pension age) rate 3” mentioned in item 1AG of the table in section 1190 of the SSA and indexed under Part 3.16 of Chapter 3 of the SSA.

Note: deeming the rate of clean energy supplement to be the Clean energy (under pension age) rate 3 means it will be taken to be the rate in item 1G of the CPI Indexation Table in subsection 1191(1) of the SSA and will be covered by, in addition to section 1190 of the SSA, sections 1191-1194 of the SSA.

Division 3 Adjustments relating to clean energy underlying payments

Special rules for indexation of clean energy underlying payments on or after 1 January 2014

3A.19.1 The rate of a clean energy underlying payment is to be adjusted in accordance with section 1206GG of the SSA as if, under section 1206GG, YA MBR is the rate for the clean energy underlying payment.
3A.19.2 In applying section 1206GG of the SSA, sections 1191-1194 of the SSA are also to be applied as if the amount YA MBR in item 3A of the CPI Indexation Table in section 1191 is a clean energy underlying payment.

3A.19.3 In applying section 1206GG of the SSA:

YA MBR means the rate for the clean energy underlying payment.
indexation factor means the factor worked out under section 1193 of the SSA.
indexation day means the indexation day(s) in item 3A of the CPI Indexation Table in section 1191 of the SSA.

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 or ‘double orphan’ 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 — Veterans’ Children Education Boards**

**6.1 Establishment**

6.1.1 A Board, to be called the Veterans’ Children Education Board, is established in the capital city of each State.

Note: Boards are established under paragraph 117(5)(e) of the *Act*.

**6.2 Membership**

6.2.1 Each *Board* shall consist of not less than five members and no more than fifteen members, each of whom are to be:

(a) nominated by an organisation that is interested in the educational welfare of eligible students
including eligible children under the MRCA Childrens’ Scheme;

(b) personally interested in, and able to contribute to, the educational welfare of eligible students including eligible children under the MRCA Childrens’ Scheme; and

(c) appointed by the Commission.

6.2.2 Board members 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 Board members referred to in paragraph 6.2.1 may be appointed by the Commission for an initial period of 3 years. The Board members may then be reappointed by the Commission for such further period as the Commission determines.

6.3.2 Appointment of members, referred to in paragraph 6.2.1, to the Board shall be on the basis of a selection procedure whereby:

(a) the Board Secretary and Chairperson shall inform the nominating organisations of the nature of the Board’s contribution to the Scheme; and

(b) nominating organisations shall:

(i) select individuals on the basis of the direct contribution they could make to the VCES in terms of interpersonal skills

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and educational contacts and relevant, educational experience;

(ii) provide more than one nomination wherever possible; and

(iii) provide a full resume for those nominated; and

(c) a Board Chairperson and a person nominated by the Commission shall interview prospective nominees to inform them of the functions of the Board and the commitment expected from Board members; and

(d) the appointment of a member to a Board shall be made by the Commission subject to the MRCC approving the appointment. The Commission is to notify the MRCC of a proposed appointment to a Board (which notice may be in electronic form) and the MRCC is to notify the Commission of its approval or rejection of the proposed appointment (which notice may be in electronic form).

6.4 Termination of appointment

6.4.1 The Commission may, on the recommendation of a Board, terminate the appointment of any member of a Board on the grounds of:

(a) repeated absences from Board meetings; or
(b) physical or mental incapacity; or
(c) misbehaviour; or
(d) resignation or dismissal from the nominating organisation; or
(e) the member’s wish to resign; or

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(f) the withdrawal of support for the member’s continued membership of the Board by the member’s nominating organisation.

6.4.2 In the event of a vacancy occurring by reason of repeated absences, the death, termination of appointment, resignation or forfeiture of office of any member of an Education Board, the vacancy may be filled for the remainder of that member’s term of appointment.

6.5 Functions of Boards

6.5.1 Under paragraph 117(5)(e) of the Act, Boards 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;

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

(f) subject to paragraph 9.2 (consent of original members), acting as MRCA Childrens’ Boards.
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 an Education Board shall form a quorum.

6.9 Annual Report

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 with a statistical return of the Veterans’ Children Education Board in that State.
PART 7 — Bequests and Trusts

7.1 Determination of use of funds

7.1.1 Any funds bequeathed in trust to a Board for the benefit of eligible students under the Scheme, shall be deemed to have been bequeathed in trust to the Commission.

7.1.2 The Commission may, from time to time, determine that funds left in its trust for the benefit of eligible students shall be administered by a Board.

7.1.3 Any bequest accepted either prior to or after the commencement of this Scheme, shall be administered within the terms of the bequest as varied from time to time by the Commission.

7.2 Scholarships

7.2.1 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.

7.2.2 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.

7.2.3 A scholarship under paragraph 7.2.1 of this Scheme may be awarded in a course not otherwise approved for the purpose of this Scheme.

7.3 Long Tan Bursary

7.3.1 The Commission may create a bursary to be known as the Long Tan Bursary and the Commission may determine the duration and value of the bursary and the number of bursaries to be granted in any Calendar year.
Note (1): under section 23 of the Acts Interpretation Act 1901 words in the singular number (eg. bursary) include the plural (eg. bursaries).

Note (2): Calendar year is defined in section 22 of the Acts Interpretation Act 1901.

7.3.2 The Commission may award a Long Tan Bursary to an Eligible child but only if the person is an Eligible child by virtue of a determination under subsection 116C(2) of the Act that the person is within a class of persons described in paragraph 2.1 (c) of the Veterans' Entitlements (Veterans' Children Education Scheme) Eligible Child Determination 2006 No. R26/2006.

Note: generally speaking, only a needy child (including a former child) of a Vietnam veteran may receive a Long Tan Bursary where such child is making the transition to tertiary education.

7.3.3 In deciding whether or not to award a Long Tan Bursary to an Eligible child the Commission must take into account the matters in the document approved by the Commission in September 2006 and known as the "Long Tan Bursary Operational Guidelines".

7.3.4 An Eligible child who is awarded a Long Tan Bursary is not entitled to another Long Tan Bursary.

7.3.5 A Long Tan Bursary may be administered by the Commission (administration power) or the Commission may direct a Board to administer a particular bursary and the Board shall administer that bursary.

7.3.6 Where the Commission delegates its administration power in Paragraph 7.3.5 to another person (for example, a contractor), it may enter into financial arrangements with that other person whereby that other person is paid to administer a Long Tan

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**Bursary** (administration fee) and any such administration fee may be drawn from the funds appropriated by the Commonwealth for the administration of the *Scheme*.

Note: pursuant to section 213 of the *Act*, the Commission can delegate its powers under the Act to, among others, a contractor with the Commission.

### 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

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**Veterans’ Children Education Scheme**

Federal Register of Legislative Instruments F2012C000276
(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

Veterans’ Children Education Scheme
(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 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.

7.5 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

(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 or a double orphan 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 a double orphan 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 *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**

### 7.5.8

(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

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Veterans’ Children Education Scheme
(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 or officer of the Australian Public Service.
8.1.3 The Commission may, by instrument in writing, confer any of its powers contained in section 118 of the Act to the Boards.

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.

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 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.
PART 9 — Transitional Arrangements

9.1 Continuation of Boards, members, legal cover

9.1.1 Despite any variation to the Scheme made by this Instrument:

(a) a Board in existence immediately before the commencement of this Instrument continues in existence after the commencement of this instrument under the Scheme as varied by this Instrument; and

(b) a person who is a member immediately before the commencement of this Instrument continues to be a member, after the commencement of this instrument, under the Scheme as varied by this Instrument, for the period for which the person was appointed as a member that has not expired.

(c) a member who, immediately before the commencement of this Instrument, incurred a liability in the performance of his or her duties as a member (whether or not the member was aware of the liability), being a liability that, on the commencement of this Instrument still existed, is taken to have incurred that liability under the Scheme as varied by this Instrument.

9.2 Need for Member’s consent to MRCA duties

9.2.1 A Board comprised of members who were members immediately before the commencement of the MRCA Childrens’ Scheme in 2004 is not taken to have the function of acting as a MRCA Childrens’ Board (function) unless such members have each notified in writing (which notice may be in electronic form) the Secretary of the Board that
they consent to being a member of the Board with that function.

9.2.2 The Secretary is to forward notifications of consent received under paragraph 9.2.1 to the Commission.

9.2.3 Paragraph 9.2.1 does not apply to a Board comprised of members re-appointed on or after the commencement of the MRCA Children’s Scheme.
Notes to the Veterans' Children Education Scheme

Note 1

The Veterans' Children Education Scheme (in force under the Veterans' Entitlements Act 1986) as shown in this compilation comprise Legislative Instruments 1992 No. 11 (see F2005B01511) amended as indicated in the Tables below.

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Table A Application, saving or transitional provisions

**Legislative Instrument 1998 No.7**

36. Pre-Variation allowances

The variations to the Scheme made by this Instrument apply to all students in receipt of a benefit under the Scheme immediately before 1 July 1998 and apply to any decision under the Scheme made on or after 1 July 1998 whether or not any application or proceedings relating to that decision commenced before, on or after that date.

**Legislative Instrument 2000 No.30**

Transitional

A person who lost eligibility for benefits under the VCES by reason of the operation of paragraphs 2.9 and 2.9.1 of the VCES may, on or after the commencement of this Instrument, and subject to the VCES, claim benefits under the VCES but such person is not entitled to any benefits he or she forfeited by reason of the operation of paragraphs 2.9 and 2.9.1 of the VCES. Note: for the purposes of section 8 of the *Acts Interpretation Act 1901* the intention is that a liability incurred under repealed paragraphs 2.9 and 2.9.1 is affected by this Instrument and is expunged.

**Legislative Instrument 2003 No.4**

3 Transitional

Where, immediately before the commencement of this Instrument, the Repatriation Commission (Commission) was reviewing a decision under the *Veterans’ Children Education Scheme* (Scheme), then upon the commencement of this Instrument the Commission is to continue reviewing the decision as if the variations to the Scheme by this Instrument had not been made.

Note: the *Veterans’ Children Education Scheme* is made under section 117 of the *Veterans’ Entitlements Act 1986*. 

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Veterans’ Children Education Scheme
Legislative Instrument 2006 No.R27

[4] Saving/Application

A person who, immediately before the commencement of this Instrument, was only eligible for a Long Tan Bursary (bursary) under the Veterans’ Children Education Scheme (VCES) is, upon the commencement of this Instrument, only eligible for the bursary under the VCES as varied by this Instrument.

Legislative Instrument 2011 No.R53


(1) If, on or after 1 January 2012, under the Veterans’ Children Education 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 Veterans’ Children Education 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 Veterans’ Children Education Scheme had it not been varied by this instrument and such an amount is payable until the time this instrument is registered whereupon the Veterans’ Children Education Scheme, as varied by this instrument, applies to the person.

(2) Subject to (1) paragraph 7.5.7 of the Veterans’ Children Education 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 7.5.7(1) applies, take account of payments and value received before, on or after 1 January 2012.

(4) In determining whether paragraph 7.5.7(4) applies, take account of prior years occurring before or after 1 January 2012.

**Paragraph 7.5.8**

(5) Paragraph 7.5.8 of the *Veterans’ Children Education Scheme*, as inserted by this instrument, applies to payments received on or after 1 January 2012.