

Military Rehabilitation and Compensation Act Education and Training Scheme (Income Support Bonus) Repeal Determination 2014 [F2014L00256]

Portfolio: Veterans' Affairs

Authorising legislation: Military Rehabilitation and Compensation Act 2004

Last day to disallow: The instrument was disallowed in full on 25 March 2014.

Purpose

1.573 The purpose of the instrument is to revoke the education benefit known as the 'Income Support Bonus' (the bonus). The bonus is a tax-free, twice-yearly, non means tested payment of \$105.80 (or \$211.60 per annum) as at 20 September 2013. The bonus is payable to certain eligible young people dependent on members or former members of the Defence Force in order to assist them with their education.

Background

1.574 The Military Rehabilitation and Compensation Act Education and Training Scheme (Income Support Bonus) Repeal Determination 2014 came into force on 13 March 2014. The regulation ceased to have effect when it was disallowed in full by the Senate on 25 March 2014.

Committee view on compatibility

Right to social security

1.575 The right to social security is guaranteed by article 9 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). This right recognises the importance of adequate social benefits in reducing the effects of poverty and plays an important role in realising many other economic, social and cultural rights, particularly the right to an adequate standard of living and the right to health.

1.576 Access to social security is required when a person has no other income and has insufficient means to support themselves and their dependents. Enjoyment of the right requires that sustainable social support schemes are:

- available to people in need;
- adequate to support an adequate standard of living and health care; and
- accessible (providing universal coverage without discrimination and qualifying and withdrawal conditions that are lawful, reasonable, proportionate and transparent; and
- affordable (where contributions are required).

1.577 Under article 2(1) of ICESCR, Australia has certain obligations in relation to the right to social security. These include:

- the immediate obligation to satisfy certain minimum aspects of the right;

- the obligation not to unjustifiably take any backwards steps that might affect the right;
- the obligation to ensure the right is made available in a non-discriminatory way; and
- the obligation to take reasonable measures within its available resources to progressively secure broader enjoyment of the right.

1.578 Specific situations which are recognised as engaging a person's right to social security, include health care and sickness; old age; unemployment and workplace injury; family and child support; paid maternity leave; and disability support.

Right to an adequate standard of living

1.579 The right to an adequate standard of living requires that the state take steps to ensure the availability, adequacy and accessibility of food, clothing, water and housing for all people in Australia.

1.580 Australia has two types of obligations in relation to this right. It has immediate obligations to satisfy certain minimum aspects of the right; not to unjustifiably take any backwards steps that might affect living standards; and to ensure the right is made available in a non-discriminatory way. It also has an obligation to take reasonable measures within its available resources to progressively secure broader enjoyment of the right to an adequate standard of living.

Revocation of Income Support Bonus

1.581 The human rights statement identifies that the revocation of the income support bonus limits the right to social security and the right to an adequate standard of living in that eligible DVA students will no longer receive the bonus. It goes on to note that Article 4 of the ICESCR requires that any removals in entitlements must be justified in the context of the full use of the maximum available resources of the State party. In this case, the statement claims that:

The bonus was introduced in light of the expected revenue flowing from the MRRT. This revenue flow has not eventuated. The Government considers that it is not in the interests of the general welfare to continue such bonus payments in the absence of the resources necessary to do so.¹

1.582 The statement of compatibility also lists a number of reasons provided to justify the revocation of the payment as reasonable, necessary and proportionate to achieve a legitimate objective. The statement also highlights that a range of other payments or assistance is available to recipients of income support.

1.583 However, the committee is concerned that the statement does not adequately identify a legitimate objective to achieve in revoking the payment aside

1 Explanatory statement, p. 2

from suggesting it is 'not in the interests of the general welfare to continue such bonus payments in the absence of the resources necessary to do so'².

1.584 It also does not particularly comment in any detail on the impact this revocation may have on the specific target group of eligible DVA students who are dependent on members or former members of the Defence Force. The statement refers to the fact that 'the payment was generally not considered by social welfare and advocacy groups to be the best way to provide support to vulnerable income support recipients' but does not explain the basis for this conclusion any further or how it relates to the situation of eligible DVA students.

1.585 On the basis of the information provided, the committee is unable to conclude that the measure is compatible with the right to social security and the right to an adequate standard of living.

1.586 However, the committee notes that the instrument has been disallowed and therefore has concluded its examination of the matter.