EXPLANATORY STATEMENT

Veterans' Entitlements (Direct Deductions Arrangements) Instrument 2015

Veterans’ Entitlements (Continued Fringe Benefits) Determination 2015


PURPOSE

The attached instruments are legislative instruments that have been re-made. Had the instruments not been re-made, they would have been automatically repealed on 1 October 2015.

Subsection 26(1B) of the Legislative Instruments Act 2003 provides that the requirement for an explanatory statement to explain the purpose and operation of an instrument may be met by an explanation that the instrument replaces a specified earlier legislative instrument or a specified provision of an earlier legislative instrument and is the same in substance as the specified instrument or provision.

Also, subsection 26(1D) of the Legislative Instruments Act 2003 provides that a single explanatory statement may relate to one or more legislative instruments – which is the case here.

The Department of Veterans’ Affairs (DVA) has reviewed the instruments and found that they are still required. Accordingly, the instruments have been re-made and are essentially the same in substance as the instruments they replace albeit with minor updating as required.

The purpose of the instruments is outlined in Parts A, B and C.

CONSULTATION

There has been no consultation in respect of the attached instruments because they are being re-made in essentially the same form and benefits are not being affected. Accordingly consultation was considered unnecessary.

RETROSPECTIVITY

None.

DOCUMENTS INCORPORATED-BY-REFERENCE

No.

HUMAN RIGHTS STATEMENT
Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

The attached legislative instruments do engage an applicable right or freedom. They relate 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 and promoted by the attached instruments in the following way:

The *Veterans’ Entitlements (Direct Deductions Arrangements) Instrument 2015* helps a person manage their financial affairs by enabling the Repatriation Commission, at the person’s request, to make deductions from the person’s pension etc and make a payment on the person’s behalf e.g. pay a rent bill.

The *Veterans’ Entitlements (Continued Fringe Benefits) Determination 2015* maintains a person’s eligibility for concessions e.g. transport concession card, for a period (approx. 12 months) after their primary eligibility for the concession has ended because they obtain work. This period of grace assists a person to adjust to a changed financial situation (e.g. no more free travel).

The *Veterans’ Entitlements (Income Support Supplement – Permanent Incapacity for Work) Determination 2015* sets out circumstances in which a person is considered by the Repatriation Commission to be incapacitated for work (work test). The *Veterans’ Entitlements Act 1986* requires the Repatriation Commission to make a determination setting out a work test for the invalidity income support supplement. By satisfying the work test a person establishes a ground of eligibility for the invalidity income support supplement.

Conclusion

The attached legislative instruments are considered to be compatible with the human right to social security because they either assist a person with managing their financial affairs or enable a person to obtain a pension for an invalidity income support supplement.

Rule-Maker
The Repatriation Commission
PART A

_Veterans' Entitlements (Direct Deductions Arrangements) Instrument 2015_
Instrument 2015 No. R23

The abovementioned instrument sets out classes of pensions, allowances and other pecuniary benefits under the _Veterans' Entitlements Act 1986_ (VEA) from which the Repatriation Commission may make deductions at a recipient’s request.

The instrument also sets out the classes of payments to which the deduction may be applied, again at the recipient’s request. An example of a class of payment is rent payable to a State Housing Authority.

As per subsection 122B(5) of the VEA, the Repatriation Commission can only make such deductions and payments if they are set out in a legislative instrument.

Accordingly the _Veterans' Entitlements (Direct Deductions Arrangements) Instrument 2015_ specifies the classes of pensions, allowances and benefits from which an amount may be deducted and the classes of payments for which the amount may be used.

PART B

_Veterans' Entitlements (Continued Fringe Benefits) Determination 2015_
Instrument 2015 No. R24

The abovementioned instrument continues eligibility for fringe benefits for ex-recipients of the invalidity service pension who cease to be eligible for that pension because they ceased to be permanently incapacitated for work. This instrument is made under subsection 53B(1) of the VEA.

The person continues to be eligible for fringe benefits for the shorter of the following periods:

- 12 months from the date eligibility for the invalidity service pension ceased;
- the period commencing when eligibility for the invalidity service pension ceased and ending when the person no longer worked more than 8 hours per week.

Fringe benefits can be defined as any assistance towards purchasing goods or services at a concessional rate not available to the general public. An example of a fringe benefit is a transport concession provided by a State Government.

A person eligible for a service pension (which includes an invalidity service pension) or an income support supplement is eligible for fringe benefits.

PART C

_Veterans' Entitlements (Income Support Supplement – Permanent Incapacity for Work) Determination 2015_
Instrument 2015 No. R25

As per subsection 45QA(1) of the VEA, the abovementioned instrument sets out the circumstances in which a person is considered permanently incapacitated for work for the purposes of the invalidity income support supplement.
Generally speaking a person would meet the incapacitated-for-work test in the instrument if the person:

- is blind; or
- has an physical, intellectual or psychiatric impairment assessed at the relevant level stipulated in the instrument; and
- cannot work for at least 30 hours per week, solely due to the impairment.