EXPLANATORY STATEMENT

Select Legislative Instrument No. 41, 2015

Issued by the Authority of the Minister for Veterans' Affairs

Veterans’ Entitlements Act 1986

Veterans’ Entitlements (DFISA-like Payment) Repeal Regulation 2015

Section 216 of the Veterans’ Entitlements Act 1986 provides, in part, that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters which are by the Act required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The Veterans’ Entitlements (DFISA-like Payment) Repeal Regulation 2015 (the new Regulation) repealed the Veterans’ Entitlements (DFISA-like Payment) Regulations 2005 (the former regulations) because the former regulations were re-made by the Veterans’ Entitlements (DFISA-like Payment) Regulation 2015.

Details of the new Regulation are set out in the Attachment.

Consultation

No because the repeal by the attached instrument of the Veterans’ Entitlements (DFISA-like Payment) Regulations 2005 was, in effect, neutralised by the re-making of those regulations as the Veterans’ Entitlements (DFISA-like Payment) Regulation 2015.

There was consultation in respect of the re-made regulation (the Veterans’ Entitlements (DFISA-like Payment) Regulation 2015), details of which are described in the Explanatory Statement for that regulation.

Retrospectivity

None.

Documents Incorporated-by-Reference

No.

Human Rights Statement


The attached legislative instrument does engage an applicable right or freedom. It relates to the Right to Social Security contained in article 9 of the International Covenant on Economic Social and Cultural Rights.
The Right to Social Security is engaged by the attached instrument in that repeals an instrument that enabled a compensation payment (DFISA-like payment) to be made to people who miss out in whole or in part on the ABSTUDY Living Allowance (an income support payment) because the person receives an adjusted disability pension from the Department of Veterans’ Affairs and that pension is assessed as income in the means test for the ABSTUDY Living Allowance.

The DFISA-like payment represents the difference in amounts between what the person received by way of an ABSTUDY Living Allowance (if anything) and, generally speaking, what the person would have received if the person’s adjusted disability pension had not been assessed as income.

However because the instrument repealed by the attached instrument has been re-made, the impact of the attached instrument on the human right in question is of no consequence.

Conclusion

The attached legislative instrument is considered to be compatible with the human right to social security because, although it repealed an instrument (repealed instrument) that provided an income support payment, the repealed instrument was re-made which neutralised the effect of the attached instrument.

Rule-Maker
The Minister for Veterans’ Affairs
Details of the proposed Veterans’ Entitlements (DFISA-like Payment) Repeal Regulation 2015

Section 1 – Name of Regulation
This section provides that the title of the Regulation is the Veterans’ Entitlements (DFISA-like Payment) Repeal Regulation 2015.

Section 2 – Commencement
This section provides for the Regulation to commence at the same time as the Veterans’ Entitlements (DFISA-like Payment) Regulation 2015 commences.

Section 3 – Authority
This section provides that the Veterans’ Entitlements (DFISA-like Payment) Repeal Regulation 2015 is made under the Veterans’ Entitlements Act 1986.

Section 4 – Schedule(s)
This section provides that each instrument that is specified in a Schedule to the Regulation is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to the regulation has effect according to its terms.

Schedule 1-Item 1
This item repeals the Veterans’ Entitlements (DFISA-like Payment) Regulations 2005.