

Military Rehabilitation and Compensation Act Education and Training Scheme (Portability Adjustments) Determination 2012

FRLI ID: F2012L02315

Tabled in the House of Representatives and Senate on 5 February 2013

Portfolio: Veterans' Affairs

Veterans' Entitlements (Veterans' Children Education Scheme - Portability Adjustments) Instrument 2012

FRLI ID: F2012L02313

Tabled in the House of Representatives and Senate on 5 February 2013

Portfolio: Veterans' Affairs

PJCHR comments: [Report 1/13](#), tabled on 6 February 2013

Response received: 19 March 2013

Summary of committee view

3.1 The committee thanks the Minister for his response and in light of this explanation makes no further comment on these instruments.

Background

3.2 These instruments alter the length of time an eligible child can travel overseas temporarily while receiving a Clean Energy Advance or a Clean Energy Supplement under the Military Rehabilitation and Compensation Act Education and Training Scheme or the Veterans' Children Education Scheme from 13 weeks to six weeks.

3.3 The statements of compatibility state that the instruments engage the right to social security, however no direct consideration is given to any possible limitations on the right to freedom of movement contained in Article 12 of the International Covenant on Civil and Political Rights (ICCPR). Removing eligibility for a benefit if a child is absent from the country for six weeks or more, may impact on a person's freedom of movement.

3.4 The committee sought clarification from the Minister for Veterans' Affairs in relation to the possible impact these instruments may have on the right to freedom of movement.

3.5 The Minister's response is attached.

Committee's response

3.6 The committee thanks the Minister for his response and in light of this explanation makes no further comment on these instruments.



The Hon Warren Snowdon MP
Minister for Veterans' Affairs
Minister for Defence Science and Personnel
Minister for Indigenous Health
Minister Assisting the Prime Minister on the Centenary of Anzac

Ref: M13/0319

The Hon Harry Jenkins MP
Chair
Parliamentary Joint Committee on Human Rights
Parliament House
CANBERRA ACT 2600

Dear Mr ^{Harry}Jenkins,

I refer to your letter of 6 February 2013 on behalf of the Parliamentary Joint Committee on Human Rights in relation to the implications two legislative instruments administered by the Department of Veterans' Affairs (DVA) might have on the Right to Freedom of Movement.

The legislative instruments in question are the *Veterans' Entitlements (Veterans' Children Education Scheme – Portability Adjustments) Instrument 2012* and the *Military Rehabilitation and Compensation Act Education and Training Scheme (Portability Adjustments) Determination 2012*.

These instruments, as part of a whole-of-government initiative, reduce the period of time a beneficiary under one of the instruments may spend outside Australia before the person temporarily loses the entitlement to the payment known as the Clean Energy Advance or its replacement, the Clean Energy Supplement. The relevant period has been reduced from 13 to six weeks.

DVA has reassessed the instruments in light of the Committee's concern and the Department's position (which I accept) is that while the temporary loss of the payment in question could influence a beneficiary to restrict the time he or she spent overseas, the instruments are nevertheless not aimed at restricting movement in the sense clearly envisaged by articles 12 and 13 of the *International Covenant on Civil and Political Rights*.


The instruments seek to ensure that the public revenue is expended on purposes for which it is appropriated. The Clean Energy Advance and the Clean Energy Supplement are to assist beneficiaries with rising energy costs as a result of the tax on carbon. A beneficiary travelling overseas is not faced with this situation. However, to reduce the potential for any inconvenience caused to beneficiaries by the suspension of the payment if they travel overseas, the Government decided to maintain the payment for six weeks.

I note that the relevant material distributed by the Commonwealth Attorney-General's Department states that "The freedom to leave a country pertains to both short-term, long-term and permanent departures. It cannot be made dependent on establishing a purpose or reason for leaving."

The relevant instruments conform to this formulation of the right to freedom of movement. Under the instruments a person is not required to establish a purpose or reason for leaving Australia.

I trust that this information satisfies the Committee's concern.

Yours sincerely



WARREN SNOWDON

19 MAR 2013