

Veterans' Entitlements (Special Assistance) Amendment Regulations 2000 (No. 1) 2000 No. 188

Statutory Rules 2000 No. 188

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Veterans' Affairs

Veterans' Entitlements Act 1986

Veterans' Entitlements (Special Assistance) Amendment Regulations 2000 (No. 1)

Section 216 of the *Veterans' Entitlements Act 1986* (the Act) enables the Governor-General to make regulations prescribing matters that are required or permitted by the Act to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

A set of regulations ("new regulations") has been made amending the *Veterans' Entitlements (Special Assistance) Regulations 1999* (the Principal Regulations).

The principal regulations enable the Repatriation Commission to grant special assistance to certain pensioners entitled to benefits under the Act. The special assistance takes the form of "crisis payments". A crisis payment is a "one-off" payment to assist new and existing clients in financial hardship when they are forced to leave their home and establish a new one due to a limited number of circumstances, such as fleeing domestic violence or in the event of a house fire. The amount of the payment is currently a flat rate of one week's full entitlement without "add-ons".

The purpose of the new regulations is twofold:

- * in general terms, to ensure the amount of crisis payment payable is a proportion of a client's overall basic pension-rate as intended ("Amount of Crisis Payment Amendments");
- * to implement recommendations of the Senate Standing Committee on Regulations and Ordinances ("Senate Committee Amendments").

Amount of Crisis Payment Amendment

The *A New Tax System (Compensation Measures Legislation Amendment) Act 1999* introduced a supplement to a client's basic rate of pension. The crisis payment, however, was worked out only as a proportion of a client's basic rate of pension and not as a proportion of a basic rate of pension plus the supplement meaning that the proportion of crisis payment payable to a client was less than it was intended to be. In simple terms, the new regulations increase the crisis payment by 4%.

Senate Committee Amendments

The Senate Committee amendments ensure that:

- * "email contact" with the Department of Veterans' Affairs, by potential claimants for crisis payments, is recognised as an action setting in train the claims process in the appropriate circumstances; and
- * the Department of Veterans' Affairs records a withdrawal of a claim for a crisis payment where the withdrawal is made orally.

Details of each of the new regulations are set out in the attachment.

The regulations commenced on 1 July 2000.

The fact that the regulations took effect before gazettal will not cause the regulations to be ineffective by virtue of subsection 48(2) of the *Acts Interpretation Act 1901* because the rights of a person at gazettal would not be affected so as to disadvantage the person nor will a liability be imposed on any person in respect of anything done or omitted to be done before gazettal. The new regulations are beneficial legislation.

ATTACHMENT

Veterans' Entitlements (Special Assistance) Amendment Regulations 2000 (No. 1)

Regulation 1 refers to the name of the regulations - the *Veterans' Entitlements (Special Assistance) Amendment Regulations 2000*.

Regulation 2 provides that the regulations are taken to have commenced on 1 July 2000.

Regulation 3 states that Schedule 1 of the regulations will amend the Principal Regulations.

Regulation 4 ensures that the increase in crisis payment resulting from the regulations applies to a claim for a crisis payment made on or after 1 July 2000 and to a claim for a crisis payment made before 1 July 2000 that has not been finally determined because of, for example, an appeal.

Schedule 1

Item [1] permits a potential claimant for a crisis payment to set in train the claim procedure in appropriate circumstances by initial contact with the Department of Veterans' Affairs by post, telephone, facsimile message or electronic mail.

Item [2] requires the Department of Veterans' Affairs to make a written record of a withdrawal of a claim for a crisis payment where that withdrawal is made orally.

Item [3] omits regulation 12 of the Principal Regulations. Regulation 12 provided that a claim for a crisis payment by a person who was not a prisoner/psychiatric patient was ineffective if the person was not eligible for payment at the time of making the claim. Regulation 12 was based on similar legislation administered by the Department of Family and Community Services (DFaCS) ie Schedule 4 to the *Further 1998 Budget Measures Legislation Amendment (Social Security) Act 1999*. However the point of the DFaCS legislation was to make it clear that whereas prisoners/psychiatric patients could lodge a claim for a crisis payment when they were ineligible (because they were in gaol/confinement), non-prisoners etc must be eligible. But the crisis-payment system administered by the Department of Veterans' Affairs is different from that administered by DFaCS thereby making it unnecessary to emphasize (as regulation 12 does) the different "claiming requirements" in relation to those in prison etc and those not. Hence Regulation 12 was removed.

Item [4] ensures that a crisis payment is calculated as a proportion of a client's maximum basic rate of pension and pension supplement thereby resulting in a higher level of payment than would be the case if the crisis payment was calculated solely on the client's maximum basic rate of pension.