Military Rehabilitation and Compensation Commission

Military Rehabilitation and Compensation (Family Support) Instrument (No.2) 2018

Instrument 2018 No. MRCC 69

The Military Rehabilitation and Compensation Commission, under section 268B of the Military Rehabilitation and Compensation Act 2004, makes the following instrument.

Dated this 5th day of July 2018

The Seal of the Military Rehabilitation and Compensation Commission was affixed hereto in the presence of:

Mark Cormack
MARK CORMACK
ACTING CHAIR

C Orme
CRAIG ORME
DSC AM CSC
MEMBER

B S Wolski
REAR ADMIRAL BRETT WOLSKI
AM
MEMBER

Jennifer Taylor
JENNIFER TAYLOR
MEMBER

T Smart
AIR VICE-MARSHALL TRACY SMART
AM
MEMBER
Part 1 — Preliminary

1 Name

This instrument is the Military Rehabilitation and Compensation (Family Support) Instrument (No.2) 2018.

2 Commencement

This instrument commences on the day after it is registered.

3 Authority and Revocation

(1) This instrument is made under section 268B of the Military Rehabilitation and Compensation Act 2004.


4 Purpose

The purpose of this instrument is to make provision for the Commission to grant child care services, counselling and household services to eligible persons (see sections 8 and 14).

5 Definitions

In this instrument:


*child care provider* means a person approved (however described) to provide child care services by the Secretary of the Commonwealth Department responsible for education.

*counselling* means any form of brief intervention counselling, including, but not limited to, mental health counselling, financial counselling, life skills counselling, counselling to provide mental health first aid and counselling focusing on caring for veterans with specific disabilities.

*counselling provider* means a person accredited (however described) to provide counselling by the professional body of which the person is a member.

*household services* means any service conducted within or around the principal place of residence of the partner of a deceased member to assist with the proper functioning or maintenance of the environment of the residence that will assist the partner to adjust to life after the deceased member’s death, including, but not limited to, home cleaning, gardening services and home maintenance services.
**household services provider** means a person with an Australian Business Number and public liability insurance who is in the business of providing household services.

**nominated person** – see section 9.

**partner** of a deceased member means the person who was the partner of the deceased member at the time of the deceased member’s death.

**primary school age** for a child means any of the ages at which the child in the State or Territory in which the child lives would usually attend a primary school.

**related person** of a former member has the same meaning as in section 15 of the *Act* as if a reference in that section to a member were a reference to a former member.

**school age** for a child means the age at which the child is required by a law of the State or Territory in which the child lives to attend school.

*Note 1:* The following terms used in this instrument are defined in the Act:

- approved rehabilitation program (s41)
- child (s5(1))
- Commission (s5(1))
- deceased member (s5(1))
- former member (s5(1))
- member (s5(1))
- partner (s5(1))
- related person (s15)
- rehabilitation authority (s5(1))
- service death (s5(1))
- warlike service (s6(1))

*Note 2:* The definition of ‘deceased member’ in the Act has a particular meaning. It includes a deceased former member as well as a deceased member. The definition of ‘deceased member’ is used in Part 3 of this instrument.

**6 Requirement for warlike service**

Assistance or benefits must not be granted under this instrument unless the member, former member or deceased member rendered warlike service on or after 1 July 2004 in accordance with subsection 268B(2) of the *Act.*

**Part 2 — Assistance or benefits to members, former members and nominated persons**

**7 Application of Part**

This Part applies to:

(a) a member or former member; and

(b) a nominated person of the member or former member.
8 Persons eligible for assistance or benefits under this Part

The Commission may grant assistance or benefits under this Part to a member or former member, or a nominated person of the member or former member, if the Commission is satisfied that:

(a) the member or former member has rendered warlike service on or after 1 July 2004; and

(b) the Commission is the rehabilitation authority for the member or former member; and

(c) the Commonwealth is liable to pay compensation to the member under section 85 of the Act or the former member under section 118 of the Act; and

(d) the member or former member has an approved rehabilitation program; and

(e) the member or former member, or the nominated person of the member or former member, is in need of the assistance or benefits.

9 Nominated persons

A member or former member may list one or more of his or her related persons in the member’s or former member’s approved rehabilitation program for the purpose of assistance or benefits being granted under this Part.

Note: subsection 15(2) of the Act provides that a related person of a member is:

- the member’s partner,
- a parent or step-parent of the member,
- a parent or step-parent of the member’s partner,
- a grandparent of the member,
- a child or stepchild of the member,
- a child or stepchild of the member’s partner,
- a grandchild of the member,
- the member’s brother, sister, half-brother or half-sister,
- a person in respect of whom the member stands in the position of a parent; or
- a person who stands in the position of a parent to the member.

The definition of related persons is purposefully broad to reflect the different family structures accepted as family in contemporary Australian society.

10 Kinds of assistance or benefits

Child care services or counselling, or both, may be granted under this Part.

11 Child care services

(1) A member or former member, or a nominated person of the member or former member, may be provided with child care services for a child of the member or former member.
(2) If a child is under school age, the amount for child care services payable in relation to the child must not exceed $10,000 per financial year.

(3) If a child is of primary school age, the amount for child care services payable in relation to the child must not exceed $5,000 per financial year.

(4) A child care service is to be provided by a child care provider and any amount for child care services is to be paid to the child care provider.

(5) To avoid doubt, an amount for child care services is not payable by way of reimbursement.

12 Counselling

(1) A member or former member, or a nominated person of the member or former member, may be provided with counselling.

(2) The family group of a member or former member (see subsection (6)) may be provided with up to 4 counselling sessions per year during the 5 year period starting on the date of the first counselling session.

(3) A counselling session may be provided to an individual member of a family group, or to more than one member or all members of the family group.

(4) Counselling is to be provided by a counselling provider and any amount for counselling is to be paid to the counselling provider.

(5) To avoid doubt, an amount for counselling is not payable by way of reimbursement.

(6) In this section, “family group” means the group consisting of a member or former member and any nominated persons of the member or former member.

Part 3 — Assistance or benefits to partners of certain deceased members

13 Application of Part

This Part applies to partners of certain deceased members.

14 Persons eligible for assistance or benefits

The Commission may grant assistance or benefits to a person if the Commission is satisfied that:

(a) the person was the partner of a deceased member at the time of the deceased member’s death; and

(b) the deceased member rendered warlike service on or after 1 July 2004; and
(c) the deceased member’s death:

(i) was death by suicide related to his or her service; or
(ii) was a service death.

15 Kinds of assistance or benefits

Any or all of the following kinds of assistance or benefits may be granted under this Part:

(a) child care services;
(b) counselling;
(c) household services.

16 Child care services

(1) The partner of a deceased member may be provided with child care services for a child of the deceased member.

(2) If a child is under school age, the amount for child care services payable in relation to the child must not exceed $10,000 per financial year.

(3) If a child is of primary school age, the amount for child care services payable in relation to the child must not exceed $5,000 per financial year.

(4) A child care service is to be provided by a child care provider and any amount for child care services is to be paid to the child care provider.

(5) To avoid doubt, an amount for child care services is not payable by way of reimbursement.

17 Household services

(1) The amount for household services payable in relation to the partner of a deceased member must not exceed $482.50 per week.

(2) Household services for the partner of a deceased member cease to be available on and after the second anniversary of the deceased member’s death.

(3) Household services are to be provided by a household services provider chosen by the partner of a deceased member and, subject to subsection (4), any amount for household services is to be paid to the household services provider.

(4) Subject to subsection (1), if the Commission is satisfied that there are exceptional circumstances, an amount for household services provided by a
household services provider may be paid by way of reimbursement to the partner of a deceased member.

(5) The amount of $482.50 per week is to be indexed in accordance with section 404 of the Act as if a reference to subsection 17(1) of this instrument were included in subsection 404(1) of the Act.

18 Counselling

(1) The partner of a deceased member may be provided with up to 4 counselling sessions per calendar year.

(2) Counselling for the partner of a deceased member ceases to be available on and after the second anniversary of the deceased member’s death.

(3) Counselling is to be provided by a counselling provider and any amount for counselling is to be paid to the counselling provider.

(4) To avoid doubt, an amount for counselling is not payable by way of reimbursement.