EXPLANATORY STATEMENT

Military Rehabilitation and Compensation Act
Education and Training Scheme (Income Support Bonus) Determination 2013

EMPOWERING PROVISION

Subsection 258(5) of the Military Rehabilitation and Compensation Act 2004 (the Act).

PURPOSE

The purpose of the attached instrument (2013 No MRCC 10) is to introduce a new ancillary education benefit called the “Income Support Bonus”.

The Income Support Bonus is to be paid to certain recipients of education allowances under the Military Rehabilitation and Compensation Act Education and Training Scheme 2004 (MRCAETS) and is to provide additional support to manage unanticipated expenses.

The MRCAETS is a legislative instrument made under the Act. It enables the Department of Veterans’ Affairs (DVA) to pay education allowances to eligible children of members (including former members) of the Defence Force in order to assist them with their education.

Generally, the recipients of the Income Support Bonus will be those aged 16 years and over who receive an education allowance under the MRCAETS because he/she is:

- a secondary/tertiary student living at home
- a secondary/tertiary student living away from home
- a homeless student.

However the bonus will also be available for a person under 16 years of age who receives an education allowance under the MRCAETS because he/she is:

- a secondary/tertiary student living away from home
- a homeless student.

The Income Support Bonus is part of a whole-of-Government initiative. The Social Security and Other Legislation Amendment (Income Support
Bonus) Act 2013 introduced a similar payment for recipients of certain social security payments i.e. the Newstart Allowance; Sickness Allowance; Youth Allowance; Austudy; ABSTUDY; Special Benefit; Parenting Payment Single; Parenting Payment Partnered; Transitional Farm Family Payment and the Exceptional Circumstances Relief Payment.

These social security payments are payable to adolescents and adults. The only DVA clients who are in a similar position are certain students under DVA’s education schemes and it would be inconsistent if they did not also receive an Income Support Bonus.

Accordingly, instead of including the Income Support Bonus for DVA clients in the Social Security and Other Legislation Amendment (Income Support Bonus) Act 2013, DVA decided it would be more appropriate to pay the bonus under its two education schemes – the other scheme being under the Veterans’ Children Education Scheme.

Eligible bonus recipients will receive a tax-free, twice-yearly, non means tested payment of $105.00 (or $210 per annum).

Payment of the bonus will occur on or after 20 March and 20 September, commencing in 2013.

Eligibility for the bonus is based on whether a person receives a relevant education allowance (described above) on 20 March (for the March payment) or 20 September (for the September payment).

The Income Support Bonus will be indexed to the Consumer Price Index twice annually, in March and September, from September 2013.

CONSULTATION

The Department of Veterans’ Affairs consulted the Department of Education, Employment and Workplace Relations which also introduced an Income Support Bonus. Consultation was by way of telephone calls and e-mails.

HUMAN RIGHTS IMPLICATIONS

The instrument engages the following human right:

Right to social security

The right to social security requires that a country must, within its maximum available resources, ensure access to a social security scheme
that provides a minimum essential level of benefits to all individuals and families that will enable them to acquire at least essential health care, basic shelter and housing, water and sanitation, foodstuffs, and the most basic forms of education.

The right to social security is contained in article 9 of the International Covenant on Economic, Social and Cultural Rights.

The UN Committee has stated that qualifying conditions for benefits under a social security system must be reasonable, proportionate and transparent.

The Committee has also stated that special attention should be given to groups who may face difficulties in exercising the right to social security. Those groups include women, the unemployed, sick or injured workers, people with disabilities, older persons, children and adult dependents and minority groups.

The introduction of the Income Support Bonus under the MRCAETS recognises that households with students, which could include families relying on income support allowances as their main source of income, may find it difficult to manage when unanticipated expenses, such as urgent repairs or unexpectedly large bills, arise.

The Income Support Bonus will consist of payments twice a year for an eligible student(s) to help them and their families plan expenditure and build a buffer against unexpected costs which in turn will mean there is more money available for the student’s education costs.

Not all students under the MCRAETS will be eligible for the Income Support Bonus. It will not be paid to primary school students. This is because essentially the bonus is a whole-of-government measure and the Government’s intention is that it only be made available to adolescents and adults, not children.

The difficulty for DVA in implementing the measure, from an appearance perspective, is that the legislative platform it used also makes benefits available to children, with the result that there are two groups of “side-by-side beneficiaries” (children and adolescents/adults) but only one group (adolescents/adults) will receive the Income Support Bonus at DVA.

It is not the Government’s intention to make the Income Support Bonus available for children and the amendments to the social security law made by the Social Security and Other Legislation Amendment (Income Support Bonus) Act 2013 did not enable the Income Support Bonus to be paid as a child support measure.
In light of the Government’s policy parameters for the Income Support Bonus, DVA’s decision not to make it available to children would appear to be, in the words of the UN Committee, “reasonable, proportionate and transparent.”

The other condition imposed on the availability of the Income Support Bonus is one aimed at preventing double-payments of the bonus.

**Conclusion**

The Military Rehabilitation and Compensation Act Education and Training Scheme (Income Support Bonus) Determination 2013 is compatible with human rights because it enhances the right to education and the conditions it imposes on the grant of the Income Support Bonus are reasonable in the circumstances.

Warren Snowdon  
Minister for Veterans’ Affairs  
Rule-Maker
RETROSPECTIVITY
None.

DOCUMENTS INCORPORATED-BY-REFERENCE
No.

FURTHER EXPLANATION
Attachment A.
Attachment A

<table>
<thead>
<tr>
<th>Items</th>
<th>Explanation</th>
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<tbody>
<tr>
<td>1.</td>
<td>sets out the name of the instrument.</td>
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<tr>
<td>2.</td>
<td>provides that the instrument commences, or is taken to have commenced, when the <em>Social Security and Other Legislation Amendment (Income Support Bonus) Act 2013</em> commences (Royal Assent).</td>
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**Schedule**

| 3.    | is a definition section. |
| 4.    | inserts a new part into the MRCAETS – Part 3B – Income Support Bonus |

3B.1.1 sets out the eligibility criteria for the income support bonus.

3B.1.2 provides that a person is eligible for an income support bonus on an income support bonus test day (20 March and 20 September) if:

(a) the person has attained 16 years old and is receiving, in respect of the income support bonus test day, an education allowance under the MRCAETS that is for:

- a secondary/tertiary student living at home; or
- a secondary/tertiary student living away from home; or
- a homeless student; or

(b) the person has not attained 16 years old and is receiving, in respect of the income support bonus test day, an education allowance under the MRCAETS that is for:

- a secondary/tertiary student living away from home; or
- a homeless student.

3B.2 introduces the rule on preventing double payments of the income support bonus.

3B.2.1 imposes a limit of 1 income support payment for a person in respect of an income support bonus test day no matter how many times the person is eligible for the bonus on that day.
3B.3 introduces the provision setting out the amount of income support bonus.

3B.3.1 provides that the amount of a person’s income support bonus is $105 on an income support bonus test day.

The Note alerts the reader that the income support bonus is indexed twice a year in line with CPI increases.

3B.4 introduces the indexation/adjustment provisions for the income support bonus.

3B.4.1 provides that the income support bonus is indexed or adjusted as if it was the payment described as “income support bonus” in item 71 of the table in section 1190 of the *Social Security Act 1991*.

3B.5 introduces the CPI indexation provisions for the income support bonus

3B.5.1 provides that the income support bonus is indexed as if it is the payment described as “income support bonus” in item 43 of the table in subsection 1191(1) of the *Social Security Act 1991*.

3B.5.2 ensures that a reference in the MRCAETS to the amount of income support bonus is a reference to the amount as indexed.

3B.5.3 provides that the indexed amount of income support bonus is to be worked out under section 1192 of the *Social Security Act 1991* as if it is the payment described as income support bonus under the *Social Security Act 1991*.

3B.6 introduces the provision applying to the need for a claim for the income support bonus.

3B.6.1 provides that a claim is not required for the income support bonus.

3B.7 introduces the provisions covering the payment of the income support bonus.

3B.7.1 provides that if a person is eligible for an income support bonus on an income support bonus test day, the Military Rehabilitation and Compensation Commission must direct that the bonus be paid for the person 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 bonus to be paid; and

in such manner as the Commission considers appropriate.

3B.7.2 specifies that the income support bonus is to be paid to the person who receives the education allowance for the person eligible for the income support bonus except that if the education allowance is payable to an institution or a person providing board then the bonus is payable to the person to whom the education allowance would be payable if payment of the education allowance to an institution or person providing board was not an option.

The note to 3B.7.2 notifies the reader that in some cases the person receiving the bonus on behalf of the person eligible for the bonus could be the eligible person’s parent, a person approved by the Commission or the eligible person.

3B.8 introduces the provisions applying to debts in respect of the income support bonus.

3B.8.1 sets out the situations where an income support bonus paid to a person will become a debt due to the Commonwealth by the person, namely:

- after the bonus is paid, a determination under the MRCAETS in relation to the person, at least so far as it relates to the income support bonus test day or to a period that includes that day, is or was (however described) changed, revoked, set aside, or superseded by another determination; and

- the decision to change, revoke, set aside or supersede the determination is or was made for the reason, or for reasons including the reason, that the person knowingly made a false or misleading statement, or knowingly provided false information; and

- had the event happened on or before the day the bonus was paid, the bonus would not have been paid.

3B.8.2 has the effect of ensuring, to the extent legally possible, that debts in respect of the income support bonus are governed by
the MRCAETS and not the debt-recovery provisions in the *Military Rehabilitation and Compensation Act 2004*. 