

## **EXPLANATORY STATEMENT**

### **Select Legislative Instrument 2013 No. 20**

Issued by the Authority of the Minister for Veterans' Affairs

*Veterans' Entitlements Act 1986*

*Veterans' Entitlements (Special Assistance) Amendment Regulation  
2013 (No. 1)*

Section 216 of the *Veterans' Entitlements Act 1986* (the Act) provides 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 Regulation (the Regulation) amends the *Veterans' Entitlements (Special Assistance) Regulations 1999* (Principal Regulations) to add the payment known as the "Clean Energy Supplement" to the payment known as the "Crisis Payment" under the Principal Regulations.

A Crisis Payment is payable to clients of the Department of Veterans' Affairs (DVA) who are experiencing a crisis in their lives (e.g. domestic violence) and who are also in severe financial difficulty. A Clean Energy Supplement is generally payable to DVA clients receiving income support to assist them with the rising cost of energy due to the imposition of the carbon tax.

Adding the Clean Energy Supplement to the Crisis Payment maintains the effectiveness of the Crisis Payment by ensuring the payment contains a component to cover the energy costs of the person in need.

Details of the Regulation are set out in the Attachment.

The Regulation commences on 20 March 2013.

#### **Consultation**

No consultation with interested parties was undertaken because the proposal is benevolent (extra money) and interested parties could be expected to agree to it.

#### **Retrospectivity**

The Regulation could commence before it is registered on the Federal Register of Legislative Instruments. If it does then for the purposes of subsection 12(2) of the *Legislative Instruments Act 2003* it would not affect the rights of a person so as to disadvantage them and nor would it impose a liability on a person.

#### **Human rights implications**

The Regulation does engage an applicable right or freedom. It relates to the right to social security. The right to social security requires, among other things, the right to a

minimum essential level of benefits for all individuals and families that will enable them to acquire at least essential health care, basic shelter and housing, water and sanitation, foodstuffs, and the most basic forms of education.

The Principal Regulations enable income support to be paid to people experiencing a crisis and financial distress (principal benefit). The Regulation increases that income support to counter increased energy costs.

This enhancement of the principal benefit by the Regulation would be in accordance with Australia's social security obligations under the International Covenant on Economic, Social and Cultural Rights.

The UN Committee on Economic Social and Cultural Rights has stated that qualifying conditions for benefits must be reasonable, proportionate and transparent.

The Regulation does not affect the qualifying conditions for the principal benefit it merely relates to the amount of the principal benefit. Accordingly it complies with the UN Committee's requirements.

#### Conclusion

The Regulation is compatible with human rights because it complements the right to social security.

Warren Snowdon  
Minister for Veterans' Affairs  
Rule-Maker

## ATTACHMENT

### Details of the *Veterans' Entitlements (Special Assistance) Amendment Regulation 2013 (No. 1)*

#### Section 1 Name of Regulation

This section provides that the title of the Regulation is the *Veterans' Entitlements (Special Assistance) Amendment Regulation 2013 (No. 1)*

#### Section 2 Commencement

This section provides for the Regulation to commence on 20 March 2013.

#### Section 3 Authority

This section advises that the Regulation is made under the *Veterans' Entitlements Act 1986*

#### Section 4 Schedule(s)

This section provides that an instrument in the Schedule to the Regulation is amended or repealed in accordance with that Schedule.

#### Schedule 1 Amendments

##### **Item [1]**

This item sets out the purpose of the Principal Regulations, namely to prescribe the circumstances in which, and the conditions subject to which, the Repatriation Commission may grant assistance or benefits to a person.

##### **Item [2]**

This item has the effect of advising the reader that terms mentioned in the Principal Regulations, but not defined in the Principal Regulations, have the same meaning as in the *Veterans' Entitlements Act 1986*.

##### **Item [3]**

This item replaces regulation 18. The only change is that the amount of the crisis payment is to include an extra amount called the "additional supplement". The additional supplement is an amount equal to the clean energy supplement the person would receive if the person receives a service pension or, if the person does not receive a service pension, an amount equal to the clean energy supplement as if the person did receive a service pension.

The clean energy supplement is added to a person's service pension under Module BB of the Rate Calculator in Part 2 of Schedule 6 to the Act.