



# Veterans' Review Board

## Operations Manual

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# INTRODUCTION

## Purpose

- I-1** The purpose of this Operations Manual is to establish national procedures for the administrative functions of the Veterans' Review Board (VRB).

## Authority

- I-2** Section [142](#) of the *Veterans' Entitlements Act 1986* (VEA) provides that the Principal Member of the VRB "is responsible for the efficient operation of the Board", and that "he may give directions:
- (a) for the purpose of increasing the efficiency of the operations of the Board; and
  - (b) as to the arrangement of the business of the Board."
- I-3** This Manual constitutes directions given by the Principal Member of the VRB for the purposes of section [142](#) of the VEA.

## Compliance requirements

- I-4** This Manual has the statutory base referred to above and is to be observed by members and registry staff of the VRB.
- I-5** At the same time, however, strict compliance may impose unduly restrictive or inappropriate practices on members or on a particular Registry where the processing of an individual application or local circumstances would be better served by some varied or alternative procedure.
- I-6** In order, therefore, to reconcile the need for proper compliance with this Manual and the desirability of providing a degree of flexibility, the following principles are to be applied:
- I-6.1** subject to the next sub-paragraph where this Manual provides a "suggested format", complete compliance with that format is not required — substantial compliance is sufficient and the format may be varied as deemed appropriate to meet local circumstances or the needs of

a particular case; where reference is made to a “form”, however, strict compliance is required; where alternative forms are provided, choice may be made between them without reference to the Principal Member or the Executive Officer.

- I-6.2** Where this Manual provides a procedure or form which is thought to be inappropriate to local circumstances or to a particular application for review, or if it is impossible to adapt a suggested format to meet such circumstances, approval should be sought from the Principal Member for an alternative procedure, form or approach. Such approval will be granted if the Principal Member is satisfied that it is consistent with the legislation and the efficient operations of the VRB.

## Public access to Manual

- I-7** This Manual is available for public access on request. It is not necessary that a request for such access be made formally under the *Freedom of Information Act 1982*. Each Registrar is to ensure that a copy of the Manual cover is displayed in the waiting room in his or her Registry with advice that a copy of the Manual is available for inspection upon request to the receptionist. The Manual is also available from the VRB’s web site at <http://www.vrb.gov.au> <sup>1</sup>

- I-8** Enquiries about this Manual may be addressed to:

The Executive Officer  
Veterans’ Review Board  
10th Floor  
13 Keltie Street  
WODEN ACT 2606  
Telephone: (02) 6285 1911  
Fax: (02) 6289 4848

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<sup>1</sup> In December 2002 the VRB put up a website

# 1. LODGEMENT OF APPLICATIONS

## 1.1 Introduction

**1.1.1** Section [136](#) provides that an application for review may be made by forwarding or delivering the application to an office of the Department of Veterans' Affairs (the Department). If an application for review is received by mail at a VRB office, it should be date-stamped on receipt and immediately forwarded to the local Departmental office (because of time limits involved). An application for review must be in writing. There is no prescribed form, and a letter, note or other document is sufficient. However, an application form is available from the Department ([RV1:1](#)) or from the VRB web site.<sup>2</sup>

**1.1.2** Section [135](#) of the VEA prescribes the following time limits for making applications for review:

- Entitlement cases — 12 months from service of the Repatriation Commission decision;
- Assessment cases — 3 months from service of the Repatriation Commission decision; and
- Attendant Allowance cases — 3 months from service of the Repatriation Commission decision.

Both the time limits for the making of applications and questions of validity are discussed in [Chapter 2](#).

## 1.2 Registration

**1.2.1** The Department registers the application and advises the VRB that an application has been made. Each application lodged is given a registration number by the Department. Registration numbers are consecutively numbered in order of receipt and include a state indicator and a year prefix. The registration number becomes the VRB file number and is used as the VRB's reference in any correspondence with parties.

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<sup>2</sup> Amended August 2003 to include a reference to the VRB website.

- 1.2.2** If an applicant seeks review on the same form of a number of decisions, made on different dates, a separate registration number will be given to each decision.<sup>3</sup>
- 1.2.3** <sup>4</sup>
- 1.2.4** An application for review concerning a number of different matters(whether entitlement and/or assessment) decided at the same time will be given the same registration number.<sup>5</sup>
- 1.2.5** The Department notifies applications to the VRB by schedule accompanied, in some States, by the original application. The Department keeps a copy of the application.
- 1.2.6** If the application is received by the VRB, a file is to be raised and the application placed on it. If no application is received, a file need not be raised until the section 137 report or some other document is received relating particularly to the application. If no VRB file has been raised and there is a need to make a file note concerning the application, that note should be made on the computer VRB System for Application Management (SAM). A more permanent paper record can then be produced at a later date if it is considered necessary, by printing the SAM record and placing it on the file when one is raised.<sup>6</sup>

## **1.3 Restricted Files<sup>7</sup>**

- 1.3.1** All application records relating to current and former Board members, registry staff, or regular representatives are to be treated as confidential and access to the records restricted.
- 1.3.2** Board files relating to registry staff or regularly appearing representatives are to be held in secure storage by the Registrar.
- 1.3.3** Board files relating to current and former Board members are to be held in secure storage by the Executive Officer.

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<sup>3</sup> Amended in August 2003. to remove reference to assessment matters only.

<sup>4</sup> Amended in August 2003. by removing the whole paragraph and incorporating the information into 1.2.4

<sup>5</sup> Amended in August 2002 and August 2003. The VRB no longer creates separate files for applications for review involving both entitlement and assessment issues

<sup>6</sup> Amended 17 February 2000. In September 1999 the VRB introduced a new claims application Management system 'vrbSAM'

<sup>7</sup> Amended 30 August 2002. In November 2001 the Principal Member issued a direction on privacy and this partly concerned the confidential nature of and access to certain VRB case files.

The next page begins Chapter 2 - Validity of applications

## **2. VALIDITY OF APPLICATIONS**

### **2.1 Introduction**

- 2.1.1** The validity of any document that purports to be an application to the VRB for review of a decision is a matter to be determined by the VRB and not by the Department of Veterans' Affairs.
- 2.1.2** These procedures allow registry staff to take action in certain cases without reference to a VRB panel — to authorise normal processing of an application if it appears to be valid or to reject applications in clear-cut cases after consultation with the parties.
- 2.1.3** If a Registrar considers the validity of an application to be doubtful or the applicant maintains that an application is valid, the application is to be listed for a priority hearing on both validity and substantive issues.

### **2.2 Validity — raised by Department**

- 2.2.1** If the Department considers that a purported application is invalid, the Department will register it as an application and forward the matter to the VRB for its consideration (ie, without preparing a section 137 report).
- 2.2.1** A VRB file is to be raised containing the relevant papers forwarded from the Department (eg, copy of the decision under review, letter of notification, and date-stamped application for review) and then referred to the Registrar to consider issues of validity.

### **2.3 Validity — raised by VRB staff**

- 2.3.1** If, at any time, registry staff form the view that an application might be invalid, the VRB file and if necessary (eg, depending on whether or not the section 137 report has yet been prepared) the Departmental files are to be immediately referred to the Registrar to consider issues of validity.

## 2.4 Issues of Validity

**2.4.1** Examples of the principal issues of validity which may arise are as follows:

- the Repatriation Commission has not yet made a decision on a claim for pension or on an application for increase — the VEA only gives a right to apply to the VRB for review where a decision has in fact been made;
- the decision sought to be appealed is beyond the jurisdiction of the VRB — the VRB may not review decisions relating to service pension or to Repatriation allowances other than attendant allowance; additionally, action under subsection [19A\(3\)](#) (eg, to deem a claim refused because the claimant refuses to undergo a medical examination, etc), or to refuse or fail to conduct a section [31](#) review are not appealable to the VRB, or offsetting payments of pension against compensation payments for the same injury or disease, are sometimes mistakenly appealed to the Board;
- the person seeking the review does not have “standing” to apply to the VRB — the only person who may apply is the person who lodged the claim for pension or allowance or application for increase in pension (or a person approved by that person), or the legal personal representative of that person or other person approved by the Repatriation Commission under section [126](#) — see [s136\(2\)](#); or
- most commonly, the time limit for making the application for review has expired.

**2.4.2** The VEA prescribes the following time limits for making applications to the VRB:

- for entitlement cases (including date of effect) — 12 months from service of a copy of the decision on the applicant — [s135\(4\)](#);
- for assessment cases — 3 months from service of a copy of the decision on the applicant — [s135\(5\)](#); and
- for attendant allowance — 3 months from service of a copy of the decision on the applicant — [s135\(5A\)](#).

**2.4.3** The time for making an application commences to run from the time that the copy of the decision is served, and not from the date the notice of the decision is dispatched by the Department. The question of service is governed by the *Acts Interpretation Act 1901* which provides that service may be effected by sending a document by pre-paid post to the last known address of the place of residence or business of the person in question ([s28A](#)). Unless the contrary is proved, service is deemed to have been effected at the time at which the letter would be delivered in the ordinary course of the post ([s29](#)).



- 2.4.4** When considering whether an application has been made in time, a decision should be made as to how many days from the date shown on the file copy of the letter of advice, or the Departmental record of dispatch, the ordinary course of the post would take to deliver a letter to the address in question. If an application is more than one week out of time after this allowance is made, the application is to be processed as clearly invalid. If an application is less than one week out of time after this allowance is made, the applicant is to be contacted and asked when the decision was in fact delivered. Any explanation (eg, mail delays, redirected mail, etc) is to be recorded by way of a note on file, and the case processed as an application of doubtful validity.
- 2.4.5** It should also be noted that, in deciding whether an application has been made in time, the date on which the application was received at an office of the Department of Veterans' Affairs is the relevant cut-off date (see [s5T \(3\)](#)), and not the date it is received at the VRB office if it was misdirected by the applicant.

## **2.5 Validity — consideration**

- 2.5.1** If an application has been referred for consideration of validity and the Registrar considers that an application appears:
- **valid** — he or she is to note the file accordingly and normal processing is to continue (although it is ultimately for the VRB panel that conducts the review to decide whether an application is in fact valid). If the Department had deferred the preparation of a section 137 report pending a ruling on validity, the Registrar is to write to the Department advising that the application is considered valid and asking it to prepare a section 137 report;
  - **clearly invalid** — he or she is to write to the parties setting out the reasons for regarding the application as invalid, and notifying the parties that, unless they advise within 14 days that they disagree with that view, the application will be lapsed (suggested letter)
    - [L21\\_1 invalid entitlement no rep](#),
    - [L21\\_1 invalid entitlement rep](#),
    - [L21\\_2 invalid assessment no rep](#),
    - [L21\\_2 invalid assessment rep](#),
    - [L21\\_3 invalid att allowance no rep](#),
    - [L21\\_3 invalid att allowance rep](#),
    - [L21\\_4 both invalid ass and ent no rep](#),
    - [L21\\_4 both invalid ass and ent rep](#),
    - [L21\\_5 both invalid assessment norep](#),
    - [L21\\_5 both invalid assessment rep](#));

- **of doubtful validity** — the Department is to be asked to prepare a section 137 report, and the application is to be listed for hearing as a matter of priority (after normal section 137 report processes) and the parties advised that both validity and substantive issues will be considered at that time (suggested letter)
  - [L22\\_1 doubtful ent no rep](#);
  - [L22\\_1 doubtful ent rep](#);
  - [L22\\_2 doubtful ass no rep](#);
  - [L22\\_2 doubtful ass rep](#);
  - [L22\\_3 doubtful att all no rep](#);
  - [L22\\_3 doubtful att all rep](#);
  - [L22\\_4 doubtful ent and ass no rep](#);
  - [L22\\_4 doubtful ent and ass rep](#);
  - [L22\\_5 both doubtful ass no rep](#); or
  - [L22\\_5 both doubtful ass rep](#).

**2.5.2** If the Department disagrees with the VRB view that an application is valid, it should still be requested to proceed with section 137 report processes to advise the VRB whether the Repatriation Commission will appear at the hearing or make written representations to put its views on validity to the VRB panel.<sup>8</sup>

**2.5.3** If an applicant has been advised that an application is considered invalid and has not responded within 14 days the application is to be lapsed. Advice is to be sent to both parties and to the Department, and the application will be treated as finalised (suggested form)

- [L23\\_1 reject ent no rep](#);
- [L23\\_1 reject ent rep](#);
- [L23\\_2 reject ass no rep](#);
- [L23\\_2 reject ass rep](#);
- [L23\\_3 reject att all no rep](#);
- [L23\\_3 reject att all rep](#);
- [L23\\_4 reject both no rep](#);
- [L23\\_4 reject both rep](#);
- [L23\\_5 both reject ass only no rep](#); or
- [L23\\_5 both reject ass only rep](#).

---

<sup>8</sup> Amended August 2003 to include reference to the Repatriation Commission making written submissions.

- 2.5.4** If an applicant has been advised that an application is considered invalid and disputes that view, the application is to be listed for hearing as a matter of priority (after normal section 137 report processes) and the parties are to be advised that both validity and substantive issues (if relevant) will be considered at that time (suggested letter)
- [L24 1 advice hearing validity no rep](#); or
  - [L24 1 advice hearing validity rep](#).
- 2.5.5** Where an application is listed for priority hearing per [2.5.1](#) or [2.5.4](#) and one of the issues is likely to be when the decision of the Repatriation Commission was in fact dispatched, the Registrar is to write to the Department requesting a letter referring to the system of posting and the general system in operation concerning the dissemination of a delegate's decision to a claimant (suggested letter)
- [L25 s148 6A service of docs](#).
- 2.5.6** When a matter is being listed for priority hearing per [2.5.1](#) or [2.5.4](#), copies of all correspondence relating to the validity issues are to be added to the section 137 report as per [3.3.2](#).
- 2.5.7** At a priority hearing per [2.5.1](#) or [2.5.4](#), the VRB panel allocated to the case should hear submissions on issues of validity first. Where appropriate, it could then adjourn briefly to reach an immediate decision on validity. If the VRB panel decides that the application is invalid, it should advise the applicant of that decision and that written reasons will be provided in due course.

The next page begins Chapter 3 – Evidence relating to applications

## **3. EVIDENCE RELATING TO APPLICATIONS**

### **3.1 Section 137 reports**

- 3.1.1** Section [137](#) requires the Department to prepare a report “referring to the evidence under the control of the Department that is relevant to the review” and to serve a copy of that report on the applicant within six weeks of the lodgement of an application for review by the VRB. After service of the report, the applicant has 28 days, or such longer period as is requested in writing, to comment on it.
- 3.1.2** At the end of the period, the Department forwards to the VRB the section 137 report and any comments made or further documents supplied by the applicant. However, the Department may defer the transmission of these documents to the VRB if it proposes to make a further investigation in the light of the applicant’s comments on the report.
- 3.1.3** Unless a file has already been raised, on receipt of the report, a file is to be raised for each registration. Copies of all correspondence and the original of any document received by the VRB are to be placed on the file and given sequential folio numbers. The information in respect of the new registration provided by the Department is to be recorded on the VRB’s computerised records management system.
- 3.1.4** After creating the file, the report is to be checked for such matters as the following:
- the accuracy of the information set out on the front cover;
  - numbering and legibility of pages;
  - a copy of the decision and reasons under review and the application for review and any attachments;
  - the application appears to have been lodged within time;
  - whether it is clear what matters the applicant wants reviewed (an application is presumed to be in relation to everything that was decided adversely to the applicant in the Repatriation Commission decision unless the applicant clearly withdraws part of it);

- for entitlement matters — copies of service records, the original claim and any relevant medical reports, such as UV risk assessment reports;
- for assessment matters — copies of records covering the period of assessment; and
- confidential/prejudicial material (see [Chapter 4](#)).<sup>9</sup>

**3.1.5** If any errors or omissions are detected in the report, the matter is to be referred back to the Department for the additional information or documents under subsection [148\(6A\)](#), but this action is not to delay the section 148 letter (see [3.2](#)). If the application appears clearly invalid or of doubtful validity, or there is confidential/prejudicial material, the VRB file and the section 137 report are to be referred to the Case Manager Supervisor or Registrar.<sup>10</sup>

**3.1.6** if it is not clear from the application which matters the applicant wants reviewed, the applicant is to be sent the clarification suggested letter<sup>11</sup>

- [L301 Clarification of matters](#)

## 3.2 Section 148 letters

**3.2.1** When the section 137 report has been checked and any necessary action commenced, a section 148 letter is to be sent to the applicant (suggested letter)

- [L311 Applicant s148 letter](#).

Section [148](#) provides that the VRB must seek the applicant's advice as to whether he or she will attend the hearing and whether he or she will be represented. Enclosed with the section 148 letter is an Applicant's Advice form (suggested format)

- [L313 Form Applicants Advice](#), information about the availability of advice and representation (suggested format [RV3:3](#)), and an information pamphlet about the VRB and VRB hearings (form [RV3:4](#)).<sup>12</sup>

**3.2.2** If the applicant resides overseas, a revised letter is to be sent explaining that travel costs can only be met for travel within Australia, and drawing specific attention to the possibility of a telephone hearing (suggested letter)

- [L311 Applicant s148 Letter Overseas](#).

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<sup>9</sup> Amended 17 February 2000. In November 2001 the Principal Member issued a direction on privacy and this partly concerned the confidential nature of and access to certain VRB case files.

<sup>10</sup> Amendment 17 February 2000 to include reference to powers under s148(6A).

<sup>11</sup> Amended August 2003 with the introduction of application for review - issue clarification.

<sup>12</sup> Amended 17 February 2000.

**3.2.3** If the Applicant's Advice form is returned and the applicant advises that he or she will **not be represented** and **is ready to proceed** to a hearing, the application is to be placed in the queue awaiting allocation of a hearing and a listing instructions form is prepared (suggested format)

- [L81 Listing instructions](#)

If the applicant has advised that he or she **is not ready for hearing**, a Certificate of Readiness for Hearing (suggested format)

- [L321 COR applicant](#), or
- [L321 COR overseas applicant](#)

is to be sent to the applicant and the application will not be listed for hearing until that form is returned. Follow-up may be made each three months at the discretion of the Registrar, if such is desirable, having regard to the number of cases ready to list in the particular Registry (suggested letter)

- [L315 1 No response no rep](#), or
- [L315 3 phone me no rep](#).

If the Applicant's Advice form is returned indicating that they will **not be attending** the hearing, **nor will a representative attend**, and are **ready for a hearing**, the application is to be placed in the listing queue and a letter sent advising that the decision will be forwarded when it is available (suggested letter)

- [L34 confirm inabsentia hng no rep](#), or
- [L34 confirm inabsentia hng rep](#).

These in absentia applications will not be sent a hearing notice (see [p7 10 2](#)). A listing instruction form is prepared (suggested form) <sup>13</sup>

- [L81 Listing instructions](#)

All unrepresented applications are to be referred to the Registrar for case appraisal (see [6.1A](#)) <sup>14</sup>

**3.2.4** If the Applicant's Advice form is returned and the applicant **has nominated a representative**, a copy of the Applicant's Advice form (and where necessary a copy of the section 137 report) together with a notice (suggested letter)

- [L314 rep nominated](#)

and Certificate of Readiness for Hearing (suggested form)

- [L321 COR rep](#)

is to be sent to the nominated representative.

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<sup>13</sup> Amended 30 June 2002. This change allows the Board to list inabsentia cases without sending a hearing notice at the time of listing the application.

<sup>14</sup> Amended August 2003. This procedure is a final check that case preparation is complete.

**3.2.5** If an applicant has advised that he or she will be represented and a Certificate of Readiness for Hearing has been forwarded to the representative per [3.2.4](#), the application will not be listed for hearing until that form is returned. A listing instruction form is then prepared (suggested form)

- [L81 Listing instructions](#).

If the Registrar so directs, follow-up may be made with the representative each three months, if such is desirable, having regard to the number of applications ready to list in the particular Registry (suggested letters)

- [L315 1 No response no rep](#), or
- [L315 3 phone me with rep](#).

**3.2.6** If no reply is received from the applicant within 28 days of dispatch of the section 148 letter (or a shorter period if so directed by a Registrar having regard to the number of cases ready to list in the particular Registry), follow-up action is to be taken under the administrative screening procedures (see [6.1.9](#)).

**3.2.7** If the Applicant's Advice form is not received after the follow-up action in [6.1.9](#), the matter is to be listed for hearing "in absentia" (see [7.3.1](#))<sup>15</sup>

**3.2.8** The Applicant's Advice form used in overseas cases makes provisions for the applicant to advise the VRB that he/she will be temporarily/permanently resident in Australia from or during specified dates and would like to attend the hearing (suggested letter)

- [L311 Applicant s148 Letter Overseas](#).

In these circumstances, the Registrar should make every effort to arrange for a hearing where the applicant can attend.

### **3.3 Further evidence**

**3.3.1** The aim of these procedures is to ensure that (subject to the conditions that apply to information of a confidential or prejudicial nature) in respect of any material that is relevant to an application but has not been included in the section 137 report or otherwise made available to the parties,

- each party has access to all the information relevant to the application in the VRB's possession before the start of a hearing; and
- any information that comes into the VRB's possession after the start of a hearing is made available to the parties within a reasonable time.

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<sup>15</sup> Amended 15 August 2002. This change includes the reference to part 6.1.9 and s148(4) provisions.



**3.3.2** If registry staff receive any documents from a party or, when checking the papers before the hearing of an application, identify material on the VRB file that:

- has not been included in the section 137 report; and
- appears to be relevant to the decision under review,

they are to:

- form a view about whether the material contains information of a confidential or prejudicial nature (and, if so, take action as per [Chapter 4](#) before proceeding) or contains criticism of members (and, if so, take action as per [5.4.3](#)); and
- subject to [3.3.3](#), add a copy to each copy of the section 137 report and send a copy to the applicant, his or her representative, the Repatriation Commission and the relevant branch office of the Department (suggested letters)
- [L33 1 addition not ready no rep](#);
- [L33 1 addition not ready rep](#);
- [L33 2 addition prelist no rep](#);
- [L33 2 addition prelist rep](#);
- [L33 3 addition listed no rep](#);
- [L33 3 addition listed rep](#);
- [L33 4 addition in absentia no rep](#); or
- [L33 4 addition in absentia rep](#),

unless that document was supplied by or a copy is already held by the Department or the Repatriation Commission, in which case a copy need not be given to the Department (the Repatriation Commission must always receive a copy).<sup>16</sup>

**3.3.3** If the identification or receipt of a document is so close to the hearing that copies would not reach the parties by normal post before the hearing, the document is to be:

- sent by mail to the Repatriation Commission at the address notified in the Regulations and the relevant branch office of the Department and a copy given to each member of the VRB panel allocated to hear the case; and<sup>17</sup>

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<sup>16</sup> Amended 30 August 2002. This change highlights the need to inform the Repatriation Commission about additional evidence.

<sup>17</sup> Amended 18 October 2002. This change corrects the address of the Repatriation Commission.

- if the document was not tendered by an applicant/representative, held for the applicant/representative who is to be contacted by telephone and advised of the document's content and availability for collection before the hearing.
- 3.3.4** If material has been tendered on the day of the hearing and the hearing has been adjourned, registry staff are to:
- send with the decision and reasons the material tendered unless the panel has decided that the material is confidential or prejudicial and should not be made available;
  - place the original of the material on the VRB file; and
  - update the copies of the section 137 report in accordance with [3.3.2](#).
- 3.3.5** If the VRB panel has made a final decision, a copy of any material tendered during the hearing is to be sent out with the decision and reasons, unless the panel has decided that the material is confidential or prejudicial and should not be made available.

## 3.4 Access to Departmental files

- 3.4.1** The Department has no legal obligation to, but makes its files available at its discretion under s130(2) of the VEA to the VRB, on request, to enable the VRB to satisfy itself that all material relevant to the review is available for consideration. From time to time an applicant or his or her representative may seek access to Departmental files held by the VRB. Access to Departmental files can only be made under FOI and by the FOI officer in the Department. The VRB cannot provide access to Departmental files except by transferring the matter to DVA's FOI unit.
- 3.4.2** If an applicant or representative makes a formal request in accordance with the *Freedom of Information Act*, the request is to be referred to the DVA FOI unit in accordance with the procedures set out in [Chapter 19](#).

## 3.5 Section 31 reviews

- 3.5.1** This part deals with procedures that are to be followed if, after an application for review has been lodged, registry staff refer a matter to the Repatriation Commission for consideration of possible section [31](#) action, or where the Repatriation Commission advises that it proposes to consider action under section [31](#) of its own initiative or at the request of an applicant (see also [Chapter 17](#) for procedures relating to referrals for possible section [31](#) review of VRB decisions containing a manifest error).

- 3.5.2** Subsection [31 \(1\)](#) provides the Repatriation Commission with power to review its own decisions where:
- an application for review has been made to the VRB but has not been finalised, or
  - the time for lodging such an application has not expired.
- 3.5.3** If a Registrar considers that a decision subject to an application for review by the VRB may be demonstrably in error on the basis of documents already available to the VRB, he or she should write to the Department requesting that the matter be referred to a DVA officer holding a delegation under section [31](#), with the request that consideration be given to conducting a review under section [31](#) (suggested letter)
- [L35\\_request\\_s31\\_no\\_rep](#), or
  - [L35\\_request\\_s31\\_rep](#).
- 3.5.4** That letter is to outline the reasons for thinking that the decision under review may be demonstrably in error, and is to have attached to it copies of any documents in the possession of the VRB which are not or may not be contained on the Department's file.
- 3.5.5** If an application is referred for consideration as per para [3.5.4](#), normal processing of the application is to proceed unless the Department advises that a section [31](#) review is to be, or has been, conducted, in which situation processing of the application is to be suspended pending advice of the outcome of the review.
- 3.5.6** If the Department has investigated the possibility of a section [31](#) review, it may subsequently advise that the Repatriation Commission:
- has concluded that review under section [31](#) is not warranted;
  - has conducted a review and has affirmed the decision in question; or
  - has conducted a review and has decided to revoke that decision, to revoke and substitute a new decision, or to vary that decision.
- 3.5.7** On receipt of advice that the Repatriation Commission has concluded that review under section [31](#) is not warranted or has affirmed the decision in question, normal processing of the application is to be then resumed as though a section [31](#) review had never been considered. The decision to be reviewed by the VRB remains the original decision.
- 3.5.8** On receipt of advice that the Repatriation Commission has conducted a section [31](#) review and has decided to revoke, to revoke and substitute a new decision, or to vary the decision under review, a copy of the section [31](#) decision and reasons is to be placed on the VRB file.

**3.5.9** A letter is to then be sent to the applicant (suggested letter)

- [L36 1 advise app after s31 no rep](#), or
- [L36 1 advise app after s31 rep](#)

seeking advice as to whether he or she is satisfied or dissatisfied with the Repatriation Commission decision. An Application for Withdrawal form (suggested form)

- [L112 no rep](#)

is to be enclosed in the event that the applicant wishes to withdraw the application for review by the VRB.

**3.5.10** If the applicant advises that he or she is satisfied with the decision taken by the Repatriation Commission as a result of the section [31](#) review and returns the completed Application for Withdrawal form, the withdrawal is to then be processed as per [Chapter 11](#).

**3.5.11** If the applicant advises that he or she is still dissatisfied with the Repatriation Commission decision and does not wish to withdraw the application, normal processing of the application for review is to resume. The decision to be reviewed will be the further decision of the Repatriation Commission revoking the original decision, the new decision that was substituted for the original decision or the original decision as varied by the further decision. If the section 137 report has not been received by the VRB, the Department is to be asked to prepare a report for the decision now under review. If the section 137 report has already been received by the VRB, the Department is to be asked to update all copies by the addition of further documents prepared in relation to the section [31](#) review.

The next page begins Chapter 4 - Confidential material and prejudicial material

## 4. CONFIDENTIAL MATERIAL AND PREJUDICIAL MATERIAL

### 4.1 Introduction

**4.1.1** As far as the VRB's operations are concerned, three sections of the VEA relate to material which is confidential or the release of which may be prejudicial to the applicant's physical or mental health or well-being:

- subsection [137\(2\)](#) requires that the Department must remove such material from the copy of the section 137 report which it sends to the applicant;
- subsection [140\(2\)](#) requires that no such material shall be included in the copy of the VRB decision and reasons which is served on the applicant; and
- subsection [153\(2\)](#) gives the VRB discretion to release such material to the applicant or to his or her representative.

**4.1.2** The following paragraphs provide procedures to be adopted when apparently confidential or prejudicial information is detected. The basic thrust is that any material withheld from a section 137 report on this basis, or any other material identified as such, is to be referred to a VRB panel for consideration as an administrative matter. The panel will then decide whether or not the material is, in its view, confidential or prejudicial and whether or not it should be released in whole or in part to the applicant or, alternatively, to the applicant's representative only.

Any FOI request, of course, must be handled in accordance with [Chapter 19](#).

**4.1.3** If the Department withholds any material from the section 137 report on the basis that it is confidential or prejudicial, it will provide copies of that material to the VRB under separate cover. This material is to be considered in accordance with the following paragraphs, which also apply to any other material coming into the possession of the VRB that registry staff consider may be confidential or prejudicial.

## 4.2 Confidential information

**4.2.1** Normally, any document that is marked as “confidential” is to be treated as within the scope of these procedures. However, if it is clear that the applicant has already seen the document, it can no longer be regarded as confidential for VRB purposes. Some medical practitioners routinely mark all reports “confidential”. In such circumstances, if it is obvious to the Registrar that there is nothing in the document of which the applicant would be unaware, the document is not to be treated as “confidential” for VRB purposes. The Registrar in such cases must exercise great care.

**4.2.2** If the issue of confidentiality is being considered, a letter is to be sent to the author of the document in question (suggested letter)

- [L41 request author conf rel no rep](#), or
- [L41 request author conf rel rep](#))

seeking either consent to the release of the document or reasons why it should not be released. This letter is to be sent whenever any material is withheld from a section 137 report by the Department on the basis that it is confidential. In relation to other material, the letter is to be sent only if the Registrar agrees that the document is confidential.

**4.2.3** If the author of the document agrees to its release, it is to be released unless it warrants consideration as prejudicial information. Release is to be by letter to the applicant (suggested letter)

- [L43 1 author release to app no rep](#), or
- [L43 1 author release to app with rep](#) and representative, if appointed.

**4.2.4** If the author:

- does not respond; or
- does not consent to release; or
- consents only to limited release,

the issue is to be submitted to a VRB panel as an administrative matter (see [Chapter 7](#)) to consider whether or not the material should be released in whole or in part to the applicant or representative or both. The VRB file is to be made available to the presiding member and copies of the material in question (including the correspondence with the author) is to be provided to the other members. Copies of the section 137 report are to be provided to each member, and the Departmental files are to be obtained, if appropriate.

**4.2.5** In considering whether or not release is appropriate, the VRB panel should include in its consideration the following matters:

- the reasons given by the author for non-release;
- the nature of the relationship between the author and the addressee or subject of the document, and the effect or possible effect of release upon that relationship;
- the relevance of the material to the issue to be determined in the case;
- what advantage the applicant might gain if able to comment on or rebut the information in question;
- what disadvantage the applicant might suffer if not able to comment on or not given the opportunity to rebut the information in question; and
- the extent to which knowledge of the material might assist the applicant to appreciate the issues and develop his or her case.

**4.2.6** If the panel considers that any of the material should not be made available to the applicant because of its confidential nature, consideration should be given to whether or not it should be made available to the applicant's representative (if any) subject to an undertaking that he or she maintain its confidentiality.

**4.2.7** Following its consideration of the question of release, the panel is to prepare a record of its decision and the reasons for it. The form of this record should be a memo for the file which is meaningful in content (a copy will be made available to the author of the document) but which need not be in the format used for formal VRB decision and reasons.

**4.2.8** If the panel decides that the material should be released fully to the applicant, registry staff are to write to the author advising of this fact (suggested letter)

- [L42\\_1 release conf to app no rep](#), or
- [L42\\_1 release conf to app with rep](#)

and write separately to the applicant (copy to representative, if appointed) providing copies of the material released (suggested letter)

- [L43\\_2 w a cons rel to app no rep](#), or
- [L43\\_2 w a cons rel to app with rep](#).



- 4.2.9** If the panel decides that none or only some of the material should be released to the applicant, registry staff are to inform the applicant and any representative (suggested letter)
- [L43 3 not release to app no rep](#);
  - [L43 3 not release to app with rep](#);
  - [L43 4 part release to app no rep](#); or
  - [L43 4 part release to app with rep](#),
- and write separately to the author of the document advising of that fact (suggested letter)
- [L42 3 release part to app no rep](#); or
  - [L42 3 release part to app with rep](#)).
- 4.2.10** If the panel decides that any of the material should not be released to the applicant but should be released to the applicant's representative, registry staff are to write to the author as per [4.2.8](#) (suggested letter)
- [L42 2 release conf to rep only](#)
- and write to the representative (suggested letter)
- [L45 1 confidential to rep](#))
- seeking an undertaking that the material in question will be received by the representative in confidence. When that undertaking is received, in writing, registry staff may release the material to the representative. The applicant is not to be informed that confidential information has been released to the representative.
- 4.2.11** If the panel decides to withhold material from the applicant or representative, the members' copies of the section 137 report are to have copies of the withheld material added at the end but clearly marked "Information withheld from applicant/representative". If the panel decides to release part of a document, the relevant passages of the applicant's copy (and also the representative's copy if it is similarly to be withheld) are to be deleted (by paste-over and photocopy) and all copies of the section 137 report updated in accordance with [Chapter 7](#) but with the relevant documents clearly marked, eg, "Information withheld — section 153 — 2 lines". If the panel decides to release all of the material to the applicant, all copies of the section 137 report are to be updated in accordance with [Chapter 3](#).

## 4.3 Prejudicial information

- 4.3.1** An issue involving prejudicial information is to be listed before a VRB panel as an administrative matter (see [Chapter 7](#)) and the material set out in paragraph [4.2.4](#) provided to the members.
- 4.3.2** In considering whether or not release is appropriate, the VRB panel should include in its consideration the following matters:
- whether the applicant is already aware of the existence or nature of the material in question;
  - whether knowledge of the material might adversely affect the applicant's physical or mental health or well-being;
  - the relevance of the material to the issue to be determined in the case;
  - what advantage the applicant might gain if able to comment on or rebut the information in question;
  - what disadvantage the applicant might suffer if not able to comment on or not given the opportunity to rebut the information in question;
  - the extent to which knowledge of the material might assist the applicant to appreciate the issues and develop his or her case.
- 4.3.3** If the panel considers that any of the material should not be made available to the applicant because of its prejudicial nature, it should then consider the alternative set out in paragraph [4.2.6](#).
- 4.3.4** Following consideration of the question of release, the panel is to prepare a record of its decision and the reasons for it in accordance with paragraph [4.2.7](#).
- 4.3.5** If the panel decides that the material should be released fully to the applicant, registry staff are to write to the applicant (suggested letter)
- [L44\\_1 material to app no rep](#), or
  - [L44\\_1 material to app with rep](#)
- providing copies of the material released (copy to representative, if any).
- 4.3.6** If the panel decides that none or only some of the material should be released to the applicant, registry staff are to inform the applicant and any representative (suggested letter)
- [L44\\_2 no material to app no rep](#), or
  - [L44\\_2 no material to app with rep](#).

- 4.3.7** If the panel decides that any of the material should not be released to the applicant but should be released to the applicant's representative, registry staff are to write to the applicant as per [4.3.6](#) and to the representative (suggested letter)
- [L45 2 prejudicial to rep](#)  
and follow the procedures concerning an undertaking set out in paragraph [4.2.10](#).
- 4.3.8** If material is withheld from the applicant or is released in whole or in part to an applicant or representative, the various copies of the section 137 reports are to be annotated and updated as set out in paragraph [4.2.11](#).

## **4.4 Relationship with Privacy Act**

- 4.4.1** The VRB's powers to release confidential and prejudicial information are subject to, and do not override, the *Privacy Act 1988*. Any material that contains personal information relating to a third person can be disclosed only in accordance with the *Privacy Act 1988* (see [Chapter 20](#)).

The next page begins Chapter 5 – Dealings with applicants and advocates

## **5. DEALINGS WITH APPLICANTS AND ADVOCATES**

### **5.1 Relationship with parties**

- 5.1.1** Members and registry staff should maintain a proper relationship with the parties to a proceeding and their representatives and should always act in a manner that reinforces and reflects the independence and impartiality of the VRB.
- 5.1.2** Both parties to a review are to be treated as equal. Such a stance is not inconsistent, however, with a proper appreciation of the relative knowledge, skills or confidence of the parties. With that in mind, unrepresented applicants should be offered as much assistance as possible to understand the system and be given information concerning where they can get assistance in preparing their case.
- 5.1.3** If a case is undecided or unpublished, members are not to discuss with the parties or their representatives or the general public the facts, the law applicable to the facts or the merits of that case, other than during the course of the hearing. Once a decision has been published, similar restrictions on discussion are to apply. Staff are not to disclose to the parties or their representatives the decision in a particular case before formal publication.
- 5.1.4** Except where otherwise provided in this Manual, registry staff are not to enter into the discussions referred in [5.1.3](#).
- 5.1.5** Registry staff are to take particular care in referring telephone calls to members. In most cases it will be inappropriate for a member to discuss an application with an applicant or representative or a Departmental officer either before or after a hearing and calls from such sources are not to be referred on to members. If such calls are not intercepted and are put through to members, the member should transfer the call to registry staff.

**5.1.6** If members or registry staff feel that a party or a representative is attempting to improperly influence the way the law or the VRB procedures are applied, or persists in discussing the issues of a case other than at a hearing, they must immediately inform the Principal Member or the Executive Officer.<sup>18</sup>

## **5.2 Access to VRB accommodation**

**5.2.1** It is essential for the efficacy and efficiency of VRB operations that members and registry staff have secure and private working accommodation and arrangements. Thus, the parties and their representatives should generally be restricted to the public areas of VRB premises.

**5.2.2** To avoid any appearance of partiality and to effect security and privacy, the following general rules apply:

- applicants, their representatives and Departmental officers are to be allowed access only to reception areas, party rooms and hearing rooms — they may not, for example, have access to tea rooms (tea and coffee facilities are available in reception areas);
- if parties or their representatives seek photocopies of material they wish to make available to members, arrangements are to be handled by registry staff — no one other than members or registry staff is to be permitted to use a VRB copier;
- if parties or their representatives seek access to material held in library collections (other than those stored in reception areas), appropriate arrangements are to be made by registry staff;
- parties and their representatives must not be granted access to members' offices.

**5.2.3** Party rooms are to be assigned to representatives and applicants as the need arises. There should be no permanent allocation of a room to a particular representative or advocacy organisation, and party rooms should be vacated each day or at the conclusion of hearings in which representatives and applicants are involved. Where demand exceeds the availability of party rooms, these are to be allocated as directed by the Registrar.

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<sup>18</sup> Amended August 2003 to include the Executive Officer.

## 5.3 Correspondence

- 5.3.1** Correspondence received at the VRB may be addressed to a named individual or to a holder of an official position.
- 5.3.2** If correspondence is addressed to a named individual and marked “Confidential” or “Personal” or similar, or other identification of the sender indicates that the contents may be personal in nature, the envelope is to be date stamped and passed unopened to that individual.
- 5.3.3** All other correspondence is to be opened in the Registry on receipt and stamped to show the date of receipt. In affixing that stamp, care is to be taken not to obscure any text, or to mark a set of reasons which has been forwarded for a member’s signature.
- 5.3.4** As a general rule, all correspondence requiring a response will be handled within the Registry in which the application to which it relates was registered. However, the following correspondence is to be immediately forwarded to the Principal Member or to the Executive Officer:
- correspondence addressed personally to the Principal Member or the Executive Officer;
  - any complaint concerning the conduct of a VRB hearing or the conduct of a member (see [5.4.3](#));
  - correspondence addressed to the Minister for Veterans’ Affairs;
  - any correspondence in which it is noted that a copy has been sent to the Minister, the Principal Member, or the Executive Officer; and
  - any other correspondence which a Registrar believes should be drawn to the attention of the Principal Member or the Executive Officer.
- 5.3.5** Subject to the above, Registrars are to reply personally to representations from Members of Federal and State Parliaments.

## 5.4 Complaints

- 5.4.1** If a party or representative seeks to complain about an unfavourable decision, registry staff should ascertain the nature of the complaint. If it appears to relate to an error in the written record of the decision, the matter is to be referred to the Registrar for consideration of action as per [17.5.4](#). In other cases, registry staff are simply to advise that the VRB has no power to review its own decisions and that an appeal may be made to the Administrative Appeals Tribunal or action may be taken under the *Administrative Decisions (Judicial Review) Act* (suggested letter)
- [L171\\_1\\_no\\_power\\_review\\_no\\_rep](#),
  - [L171\\_1\\_no\\_power\\_review\\_rep](#).
- 5.4.2** If a party or representative seeks to make a complaint relating to the conduct of a hearing or the conduct of a member he or she is to be referred to the Registrar. If, after appropriate discussion, the complainant wishes to receive an official response, he or she is to be advised that a written complaint is required.
- 5.4.3** If a written complaint is made concerning the conduct of a VRB hearing or the conduct of a member, the correspondence is to be immediately sent to the Principal Member in a sealed envelope marked ‘Confidential’. No copies are to be made and no reply sent.
- 5.4.4** The Principal Member will send an individual copy of the correspondence in a sealed envelope marked “Confidential” to each member about whom the complaint referred.
- 5.4.5** When a reply has been completed, the Principal Member will send an individual copy in a sealed envelope marked “Confidential” to each member concerned. No copies of any of the correspondence are to be placed on the relevant VRB file and the only copies will be filed on the VRB’s “Complaints” file or the Ministerial correspondence file held in the Principal Registry.
- 5.4.6** If the letter of complaint follows the adjournment of a hearing and the letter also contains further evidence relevant to the application under review, any criticism of members contained in the letter is to be deleted in the copies of the letter sent to the parties to the application and added to the section 137 reports under the procedures dealing with further evidence (see [Chapter 3](#)). The deletions are to be marked with the annotation “This portion has been deleted. It deals with a complaint and is not pertinent to the Board’s deliberations”.
- 5.4.7** Any oral or written complaints about the conduct of registry staff are to be referred immediately to the Registrar.



**5.4.8** The Registrar must advise the Principal Member about each complaint, made either orally or in writing by the complainant, that is dealt with by the Registrar.<sup>19</sup>

## **5.5 Compliments**

**5.5.1** Correspondence containing compliments to staff or members are to be brought to the attention of the relevant staff or member and a copy sent to the Principal Member.<sup>20</sup>

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<sup>19</sup> Amended 30 August 2002 following a Principal Member direction.

<sup>20</sup> Amended August 2003 adding a new section on compliments.

The next page begins Chapter 6 – Monitoring progress of applications

## **6. MONITORING PROGRESS OF APPLICATIONS**

### **6.1 Administrative Screening**

#### **Introduction**

- 6.1.1** Administrative screening of applications was initiated following recommendations of the Veterans' Entitlements Act Monitoring Committee in 1988, that the VRB conduct "call-overs" of appeals to monitor the readiness of cases for hearing. Administrative screening is therefore designed to monitor at various intervals the progress and preparedness for hearing of all cases with the VRB.
- 6.1.2** The aim of administrative screening is to maximise the productivity of the VRB by ensuring:
- effective administrative processing of applications,
  - maximum listings before each VRB panel, and
  - a maximum number of applications listed are ready for final determination.
- 6.1.3** The achievement of these outcomes will be reflected in the number of applications disposed of as a result of:
- administrative action leading to the dismissal of certain applications; and
  - an increased finalisation rate of applications heard by panels.

#### **Registrar's powers**

- 6.1.4** Cases are to be examined by Registrars or by other officers at the Registrar's direction, with a view to clarifying the issues, ensuring jurisdiction and standing, and checking sufficiency of information.
- 6.1.5** At certain intervals, applicants or their representatives are to be contacted, usually by telephone, to discuss progress and the preparedness of their applications with a view to listing for hearing.

- 6.1.6** In certain circumstances, Registrars may, “on behalf of the Principal Member”, request the Department to conduct further investigations and/or provide information, essential to the application being finalised but not necessarily supportive to either party [[s148 \(6A\)](#)].
- 6.1.7** While the Certificate of Readiness for Hearing system will still operate (see [3.2.3](#) and [3.2.5](#)), applications may be listed at the Registrar’s direction in certain circumstances (see [6.1.10](#) and [6.1.15](#)), or can be referred to a Senior Member for Preliminary Review ([Chapter 9](#)). The Registrar may also take action according to the “dismissal” procedures when an application becomes two years old.
- 6.1.8** On receipt of section 137 reports, an initial examination (suggested format [RV6:1](#)) is to be made to check, at least, that:
- issues are clear;
  - jurisdictional doubts are resolved;
  - the applicant’s standing is established;
  - there is no confidential/prejudicial information;
  - there is sufficiency of information; and
- decide whether cases should be earmarked for possible Preliminary Review or discussion with the applicant or representative.
- 6.1.9** If no response is received to the section 148 letter (see [3.2.6](#)), the applicant may be contacted by telephone (if a telephone number has been provided) and the relevant information required by the section 148 notice is to be sought. If it is provided by telephone, the information is to be noted onto the Telephone Response Form (suggested form)
- [rv6 2 s148 telephone response](#).
- If the applicant is not contacted by telephone, a reminder is to be sent to advise that the VRB may proceed to conduct an “in absentia” hearing if no response is received within 14 days (suggested letter)
- [L61 1 s148 1st reminder](#).
- Files are to be referred to the Registrar 14 days after dispatch of this reminder if no reply has been received, and the Registrar is to write to the applicant advising that the application is being held as a standby case and may be listed at short notice as an in absentia hearing (suggested letter)
- [L61 2 s148 4 advice list absence](#)).

**6.1.10** If a response has been received to a section 148 letter, files are to be referred to the Registrar for direction if nothing further has developed after two months. Further follow-ups are to be made depending on the response, but at least every three months (suggested letter)

- [L315 1 No response no rep](#);
- [L315 1 No response rep](#);
- [L315 3 phone me no rep](#); or
- [L315 3 phone me with rep](#).

Subject to [6.1.11](#) and [6.1.15](#), when the total time from receipt of section 137 report reaches twelve months, the Registrar may direct that the matter be listed for hearing. The applicant is to be advised of this (suggested format)

- [RV6:5](#)).

**6.1.11** If the applicant fails to respond to two follow-up letters from the VRB and cannot otherwise be contacted, the matter may be put on hold pending action under the “dismissal” procedures (refer [6.2.1](#)).

**6.1.12** Applicants who have not returned the acknowledgment of hearing card are to be telephoned at least one week before their scheduled hearing date to confirm their availability. If attempted contact is unsuccessful, the matter is to be referred to the Registrar for possible postponement.

**6.1.13** If a period of three months has elapsed following the adjournment under section [151](#) of an application and no Certificate of Readiness for Hearing has been received, the matter is to be referred to the Registrar, who will consider the circumstances of the adjournment, take steps to establish what action the applicant or the representative has taken since, and the reasons for it not being ready. (suggested letter)

- [L315 2 s151 no rep](#); or
- [L315 2 s151 with rep](#))

**6.1.14** A final examination is to be done (suggested format [RV6:6](#)) when a matter is about to be listed for hearing and this is to include a review of any earlier administrative action/recommendation. If there is any doubt as to which issues from the Repatriation Commission decision are under review, the applicant should be asked to confirm the issues under review <sup>21</sup> (suggested letter)

- [L301 Clarification of matters](#)).

In applications concerning the rate of assessment of pension:

- if the lifestyle response is over 12 months old, or the applicant's personal assessment is greater than the one applied by the Repatriation Commission, the applicant is given the opportunity to provide a current lifestyle questionnaire (suggested format [L612](#)) and;
- if any audiogram is over 6 months old, consideration should be given to obtaining a current hearing assessment (suggested letter)
  - [L25 s148 6A other requests](#)).

**6.1.15** In the application of these procedures, a Registrar may, at any time, direct that a matter be listed for hearing if, in the Registrar's opinion, extraordinary circumstances exist, or the Registrar considers that an application is at a stage where there is no apparent further preparation planned or possible. The applicant is to be advised by letter (suggested format [RV6:5](#)).

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<sup>21</sup> Amended December 2002. A new letter to clarify the issues of an application introduced in December 2002.

## 6.1A Case Appraisal

### 6.1A.1 Introduction

On receipt of a Certificate of Readiness each application for review is have a case appraisal to identify the issues on which review is sought, to identify any obvious legal imperfections in the case preparation and to confirm that any available additional relevant evidence that would assist the applicant has been provided to the Board.<sup>22</sup>

### 6.1A.2 Role of the National Case Appraisal Registrar (NCAR)

The NCAR will be responsible for monitoring and coordinating the case appraisal system, developing strategies for further improvement, conducting training and reporting on progress to the Board's Principal Member and Executive officer. In addition, the NCAR will act as a point of contact for representatives to keep them informed of issues in Veterans' Entitlements law.

### 6.1A.3 Case Appraisal for an Applicant who is not represented

6.1A.3.1 The NCAR and the State Registrars will examine applications for review to the Board by applicants who are not represented by an advocate.

On receipt of such a case in the Registry, case managers are to complete page 1 of the Case Appraisal work sheet (suggested format [L6 1A 1 case appraisal form](#)), attach the page to the VRB file and pass the file to the Registrar or NCAR.

Registrars should complete the remainder of the Case Appraisal work sheet relevant to the application under review (suggested format [L6 1A 1 case appraisal form](#)). The following notes refer to items on pp.2-6 of the work sheet.

- **Diagnosis:** If there is any doubt raised about the accuracy of a particular diagnosis or if it is considered that not all disabilities claimed have been adequately diagnosed, this should be raised with a DVA medical officer under [s148 6A](#).
- **Contention:** A brief line setting out what the applicant considers the causal connection between service and the injury, disease or cause of death. If the applicant has outlined what he or she regards as a hypothesis of a connection between service and the claimed incapacity or death, this should be included here.
- **Standard of Proof:** The appropriate standard or standards should be determined from the service details set out on page 1.
- **Medical Reports:** These should be carefully examined for basic requirements such as age of the report and the professional standing of the author. The principal concerns, however, relate to how relevant the reports are to the issues under review and whether the applicant needs to obtain further medical evidence to support his or her contentions. If this is the case a Registrar will need to determine whether it

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<sup>22</sup> Added in August 2003 as an initiative to reduce adjournments and improve the quality of material available during any hearing.

is possible for the applicant to obtain this evidence directly from an LMO or specialist, or whether the evidence should be obtained through a request to the Department of Veterans' Affairs through [s148 6A](#). This will depend on circumstances such as the age of the applicant and the complexity of the evidence being sought.

- **Statements of Principle:** Identify the relevant SOP by number and year. The factor being relied upon by the applicant should be included, as well as any supporting evidence in the material contained in the [s137](#) report. If no SOP covers the claimed disability, a check should be made on the RMA website ([www.rma.gov.au](http://www.rma.gov.au)) to see if a notice of investigation has been gazetted for the disability.
- **Evidence on file opposing the contention or hypothesis** should be noted here. If there is further evidence that could be obtained to assist the case, this should be discussed with the applicant. As with the question of further medical evidence (see above), a judgement will have to be made about the most effective means of obtaining such additional material.
- **Comments:** Under this heading, the principal issues of the case under review should be identified. Potential arguments for and against the applicant's contentions should be included. The attention of the panel should be drawn to precedent cases dealing with similar issues. Copies of such cases may be attached to the work sheet.
- **Pages 4 & 5:** The information required on these pages is self-explanatory and should be completed as thoroughly as possible in all General rate assessment cases as well as EDA applications. If an entitlement issue appears to have a good chance of being set aside, the details provided by the Registrar on these pages may obviate the need for the matter to be remitted.
- **Page 6:** Registrars will need access to DVA files to complete this section and the service pension sub-file of the "C" file will usually contain much useful information. Look for evidence in the form of letters from the last employer(s), occupational physicians' reports and tax returns.

#### 6.1A.4 Conclusion to Appraisal

Once the investigation of an application has been completed, Registrars should fill out a Case Appraisal Action Report (suggested format [L6 1A 2 case appraisal action](#))

It is important that no undertakings are made to applicants about the outcome of their cases as a result of the interview process and the provision of further evidence. The independent nature of the Board and its decision making process should be explained but no views should be expressed about how a panel will interpret the further evidence submitted.

In many cases it may be appropriate to write to the applicant following interview to confirm the matters discussed and the action which has been agreed to be taken.



At the end of each month Registrars should complete the Case Appraisal Monthly Report (Suggested format [L6 1A 3 case appraisal monthly report](#)) for return to the NCAR.

## 6.2 Dismissal Of Applications

### Introduction

- 6.2.1 The dismissal provisions are contained in sections [155AA](#), [155AB](#) and [155AC](#) of the *Veterans' Entitlements Act 1986*. Sections [155AA](#) and [155AB](#) provide for the dismissal of applications in certain circumstances and the process involved. Section [155A](#) also provides for applications to the Administrative Appeals Tribunal for review of decisions to dismiss VRB applications.
- 6.2.2 Section [155AC](#) allows an applicant to authorise a person to represent the applicant in relation to a notice under subsection [155AA \(4\)](#) or under subsection [155AB \(4\)](#) requesting a written statement. Such authorisation must be in writing and can only be given after the applicant has received the relevant notice. Any statement then received is to be treated according to the procedures in the same manner as if written by an applicant.
- 6.2.3 An applicant may authorise a person who is the same as, or different from, his or her advocate/representative. Therefore, notices under subsections [155AA \(4\)](#) and [155AB \(4\)](#) must always be sent direct to the applicant and only a copy provided to the applicant's advocate/representative, if any. If an applicant has authorised a person under section [155AC](#), that person will be referred to in these procedures as the "authorised agent" to avoid any confusion with an advocate/representative under section [147](#). The prohibition of legal representation that applies to an advocate/representative under section [147](#) does not apply to an authorised agent under section [155AC](#).
- 6.2.4 Subsection [166 \(1A\)](#) allows the Principal Member to delegate all, or any, of his powers under sections [155AA](#) and [155AB](#) to a Registrar or Deputy Registrar.
- 6.2.5 The responsibilities and duties given to the Principal Member by the legislation have been delegated by him to Registrars. Decisions required under the legislation must therefore be taken by Registrars personally and they must personally sign the relevant notices and correspondence as "delegate of the Principal Member".

### Notices under subsection 155AA(4)

- 6.2.6 If after two years from the lodgement of the application for review the hearing of the review has not finished or a date, time and place has not been fixed for the commencement or resumption of the hearing of the review, and if the Registrar considers that the applicant should be ready for a hearing, a written notice is to be sent to the applicant requesting the applicant to provide, within 28 days, a written statement indicating that the applicant is ready to proceed at a hearing or explaining why the applicant is not so ready. A copy without

attachments, is to be sent to the applicant's representative, if any. A copy of the notice and all attachments is to be placed on the Board case file.

- 6.2.7** In considering whether an applicant should be ready to proceed at a hearing, the history of the application is to be considered, including any action taken under the administrative screening process described earlier in this chapter.
- 6.2.8** If the Registrar is not of the opinion that an applicant should be ready for a hearing, no further action is required. However, the application should be checked again at regular intervals.
- 6.2.9** If the Registrar considers that the applicant should be ready to proceed at a hearing, the Registrar is to send a written notice (suggested form [L62 dismissal s155AA4 letter](#)) by prepaid post to the applicant's last known address. The notice must be sent to the applicant in every case. A copy is to be sent to the applicant's representative, if any. An authorisation form is to be enclosed (suggested form [L62a dismissal authorisation notice](#)).
- 6.2.10** Applications previously adjourned under section [151](#) are to be included in the exercise if three months have elapsed from the date of adjournment. The reasons for the adjournment may be important in deciding whether the applicant should be ready to proceed at a resumed hearing.
- 6.2.11** If an application has been adjourned under section [152](#) and a response received from the Department but the rescheduled hearing has been postponed by the applicant, the application is to be included in this exercise if three months have expired from the date of the postponement, or earlier depending on the circumstances. The reasons for the postponement may be important in deciding whether an applicant should be ready to proceed at a resumed hearing.
- 6.2.12** If applications are already in the listing queue, there is obviously no need to send a notice. Such applications are to be closely monitored, however, to ensure that they proceed to a hearing and are not withdrawn from the listing queue or postponed after a date for hearing has been set. If either of these events occur, the application is to be re-examined to decide whether the applicant should be ready to proceed at a hearing.

### **Dismissal under subsection 155AA (5)**

- 6.2.13** The statement in response to a subsection [155AA \(4\)](#) notice must be in writing and must be from the applicant or, if duly authorised in writing under section [155AC](#), by the applicant's authorised agent. The statement must be provided within 28 days of service of the notice on the applicant.
- 6.2.14** If the requested written statement is not provided within 28 days, the Registrar *must* dismiss the application and notify the applicant and the Repatriation Commission. A copy is to be sent to the applicant's representative, if any. In accordance with the VRB's normal practice, for notification of the Repatriation

Commission it will be sufficient for a copy to be sent to the Commission at the address given by regulation [9A](#) of the Veterans' Entitlements Regulations.

**6.2.15** The reasons for dismissal are to be set out with the formal decision and enclosed with the subsection [155AA \(5\)](#) letter (suggested letter)

- [L63\\_2\\_dismiss\\_155AA5](#); or
- [L65\\_2\\_dismissal\\_s155AB5](#)).

**6.2.16** Subsection [155A \(2\)](#) provides that rights of appeal to the Administrative Appeals Tribunal must be communicated to the person "whose interests are affected by the decision". This is to be included with the notification and reasons for dismissal (suggested format [RV6:11](#)).

**Statement under paragraphs 155AA(4)(c) or 155AB(4)(a) indicating ready to proceed**

**6.2.17** If the applicant or the applicant's authorised agent provides a written statement within 28 days and that statement indicates that the applicant is ready to proceed at a hearing, the application is to be placed in the listing queue and given listing priority. A letter is to be sent to the applicant advising that a hearing date is now being arranged as a matter of priority. A copy is to be sent to the applicant's representative, if any (suggested letter)

- [L63\\_1\\_dismissal\\_hng\\_requested\\_155AA4c](#).

**6.2.18** If, after a notice under subsections [155AA \(4\)](#) or [155AB \(4\)](#) has been sent to the applicant, the applicant's representative, who is not the applicant's authorised agent, requests that the application be listed for hearing, that request cannot be regarded as satisfying paragraphs [155AA \(4\) \(c\)](#) or [155AB \(4\) \(a\)](#). In these circumstances, a letter is to be sent to the representative and a copy to the applicant (suggested letter)

- [RV6:13 L66 Rep s155 unauthorised COR](#).

**6.2.19** The progress of any application listed as a matter of priority under [6.2.17](#) is to be closely monitored to ensure that it proceeds to hearing and is not withdrawn from the listing queue or postponed after a date for hearing has been set. If either of these events occur, the matter is to be re-examined shortly afterwards to consider whether a request for postponement is to be considered by the Registrar and is not to be given lightly as the applicant should by now be ready to proceed at a hearing.

### **Reasonable explanation under subsection 155AA (6)**

**6.2.20** If a written statement is provided explaining why the applicant is not ready to proceed at a hearing, the reasons given are to be considered in the light of the history of the application, the time that has elapsed, and the matters raised by the applicant/applicant's authorised agent. If the Registrar considers that the statement contains a reasonable explanation for the applicant's failure to be ready to proceed at a hearing, notice is to be sent to the applicant (suggested form)

- [L63\\_3\\_dismissal\\_s155AA6](#).

A copy is to be sent to the Repatriation Commission and the applicant's representative, if any.

**6.2.21** It is not necessary to send the applicant details of appeal rights in this situation because the applicant is not the person "whose interests are *affected* by the decision" for the purposes of subsection [155A \(2\)](#). However, the Repatriation Commission must be given a notice of appeal rights, and the applicant must be advised that the Commission has this right of appeal (suggested format [RV6:11](#)).

### **Dismissal under subsection 155AA (7)**

**6.2.22** If a written statement is provided within 28 days explaining why the applicant is not ready to proceed at a hearing, the reasons given are to be looked at in the light of the history of the application, the time that has elapsed and the matters raised by the applicant/applicant's authorised agent. If the Registrar considers that the statement does not contain a reasonable explanation for the applicant's failure to be ready to proceed at a hearing, the Registrar must dismiss the application and notify the applicant and the Repatriation Commission. A copy is to be sent to the applicant's representative, if any. Appeal rights are to be notified (suggested format [RV6:11](#)).

**6.2.23** The reasons for the dismissal are to be set out with the formal decision (suggested format [RV6:16](#)) and enclosed with the subsection [155AA \(7\)](#) suggested letter

- [L63\\_4\\_dismissal\\_s155AA7](#); or
- [L65\\_4\\_dismissal\\_s155AB7](#).

The reasons should list the history of the application and particular attention should be given to listing the dates of all telephone conversations and correspondence between registry staff and the applicant/representative in attempting to arrange a hearing. It is important that the Registrar states why the Registrar considers that the statement does not contain a reasonable explanation for the applicant's failure to be ready to proceed at a hearing.

### **Notice under subsection 155AB(4)**

- 6.2.24** If a written statement has been provided within 28 days and the Registrar has notified the applicant that the Registrar considers that the statement contains a reasonable explanation for the applicant's failure to be ready to proceed at a hearing, the Registrar must send a further notice (form [L64\\_dismissal\\_s155AB4\\_letter](#)) after the expiration of three months from the date of that notification. The notice must be sent to the applicant in every case. A copy is to be sent to the applicant's representative, if any (not the originally authorised agent, because a new authorisation is now required). A copy of the notice and all attachments is to be placed on the Board case file.
- 6.2.25** There is no discretion given in this subsection and the notice *must* be sent after the expiration of three months.
- 6.2.26** Once the notice has been sent under this sub-section, the appropriate procedures required by subsections [155AB \(5\)-\(7\)](#) are to be followed (these are exactly the same as the procedures described in [p6\\_2\\_13](#) to [6.2.23](#)).

### **Review by Administrative Appeals Tribunal**

- 6.2.27** An applicant may apply to the Administrative Appeals Tribunal for review of a decision of the Principal Member (or delegate) to dismiss an application because of a failure to supply a written statement within 28 days or because the Principal Member (or delegate) considers that a statement does not contain a reasonable explanation for the applicant's failure to be ready for a hearing. The Repatriation Commission also has the right to apply to the Administrative Appeals Tribunal for review of a decision by the Principal Member (or delegate) that a statement contains a reasonable explanation for the applicant's failure to be ready for a hearing.

### **Action following AAT decision to set aside dismissal**

- 6.2.28** If the AAT decides that a decision to dismiss an application under subsections [155AA \(5\)](#) or [155AB \(5\)](#) is set aside because it considers the notice required by subsections [155AA \(4\)](#) or [155AB \(4\)](#) was not received by the applicant, or for some reason the 28 days time period has not expired, and substitutes its decision that the matter is remitted to the VRB, the Registrar is to follow the procedures set down in [6.2.6](#) or [6.2.26](#) as appropriate. The notice is to be as per form [RV6:18](#). The normal procedures are then to be followed.
- 6.2.29** If the AAT has decided that a dismissal under subsections [155AA \(5\)](#) or [155AB \(5\)](#) is set aside and substitutes its decision that the applicant has in fact provided the written statement required under those subsections, the procedures set down in [6.2.20](#) or [6.2.22](#) are to be followed, whichever are appropriate. If the Registrar considers that the statement contains a reasonable explanation for

the applicant's failure to be ready to proceed at a hearing, the notice is to be as per suggested form [RV6:19](#). If the Registrar considers that the statement does not contain a reasonable explanation for the applicant's failure to be ready to proceed at a hearing, the notice is to be as per suggested form [RV6:20](#). The normal procedures are then to be followed.

- 6.2.30** If the AAT has decided that a dismissal under subsections [155AA \(7\)](#) or [155AB \(7\)](#) is set aside and substitutes its decision that the statement provided contains a reasonable explanation in accordance with subsections [155AA \(6\)](#) or [155AB \(6\)](#), notice must be sent to the applicant and the Repatriation Commission as per suggested form [RV6:21](#). A copy is to be sent to the applicant's representative, if any (not the authorised agent because a new authorisation is now required). The normal procedures set out in [6.2.24](#) are then to be followed.

## **6.3 Death of an Applicant**

- 6.3.1** The death of an applicant, after an application for review has been lodged, does not affect the obligation of the VRB to determine the application.
- 6.3.2** In this circumstance, section [126](#) provides that the legal personal representative (LPR) or person approved by the Repatriation Commission, may take such action in respect of the application as the applicant could have taken had he or she not died (or failing action by the LPR, a person approved by the Repatriation Commission).
- 6.3.3** On receipt of advice of the death of an applicant, a request is to be forwarded to the Department of Veterans' Affairs requesting that they take appropriate action to determine who the LPR is, whether that person wishes to continue the application to the VRB, and if not, whether there is a person that the Repatriation Commission wishes to appoint under section [126](#) to continue the application (suggested letter [L67 letter to DVA requesting s126](#)).
- 6.3.4** The LPR or the person appointed by the Commission in place of the LPR is to be treated as the applicant and is subject to the normal procedures for processing of applications before the VRB.
- 6.3.5** On receipt of advice from the Department concerning the LPR or person appointed, a notice is to be served on that person (now the applicant) seeking advice as to how the hearing is to be conducted (suggested form [L671 Applicant s126 LPR advice](#), [L671 Applicant s126 LPR advice](#) suggested letter). [please note that where the response is not received within 28 days s148(4) cannot be used, however the Registrar still has power to list in special circumstances]
- 6.3.6** Thereafter action is to be taken according to normal processing of applications.

**6.3.7** If no one wishes to continue the application, it is to be treated as having lapsed.

**6.3.8** If the applicant dies between the date of the hearing and before the decisions and reasons are published, the Department is to be asked to take action per [6.3.3](#). If no one wishes to continue the application, the decision and reasons are to be published only to the Repatriation Commission and to the Department. If either the LPR or the person appointed by the Repatriation Commission wishes to continue the application, the decision and reasons are to be published to that person as well as to the Repatriation Commission and the Department.

## **6.4 Transfer of VRB File Interstate <sup>23</sup>**

**6.4.1** When an applicant relocates from one state to another, the VRB file is to be transferred to the appropriate state Registry and:

- the applicant is to be notified of the transfer (suggested letter [L68](#));
- the Registrar at the 'new' Registry is to be notified that a transferred file is in transit; and
- the Project Officer, Principal Registry, is to be advised of the file transfer.

**6.4.2** Transfer of VRB files is to be by courier.

**6.4.3** On receiving the transferred file, the file is to be passed to either the Registrar or another senior staff member (eg an APS5 Case Manager) who will:

- determine the status of the application;
- make appropriate changes to the electronic case record; and
- write to the applicant or representative, as the case may be, about the future progress of the application for review, setting a date for future case review.

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<sup>23</sup> This is a procedure formalised with the introduction of a new advice letter in December 2002.



The next page begins Chapter 7 – Listing applications for hearing

# 7. LISTING APPLICATIONS FOR HEARING

## 7.1 Introduction

- 7.1.1** This chapter contains the procedures for listing applications for hearing before VRB panels.
- 7.1.2** Normally, 15 hearing times are listed before a panel each week (three per day), with hearings usually conducted in the morning. The actual number varies because of public holidays and allowances made for cases that are expected to be unusually complex or time-consuming.

## 7.2 Administrative matters

- 7.2.1** In addition to a listing of 15 hearing times each week, one “administrative matter” may be submitted to a panel each day. Administrative matters include:
- an issue of confidential or prejudicial information (see [Chapter 4](#));
  - consideration of the need for a supplementary section [152](#) request (see [Chapter 15](#)); and
  - an issue of consent to a withdrawal of an application (see [Chapter 11](#)).
- 7.2.2** While administrative matters are listed for consideration on a particular day, the panel has some flexibility as to the time at which such matters are to be considered. If the panel finds that other business precludes finalising an administrative matter on the day on which it is listed, it may be considered on another day during that week.

## 7.3 Listing of applications<sup>24</sup>

**7.3.1** Subject to [7.3.2](#), an application is available for listing when:

- a completed “Certificate of Readiness for Hearing” form has been received; or
- after a reasonable time, neither party has replied to the section 148 letter; or
- each party has advised that it does not intend to appear or be represented at the hearing.<sup>25</sup>
- the Registrar considers that special circumstances exist; or<sup>26</sup>
- the Registrar considers that there is no further preparation planned or possible for an application.<sup>27</sup>

**7.3.2** In the latter three situations, a hearing is to be arranged, with each party notified that the application will be listed in the absence of the parties (see also “stand-by” cases [7.10](#)).

In all cases, the application is to be listed for hearing:

- if the Repatriation Commission is not appearing and the applicant is not being represented — as soon as practicable after the applicant forwards a reply to the section 148 letter requesting a hearing or returns a “Certificate of Readiness for Hearing” form;
- if the Repatriation Commission is not appearing and the applicant is represented — as soon as practicable after the representative returns a “Certificate of Readiness for Hearing” form;
- if the Repatriation Commission is appearing — as soon as practicable after both the Commission and the applicant or applicant’s representative have returned a “Certificate of Readiness for Hearing” form; or
- when the Principal Member or a Registrar directs that the application is to be listed for hearing.<sup>28</sup>

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<sup>24</sup> This section re-written 4 January 2000

<sup>25</sup> This item removes the requirement for an applicant to submit a Certificate Of Readiness for an inabsentia.

<sup>26</sup> Amended 30 August 2002. This item provides the Registrar with the option to list an application in special circumstances.

<sup>27</sup> Amended 30 August 2002. This item provides the Registrar with the option to list an application in special circumstances.

<sup>28</sup> This item provides the Principal Member or a Registrar with the option to direct an application to hearing.

- 7.3.3** If an application is listed for hearing in the absence of the parties (an “in absentia” case), registry staff are to do a manual check of the file and SAM to confirm that the applicant has in fact requested a hearing in his or her absence or has not replied to the section 148 letter.<sup>29</sup>
- 7.3.4** Subject to [7.4.1](#), when an application is ready for hearing, the application is to be placed in the listing queue.<sup>30</sup>
- 7.3.5** Each single application for review is normally to be allocated one hearing time, except if a Registrar believes, in the exceptional circumstances of a particular case, that it should be afforded more hearing time than it would receive under normal circumstances. For example, a two hour hearing should be allocated if:
- there are more than four unrelated entitlement matters (ie, they involve more than four different primary Statements of Principles); or
  - the application concerns both assessment and more than two unrelated entitlement matters.<sup>31</sup>
- 7.3.6** If an applicant has more than one application ready for hearing, these are to be heard together and given one hearing time unless the combination of matters would require a two hour hearing in accordance with [7.3.5](#)<sup>32</sup>
- **7.3.7**<sup>33</sup>
- 7.3.8**<sup>34</sup>
- 7.3.9**<sup>35</sup>
- 7.3.10** If there are two or more applications outstanding for the same applicant, they are to be listed before the same panel on the same day if possible.<sup>36</sup>

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<sup>29</sup> Amended 4 January 2000. This item was included to ensure natural justice is done

<sup>30</sup> Amended 4 January 2000. This item was included to point to the exceptions and considerations in listing applications for a hearing.

<sup>31</sup> Amended 4 January 2000. This item was included to allow sufficient hearing time for more complex applications.

<sup>32</sup> Amended 4 January 2000 and August 2003. This item was inserted to allow for the consolidation of two less complex applications, but is subject to 7.3.5.

<sup>33</sup> Removed August 2003. See 7.3.6

<sup>34</sup> Removed August 2003. See 7.3.6

<sup>35</sup> Removed August 2003. See 7.3.6

<sup>36</sup> Amended 4 January 2000 and August 2003.

**7.3.11** If an applicant has multiple applications outstanding but not all have been notified as ready for hearing, inquiries are to be made with the applicant or representative to ascertain whether there is a good reason why those cases should not proceed to hearing. If there is no adequate reason for not hearing those cases, they are to be listed for hearing before the same panel on the same day if possible. Merely because an applicant wishes to find out the outcome of one matter before he or she proceeds with the other matter will not, on its own, be an adequate reason for delaying the listing of the other matter.<sup>37</sup>

## 7.4 Listing considerations<sup>38</sup>

**7.4.1** These listing guidelines are to be applied flexibly to promote justice and equity, with consideration to be given to the following:

- whether the application has been previously listed — if possible it is to be relisted before the same members or at least the same presiding member;
- the chronological order in which applications became available for hearing;
- the time likely to be required by a panel to hear the application;
- whether the applicant resides overseas;
- where the applicant resides, the likely form of transport and the most effective travel times, and whether a hearing in a regional centre is possible;
- whether the Repatriation Commission is appearing;
- the members who are to constitute the panel — whether a member is unable to sit on the case in question;
- whether the applicant is a member or former member of the VRB, one of the registry staff or a regularly appearing representative;
- if the applicant is represented, any limits or restrictions imposed by the representative on the number of his or her cases which can be listed at a particular time, day or week; and
- any restrictions which may affect the availability of the applicant or his representative (eg, the applicant's age, health or need for an attendant).

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<sup>37</sup> Amended 4 January 2000. This item was included to stop the practice of applicant's unnecessarily having multiple hearings.

<sup>38</sup> Rewritten 4 January 2000.

**7.4.2** If the number of applications held for listing exceeds the number that can be listed before the next available panel, applications held for listing are to be listed in the following order:

- applications that have been afforded priority listing status (see [7.4.3](#));
- applications that have been previously heard and adjourned (in the order in which they become available for relisting);
- applications previously listed and postponed with priority retained; and
- applications that have not been previously listed, or previously listed but postponed with priority lost (in the order in which they become available for listing or relisting).

**7.4.3** Priority listing status is to be afforded to cases in which questions of the validity of the application need to be decided (see [Chapter 2](#)) or in which the Registrar is satisfied that special circumstances exist to justify an expedited hearing. Some examples of special circumstances might include:

- an applicant is critically ill;
- medical certification or other evidence indicates that a delay in hearing may cause prejudice to an applicant's mental or physical health or that deterioration in an applicant's health over time may prejudice the effectiveness of a later hearing; or
- an applicant is in severe financial distress which might be alleviated by a successful outcome to an application.

## **7.5 Repatriation Commission being represented**

**7.5.1** The Repatriation Commission is a party to each application and has a right to be represented at any hearing. Its practice is to be represented in very few cases heard by the VRB and only if the applicant is also represented. It will consider being represented at a hearing if specifically requested by the VRB.

**7.5.2** If it is known before listing that the Repatriation Commission will be represented at a hearing, registry staff are to refer the matter to the Registrar for appropriate listing arrangements in consultation with the parties to the hearing. Such cases should normally be allocated two hearing times.

**7.5.3** If it is not known until after the listing that the Repatriation Commission is being represented, , the Registrar will notify the applicant or the applicant's representative.<sup>39</sup> Whenever possible, and without unduly inconveniencing other listed applicants, such cases should normally be allocated two hearing times.

**7.5.4** The Registrar is to arrange for the Repatriation Commission to be invited to a hearing if:

- the applicant is a member or former member of the VRB or one of the registry staff; or
- the Principal Member considers that the appearance of the Repatriation Commission would be of assistance in resolving an issue of general application.

An invitation to attend a hearing is to be made to the address specified in Regulation [9A](#) of the Veterans' Entitlements Regulations, namely:

Repatriation Commission  
C/- Branch Head, Disability Compensation Branch  
Department of Veterans' Affairs  
Lovett Tower  
WODEN ACT 2606

## **7.6 Applications awaiting hearing in regional centres**

**Note:** As a general rule, an applicant can have a hearing at a location wherever the Board regularly conducts hearings, but is to be advised that the Department may only reimburse travel costs that would have applied had the applicant attended a hearing close to where he or she resides.

**7.6.1** If an applicant from one of the regional areas where the VRB holds hearings has appointed a capital city representative, the application is still to be listed for hearing in the regional centre unless other suitable arrangements are agreed to by the Registrar and the applicant/representative.

**7.6.2** If an applicant from a capital city has appointed a regional representative, the application is to be listed for hearing in the capital city unless other suitable arrangements are agreed to by the Registrar and the applicant / representative.

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<sup>39</sup> Amended August 2003. This change places the onus on the Registrar to notify the applicant or representative.

- 7.6.2.1** If an applicant from a regional centre has appointed a representative and the applicant and representative are willing to have the hearing conducted by videoconference, that will be arranged, unless the matter would be listed at the next hearing at the regional centre and that hearing already appears on the itinerary.<sup>40</sup>
- 7.6.3** If an applicant from one of those regional areas is unrepresented, his or her application will not necessarily be held until sufficient cases become available to justify regional sittings if it could otherwise be heard earlier in the capital city (perhaps by telephone) or another close regional centre, unless the applicant has specifically requested a hearing at the local regional centre.
- 7.6.3.1** If an applicant from a regional centre is willing to have the hearing conducted by videoconference, that will be arranged, unless the matter would be listed at the next hearing at the regional centre, which already appears on an itinerary.<sup>41</sup>
- 7.6.4** The listing of applications for hearing in regional centres is to follow the same procedures for capital city listings.

## 7.7 Overseas applications

- 7.7.1** Registrars are to supervise the listing of hearing arrangements for all overseas cases.
- 7.7.2** If an applicant resides overseas, a notice will have been forwarded previously discussing the possibility of a telephone hearing (refer [3.2.2](#)). If applicable, a suitable time is to be organised for the hearing taking into account time differences and the availability of the VRB panel allocated to hear the case. A suitable Notice of Hearing is to be forwarded (suggested form)
- [L71\\_app\\_overseas](#))
- to the applicant and copies sent to the Repatriation Commission and representative, if any.

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<sup>40</sup> Amended 30 August 2002. This item was included upon the adoption of videoconferencing as a hearing option.

<sup>41</sup> Amended 30 August 2002. This item was included upon the adoption of videoconferencing as a hearing option.



## 7.8 Applications by members, registry staff or regular representatives

- 7.8.1** If an applicant is a member or former member of the VRB, the application is to be listed before a panel nominated or specially constituted by the Principal Member. This would ordinarily comprise members from states other than that in which the applicant member lived or had frequently sat.
- 7.8.2** If the applicant is one of the registry staff or a regularly appearing representative, a direction is to be sought from the Principal Member before the application is listed. The Principal Member may direct which panel will hear the application, arrange for the application to be heard at another venue, direct that access to personal records be limited to protect the privacy of the individual, etc.

## 7.9 Notification of hearings

- 7.9.1** Wherever possible, before applicants are notified of the time and date for hearing, they are to be contacted by telephone to ascertain their availability to attend as proposed. If the Repatriation Commission has advised its intention to take part in the hearing, it must also be notified of the hearing arrangements.
- 7.9.2** The Notice of Hearing is to be in the form of a personal letter to the applicant and differs according to attendance and representation, as follows:
- if the applicant is attending the hearing — suggested format
    - [L71\\_1\\_app\\_and\\_rep\\_attending](#),
    - [L71\\_4\\_app\\_attending\\_no\\_rep](#), or
    - [L71\\_5\\_app\\_attending\\_rep\\_phone](#);
  - if the hearing will be conducted with the applicant by telephone — suggested format
    - [L71\\_2\\_app\\_and\\_rep\\_phone\\_different](#),
    - [L71\\_3\\_app\\_and\\_rep\\_phone\\_same](#),
    - [L71\\_6\\_app\\_phone\\_no\\_rep](#), or
    - [L71\\_7\\_app\\_phone\\_rep\\_attending](#);
  - if the applicant is not participating in the hearing, - suggested format
    - [L71\\_8\\_app\\_not\\_attending\\_rep\\_attending](#), or
    - [L71\\_9\\_app\\_not\\_attending\\_rep\\_phone](#).

*Continued*

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- if the hearing will be conducted by videoconference use suggested format
    - [L71\\_videoconference](#)<sup>42</sup>
- 7.9.3** The original of the Notice of Hearing is to be sent to the applicant. A copy is to be sent to the nominated representative. If the applicant is participating in the hearing, the following documents are also to be enclosed with the Notice of Hearing:
- an acknowledgment card (suggested format [RV7:5](#)); and
  - a guide for applicants claiming travelling expenses from the Department of Veterans' Affairs (suggested format [RV7:6](#)).
- 7.9.4** It is desirable that Notices of Hearing should be dispatched, by ordinary mail, four or five weeks before the listed hearing date. If there are insufficient cases ready to list to allow hearings to be arranged this far ahead, every endeavour is to be made to give at least three weeks notice of hearings.
- 7.9.5** If an applicant resides overseas and will be attending the hearing, the Notice of Hearing must advise that travel expenses will not be reimbursed, other than expenses of travel from the applicant's temporary residence in Australia to the VRB's premises and return to the temporary residence.
- 7.9.6** If an applicant resides overseas and will be having a telephone hearing, the Notice of Hearing is to include:<sup>43</sup>
- advice of the Australian time the VRB will ring the applicant and the particular number it will ring, and
  - the local overseas time at which the applicant will receive the call from the VRB.
- 7.9.7** A Listing Schedule of applications listed for a day's hearings is to be prepared (suggested form [rv7 8 Listing Schedule](#)) and copies distributed within the VRB and to:
- the Repatriation Commission Repatriation Commission [c/- Branch Head, Disability Compensation Branch, Department of Veterans' Affairs ,Lovett Tower, WODEN ACT 2606]; and
  - the relevant State Office of the Department of Veterans' Affairs.

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<sup>42</sup> Amended 30 August 2002. This part was amended with the introduction of videoconference hearings.

<sup>43</sup> Amended 30 August 2002. This change is from a direction that teleconference be the standard option for hearing an overseas applicant.

- 7.9.8** Applicants who have not returned the acknowledgment of hearing card are to be telephoned at least five working days before their scheduled hearing date to confirm their availability. If resources permit, all other applicants are also to be telephoned. Should an applicant not be contactable at this point and their availability was not discussed as per [7.9.2](#), the matter is to be referred to the Registrar for possible postponement action.
- 7.9.9** Representatives are to be sent a copy of the Notice of Hearing for each case in which they are to appear. To assist in orderly case allocation, preparation and presentation:
- if the one representative is to appear in a number of cases on the same day, it is desirable these be listed before the same panel; and
  - if representatives from the one organisation are to appear before more than one panel on the same day, the organisation is to be advised which applications will be heard by the same panels.
- 7.9.10** If the applicant or representative subsequently advises before the day of the hearing that the listed time or date is unsuitable, that advice should be treated as a request for a postponement and the appropriate procedures for postponements followed.
- 7.9.11** If the applicant or representative advises a change of intention as to attendance or representation, the reasons for that change are to be ascertained and a note placed on the file for the presiding member. The VRB panel is to be advised of any such change as soon as possible by distributing an amended listing schedule (time permitting) for that day, with the changes highlighted. If time does not allow, members are to be advised verbally.

## **7.10 Substitution of standby cases**

- 7.10.1** If an application listed for hearing is no longer to proceed as listed, a “standby” case is to be substituted if the members involved can be given one working day’s notice of the substitution (or less if they agree).
- 7.10.2** Standby cases are usually unrepresented cases in which the applicant has requested the VRB to deal with the application in his or her absence.<sup>44</sup>
- 7.10.3** If no standby case is available, an administrative matter may be substituted.

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<sup>44</sup> Amended 30 August 2000. Removes a reference to s148(4)

- 7.10.4** The selection of a particular case as a standby case is a matter for discretion by the Registrar and is dependent upon the length of notice received that a listed case will not proceed and the capacity of staff to make any necessary arrangements for attendance, files, etc. Standby cases are not to be sent a Notice of Hearing.
- 7.10.5** No case is to be retained for substitution as a standby case beyond the date at which it would ordinarily be listed for hearing. For this purpose, the application is to be given the same priority as would be given to a case whose Certificate of Readiness was received on the day the application was classified as a standby case.

The next page begins Chapter 8 – VRB panels

## 8. VRB PANELS

### 8.1 Introduction

**8.1.1** Subsection [141 \(1\)](#) provides that the VRB shall be constituted for the purposes of a review by a panel of three members. Each panel must be initially constituted to comprise:

- the Principal Member or a Senior Member,
- a Services Member, and
- a Member.

**Note:**

1. The Principal Member may appoint a Member or Services Member to act as a Senior Member or a Services Member to act as a Member of the VRB ([s161](#)) under a delegation issued by the Minister of Veterans' Affairs ([s212](#)) on 11 August 1992.<sup>45</sup>
2. A panel may also be comprised of a quorum of any two of the above members if one of the three members becomes unavailable to sit on the hearing of a review ([s144](#)).

**8.1.2** Subsection [141 \(1A\)](#) provides that the VRB may also be constituted by the Principal Member, a Senior Member and a Services Member.

**8.1.3** Subsection [141 \(2\)](#) provides that the VRB may also be constituted by a single member sitting alone, with the approval of the Minister for Veterans' Affairs.

### 8.2 Allocation of members to VRB panels

**8.2.1** The Principal Member is empowered by the VEA to give directions in writing as to the persons who are to constitute the VRB for the purposes of reviews ([s143](#)). The allocation of members to VRB panels is effected by the Principal

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<sup>45</sup> *Amended August 2003.* This part has been amended to correctly show that a Services Member may act as a Member

Member issuing periodic directions for hearing itineraries, each covering five week periods.

**8.2.2** No review may be conducted by a VRB panel (or a member sitting alone) without a valid direction issued by the Principal Member or his or her delegate ([s143](#)).

**8.2.3** No review may be conducted by a quorum of two members if one of them is not a Senior Member, without a direction (see [8.4.1](#)) from the Principal Member or his or her delegate ([s144](#)).

**8.2.4** <sup>46</sup>The itinerary (see 8.2.1) is created in the following way:

- Each calendar year is broken in to 5 week groups and each 5 weeks is given a unique number (eg 03/01 for 2003's first 5 week group). The 5 week groups form an individual itinerary of the various boards allocated to hear applications in that period.
- Twelve weeks before a 5 week period commences the Principal Members' Executive Assistant sends a **notice to each Member** asking for details on availability to sit on Board panels during the period (see suggested form [rv8\\_6](#) ). Members have 7 days to return this notice. Members are asked to state for each week of the itinerary whether they can: - sit on a panel; - travel; or are not available. Members must also inform the Principal Members' Executive Assistant about: the number of days sat in the previous itinerary; the number of decisions authored; the number of decisions typed; and the number of finalised decisions signed within one, two and three weeks of the date of hearing.
- Ten weeks before a 5 week period commences the Principal Members' Executive Assistant sends a **notice to each state Registrar** asking the panel allocation requirements for that period. Seven days is given to reply. Each Registrar consults the local registry case load and makes a projection on the expected number of cases that will be available to be heard in that period. The projected number of cases is divided by 15 to give the number of panels required by the local registry during the 5 week period. Each Registrar must also provide details of regional hearing requirements and information about local holidays.
- Nine weeks before a 5 week period commences the Principal Members' Executive Assistant begins to **prepare the itinerary** (suggested form [rv8\\_7](#) ) by allocating the regional hearing requirements of each Registry and the local hearing requirements of each Registry to an itinerary document.

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<sup>46</sup> Included August 2003, to formally establish the current procedure.

If there are insufficient hearing rooms available at a Registry during any given week, Panels can be allocated to **morning or afternoon hearings**. The number of hearing rooms available is:

Brisbane – 2  
Sydney – 2  
Melbourne – 2  
Adelaide – 1  
Perth – 1  
Hobart - TBA

Members are then allocated to each panel and, where possible, members are given equal hearing allocations for the 5 week period. Local members are allocated to panels in their own states wherever possible.

**Senior Members** are allocated to panels firstly. If insufficient Senior Members are available during a panel week, more experienced Members and Services Members are appointed by the Principal Member to sit as a Senior Member ([s161](#)).

**Services Members** are allocated secondly.

**Members** are allocated panels lastly. If insufficient Members are available during a panel week, a Services Member is appointed by the Principal Member to sit as a Member ([s161](#)).

Members who are **unavailable** during each panel week are listed at the end of the itinerary in the appropriate week column.

Members who are **not allocated** during each panel week are listed at the end of the itinerary in the appropriate week column.

- Eight weeks before a 5 week period the itinerary is produced and a Direction produced for approval and signature by the Principal Member. The itinerary is then distributed to each Registrar. Each Registrar must send a copy of the itinerary to each local member.

## 8.3 Alterations to the itinerary

- 8.3.1** The itinerary can only be altered by a direction from the Principal Member or by a Senior Member holding a delegation from the Principal Member (see suggested form [RV8:1](#)).
- 8.3.2** It is the responsibility of the Registrar to seek from the Principal Member or a Senior Member such amending direction as may be necessary. When the direction is signed by a Senior Member a copy of that direction is to be



forwarded to the Principal Member's Executive Assistant as soon as possible. The form of that direction must follow form [RV8:2](#).

**8.3.3** In general, the Principal Member will sign all directions for the amendment of the itinerary and only he or she can do so if the amendment involves travel. However, directions can be signed locally by a Senior Member in the following circumstances:

- if an unexpected change to a panel is required — normally this means changes that arise the day before a hearing or on the same day as a hearing;
- if the amendment only involves the swapping on a particular day of sitting members on individual cases (because of disqualification etc);
- if the direction allocates a presiding member under subsection [144 \(2\)](#) (see [8.4.1](#)); and
- apart from where travel is involved, if the unavailability of the Principal Member would mean that the direction would not be signed before the hearing.

## **8.4 Quorum directions**

**8.4.1** If a vacancy arises through the unavailability or disqualification of a member and a replacement cannot be arranged, the remaining two members of the panel will sit as a quorum. If one of those two members is the Principal Member or Senior Member, there is no need for any further direction. If the two remaining members do not include the Principal Member or a Senior Member, a direction under section [144](#) is necessary to appoint one of the remaining members to preside at the hearing(s) in question. The Registrar is to be advised when such a direction is necessary. He or she is to discuss with the Principal Member's Executive Assistant the possibility of a Senior Member being seconded from interstate or an acting Senior Member being appointed by the Principal Member. If this is not feasible, a direction is to be prepared and the Registrar is to arrange for this to be signed by a Senior Member before the hearings (suggested form [RV8:3](#)).

**8.4.2** In considering issuing a direction in accordance with [8.4.1](#), the Principal Member or his or her delegate will have regard to the identity of the quorum members, their qualifications and experience, the expected duration of the quorum and the nature of the cases listed before the quorum.

## **8.5 Appointment of acting Senior Member or Member**

- 8.5.1** For the purposes of appointing a member to act as a Senior Member or Member, the Principal Member holds a delegation from the Minister for Veterans' Affairs. Appointments to act as a Senior Member or Member are made by the Principal Member by issuing an instrument (see suggested forms [RV8:4](#) and [RV8:5](#)). The power to appoint a member to act as a Senior Member or Member has not been, and cannot be, delegated to a member other than the Principal Member ([s212](#)).

## **8.6 Notification of directions**

- 8.6.1** All directions, whether issued by the Principal Member or a Senior Member, are to be copied to all members and staff affected by the direction. They are to be numbered sequentially within the office of origin.

The next page begins Chapter 9 – Preliminary reviews

## **9. PRELIMINARY REVIEWS**

### **9.1 Introduction**

- 9.1.1** Preliminary reviews provide a method for finalising applications concerning only entitlement matters (entitlement applications) “on the papers”, that is without a formal hearing attended by the parties.
- 9.1.2** On the direction of the Principal Member, preliminary reviews may be conducted by a VRB panel if there are insufficient cases available to be listed before the panel. Preliminary reviews may also be conducted by the Principal Member or by a Senior Member, sitting alone.
- 9.1.3** Panels should also consider whether or not an application can be satisfactorily resolved by preliminary review whenever the hearing of an entitlement application is postponed on such short notice that another application cannot be substituted under the Standby System (see [Chapter 7](#)).

### **9.2 Arranging preliminary reviews**

- 9.2.1** If, as part of the administrative screening process, an application is referred by the Registrar to the Principal Member as suitable for preliminary review, the Principal Member will give directions as to who should conduct the preliminary review and when such is to be held.
- 9.2.2** When directions have been given under [9.1.2](#) or [9.2.1](#), the Registrar is to arrange for notice of the review to be given to the Repatriation Commission and for a request to be made to the Department to make its files available for that purpose. This is to be done by a separate Listing Schedule, marked “Preliminary Review”. No Notice of Hearing is to be issued to either party. The Listing Schedule is to be distributed to the Department and the Repatriation Commission in the usual way.

## 9.3 Conducting preliminary reviews

- 9.3.1** In conducting a preliminary review, members are to consider only whether a unanimous decision can be made on the basis of evidence then available to the VRB that is favourable to the applicant by granting entitlement in respect of injury, disease or death.
- 9.3.2** If an application involves more than one injury or disease, a preliminary review is not to proceed unless a decision favourable to the applicant can be made on all matters. If this cannot be done, the application is to be returned to the Registry for normal processing and eventual listing in accordance with its usual listing priority.
- 9.3.3** In conducting a preliminary review, a request is not to be made to the Secretary under section [152](#). However, the panel may request a Registrar as delegate of the Principal Member under subsection [148 \(6A\)](#), obtain further information that does not involve approaching the applicant (eg, by asking the Department to obtain public search documents such as death certificates, service records, accident and post-mortem reports etc).
- 9.3.4** If it is decided that a preliminary review cannot be successfully concluded, a note signed by the presiding member is to be placed on the VRB file indicating that the application was considered as a preliminary review but that it was considered that a decision favourable to the applicant could not be made at that time. The Departmental files are to be returned to the Department and the application is to be returned to normal processing and eventually listed for hearing in accordance with its usual priority.
- 9.3.5** If it is considered that entitlement can be granted in full on the basis of all the material available to the VRB, a draft decision and reasons is to be prepared. The draft decision should not assess pension and any question of assessment is to be remitted to the Repatriation Commission under subsection [139 \(4\)](#). The format is to follow that usually adopted for final VRB decisions except that:
- the dates of hearing and decision are to be left blank; and
  - the draft is not to be signed.
- 9.3.6** A covering letter to the applicant is then to be prepared and signed by registry staff (suggested form [RV9:1](#)). Registry staff are then to:
- return the Departmental files to the Department;
  - ensure that each page of each copy of the draft decision and reasons is clearly marked “draft”;
  - send the covering letter and a copy of the draft decision and reasons to the applicant with an acceptance form (suggested form [RV9:2](#));

- send a copy of the letter and draft decision and reasons to any representative; and
  - retain the VRB file, section 137 reports and original of the draft decision and reasons (held loose in the file) until a response is received from the applicant.
- 9.3.7** If a reply is not received within 7 days, registry staff are to contact the applicant or representative to seek an early response. A further follow-up is to be made after 14 days. If, after 35 days, it has not been possible to contact the applicant regarding acceptance of the draft decision, the decision is to be published as per 9.3.8.<sup>47</sup>
- 9.3.8** If the applicant advises in writing that he or she accepts the draft decision without alteration, the presiding member is to contact the other members and gain their agreement to formalising the decision. The date of that agreement is to be inserted as the date of hearing and decision. The signatures of the members are then to be obtained. If the review was by a single member, the date of hearing and decision will be the date of signature.
- 9.3.9** A covering letter is then to be prepared and signed by registry staff (suggested form [RV9:3](#)). The final decision is then to be published in accordance with the normal procedures (see [Chapter 17](#)).
- 9.3.10** If the applicant seeks amendment to the draft which is acceptable to the single member or panel members, the draft is to be amended accordingly, a suitably amended covering letter prepared, and the final decision published.
- 9.3.11** If the applicant does not wish to accept the draft decision, or seeks amendments that are not acceptable, registry staff are to prepare a letter to the applicant advising that the VRB panel will not proceed further with the draft decision (suggested form [RV9:4](#)). A copy is to be sent to any representative and to the Repatriation Commission. The application is then to be returned to normal processing.

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<sup>47</sup> Amended 30 August 2002. This change sets a period for acceptance of the decision and directs publishing if there is no response.

The next page begins Chapter 10 - Postponements

# **10. POSTPONEMENTS**

## **10.1 Introduction**

- 10.1.1** A hearing is postponed when the hearing of an application does not begin as listed. A postponement is not the same as an adjournment, which occurs after a hearing commences.
- 10.1.2** If the hearing of an application is postponed, for whatever reason, attempts are to be made for it to be replaced by another case ready to list or a standby case depending upon the time between the postponement and the hearing date (see [10.4.3](#)). If no other case or standby case is available to replace a postponed application dealing with an entitlement matter, that postponed application is to be referred to the panel for consideration as a preliminary review (see [Chapter 9](#)).

## **10.2 Postponement requested by Repatriation Commission**

- 10.2.1** If the Repatriation Commission requests postponement of a listed hearing at any time before the day of a scheduled hearing, the Registrar should ascertain the reasons before deciding on that request. If a postponement is granted, the application will retain priority for relisting and is to be relisted as soon as the Repatriation Commission indicates that it is ready to proceed.

## **10.3 Postponement requested by applicant or representative**

- 10.3.1** If a request for postponement is made by an applicant or representative at any time before the day of the scheduled hearing, the Registrar should ascertain the reasons before deciding on that request. The Registrar should consider whether the hearing might proceed in an alternative way; for example, if an applicant is unable to travel to a hearing, he or she may prefer the hearing to proceed in his or her absence or may like to take part in the hearing by telephone.



**10.3.2** If a hearing is postponed at the request of an applicant or representative, the application is to lose priority for relisting if the Registrar considers that cause of the postponement could reasonably have been avoided by the applicant or representative.

**10.3.3** If an application is postponed, a letter is to be forwarded to the applicant advising the following:

- the reasons for the postponement;
- whether priority for relisting will be retained; and
- that the matter will not be relisted for hearing until a further Certificate of Readiness for Hearing has been lodged (suggested letter)
  - [L101\\_1\\_loss\\_no\\_rep](#),
  - [L101\\_1\\_loss\\_rep](#);
  - [L101\\_2\\_retain\\_no\\_rep](#); or
  - [L101\\_2\\_retain\\_rep](#)).

Copies of the letter are to be forwarded to the Department of Veterans' Affairs, the applicant's representative (if applicable), and the Repatriation Commission.

**10.3.4** In no circumstances is a request for postponement to be granted on the day of the scheduled hearing. If such a request is made, the reasons are to be ascertained and recorded in a written note by the Registrar in order to enable the VRB panel to consider whether the hearing will be adjourned (see [15.2.1](#)) or, if a withdrawal has been indicated by the applicant or representative, consent to a withdrawal granted (see [11.4.1](#)).

**10.3.5** If an application is listed for hearing following correspondence under the Dismissal Procedures (see [Chapter 6](#)), a request for postponement must not be granted unless there are exceptional circumstances.

## **10.4 Other action**

**10.4.1** If an applicant has not returned the acknowledgment of hearing card, and attempts to contact the applicant have been unsuccessful, the matter is to be referred to the Registrar for possible postponement. The Registrar is to consider such matters as whether the applicant was contacted by telephone when arranging the hearing ([7.9.1](#)) and the previous history of the application.

**10.4.2** It is the responsibility of Registry staff to advise immediately, by whatever means necessary, all people affected by the postponement of a hearing.

- 10.4.3** Whenever a hearing is postponed, consideration is to be given to whether a standby case (see also [7.10](#)) can be substituted for the postponed hearing. If a standby case is not available, it may be possible to arrange for the listing of another application ready for hearing if both parties agree at short notice and there is sufficient time to obtain the Departmental files. If a standby case is not available and no other case ready to list can be arranged in time, an administrative matter may be substituted for the postponed application if the Departmental files can be obtained.
- 10.4.4** If an application has been postponed at the request of an applicant or representative, it is to be relisted for hearing only when the applicant or representative returns a Certificate of Readiness for Hearing.
- 10.4.5** Wherever possible, a postponed application should be relisted before the same panel or at least the same Senior Member.

The next page begins Chapter 11 - Withdrawals

# 11. WITHDRAWALS

## 11.1 Introduction

**11.1.1** Before the commencement of the first hearing of an application, an applicant has an unqualified right to withdraw his or her application. [In *Repatriation Commission v Stafford*, the Federal Court held that a withdrawal had to be “clear and unambiguous”.]<sup>48</sup>

**11.1.2** Once a hearing of an application has commenced, an applicant requires the consent of a VRB panel to withdraw his or her application ([s155](#)). For the purposes of this manual, withdrawal of an application includes the withdrawal of one or more matters that are the subject of an application.<sup>49</sup>

## 11.2 Forms of request

**11.2.1** Requests for withdrawal must be made by the applicant personally because of the potential significant financial consequences. A request should either be in writing or recorded on tape during a hearing. If a withdrawal is requested by an applicant’s representative, it must be confirmed with the applicant. If made during a hearing at which the applicant is not present, the applicant should be contacted by telephone and his or her confirmation recorded on tape.

**11.2.2** A form for requesting withdrawal is available but is not mandatory (suggested form)

- [L112\\_no\\_rep](#); or
- [L112\\_with\\_rep](#).

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<sup>48</sup> *Amended August 2003*. A reference to *RC v Stafford* is included.

<sup>49</sup> *Amended August 2003*. Reference to withdrawal of a single matter is included.

## 11.3 Request for withdrawal before a review commencing

**11.3.1** A review will be considered as having commenced:

- if a hearing has been or is being held; or
- at the time listed for an “in absentia” hearing.

**11.3.2** If an applicant has requested a withdrawal in writing and registry staff are satisfied that the review has not commenced, they are to:

- advise the applicant in writing that the application will be treated as withdrawn (suggested letter)
  - [L111 2 consent not required](#);
- if the application has been resolved under [s31](#) use suggested letter <sup>50</sup>
  - [L111 3 s31](#)
- place the original request for withdrawal and a copy of the advice of withdrawal on the VRB file; and
- send a copy of the request for withdrawal and the advice of withdrawal to the applicant’s representative, the Repatriation Commission and the Department of Veterans’ Affairs.

**11.3.3** If the request is not made in writing or is made by the applicant’s representative, registry staff are to forward a request for withdrawal suggested form

- [L112 no rep](#); or
- [L112 with rep](#)

to the applicant and ask him or her to complete and return it. If such a request is made on the day the application is listed for hearing and before the hearing is due to commence, the request is to be processed under [11.4.1](#).

**11.3.4** If an application has been listed for hearing or preliminary review and a request for withdrawal has been processed in accordance with [11.3.2](#), the hearing or preliminary review is to be cancelled and the members, the parties intending to appear, and any witnesses are to be advised.

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<sup>50</sup> Included on 3 March 2003 with the introduction of a new advice letter for withdrawal post s31

## 11.4 Requests after review commences

**11.4.1** If an applicant seeks to withdraw his or her application and:

- the request is not made in writing, or is made by the applicant's representative, and the request is made on the day of the hearing but before the hearing is due to commence; or
- a hearing of the application has commenced (see [11.3.1](#));

the consent of the VRB panel is required to the withdrawal. The panel's decision on the request should be included in its formal decision and reasons.

**11.4.2** If a withdrawal is requested after a hearing has been held but before the decision has been published, it will be considered by the panel that heard the application. However, a request for withdrawal cannot be considered after a decision has been reached by a panel and the decision and reasons have been published.<sup>51</sup>

**11.4.3** If a request for a withdrawal is received following the adjournment of a hearing, it is to be listed before a panel as an administrative matter, preferably before the same panel but at least before the same Senior Member. Following its consideration of the request, the panel is to provide a record of its decision and the reasons for it. The form of this record should be a memo for the file which is meaningful in context (a copy will be sent to the applicant) but which need not be in the format used for formal VRB decisions and reasons:

- If the decision is to refuse to consent to a withdrawal, registry staff are to advise the applicant by suggested letter
  - [RV11:3](#)and arrange for relisting in accordance with [11.4.4](#).
- If the decision is to consent to a withdrawal, registry staff are to advise the applicant by suggested letter
  - [L111\\_1\\_consent\\_required](#)and follow the other procedures set out in [11.3.2](#).

**11.4.4** If a panel has refused to consent to a withdrawal, registry staff are to arrange for the application to be relisted, not later than a date to be specified by the presiding member, before the same panel that refused to consent to the withdrawal or at least before the same presiding member.

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<sup>51</sup> *Amended August 2003*. Removes a reference to reaching a decision and replaces this with publication of the decision. See *Smunigus v Minister for Immigration and Multicultural Affairs* [2000] FCA240, (2000) 96 FCR 533

## 11.5 Reopening and reapplication

**11.5.1** An applicant who has withdrawn an application may make a fresh application in respect of the same matter provided that such an application is within any applicable time limits (see 1.1.2).

This reapplication is given a separate new registration number by the Department of Veterans' Affairs and a report is prepared to satisfy s137. Because later dates of effect will apply to reopened entitlement matters, it is preferable in all cases to have a new and separate Board file to ensure that the issue is dealt with separately to the original file.<sup>52</sup>

**11.5.2** If an applicant or another person seeks to have a withdrawn application reopened (eg on the ground that the applicant was not of sound mind or for some other reasons did not understand what they were doing), the matter is to be submitted to the Principal Member for direction.

Only the Principal Member can give direction on reopening an application following withdrawal. Unless the applicant suffered some mental condition, or there was an obvious misunderstanding, it is very unlikely that reinstatement would be granted. ALL applications for reinstatement MUST be passed to the Registrar who will refer the application to the Principal Member for direction. [The only basis on which a written withdrawal may be found to be of no effect is on the principle of '*non est factum*' (It is not his deed): see *Petelin v. Cullen* (1975) 132 CLR 355 at 359; *Re Robertson and Comcare* (2002) 34 AAR 406 at 418-419]<sup>53</sup>

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<sup>52</sup> Amended 30 August 2002. This item is amended to cease the practice of re-opening completed applications for review.

<sup>53</sup> Amended 30 August 2002. This item is amended in line with the decision *Re Robertson and Comcare* (2002) 34 AAR 406

The next page begins Chapter 12 – Summoning witnesses



# 12. SUMMONING WITNESSES

## 12.1 Introduction

**12.1.1** Section [151](#) empowers the VRB to summon a person to appear at a hearing to give evidence or to produce documents, or both. A summons may be issued by the VRB of its own initiative or at the request of a party to VRB proceedings.

**12.1.2** This chapter deals with procedures to be followed in:

- considering the issue of a summons;
- issuing and serving a summons;
- determining the expenses of a summoned witness; and
- determining who is to pay those expenses.

## 12.2 Summons issued at VRB initiative

**12.2.1** A summons can be issued only by “the presiding member in relation to a review” [[s151 \(2\)](#)]. Therefore, a summons is to be issued only by a member who is presiding or is allocated to preside at the hearing of a review which has been listed for hearing before that presiding member or before a VRB panel including that member.

**12.2.2** If a member of a panel, in preparing for a hearing, considers that a witness should be available to give evidence or produce documents, the hearing should commence as listed and the need for any summons should be assessed in the light of the evidence tendered at that hearing, and having regard to:

- the views of the members of the panel;
- the views of the parties or their representatives appearing at that hearing; and
- the desirability of making a request under section [152](#) rather than issuing a summons.

If the panel then considers that the issue of a summons is necessary or appropriate, it is to be issued in accordance with the provisions of this chapter and the hearing adjourned to enable service of the summons.

**12.2.3** While the procedure in [12.2.2](#) should ordinarily be followed where a summons is to be issued at the VRB's initiative, it does not preclude a presiding member exercising the statutory power to issue before the commencement of a hearing if the panel so agrees.

## **12.3 Request by party for issue of summons**

**12.3.1** If a party or representative requests the issue of a summons on the day of a hearing but before its commencement, the party is to be advised to make that request to the panel during the course of the hearing.

**12.3.2** If a request for the issue of a summons is made by a party or representative during the course of a hearing, that request is to be considered in accordance with the provisions of this chapter. Ordinarily, however, the hearing should proceed as far as possible with a view to concluding the review without the need for a summons or adjournment, if that is possible without prejudice to the rights and interests of the party requesting the summons. If it becomes apparent, however, that the review cannot be concluded without a summons, the hearing is to be adjourned until the summoned witness can attend.

**12.3.3** If a party or representative requests the issue of a summons before the day of hearing but after an application is listed for hearing, that request is to be referred to the member who is to preside at the hearing for consideration of the panel in accordance with this chapter.

**12.3.4** If a party or representative requests the issue of a summons before the application for review to which the request relates has been listed for hearing, as soon as the hearing is listed that request is to be referred to the member who is to preside at the hearing for consideration of the panel in accordance with this chapter.

**12.3.5** If the issue of a summons is requested before the listed date for hearing, the person making the request is to be advised that the request must be in writing and that it is desirable that the request set out the reasons for seeking the summons (including particulars of the evidence expected to be given by the witness, or the documents to be produced, and a statement of the relevance of that evidence or those documents to the matters to be decided by the VRB in the course of its review).

**12.3.6** A request for the issue of a summons made during a hearing need not be in writing but the person making the request is to be asked to provide the information referred to in [12.3.5](#). The views of any other party appearing or represented at the hearing are to be sought before the question is decided by the panel.

**12.3.7** In all cases in which an applicant indicates that he or she wishes to have a summons issued, the applicant is to be advised of his or her liability to pay the conduct money and the fees and allowances for the summoned witness (see [12.10](#) and [12.12](#)). They are also to be advised of the provisions of subsection [171 \(3\)](#), and advised that they may ask the VRB, at the hearing of the application, and after the summoned witness has given evidence, to consider using its discretion to order the Commonwealth to pay, in whole or in part, the fees and allowances of that witness.

**12.3.8** If the Board orders payment by the Commonwealth, the VRB file is to be forwarded to the Executive Officer who will arrange payment to the witness.<sup>54</sup>

## **12.4 Who may be summoned**

**12.4.1** The VEA places no restrictions on the persons who may be summoned and subsection [151 \(3\)](#) specifically provides that the applicant is a compellable witness. However, a summons is not to be issued to a person outside Australia without prior consultation with the Principal Member.

**12.4.2** If the prospective witness is an employee of a Commonwealth or State Government department or statutory authority, that person is not to be summoned unless, on inquiry by registry staff:

- he or she has been requested to appear and has refused; and
- his or her superior officer has advised that he or she will not or cannot require that person to appear.

## **12.5 Documents that may be summoned**

**12.5.1** The VEA places no restrictions on the documents that may be summoned but other legislation may contain provisions over-riding the VRB's general power of summons and the common law may impose added limitations. In phrasing a summons for documents, a presiding member should give consideration to such matters and the panel should avoid summoning documents where their production will not be compellable.

**12.5.2** In describing the documents or categories of documents that are to be summoned, a presiding member should take care to specify these in a way that will assist the person to whom the summons is addressed to identify the documents required without any unreasonable effort.

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<sup>54</sup> Added August 2003.

**12.5.3** Section [151](#) empowers the VRB to summon a named person to produce documents. Care should therefore be taken to address a summons to a person who has custody and control of the documents sought and who may reasonably be expected to be able to produce such documents.

## **12.6 Considerations for issuing of summons**

**12.6.1** When considering whether to issue a summons or when considering a request to issue a summons, the panel is to have regard to such matters as:

- the identity of the person to be summoned or the nature of the documents sought;
- the evidence that person might be able or is to be asked to give;
- the relevance of that evidence to the matters to be decided by the panel;
- whether the evidence sought is already sufficiently established by other material otherwise available to the VRB;
- whether that evidence would be better obtained by an adjournment and a request under section [152](#);
- whether that evidence would be better obtained prior to the hearing through a request by the Principal Member (or delegate) under section [148\(6A\)](#);<sup>55</sup> and
- any other relevant matter.

**12.6.2** Care should be taken to ensure that a summons is not used for a “fishing expedition” and that the processes of the VRB do not impose any unreasonable burden on a person summoned.

**12.6.3** If the panel decides that a summons should be issued but that the time available before the listed hearing is too short to provide the person summoned with adequate time to arrange his or her attendance, gather documents, etc, the hearing is to be postponed or, if it has already commenced, adjourned.

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<sup>55</sup> *Amended 30 August 2002.* This part now includes the reference to s148(6A) as an option to obtain evidence that might have otherwise be sought by summons.

## 12.7 Summons to a telephone hearing

**12.7.1** Paragraph 151 (2) (a) empowers the VRB to summon a person to attend “at any hearing” of a review. Thus a person may be summoned to participate in a hearing conducted in whole or part by telephone. When considering the inconvenience which physical attendance at VRB premises may cause to a summoned person, the panel should consider whether the evidence can be appropriately taken, and the hearing satisfactorily conducted, by telephone (whether or not the parties and their representatives also participate by telephone).

## 12.8 Form of summons

**12.8.1** Regulation 10 of the Veterans’ Entitlements Regulations provides that a summons under section 151 “may” be in accordance with the form provided in the Regulations. In order to reduce the risk of an invalid summons, all summonses are to be in accordance with form RV12:1 for a summons requiring physical attendance and/or production of documents, and form RV12:2 for a summons to attend a telephone hearing.<sup>56</sup>

**12.8.2** The summons must be signed by the presiding member issuing the summons and an affidavit of service must be printed on the reverse (form RV12:3). Two certified copies of the summons are to be made; one for the Board record; the other for the completion of the affidavit of service.<sup>57</sup>

## 12.9 Responsibility for service of summons

**12.9.1** If a summons is issued at the initiative of the VRB, it is the responsibility of the VRB to arrange service by a commercial process server.

**12.9.2** If a summons is issued at the request of a party, it is the responsibility of that party to arrange service. However, when deciding to issue a summons the panel should consider whether or not it is reasonable to expect an applicant to arrange service of the summons, having regard to his or her health, financial standing and access to friends or relatives who might effect service on his or her behalf. In exceptional cases, a presiding member may decide to request a Registrar to arrange service on behalf of the requesting party.

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<sup>56</sup> Amended 30 August 2002. This item was amended following the writing of a new summons document.

<sup>57</sup> Amended 30 August 2002. This item was amended following the writing of a new summons document.

**12.9.3** Following service of the summons a completed affidavit of service must be returned to the Board.<sup>58</sup>

## **12.10 Conduct money**

**12.10.1** A person summoned to appear is entitled to be offered, but need not necessarily accept, conduct money — ie, a means of attending at the specified place without incurring expense. Failure to tender conduct money means that the addressee of a summons is under no obligation to attend the hearing.

**12.10.2** If service of a summons is arranged by the VRB, conduct money may be tendered by offering cash, a pre-paid ticket, or a travel warrant, as appropriate. This is to be arranged with the process server. The amount of conduct money to be tendered in any particular case is to be calculated in the same way as an applicant's travelling expenses for attending a VRB hearing (see [Chapter 14](#)).

**12.10.3** If a summons is provided at the request of an applicant, it is the applicant's responsibility to provide the conduct money.

## **12.11 Penalty for failure to obey a summons**

**12.11.1** Subsection [168 \(1\)](#) provides that failure to comply with a summons without reasonable cause is punishable by a penalty of \$1,000 or imprisonment for six months, or both.

**12.11.2** Any failure to obey a properly served summons thought to be without reasonable excuse is to be referred to the Principal Member who will consider whether the matter should be referred to the Director of Public Prosecutions.

## **12.12 Fees and allowances for witnesses**

**12.12.1** A person (other than the applicant) who is summoned to a VRB hearing is entitled to be paid fees and allowances for his or her attendance. These are fixed in accordance with the Veterans' Entitlements Regulations.

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<sup>58</sup> *Amended 30 August 2002.* This item was amended following the writing of a new summons document incorporating an affidavit of service.

**12.12.2** Regulation [12](#) specifies that these fees and allowances are to be determined by the presiding member in accordance with the scale in force at the time under Schedule 2 to the *Administrative Appeals Tribunal Regulations*. In order to ensure that the correct rates are determined, a current copy of those Regulations is to be sought from the Director (Legal and Information Services) whenever a summons is issued, and provided to the presiding member before the hearing to which the summons relates. Fees and allowances cannot be paid for travel outside Australia.

## **12.13 Payment of witness' fees and allowances**

**12.13.1** Section [171](#) provides that the fees and allowances of a witness shall be paid:

- by the person requesting the summons, unless the VRB orders otherwise (see [12.13.2](#)); or
- by the Commonwealth in any other case (ie, if the VRB issues of its own initiative).

**12.13.2** Subsection [171 \(3\)](#) gives the VRB the discretion to order the Commonwealth to pay all or part of the fees and allowances of a witness summoned at the request of an applicant. In exercising this discretion, the panel is to have regard to:

- the amount of the fees and allowances determined by the presiding member to be payable;
- the capacity of the applicant to pay those fees and allowances;
- the relevance of, and need for, the evidence given or the documents produced by the witness; and
- whether that material should reasonably have been obtained by the Department in its investigation of the applicant's claim for pension or application for increase, or in response to material provided by the applicant in commenting on the section 137 report or in response to evidence tendered before the hearing and made available to the Repatriation Commission under section [153](#).

**12.13.3** Payment of witness' fees and allowances, if made by the Commonwealth, are to be effected by cheque rather than cash, and cannot be made before attendance as summoned. The VRB file is to be sent to the Executive Officer who will arrange payment to the witness.<sup>59</sup>

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<sup>59</sup> Amended August 2003. The Executive Officer will now arrange for payment.

The next page begins Chapter 13 – VRB hearings



# 13. VRB HEARINGS

## 13.1 Introduction

**13.1.1** This chapter covers procedures relating to the preparation for hearings and the conduct of hearings.

**13.1.2** The hearing of a review may be conducted only by the VRB panel constituted for that purpose by a direction issued by the Principal Member or his or her delegate ([s143](#)). However, if one of the members becomes unavailable to sit as directed, the remaining two members may sit as a quorum and conduct the review ([s144](#)). [Chapter 8](#) sets out the procedures for allocation of members to a VRB panel.

## 13.2 Members' attendance

**13.2.1** A member scheduled to participate in a hearing is to arrive at the specified hearing room at least 15 minutes before the time the hearing is due to commence, so that the panel may discuss the issues and conduct of the hearing before its commencement.

**13.2.2** If members become aware that they will not be able to attend a hearing, they are to notify the Registrar or the Principal Member's Executive Assistant as soon as possible.

**13.2.3** If advised that a member will be unable to attend a hearing, a Registrar is to act in accordance with [Chapter 8](#) so that the Principal Member or his or her delegate may:

- direct another member to sit as a replacement;
- let the panel sit as a quorum;
- if the member unable to attend is the presiding member, appoint an acting Senior Member in his or her place (per Principal Member only) or direct which of the quorum members is to preside at the hearing; or
- postpone the hearing.

## 13.3 Disqualification of members

**13.3.1** Section [165](#) sets out courses of action for a member and the Principal Member where the member has an interest in a case he or she is scheduled to hear or is hearing. The following expands on that section.

**13.3.2** Members are not to take part in a hearing if they:

- have some interest that could conflict or be seen to conflict with their oath or affirmation of office or with the proper performance of their duties;
- as a member of the VRB, have made a decision on the same substantive issue before the VRB panel;
- as a delegate of the Repatriation Commission, made the decision being reviewed by the VRB panel or a decision on the same substantive issue;
- as a representative of the Repatriation Commission, ever appeared in a case involving the applicant before the VRB or the AAT; or
- have personally represented or acted for the applicant<sup>60</sup>.

**13.3.3** If members are scheduled to hear an application in which they have an interest such as one listed in [13.3.2](#), they should convey that interest to the presiding member and the Registrar. The Registrar is to seek any necessary direction from the Principal Member or his or her delegate for a replacement member or, if the panel is to sit as a quorum, for the appointment of a presiding member where that is necessary.

**13.3.4** If members are scheduled to hear an application and they are unsure whether they might be seen to have some interest that could conflict with the proper performance of their duties, they should discuss the matter with the Principal Member or, in his or her absence, the presiding member or the Executive Officer<sup>61</sup> as soon as possible before the hearing is due to commence.

## 13.4 Commencement of hearings

**13.4.1** Hearings are not to commence before the scheduled time without the agreement of the parties who are to attend or be represented. (The Repatriation Commission has given standing consent to hearings commencing at any time on the listed hearing date if the Department has not previously advised that the Repatriation Commission will be represented.)

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<sup>60</sup> Amended August 2003, by removing reference to specific events.

<sup>61</sup> Amended August 2003, by including reference to the Executive Officer.

- 13.4.2** Hearings should commence as close to the scheduled time as possible. If an applicant's representative is frequently and persistently not ready to start hearings at the scheduled times, the presiding member should report the matter to the Registrar with a view to the Registrar raising the problem formally with the representative in question or with the relevant ex-service organisation.
- 13.4.3** When a hearing is ready to start, one of the members should meet the parties in the reception area, introduce himself or herself and then introduce the parties to the other members in the hearing room. Alternatively, the presiding member may request the receptionist to bring the parties to the hearing room.
- 13.4.4** If a panel sits as a quorum, the consent of the parties is not required by the VEA to the constitution of the panel in that form. At the commencement of a quorum hearing, therefore, the presiding member is to inform the parties appearing that the third member is unavailable and that the remaining parties propose to proceed in accordance with subsection [144 \(1\)](#).
- 13.4.5** If an application has been listed for hearing in the absence of both parties (an "in absentia" hearing), the presiding member is to check manually the VRB file before considering the application in order to confirm that the applicant has, in fact, requested a hearing in his or her absence or has, in fact, never responded to the section 148 letter.

## **13.5 Conduct of hearings**

- 13.5.1** In the absence of adequate presentation by the parties or their representatives, a panel should take an active role with the view to finding out all the facts relevant to the review, but not so as to impose an onus where it does not lie. An application should not fail because of inexperience, lack of knowledge, or other failure in presentation on the part of a party or his or her representative.
- 13.5.2** The presiding member chairs the hearing ([s146](#)) and has the power to determine the procedure at the hearing consistent with the legislation and this manual ([s148](#)).
- 13.5.3** Hearings are held in private but:
- the presiding member can direct who may be present at a hearing ([s150 \(2\)](#)); and
  - at the request of the applicant, the presiding member may allow a hearing, or part of a hearing, to be held in public ([s150 \(3\)](#)).
- 13.5.4** A panel should consider short, same-day adjournments or an adjournment for lunch if the proceedings are particularly long, the applicant is distressed, or a representative appears to need some time to refine his or her argument. If it

appears that a hearing will run over time to such an extent that it will unduly delay the starting time of a later hearing, the presiding member should consider the possibility of adjourning the hearing until later in the day or week.

**13.5.5** Unless there are exceptional circumstances, a panel is not to advise an applicant or representative of its decision at the time of the hearing.

## **13.6 Telephone hearings**

**13.6.1** Part or all of a hearing may be conducted by conference telephone. The purpose of taking evidence by telephone is to overcome the serious hardship that personal attendance would otherwise entail.

**13.6.2** It is the panel's responsibility, however, to decide whether the nature of the evidence concerned and the issues involved in the application necessitate obtaining further evidence in person from an applicant or witness. In such circumstances, the proceedings should be adjourned to enable appropriate arrangements to be made for personal attendance.

**13.6.3** When ringing a person to take part in a telephone hearing, it is the presiding member's responsibility to ensure that the person called:

- is the relevant person;
- knows who is calling and the purpose of the call;
- understands that it is a conference telephone and knows who is in the hearing room; and
- understands that the conversation is being recorded.

## **13.7 Video hearings <sup>62</sup>**

**13.7.1** The option of conducting hearings via videoconference is generally only available to applicants residing in remote locations. Video hearings are to be undertaken at the discretion of the Presiding Member and on advice from the State Registrar. Generally, they would be based on a specific request from an applicant or advocate, or where the Board considers the circumstances warrant. Where it is clear that an applicant will not be in attendance (even if the representative should be attending), hearings should proceed under the "Telephone Hearing" guidelines. Some examples of when a video hearing may be appropriate are where:

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<sup>62</sup> Included 30 August 2002, following the introduction of video hearings.

- an applicant wishes to address the Board, but is elderly or medically unwell and cannot travel the distance to the VRB's office;
- an applicant resides in a remote location where the Board does not usually conduct regional hearings;
- an advocate considers it is in the applicant's interest and can provide a persuasive reason in support of a video Hearing;
- there is some imperative to have a hearing conducted quickly and this is the most expeditious method;
- where the more efficient management of listings can be achieved; and
- if the applicant resides in South Australia or Western Australia and local members would have to remove themselves from hearing the case (because, for example, a member or members of the panel had heard the same issue in a previous application by that applicant).

**13.7.1** A video hearing should be conducted in the same way as a conventional hearing (refer to sections 13.4 & 13.5), and shall be recorded in accordance with section 13.8. As the hearing is conducted in two separate locations, it is the responsibility of the Registrar to ensure arrangements are in place at both the applicant's and Boards localities to allow the hearing to proceed. The Registrar shall arrange for the Board to connect the parties at the hearing's appointed commencement time and for the disconnection of the link at the conclusion of the hearing.

**13.7.2** Guidelines (see [Appendix 1](#)) have been prepared to assist Members, advocates and unrepresented applicants in aspects of video hearings that are of particular interest to those individuals. The Registrar shall ensure that these guidelines are made available to these parties as required.

## **13.8 Recording of hearings<sup>63</sup>**

**13.8.1** All hearings (other than "in absentia" and administrative matters) are to be recorded on audiotape. Registry staff are to ensure that the parties and witnesses are aware that hearings will be recorded and the reasons for doing so. The presiding member should explain, at the commencement of a hearing, that

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<sup>63</sup> This part was included on 30 August 2002, following the Principal Member's Direction 1/2002

proceedings will be taped. For Instructions on the tape recording procedure, see the Principal Member's Direction below.

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## Veterans' Review Board

### Direction 1/2002

#### **Tape Recording of Hearings Conducted by the Veterans' Review Board**

1. Tape recording of hearings attended by one or other or both the applicant and representative is a long established practice of the VRB. Tapes are held in the state Registry of hearing for two years before destruction. The tapes provide a reference for panels writing up decisions and are available for copying by Registry staff on written request by an applicant or representative.

2. This Direction establishes procedures for the taping of hearings, security and copying of tapes.

#### **Preliminary**

3. Registry staff are to place or provide (for the purpose of hearings remote from the Registry) a sufficient number of new (unused) tapes in a hearing room to allow the use of a new tape for each hearing of an application for review. Each blank tape is to be numbered by Registry staff prior to distribution.

4. Prior to commencement of a hearing the Presiding Member is to allocate the duty of operating the tape recorder to a Member of the panel and is to authorise the inclusion of the following administrative detail on the tape (the Member operating the tape recorder shall ensure that the tape meter is set at '0' before starting the recorder):

- (1) location of the hearings;
- (2) date of hearing;
- (3) Members comprising the panel;
- (4) full name of party seeking review (and the name of any person on whose service the application is based);
- (5) the VRB number; and
- (6) the DVA number.

5. Once the applicant and/or representative has entered the hearing room, introductions have taken place and the applicant and/or representative are comfortably seated the Presiding Member shall authorise the start of tape recording and shall state for the purpose of the tape recording the 'the tape is on', and then state for the record who is present at the hearing (apart from the Members).

6. The Presiding Member shall then explain the following matters concerning the tape recording (in addition to other explanatory remarks about the nature and form of the proceedings):

- the hearing is private;
- the hearing is tape recorded so as to provide an accurate reference for members should they require it in reaching a decision;
- the tape will be held by the Board for two years in secure circumstances and will then be destroyed; and
- during the two-year period a party may make a written request, or may authorise a representative in writing to make an application to the Registrar for a copy of the tape.

### **In the Course of Hearing**

7 Once a tape recording has commenced it shall not be turned off in the course of the hearing without clear instruction from the Presiding Member. Should a hearing be adjourned or interrupted for any reason the Presiding Member shall ensure that the reason for the adjournment or interruption is explained (for the purpose of the recording) before instructing that the tape be turned off.

8 An 'interruption' referred to above may, in the course of a lengthy hearing, include the unanticipated end of the tape. Where this occurs then on replacement of the tape the Presiding Member shall briefly explain the circumstance and that a new tape has been inserted and is operating.

### **Conclusion of the Hearing**

9 When the Board has ascertained that there is no further material to be adduced from the party/ies present and that the applicant and/or representative have nothing to add to the materials presented the Presiding Member shall instruct (for the purpose of recording the words) that the hearing is concluded and tape is to be turned off, and the Member operating the tape will immediately comply.

### **Marking of Tape Recording**

At the conclusion of the hearing the Member operating the tape recorder shall mark the card in the tape container with:

- the VRB number;
- the name of the applicant;
- the place and date of the hearing;
- the panel number and hearing time slot;
- the name of the member operating the tape recorder;
- the tape meter reading once turned off; and
- shall place the tape recording in the container.

Where more than one tape is used for a hearing the second tape is to be marked with the VRB number and applicant name and the words 'second tape'. The first tape is to be marked 'first tape'. Where more than one tape is used they are to be secured together with the information in paragraph 10 above clearly visible.

12 At the conclusion of hearings for the day the Member operating the tape recorder is to deliver the tape recordings to the Registrar or a member of staff nominated by the Registrar.

13 Where panels are operating remote from the Registry the tapes are to be held together for return to the Registry with the VRB equipment.

### **Adjourned Hearings**

14. Where a hearing is adjourned under section 151 of the Act then on publication of the decision and reasons the Registrar is to ensure that the tape in respect of the hearing is stored separately from otherwise concluded hearings.

15. On conclusion of any resumed hearing, the tape of the original hearing is to be secured to that of the resumed hearing and stored sequentially so that the date for destruction of all tapes relevant to a review shall run from the date of the last hearing.

### **Security of Tape Recordings**

16 Numbered tapes are to be held in a lockable container with limited access. The Registrar shall identify members of staff authorised to access the tape container.

17. Adjourned hearing tapes are to be held separate from the concluded hearing tapes (see paragraphs 14 & 15 above).

18. Any member requiring access to a tape recording shall approach the Registrar who will obtain the tape from the container.

19. Each access to a tape shall be recorded on the SAM file for the particular applicant the tape relates to by recording:

- access to tape recording;
- date of access;
- purpose of access (request/authorisation by applicant for copy OR access by a Member); and
- name of staff member copying OR name of staff member and Member accessing for Member purpose.

### **Copying tapes**

20. Tapes shall not be copied without a written request/authorisation from a party to the hearing (the applicant or the Repatriation Commission). The written



request/authorisation shall be attached to the relevant file together with any covering correspondence prepared in sending the tape the party or person the party has authorised to receive the tape.

21. On completion of copying of a tape the staff member authorised to make the copy shall check that:

- the preliminary information on the tape identifies the correct applicant;
- the subsequently recorded information is in respect of that application;
- the tape commences with an instruction from the Presiding Member that the tape is on;
- the tape concludes with an instruction from the Presiding Member that the hearing is concluded and the tape is to be turned off; and
- the fact of access to the tape has been recorded on the relevant applicant vrbSAM file.

### **Destruction of Tapes**

22. Subject to the following a Registrar may authorise destruction of a tape recording after two years from date of hearing.

23. Prior to authorisation of destruction a Registrar shall confirm that the application to which the tape relates has been finalised and that no action is outstanding.

W D ROLFE  
Brigadier (Rtd)  
Principal Member  
Veterans' Review Board

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**13.8.2** Apart from exceptional circumstances determined by the Principal Member, transcripts of VRB hearings are not prepared. However, a copy of the audiotape of the hearing will be made and provided to either party on request and free of charge or the party will be given the opportunity to listen to the original tape at VRB premises.

**13.8.3** Audiotapes of hearings are retained for two years. Thereafter, they are to be destroyed. Until destroyed, used tapes are to be stored securely to respect the private nature of the hearing. Tapes of hearings which have been adjourned are to be retained until 2 years after the final hearing. [amended 30 August 2002]

**13.8.4** Only official audio recordings may be made of hearings. Hearings conducted by videoconference are not to be recorded on visual recording equipment, for example recordings must not be made on a VHS video recorder. [amended 30 August 2002]

## **13.9 Material received at a hearing**

**13.9.1** Any documents received in the course of a hearing, including any documents contained in the Departmental files that were considered by the panel but were not included in the Departmental [s137](#) report, are to be given an Exhibit number and attached to the VRB file (in the case of documents from the Departmental file, a copy only is to be placed on the VRB file; the original must remain on the Departmental file).

## **13.10 Conclusion of hearings**

**13.10.1** The presiding member is to complete and sign a Record of Proceeding (suggested form [RV13:1](#)) and the appropriate hearing details in the Listing Schedule (suggested form [RV7:8](#)) for each application that is heard by a panel over which he or she presides.

The next page begins Chapter 14 – Applicants’ travelling expenses

# 14. APPLICANTS' TRAVELLING EXPENSES

## 14.1 Introduction

**14.1.1** Subsection [132 \(5\)](#) provides that an applicant may receive travelling expenses prescribed by regulation for travel in Australia for the purpose of attending a VRB hearing. Section [170B](#) provides that an applicant may receive travelling expenses for the purpose of obtaining medical evidence that has been submitted to the VRB. (Note that the expenses are not to be paid under section [170B](#) unless the evidence has actually been submitted to the VRB. If a person wants payment in advance, under section [170C](#), an application must be made to the Repatriation Commission — such advance payments cannot be approved by VRB staff.)

**14.1.2** Subsection [132 \(6\)](#) provides that travelling expenses prescribed by regulation may also be paid to an attendant who travels in Australia for the purpose of accompanying an applicant travelling to a VRB hearing. Similarly, [s170B \(2\)](#) provides for the payment of travelling expenses for an attendant for the purpose of obtaining medical evidence.

**14.1.3** Registry staff may certify attendance for the purposes of payment of the applicant's travelling expenses. All calculations and payments are to be made by the Repatriation Commission delegate in the Department of Veterans' Affairs.<sup>64</sup>

**14.1.4** Both [s132 \(11\)](#) and [s170B](#) provide that a claim for applicants' or attendants' expenses is to be made:

- by the person travelling or a person approved by the Repatriation Commission;
- in writing in accordance with a form approved by the Repatriation Commission;
- with relevant evidence of travel;

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<sup>64</sup> Amended 30 August 2002 following the removal of delegation from VRB staff to pay travelling expenses.

- for s132(11) at an office of the Board or of the Department; [amended 30 August 2002]<sup>65</sup>
- for s170B at an office of the Department; and [amended 30 August 2002]<sup>66</sup>
- within three months of travel.

**14.1.5** The [Veterans' Entitlements Regulations](#) prescribe the rates and conditions for payment of applicants' and attendants' expenses.

## 14.2 Entitlement of applicants

**14.2.1** Applicants' expenses may only be paid in accordance with the VEA and the Veterans' Entitlements Regulations.

**14.2.2** Expenses cannot be paid:

- for travel other than travel to a VRB hearing or to obtain medical evidence that has been submitted to the VRB;
- for travel outside Australia;
- for a person accompanying the applicant (unless that person qualifies for payment as an attendant — see [14.3.1](#));
- at rates other than those prescribed by regulation; or
- if conditions prescribed by regulation are not met.

**14.2.3** The Regulations provide for travelling expenses to be payable in respect of transport costs, accommodation and meals.

**14.2.4** The amount payable for transport cannot exceed the actual cost of travel expended by the applicant and cannot be greater than the cost of “the most appropriate form of transport over the relevant distance” as calculated by the rate per kilometre formula — see sub-regulations [9 \(3\)](#) and [\(11\)](#). For this purpose, the “relevant distance” is the distance that is reasonable in all the circumstances — this is ordinarily the distance of direct travel from the applicant's place of residence or employment to the place at which the VRB hearing is to be held.

**14.2.5** In determining the “most appropriate form of transport”, regard must be had to the matters set out in subregulation [9 \(5\)](#):

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<sup>65</sup> Amended 30 August 2002, following the removal of delegation from VRB staff to pay travelling expenses.

<sup>66</sup> Amended 30 August 2002, following the removal of delegation from VRB staff to pay travelling expenses.

- forms of travel that were reasonably available to the person for the purpose of that travel;
- the cost of each of those forms of transport including, where a form of transport was reasonably available in more than one class, differences in cost between those classes;
- the desirability of using the cheapest form of suitable transport for the purposes of that travel;
- the degree of any mental or physical disablement of the person;
- the distance travelled; and
- whether the route taken in that travel was the most direct, practical route.

**14.2.6** As noted above, the amount to be reimbursed for travel cannot exceed the cost actually incurred by the applicant (subregulation [9\(4\)](#)). Therefore, if an applicant travelled by public transport at an actual cost of \$15, but the amount determined by applying the rate per kilometre was \$21, the applicant could only be paid \$15. <sup>67</sup>

**14.2.7.**<sup>68</sup>

**14.2.8** Accommodation costs can only be met if:

- an overnight absence from home is in fact necessary.

**14.2.9** In determining whether or not an overnight absence is necessary, the test to be applied is whether or not it is reasonable to require the applicant to travel from or to his or her place of residence (or place of employment, if relevant) without an overnight stay, having regard to his or her health, the distance to be travelled, departure and arrival times, and the time and duration of the VRB hearing.

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<sup>67</sup> Amended 30 August 2002, to better reflect the Regulations

<sup>68</sup> Removed 30 August 2002, following the removal of delegation from VRB staff to pay travelling expenses.

**14.2.10** The amount payable for accommodation expenses and meals is set out in suggested format RV7:6 and is<sup>69</sup>:

- for commercial accommodation that is not in a capital city – \$96.20 each night
- for commercial accommodation that is in a capital city - \$114.30 each night
- for subsidised accommodation - \$56.70 each night
- for private accommodation - \$30.00 each night
- where commercial accommodation is shared with an attendant - \$156.30 each night

**14.2.11** No amount can be paid in respect of accommodation, other than private accommodation, unless the applicant produces proof of expenditure for that accommodation.<sup>70</sup>

**14.2.12** The expenses payable for meals are determined by the distance of the travel that in all the circumstances is reasonable. The amount payable is set out in suggested format RV7:6.

- If the distance from the applicant's residence to the location of the hearing exceeds 50 km but does not exceed 200 km ( a round trip of between 101 km and 400 km) - \$9.60 each day, or
- If the distance from the applicant's residence to the location of the hearing exceeds 200 km ( a round trip of 401 km or more) - \$19.30 each day<sup>71</sup>

## **14.3 Entitlement of attendants**

**14.3.1** An attendant to whom expenses may be paid is a person who is required to accompany an applicant during travel to attend a VRB hearing because of the mental or physical health of the applicant. The necessity for an applicant to be accompanied by an attendant should ordinarily be established by a medical certificate, but may be accepted by the Repatriation Commission in the absence of such a certificate where, for example, the Department of Veterans' Affairs has previously accepted the need for an attendant for travel to medical appointments and it is clear that the applicant's medical condition has not materially improved. Only a Delegate of the Repatriation Commission (ie staff

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<sup>69</sup> Updated 30 August 2002, to show rates as at July 2002

<sup>70</sup> Amended 30 August 2002, to better reflect the Regulations

<sup>71</sup> Updated 30 August 2002, to show rates as at July 2002

employed in the Department of Veterans' Affairs Transport Branch) can authorise payment for an attendant.<sup>72</sup>

**14.3.2** Expenses are only payable to an attendant subject to the same conditions, and at the same rates, as are applicable to applicants — see [14.2](#).

## 14.4 Claims

**14.4.1** Expenses may only be paid to an applicant or attendant if a claim is lodged at an office of the Department of Veterans' Affairs on a form approved by the Repatriation Commission. This claim form is currently numbered "D803". Such a claim may be lodged at an office of the Department of Veterans' Affairs in person or by an agent, or delivered by mail, courier, etc. There is a 3 month time limit for lodging a claim for travelling expenses, and for applicants to the Board this starts from the day of the Board hearing.<sup>73</sup>

**14.4.2** Registry staff should offer to assist applicants or attendants to complete claim forms but care is to be taken to ensure that the information entered on the form is accurate and consistent with advice provided by the applicant or attendant.

**14.4.3** Payment cannot be made if a claim is not signed by the person making the claim.

**14.4.4** Where the VRB Registry is co-located with an Office of the Department of Veterans' Affairs, the claimant may be directed to the Department for lodgement and payment of the claim for travelling expenses.

**14.4.5** If a claim is lodged with the VRB, the amount payable is to be calculated by the approved registry staff, attendance certified and the form submitted to a delegate of the Repatriation Commission for approval.<sup>74</sup>

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<sup>72</sup> Amended 30 August 2002, following the removal of delegation from VRB staff to pay travelling expenses.

<sup>73</sup> Amended 30 August 2002, to better reflect the Regulations

<sup>74</sup> Amended 30 August 2002, following the removal of delegation from VRB staff to pay travelling expenses..



The next page begins Chapter 15 - Adjournments

# 15. ADJOURNMENTS

## 15.1 Introduction

- 15.1.1** A hearing of a review is adjourned when, after its commencement, a decision finally disposing of the application cannot be taken. An adjournment is distinguished from a postponement, which occurs when the hearing of an application does not begin as listed (see [Chapter 10](#)).
- 15.1.2** Paragraph [151 \(1\) \(b\)](#) gives the VRB a general power to “adjourn a hearing of a review from time to time”. This power is usually exercised at the request of one of the parties but may be exercised by a VRB panel of its own volition. Subsection [152 \(2\)](#) requires the VRB to adjourn a hearing if it decides to make a request to the Secretary of the Department of Veterans’ Affairs under subsection [152 \(1\)](#). [Chapter 16](#) describes detailed procedures relating to such requests.
- 15.1.3** This chapter describes the procedures to be followed by a panel when a hearing is adjourned pursuant to sections [151](#) or [152](#), and the conditions upon which an adjourned application will be relisted for hearing.

## 15.2 Adjournment Procedures

- 15.2.1** If an applicant or representative seeks to postpone a hearing on the day scheduled for the hearing because of the inability of one of them to attend, the matter is not to be postponed and the hearing is to commence as scheduled. The VRB panel is to be provided with the reasons for non-attendance by way of a note from the Registrar or personally by the applicant/representative during the hearing. The explanation is to be recorded on tape and, if the panel decides that it cannot proceed with the hearing, the matter is to be adjourned to a date to be fixed by the Registrar.

### 15.2.2 If:

- an applicant fails to attend a scheduled hearing;
- no explanation or no adequate explanation is given for that non-attendance; and
- the panel decides that it cannot proceed with the hearing and the matter is to be adjourned,

the reasons for decision are to state that the adjournment is for the purpose of enabling the matter to be relisted for hearing on a date nominated by the Registrar and that if the applicant does not attend that hearing the matter will be dealt with on the information that is before the VRB. The Registrar is to write to the applicant in those terms (suggested letter)

- [L173 4 s151 fail to attend no rep](#); or
- [L173 4 s151 fail to attend rep](#).

### 15.2.3 If a panel decides to adjourn an application where a Certificate of Readiness for Hearing has been lodged and the panel:

- is of the opinion that the cause of the adjournment was inadequate case preparation by the representative; and
- is satisfied that the applicant's case was not in fact ready for hearing and that adjournment could have been avoided if the representative had been properly prepared,

the reasons for decision are to state that the matter was adjourned under section [151](#) because of inadequate case preparation by the representative. The Registrar is to write to the applicant in those terms (suggested letter)

- [L173 5 s151 inadequate Preparation rep](#).

### 15.2.4 If a panel agrees to a request by a party for an adjournment or without request decides that the hearing should be adjourned, the presiding member is to complete:

- a Record of Proceedings form (suggested form [RV13:1](#));
- the brief statement of reasons box in the Listing Schedule (suggested form [RV7:8](#)); and
- if applicable, a Cause of s151 Adjournment form (suggested form [RV15:3](#)).

**15.2.5** If a panel decides to adjourn, a written record of the decision and reasons is to be prepared and published in accordance with [Chapter 17](#). The reasons are to identify the purpose of the adjournment so that the Registrar can take this into account when following up the matter for relisting pursuant to the administrative screening procedures (see [6.1.14](#)). Except in unusual circumstances, the reasons should not refer to any relisting of the application except to advise that the matter has been adjourned “to a date to be fixed by the Registrar” (but see [15.2.2](#)). If the matter has been adjourned and the circumstances set out in [15.2.3](#) apply, the formal statement of the decision of the panel is to state that the matter has been adjourned because of inadequate case preparation by the representative.

**15.2.6** In writing the statement of reasons, panels are to avoid, as far as practicable, making findings of fact so as not to fetter the capacity of a future panel to decide all matters to its satisfaction. Only in exceptional circumstances should a panel determine a matter while adjourning the hearing of the review with respect to other matters. The hearing of a review is adjourned under either [s151](#) or [s152](#) (not both).<sup>75</sup>

## 15.3 Advice of adjournment

**15.3.1** If an application has been adjourned the parties and their representatives (if any) are to be advised of the decision to adjourn (suggested letter)

- [L173\\_6\\_s151\\_adjourn\\_for\\_evidence\\_no\\_rep](#); or
- [L173\\_6\\_s151\\_adjourn\\_for\\_evidence\\_rep](#)

and the reasons published in accordance with [Chapter 17](#). A Certificate of Readiness for Hearing is to be sent to an applicant or, if represented, to the representative in all cases adjourned under section [151](#).

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<sup>75</sup> *Included August 2003*, this part suggests that resumed hearings should not be restricted in any way or form by the actions of a previous panel

## 15.4 Relisting of adjourned applications

**15.4.1** If an application has been adjourned under section [151](#) (otherwise than as described in paragraphs [15.2.2](#) and [15.2.3](#)), the application is to be relisted for hearing when the applicant or representative returns a Certificate of Readiness for Hearing (suggested form)

- [L321 COR applicant](#);
- [L321 COR overseas applicant](#); or
- [L321 COR rep](#)

and, without causing undue delay, whenever possible before the same panel or at least the same Senior Member. If the adjournment has been in circumstances described in [15.2.3](#), the Registrar is to be satisfied that the reasons for the adjournment have been addressed before relisting the application for hearing.

**15.4.2** If an adjournment was under section [151](#) (otherwise than as described in paragraphs [15.2.2](#) and [15.2.3](#)), the application is to be relisted in the order in which it again becomes available for hearing, ie the date a further Certificate of Readiness for Hearing is received.

**15.4.3** If the adjournment was under section [152](#), the application is to be relisted as per [p16 8.1](#).

The next page is Chapter 16 – Section 152 requests

## 16. SECTION 152 REQUESTS

### 16.1 Introduction

**16.1.1** This chapter sets out procedures in respect of requests to the Department of Veterans' Affairs for further investigations, examinations or documents pursuant to section [152](#).

**16.1.2** Section [152](#) provides that the VRB may at any time request the Secretary of the Department to:

- forward further relevant documents under the Department's control;
- obtain, and forward, further documents relating to a review; and
- arrange an investigation or a medical examination and forward a report of that investigation or examination.

**16.1.3** If the VRB makes a request under section [152](#), it is required to adjourn the hearing of the application pending the reply to the request; in assessment applications, it has the power to make an interim assessment pending the reply to a request (s[152 \(2\)](#)).

### 16.2 Making a request

**16.2.1** A request under section [152](#) should only be made where the VRB panel is of the view that a request would enhance the prospects of it reaching the correct or preferable decision. In considering whether to make a request, the panel should consider the likely value of the material sought, the likely delay in obtaining a reply and whether there are alternate means of obtaining the information (eg, one of the parties may be able to obtain the material more quickly, evidence or opinion might be taken by telephone, the hearing could be adjourned until later in the week, or a witness might be summoned), and whether in all the circumstances a request might be unserviceable.

**16.2.2** In normal circumstances a request should not be made nominating a specific doctor or specialist from whom a report is sought. Where a specific report is thought necessary (eg, clarification of a report already provided), this should be made clear in the reasons for decision or in the request. The most appropriate phraseology would generally be to request a report from “an appropriately qualified medical practitioner” or, where it is clear that specialist advice is required, from “a medical practitioner who is eminent in the relevant field of knowledge”.

## **16.3 Interim assessments**

**16.3.1** If a panel makes a request in respect of an assessment application, it should make an interim assessment if, on the evidence available, the panel is reasonably satisfied that the assessment under review should be varied. The extent, date of effect and reasons for any interim assessment are to be set out in the decision and reasons issued for the request. (Note, that subsection [22 \(1\)](#) does not permit an assessment within the general rate to be made unless the VRB is first satisfied that neither the intermediate rate nor the special rate applies. Therefore, the VRB cannot make an interim assessment within the general rate unless it is so satisfied.)

## **16.4 Form of decision and request**

**16.4.1** If a panel makes a request, it is to prepare a written decision and reasons and a covering letter to the Secretary of the Department of Veterans’ Affairs for the presiding member’s signature. The format of the decision and reasons is to be as per [Chapter 17](#) and the letter is to be addressed:

The Secretary  
Department of Veterans’ Affairs  
**[STATE OFFICE ADDRESS]**  
Attention: Deputy Commissioner **[STATE]**



## 16.5 Publication of decision and reasons

**16.5.1** The decision and reasons are to be published as follows:

- to the applicant, by letter from registry staff — if unrepresented, as per suggested letter
  - [L173 2 s152 adj with no rep](#); or
  - [L173 3 s152 final and adj no rep](#); or if represented, suggested letter
  - [L173 2 s152 adj with rep](#); or
  - [L173 3 s152 final and adj with rep](#) (copy to representative);
- to the Secretary of the Department of Veterans' Affairs, under cover of the presiding member's letter of request;
- to the Repatriation Commission, by forwarding a copy to:

Repatriation Commission  
C/- Branch Head, Disability and Compensation  
Department of Veterans' Affairs  
Lovett Tower, Keltie Street  
WODEN ACT 2606

## 16.6 Follow-up of requests

**16.6.1** The VRB has no specific power under the legislation to compel the Department of Veterans' Affairs to reply to a request and there is no time limit within which a reply must be provided.

**16.6.2** Each Registrar is responsible for ensuring that there is regular liaison between his or her Registry and the Department to see that requests are received and acted on by the Department.

## 16.7 Replies to requests

**16.7.1** Upon receipt of a section [152](#) request, a Departmental Medical Officer or other action officer in the Department may contact the Registrar to suggest that material already held by the Department would satisfy the request, or to seek clarification or variation of the request (eg, substitution of a more suitable reporting doctor). The Registrar is to refer such issues to the presiding member who made the request. That presiding member should consider such matters, in consultation, as appropriate, with other members of the panel, and may authorise the Registrar to provide clarification or agree to variation by phone or in writing as the circumstances require. If a variation is agreed to, this is to be

drawn to the attention of the applicant when the response is forwarded to the applicant (see [16.8.1](#)).

**16.7.2** On receipt of a reply to a request, registry staff are to place the original on the VRB file and update the section 137 reports in the VRB's possession.

**16.7.3** The VRB file is then to be submitted, under cover of a memo (suggested form)

- [rv16 4 s152 reply to Snr Mbr](#),

to either the presiding member who made the request or, if that member will not be available to attend to the matter in the next 14 days, to another Senior Member who will then preside, if possible, when the application is relisted.

**16.7.4** That member should examine the papers and:

- if the Department has clearly not met a relevant part of the request, ask the Registrar to have prepared a letter to the Department asking that the request be complied with;
- if the Departmental reply does not seem to adequately answer the request or the answer seems to open other lines of inquiry, consider a supplementary request (if the reply is not adequate, suggested format [L161 3 s152 supplementary request](#))<sup>76</sup>, or a new request under [s148 \(6A\)](#) (if other lines of inquiry are opened); or
- in any other case, direct that the application be listed for hearing.

**16.7.5** If a Registrar has prepared a letter to the Department at the request of a presiding member per [16.7.4](#), registry staff are to:

- send the letter to the Department;
- send a copy of the letter and the incomplete reply, numbered as an addition to the section 137 report, to the applicant, the applicant's representative and the Repatriation Commission (if it is being represented) (suggested letter)
  - [L161 2 s152 reply inadequate no rep](#) or
  - [L161 2 s152 reply inadequate with rep](#), and
- before any update is sent out, consider whether it contains any information of a confidential or prejudicial nature and if so, take action as per [Chapter 4](#).

**16.7.6** <sup>77</sup>

**16.7.7** When a further reply is received from the Department after action per [16.7.5](#), it is to be processed as already outlined in this chapter.<sup>78</sup>

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<sup>76</sup> Amended 3 March 2003 with the introduction of a new supplementary s152 request letter

<sup>77</sup> *Removed August 2003.*

## 16.8 Relisting applications

**16.8.1** If a direction to list is given, either by a panel or a presiding member, registry staff are to:

- send a letter to the applicant enclosing a copy of any pages to be added to his or her copy of the section 137 report (suggested letter)
  - [L161 1 s152 reply adequate no rep](#) or
  - [L161 1 s152 reply adequate with rep](#));
- send a copy of that letter to the Repatriation Commission; and <sup>79</sup>
- send a copy of that letter and report to the applicant's representative ; and<sup>80</sup>
- before any update is sent out, consider whether it contains any information of a confidential or prejudicial nature and if so, take action per Chapter 4.

**16.8.2** Registry staff are to then prelist the application as a priority matter and, without causing undue delay, whenever possible list the application before the same panel or at least the same presiding member. The matter should not be listed until the 14 days allowed for the applicant or representative to tell the Board that they do not want the application listed has elapsed.<sup>81</sup>

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<sup>78</sup> Amended August 2003 to remove reference to removed subparagraph 16.7.6.

<sup>79</sup> Amended 30 August 2002. This part amended to include the requirement to send copies of the s152 reply to the Repatriation Commission

<sup>80</sup> Amended 30 August 2002. This part amended to include the requirement to send copies of the s152 reply to the representative

<sup>81</sup> Amended 30 August 2002. This part gives the applicant or representative the opportunity to advise the VRB if they require further preparation time

The next page is Chapter 17 – Reasons for decision

# 17. REASONS FOR DECISION

## 17.1 Introduction

**17.1.1** This chapter covers the preparation and publication of decisions and reasons and associated documents and the disposal of the papers and documents following a hearing (see also Archives, [Chapter 21](#)).

**17.1.2** VRB decisions are made by the members constituting the VRB panel or, where one dissents, by the majority of them (s[149](#)).

**17.1.3** A panel is required to prepare a formal written statement of the decision and the reasons for the decision. Copies of this statement are then served on the applicant, the Repatriation Commission, and the Department of Veterans' Affairs. Any such statement includes the reasons of a dissenting member.

## 17.2 Preparation of decisions and reasons

**17.2.1** A panel is required to prepare a formal written statement of its decision and reasons:

- to affirm a decision under review, or to set aside or vary a decision under review;
- that an application was not validly made or was beyond the jurisdiction of the VRB;
- to adjourn a hearing under section [151](#), or to refuse, contrary to the request of a party appearing or represented at a hearing, to adjourn a hearing under section [151](#);
- to make a request to the Department under section [152](#) or to refuse, contrary to the wish of a party appearing or represented at a hearing to make a request to the Department under section [152](#);
- to make or to refuse to make contrary to the request of a party, an interim assessment under section [152](#); or
- to order, or to refuse to order contrary to the request of a party, that fees and allowances of a witness summoned at the request of an applicant be paid by the Commonwealth under section [171](#) (see [Chapter 12](#)).

- 17.2.2** If a member refuses, contrary to submissions made by a party at a hearing, to disqualify himself or herself from participating in the hearing or from further participating in a hearing, he or she is to prepare and sign a formal written statement of that decision and the reasons for it. This statement is to be attached to the panel's formal written statement of its decision and reasons when publication is effected under [17.4.2](#).
- 17.2.3** In some matters (eg, permit a hearing to take place in public) decisions are a matter for a presiding member rather than a panel. A presiding member should record any such decision and the reasons for the decision by a note or memo on the VRB file, and otherwise as appropriate.

### **17.3 Format of decision and reasons**

- 17.3.1** The formal statement of the decision of the panel is to be shown on the decision and reasons cover sheet (suggested form [RV17:1](#)) and must always be on a separate page from the text of the reasons for decision. If two members sit as a quorum, however, the words "sitting as a quorum" are to be shown on the cover sheet below the name of the quorum members. Where a decision is made by a majority of the members, the words "by majority" are to be added after the words "... the Veterans' Review Board decided".
- 17.3.2** A member of a panel may prepare minority reasons where he or she does not agree with either the decision reached by the majority or the reasons stated by the majority for a decision with which he or she concurs. The minority reasons are to be despatched with the majority decision and reasons to all parties.
- 17.3.3** Where a panel sitting as a quorum is split then a decision cannot be taken and the matter must be adjourned under [s149 \(2\)](#) and the decision and reasons prepared as in [Chapter 15](#). The Registrar is to then seek a direction from the Principal Member in accordance with [s149 \(2\)](#).
- 17.3.4** Any material of a confidential or prejudicial nature is required to be deleted from the copy of the statement of decision and reasons sent to the applicant [[s140 \(2\)](#)]. If there is such material contained in a set of reasons, the presiding member is to supervise the preparation of the applicant's copy of the decision. Words, paragraphs, etc are to be deleted by a process of paste-over and photocopying and clearly marked eg, "Information withheld — section 153 — two lines" (the applicant should be able to identify that material has been deleted). The covering letter is to be modified to refer to the reasons for the deletions. (See [Chapter 4](#))

**17.3.5** It is the overall responsibility of the presiding member to ensure that the decision and reasons of a panel are prepared promptly and are agreed to and signed by the members. Where a decision and reasons appear to be inadvertently delayed, the Registrar is to liaise with the presiding member to ensure the decision and reasons are published in a timely manner. If necessary, a direction should be sought from the Principal Member.

**17.3.6** All members of a panel should sign the decision and reasons. However, if one member's unavailability to sign a decision and reasons would result in a delay in publication of more than 21 days from the date of the hearing, and the panel's decision is unanimous, the decision and reasons are to be signed by the two remaining members and endorsed "member unavailable to sign", and the decision published. Publication of the decision and reasons in these circumstances can only be done on the authority of the presiding member by way of a note or memo on the VRB file, or, when the presiding member is unavailable, the Principal Member or Executive Officer. If there is likely to be a delay of more than 21 days from the hearing in obtaining signatures in other circumstances (eg, unavailability of second quorum member or of two out of three panel members), the Registrar is seek a direction from the Principal Member or Executive Officer.

**17.3.7** <sup>82</sup>

## **17.4 Publication of decision and reasons**

**17.4.1** Where a panel or a single member takes a decision which finally disposes of an application (other than a decision to consent to a request for withdrawal), the decision and reasons are to be published to the parties under cover of a letter signed by registry staff (suggested letter)

- [L173 1 all final no rep](#) or
- [L173 1 all final with rep.](#)

In the case where a hearing has been conducted interstate, the decision is to be published in the state in which the applicant resides.<sup>83</sup>

**17.4.2** An attachment providing details of the applicant's right to appeal to the Administrative Appeals Tribunal is to be forwarded with the decision and reasons. Printed on the reverse of that attachment are addresses and telephone numbers for the Australian Legal Aid Office or Legal Aid Commission offices

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<sup>82</sup> *Removed December 2002.* With the introduction of vrbSAM reporting in 2000, Registrars are no longer required to prepare decision and reason preparation reports.

<sup>83</sup> Amended 3 March 2003 to specify which registry publishes a decision from an interstate hearing.

in the particular state or territory (suggested format [RV17:4](#)). Registrars should liaise with those bodies from time to time to ensure that details are current.

**17.4.3** Decisions to adjourn are also published to all parties under cover of a letter from registry staff:

for adjournments under section [151](#) — suggested letter,

- [L173 4 s151 fail to attend no rep](#);
- [L173 4 s151 fail to attend rep](#);
- [L173 5 s151 inadequate Preparation rep](#);
- [L173 6 s151 adjourn for evidence no rep](#);
- [L173 6 s151 adjourn for evidence rep](#);
- [L137 7 s151 final and adj no rep](#); or
- [L137 7 s151 final and adj with rep](#); and

for adjournments under section [152](#) — suggested letter

- [L173 2 s152 adj with no rep](#);
- [L173 2 s152 adj with rep](#);
- [L173 3 s152 final and adj no rep](#); or
- [L173 3 s152 final and adj with rep](#).

A decision to adjourn under s151 must include a Certificate of Readiness for the representative, or, if there is no representative, to the applicant (see [15.3.1](#)).<sup>84</sup>

**17.4.4** Copies of a decision and reasons are to be mailed to:

- the applicant — covered by letter and, if applicable, with an AAT attachment, copies of any further evidence (exhibits) submitted at the hearing and where relevant, any section [152](#) request;
- the applicant's representative — with a copy of the covering letter and any other material sent to the applicant;

the Repatriation Commission — [Repatriation Commission, C/- Branch Head, Disability and Compensation, Department of Veterans' Affairs, Lovett Tower, Keltie Street, WODEN ACT 2606] — with a copy of the other material sent to the applicant; and

- the Department of Veterans' Affairs — with a copy of the covering letter, the original of any section [152](#) request and copies of the other material sent to the applicant.

**17.4.5** The original of all the papers and copies of the covering letter of a section [152](#) request are to be kept on the VRB file.

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<sup>84</sup> Amended 30 August 2002; with a requirement that representatives must submit a new COR to resume a hearing adjourned under s151.



**17.4.6** Decisions to release or not release prejudicial or confidential information or to consent or refuse to consent to the withdrawal of an application, where such consent was required by a VRB panel, are to be published in accordance with [Chapters 4](#) and [11](#) under cover of a letter signed by registry staff.

**17.4.7** Where a panel has made a decision that finalises an application, registry staff are to:

- place one copy of the section 137 report on the VRB file;
- send the remaining copies of the section 137 report to the Department; and
- file the VRB file with the completed records (refer also [Chapter 21](#), Archives).

## 17.5 Amendment of decisions

**17.5.1** The VRB has no power to amend or change a decision legally made and published.<sup>85</sup> However, the “slip rule” in [s140A](#) can be used to correct clerical and typographical errors made in recording a decision so that the decision truly reflects the original decision intended by the panel (preferably, as this is evidenced in the panel’s published reasons). The “slip rule” cannot be used to correct a decision that was wrong in the first place because of error or omission.

**17.5.2** If the Department seeks amendment of a date of effect set by a panel decision, this is to be referred to the presiding member for consideration as per [17.5.4](#). (This should only happen if the Repatriation Commission believes it is unable to resolve the issue by application of subsection [31 \(3\)](#) — which allows the Commission to remedy a “manifest error” in the date of effect set by the VRB.)

**17.5.3** Any request for an amendment or a change to a decision by a party or the Department, or any case where a member or a Registrar thinks that a decision may not have been properly recorded or legally made, is to be referred with the VRB file to the member who presided in the proceeding in which the decision was made.

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<sup>85</sup> *August 2003*. If a ‘decision’ has not been legally made, it might be a nullity and the VRB would have power to make a legal decision – see *Minister for Immigration and Multicultural Affairs v Bhardwaj* (2002) 187 ALR 117. Such suggested cases are to be referred to the Principal Member for direction.

**17.5.4** The presiding member should discuss the matter with the members who constituted the panel. If the members agree that there has been no mistake or that the mistake is not material to its decision, the presiding member is to advise the Registrar who is to write, where appropriate, to the party that sought the amendment advising them that the VRB has no power to review its decisions and of their appeal rights (suggested letter)

- [L171\\_1\\_no\\_power\\_review\\_no\\_rep](#); or
- [L171\\_1\\_no\\_power\\_review\\_rep](#) as appropriate.

If the members agree that a mistake has been made but that no amendment by the panel is possible, the presiding member is to note the file accordingly and the Registrar is to advise the person who sought the amendment that no amendment will be made (suggested letter)

- [L171\\_2\\_no\\_amendment\\_no\\_rep](#); or
- [L171\\_2\\_no\\_amendment\\_rep](#),

but the matter may be referred to the Department to see if it will review the matter under section [31](#) (letter)

- [L171\\_3\\_possible\\_s31\\_post\\_pub\\_nor](#); or
- [L171\\_3\\_possible\\_s31\\_post\\_pub\\_rep](#).

The letter to the Department is to be as per suggested form

- [L172\\_DVA\\_request\\_s31\\_post\\_publication](#).

**17.5.5** If the members agree that the stated effect of the decision should and can be amended, the presiding member or Principal Member are to direct the Registrar to amend the decision and prepare and sign a written statement of decision and reasons as per suggested format [RV17:9](#) — the decision being a decision to amend the previously issued decision and reasons. A suitable covering letter is also to be prepared by the Registrar pursuant to section [140A](#) (suggested format [RV17:10](#)) and sent to the applicant (copies of which will be sent with copies of the decision to the applicant's representative, the Repatriation Commission and the Department of Veterans' Affairs).<sup>86</sup>

## **17.6 Access to VRB decisions**

**17.6.1** If a request is made by a person (other than a party to an application or the Department of Veterans' Affairs) for a copy of a decision in relation to a named application, it is to be refused (see also [Chapter 19](#) if the request is an FOI request). The purpose of this restriction is to protect the privacy of applicants. It does not apply to a request for any decision that resulted from a public hearing.

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<sup>86</sup> Amended 30 August 2002, to confirm the requirement that copies of the decision and reasons, and the letter, are to be sent to the applicant, representative, Repatriation Commission, and Department of Veterans' Affairs.

**17.6.2** If a request is made by somebody interested in a particular category of decisions or for a decision noted in *VeRBosity* (eg, special rate cases, a sample of recent cases, etc), access can be provided as long as the applicant's name and any other information that might identify the applicant to a person outside the VRB is deleted from each case.

The next page is Chapter 18 – Administrative Appeals Tribunal

# 18. ADMINISTRATIVE APPEALS TRIBUNAL

## 18.1 Introduction

**18.1.1** This chapter contains procedures to be followed by the VRB in cases where, following a decision of a VRB panel or of a Registrar under the dismissal procedures, an application for review has been lodged with the Administrative Appeals Tribunal (AAT).

**18.1.2** Subsection [175 \(1\)](#) provides that application may be made to the AAT for review of a Repatriation Commission decision that has been affirmed or varied by the VRB or of a VRB decision made in substitution for a Commission decision which it has set aside. Section [155A](#) provides for applications to the Administrative Appeals Tribunal from decisions to dismiss VRB applications.

## 18.2 Receipt of notice of an AAT application

**18.2.1** The AAT notifies the local VRB Registry, by way of a notice under [s29 \(11\)](#) of the *Administrative Appeals Tribunal Act 1975* (AAT Act), that the AAT has received an application for review.

**18.2.2** Details of the application are entered in the local register (suggested form [RV18:1](#)) noting:

- the name of the party other than the Repatriation Commission (usually, that will be the name of the applicant before the VRB);
- the AAT registration number;
- the date of receipt of the subsection [29\(11\)](#) notice at the VRB; and
- the VRB registration number.

These details are sent to the Principal Registry at the end of each month.<sup>87</sup>

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<sup>87</sup> Amended on 30 August 2002, with the change from 4-weekly, to monthly reporting.

**18.2.3** A register of all applications to the AAT is maintained in each VRB Registry for applications for review of VRB decisions made in that Registry. <sup>88</sup>

**18.2.4** The original of the subsection [29 \(11\)](#) notice is kept on the VRB file.

## **18.3 Section 37 documents**

**18.3.1** The AAT requires, under [s37](#) of the AAT Act, that the person who has made a decision that is the subject of an application for review shall within 28 days after receiving notice of the application, lodge with the AAT a report containing:

- a statement setting out the findings on material questions of fact, referring to the evidence or other material on which those findings were based and giving the reasons for the decision; and
- every other document or part of a document that is in the decision-maker's possession or under its control and which is considered to be relevant to the decision under review at the AAT.

## **18.4 Responsibility for preparation of section 37 documents**

**18.4.1** Section [37](#) of the AAT Act requires the “decision-maker” to prepare the section 37 documents. The “decision-maker” for the purposes of section [37](#) of the AAT Act is determined by provisions in the VEA. Where the VRB has affirmed or varied a decision of the Repatriation Commission, the Commission is the decision maker for the purposes of section [37](#). Where the VRB has set aside a decision of the Commission and substituted its own decision, or where an application has been dismissed, the VRB or the Principal Member<sup>89</sup> is the decision-maker for the purposes of section [37](#).

**18.4.2** Therefore, section 37 documents concerning “affirmed” or “varied” decisions (and by agreement with the Department of Veterans' Affairs, appeals relating to both parts of an “affirmed” and “set aside” decision) are prepared by the Department. Those in “set aside” cases or dismissal cases, are prepared at the VRB.

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<sup>88</sup> Amended 30 August 2002. With the introduction of the vrbSAM application management program, the register is now an electronic report.

<sup>89</sup> Amended August 2003, to include reference to the Principal Member.

## 18.5 Contents of section 37 documents

**18.5.1** The AAT has issued a Practice Direction ([RV18:2](#)) which specifies the format and content of section 37 documents. These require that the statement must contain the documents as referred to in [18.3.1](#) and are arranged as follows:

- the first document is to be the application to the AAT;
- the second document is to be the section 37 statement and reasons for decision, (see also [18.7.1](#)); and
- all other relevant documents are to be arranged in chronological sequence and descending order.

Each document is to be identified with an exhibit number commencing with “T1”, and accompanied by an index containing a brief description of each document with a “T” number. Each page is to be numbered and pagination set out in the index.

**18.5.2** Section 37 documents prepared at the VRB are to be compiled in a set format (suggested form [RV18:3](#)) which has been settled with the AAT, as follows:

- front cover sheet;
- Summary of Events to the Decision Under Review;
- Summary of Disability Pension History;
- Summary of Disabilities Accepted/Rejected;
- the index;
- the application to the AAT (numbered T1);
- a statement and reasons for decision (numbered T2); and
- every other document (sequentially T-numbered) that is in the VRB’s possession or control and which is considered to be relevant to the review of the decision by the AAT.

**18.5.3** What is relevant is at the discretion of registry staff preparing the section 37 documents. However, as a general rule registry staff preparing the documents should err on the side of generosity. If a document is of doubtful but possible relevance, it should be included.

## 18.6 Preparation of section 37 documents

- 18.6.1** The AAT Act provides that section 37 documents are to be lodged with the AAT within 28 days of receipt of the subsection 29 (11) notice of application. Registry staff who are responsible for the preparation of section 37 documents are to make every endeavour to comply with this requirement.
- 18.6.2** The section 37 documents are to be prepared using the information available on the VRB file and the S137 reports DVA files are not in the VRB's possession or control, and so need not be obtained.<sup>90</sup>
- 18.6.3** Because section [140](#) of the VEA requires that all decisions of the VRB must be accompanied by a written statement setting out its reasons, including its findings on any material questions of fact, etc, it is not necessary to prepare a separate or additional statement to comply with [s37 \(1\)](#). The VRB decision and reasons are sufficient to meet the requirements of that provision.
- 18.6.4** If the AAT application relates to the dismissal under [s155aa](#) or [s155ab](#), the section 37 documents are to be prepared under the supervision of the Executive Officer. The VRB file in such cases is to be forwarded to the Executive Officer as soon as the s29(11) notice is received from the AAT.<sup>91</sup>

## 18.7 Distribution of section 37 documents and disposal of files

- 18.7.1** One copy is to be forwarded to the relevant AAT registry with a covering letter (suggested format [RV18:8](#)) as soon as possible to meet the 28 day time limit. Another copy is to be forwarded with a covering letter (suggested format RV18:#) to the applicant who has applied to the AAT (it might not be the same person who applied to the VRB). A third copy is to be provided to the Department of Veterans' Affairs with a covering letter (suggested format RV18:#). If further copies are requested by the AAT, they are to be provided as soon as possible.
- 18.7.2** In all AAT applications other than those relating to dismissals, the State Department of Veterans' Affairs Advocacy Section is to receive one copy of the documents including the covering letter which is endorsed with the date of dispatch and the date of receipt of the s29 (11) notice. It is to be sent at the same time as the AAT's copies are dispatched.

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<sup>90</sup> *Amended August 2003*, removing the requirement to obtain and use DVA files to produce s37 statements for the AAT

<sup>91</sup> *Included August 2003*, to provide constancy in the preparation of s37 statements concerning dismissal.



**18.7.3** In AAT applications concerning dismissals, a copy of these documents is to be sent to Director (Litigation), Legal Services Group, National Office of the Department of Veterans' Affairs with a covering letter inviting the Repatriation Commission to seek joinder.<sup>92</sup>

**18.7.4** The original set of documents and a copy of the covering letter are to be placed on the VRB file. In dismissal cases, the VRB file is to be forwarded to the Executive Officer who manages any litigation in which the VRB or the Principal Member is a party.<sup>93</sup>

**18.7.5** A monthly list of section 37 documents lodged (suggested form [RV18:9](#)) is to be forwarded to the Principal Registry at the end of each month.

## **18.8 Supplementary documents**

- **18.8.1** Supplementary documents may be required where the AAT notifies the VRB that it requires documents not included but which it considers relevant [[s37 \(2\)](#)].<sup>94</sup>

**18.8.2** If supplementary documents have to be forwarded to the AAT, they are to be sorted into chronological order, T numbered, page numbered consecutive to the initial set of documents, accompanied by an index and a covering letter sent explaining the circumstances.

**18.8.3** Copies of supplementary documents are to be distributed in the same numbers and manner as the initial set of documents.

**18.8.4** Supplementary documents requested by the AAT are required to be lodged within the time specified by the AAT.

## **18.9 Distribution of AAT decisions**

**18.9.1** All AAT decisions on matters heard by the VRB are to be notified to members by e-mail. The VRB intranet site has links to all AAT and Court cases on the Internet.

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<sup>92</sup> *Amended August 2003*, to include reference to joinder with the Repatriation Commission in dismissal review at the AAT.

<sup>93</sup> *Amended August 2003*, to include reference to the litigation role of the Executive Officer.

<sup>94</sup> *Amended August 2003*, to show that supplementary documents will only be supplied if notified by the AAT.

The next page is Chapter 19 – FOI, Ombudsman, AD(JR) Act

# 19. FOI, OMBUDSMAN, AD(JR) ACT

## 19.1 Introduction

**19.1.1** Persons dissatisfied with their dealings with the VRB would ordinarily be expected to lodge an application for review with the Administrative Appeals Tribunal. In that event the procedures set out at [Chapter 18](#) are to be followed.

However, those dealing with the VRB also have particular rights:

- under the *Freedom of Information Act 1982*;
- of complaint to the Commonwealth Ombudsman;
- under the *Administrative Decisions (Judicial Review) Act 1977*; and
- under the *Privacy Act 1988*.

**19.1.2** This chapter sets out the procedures to be followed when those rights are sought to be exercised. Should circumstances arise which are not covered, or apparently not adequately or appropriately covered, by these procedures, the matter should be referred to the Director (Legal and Information Services).

## 19.2 Freedom of information

**19.2.1** As a matter of principle, the general VRB policy is to provide access to VRB documents without requiring recourse to the *Freedom of Information Act 1982*, subject to the need to safeguard the privacy of individual applicants, members and registry staff, and others having business with the VRB.

**19.2.2** Decisions under the FOI Act are required to be made by the “Principal Officer” of the VRB, who is the Principal Member. In accordance with powers under the FOI Act, the Principal Member has issued delegations conferring on various registry staff his powers of decision-making under the FOI Act.

**19.2.3** As a general rule, an FOI request (see suggested form [rv19 FOI Application Form](#)) must be accompanied by a \$30 application fee. An application for internal review of any decision under the FOI Act costs \$40. Charges may also be imposed for the costs of processing an application. However, no fees and charges are payable where a request relates to a

document containing information about a claim for, or a decision in relation to, the payment to the applicant of a pension or allowance under the VEA.

- 19.2.4** Application fees may be remitted where the request relates to the personal affairs of the applicant, payment of the fee would cause financial hardship to the applicant or the giving of access is in the general public interest. As a general rule, application fees in relation to personal affairs of the applicant should be remitted.
- 19.2.5** An application must be accompanied by the fee in order for it to be valid, unless it is exempt from the fee (see [19.2.3](#)) or the fee has been remitted.
- 19.2.6** Fees and charges received should be paid to the Collector of Public Moneys (CPM) at the Department of Veterans' Affairs as soon as possible and a receipt obtained. This receipt is to be placed on the FOI file. Whenever fees in the form of cash are received, a receipt is to be issued.
- 19.2.7** In cases where fees are payable, charges will usually also apply (see suggested form [RV19:1](#)). If fees or charges are likely to be payable, advice is to be sought from the Director (Legal and Information Services) concerning the VRB's policy in relation to remission of fees. No action is to be taken to process the application until such advice has been obtained.
- 19.2.8** The original application is to be placed on the local registry's<sup>95</sup> FOI file. If the request cannot be answered within five working days of receipt, then an acknowledgment letter is to be sent (suggested format [RV19:2](#)). The time limit for answering requests is 30 days.
- 19.2.9** Generally, if an applicant requests a transcript of a VRB hearing under the FOI Act, the applicant is to be advised that only an audiotape of the hearing or access to an audiotape can be provided. If the applicant is not satisfied, a letter is to be sent to the applicant giving reasons for the decision not to supply a typed transcript and explaining the rights of review (suggested form [RV19:3](#)). If an applicant has indicated that he or she is satisfied with an audio tape, a letter similar to suggested form [RV19:3](#) is still to be sent, giving the reasons for not supplying the typed transcript and explaining the rights of review.
- 19.2.10** Any queries regarding the processing of requests are to be directed to the Director (Legal and Information Services).
- 19.2.11** Reviews of decisions under the FOI Act will be conducted by the Director (Legal and Information Services), Executive Officer or Principal Member. Requests for review are to be forwarded to the Director (Legal and Information Services) immediately upon receipt.

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<sup>95</sup> Amended August 2003, to specify this as a local registry requirement.

**19.2.12** Requests for access to DVA files are not to be determined by VRB staff or members but are to be transferred to the FOI unit of the Department. If the VRB has the relevant DVA files in its possession at the time of the request, the files are to be taken by hand to the FOI unit of DVA together with the FOI request unless it is within three working days of the hearing. The DVA files are not to be passed to the FOI unit unless an officer of that unit gives an assurance that the files will be returned to the VRB by close of business two working days before the scheduled hearing. If no such assurance can be given, or the request is received within three working days of the hearing, the files are not to be passed to the FOI unit until after the hearing of the matter.

## **19.3 Commonwealth Ombudsman**

**19.3.1** Upon receipt of a complaint by a person dissatisfied with an administrative action of a VRB panel, a member or registry staff, the Ombudsman's office will generally make informal telephone contact with the local VRB office in order to obtain information sufficient to enable a decision to be made on whether or not a formal approach should be made to the VRB. Registry staff approached in this way are to refer the matter to the Registrar, who is to provide full cooperation to the Ombudsman's staff and, if appropriate, authorise access by the Ombudsman's staff to the VRB file of an applicant complainant.

**19.3.2** If a written referral is received from the Ombudsman or his or her officers seeking a written response to a matter of complaint, that referral is to be drawn to the attention of the Principal Member or the Executive Officer. The response to that referral, and any subsequent correspondence, is to be coordinated by the Executive Officer<sup>96</sup>.

## **19.4 Administrative Decisions (Judicial Review) Act**

**19.4.1** The AD(JR) Act enables a person aggrieved by a decision of an administrative nature made under an Act or Regulation to seek:

- an order of review from the Federal Court of Australia under [section 5](#) of the AD(JR) Act; or
- a statement under [section 13](#) of that Act setting out the findings on material questions of fact, referring to the evidence or other material on which those findings were based and giving the reasons for the decision.

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<sup>96</sup> *Amended August 2003*, to change responsibility from the Director (Legal and Information Services) to the Executive Officer.

- 19.4.2** The statement requirements set out in section [13](#) of the AD(JR) Act are the same as those prescribed by section [140](#) of the VEA for review decisions of the VRB. Therefore, it would be unusual for a section [13](#) request to be made in respect of a VRB panel's decision made on a review. If such a request is made, a copy of the panel's decision and reasons issued under section [140](#) is to be provided to the person seeking the decision. Should that person claim a right to receive any further statement in respect of that panel's decision, the matter is to be referred to the Executive Officer<sup>97</sup> for consideration.
- 19.4.3** If a request is received for a section [13](#) statement in respect of a decision made by a VRB panel, a single member or registry staff and that decision was not a decision on a review, the matter is to be referred to the Director (Legal and Information Services) for consideration and consultation as appropriate with the Principal Member and Executive Officer.
- 19.4.4** Because the VRB is not a body corporate, any action taken under [section 5](#) of the AD(JR) Act seeking an order for review of a decision made by a VRB panel or single member or registry staff will generally be taken against the individual member(s) or staff concerned. If those persons have acted within their authority as members or registry staff, responsibility for the conduct of proceedings before the Federal Court will rest with the VRB. Any such matter is to be referred to the Executive Officer<sup>98</sup> who is to seek direction and guidance from the Principal Member and the Executive Officer. Where a matter is to proceed to a court hearing, the VRB will instruct and seek advice from the Australian Government Solicitor.

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<sup>97</sup> *Amended August 2003*, to change responsibility from the Director (Legal and Information Services) to the Executive Officer.

<sup>98</sup> *Amended August 2003*, to change responsibility from the Director (Legal and Information Services) to the Executive Officer.

The next page is Chapter 20 - Privacy

## 20. Privacy

### 20.1 Introduction

**20.1.1** Staff and members of the VRB are under a legal obligation to comply with the *Privacy Act 1988*. The Act protects personal information that is collected by Commonwealth government departments and agencies.

**20.1.2** The Privacy Act sets out eleven Information Privacy Principles (IPPs) that regulate the way the VRB collects, stores, uses and discloses personal information about applicants and staff. The Principles also provide individuals with a right to obtain access to their own personal information the VRB keeps about them and to request changes to the personal information the VRB holds. (Although the right of access to and amendment of records is subject to the provisions of the *Freedom of Information Act 1982*.)

**20.1.3** The Privacy Act provides that the Privacy Commissioner can make a determination that the complainant is entitled to a specific amount by way of compensation for any loss or damage suffered if the VRB breaches his or her privacy. The loss or damage suffered includes injury to the complainant's feelings or humiliation suffered by the complainant. There is no limit to the amount of compensation that can be awarded.

### 20.2 Definitions

**“agency”** Agencies are generally federal government organisations. These organisations include:

- federal government departments;
- bodies and tribunals set up for a public purpose by federal government laws.

Agencies also include:

- contracted case managers under the *Employment Services Act*;
- Australian Capital Territory government organisations.

**“disclosure”** Disclosure is a release of personal information from the effective control of the agency.



If an agency gives personal information to an outsider with whom it has contracted to do work for it, this is regarded as *using*, not *disclosing* that information.

## **20.3 IPP 1: Manner and purpose of collection of personal information**

- 20.3.1** The VRB must not collect personal information unless it is collected for lawful purposes directly related to the undertaking of a review by the VRB, and the information must not be collected by unlawful and unfair means.
- 20.3.2** If personal information does not relate to the review of an application currently before the VRB, or an administrative function of the VRB, then the VRB must not collect it.
- 20.3.3** The majority of personal information relating to reviews is collected by the Department of Veteran's Affairs and passed on to the VRB. However, the VRB does collect some personal information directly from applicants, and can request the department for additional information and investigation under section [152](#) of the VEA. The VRB should be very particular that these requests meet the privacy principles.

## **20.4 IPP 2: Solicitation of personal information**

- 20.4.1** If personal information is collected from the individual concerned for inclusion in a record, the person from whom the information is collected must be told of the purpose of the collection, whether there is legal authority for the collection, and to whom the information is usually disclosed.
- 20.4.2** When the VRB asks a party for personal information about themselves relating to a review the requirements of IPP2 must be complied with. This is regardless of whether the information is sought on a form, by letter, over the telephone or at a counter. All forms and letters that are used to collect personal information must have a privacy notice on them stating the requirements of the Principle.
- 20.4.3** The personal information relating to reviews is usually disclosed to the parties of the review and their agents (ie, the Repatriation Commission, the Department of Veterans' Affairs, and the applicant's representative, with the consent of the applicant).

## **20.5 IPP 3: Solicitation of personal information generally**

**20.5.1** When personal information is collected for a current VRB application or for a generally available publication, the VRB must ensure that the personal information is relevant to the use intended, is up to date, and complete. The collection must not be done in an unreasonably intrusive way.

## **20.6 IPP 4: Storage and security of personal information**

**20.6.1** The VRB must maintain reasonable security safeguards to ensure that records containing personal information are protected against loss, unauthorised access, use, modification or disclosure, and against other misuse. This means that no unauthorised person sees the VRB file, VRB computer records, or the departmental files while those files are held by the VRB. All requests for access to DVA files must be referred to the FOI Section in the department. The VRB must also ensure that no modification or unauthorised disclosure occurs during or after an authorised person views its files.

**20.6.2** The VRB keeps its files in a secure storage area and staff and members must be vigilant to ensure that files are never left unattended in public areas. If a person is authorised to view a VRB file, it can only be done if the file has first been checked by a VRB officer to ensure that there is no personal information on it relating to a third person (including a family member of the person seeking access to the file). The person must be supervised to ensure that no documents are modified in any way, or removed from the file. If there is personal information concerning a third person on the file, access can only be given through the FOI processes, or with the consent of the individual concerned.

**20.6.3** The VRB's computer system for application management (vrbsAM) must never be left open where an unauthorised person may gain access to the vrbsAM program and personal information. Each PC with vrbsAM access must have a password activated screen-saver installed to stop an unauthorised person accessing the program. Computers must be closed down at night to log them off the network. This stops access to the file server without a password.<sup>99</sup>

**20.6.4** If it is necessary for personal information to be provided to a person or organisation in connection with the provision of a service, the VRB must do everything reasonably within its power to prevent unauthorised use or disclosure of the information. This can be achieved by the inclusion of appropriate provisions in contracts.

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<sup>99</sup> Amended 17 February 2000, with the introduction of the vrbsAM program.

## 20.7 IPP 5: Information relating to records kept by record-keeper

**20.7.1** The VRB must take reasonable steps to allow any person to find out whether it has any records that contain personal information, and if so, the nature of that information; the main purposes for which it is used; and the steps that a person should take if they want to obtain access to it.

**20.7.2** The VRB must keep a register that anyone can inspect that sets out:

- the nature of records of personal information that are kept;
- the purpose for which each type of record is kept;
- the classes of individuals about whom the records are kept;
- the period for which each type of record is kept;
- who is entitled to have access to the personal information contained in the records and under what conditions; and
- how to get access to the information.

The register is located in the Principal Registry in Canberra and copies are held in all VRB Offices.

## 20.8 IPP 6: Access to records containing personal information

**20.8.1** A person has the right to have access to personal information concerning them held by the VRB on the personal file. This right is subject to the provisions of any law of the Commonwealth that provides for access by persons to documents. The *Freedom of Information Act 1982* is the main piece of Commonwealth legislation dealing with access to documents. The Privacy Commissioner generally defers the rights under this Principle to the Freedom of Information Act.

**20.8.2** Although confidential information given to the VRB can be withheld under subsections [137 \(2\)](#) and [140 \(2\)](#) of the Act (see [Chapter 4](#)) access to certain confidential information may be given under the provisions of the Freedom of Information Act.

## **20.9 IPP 7: Alteration of records containing personal information**

- 20.9.1** If any personal information held by the VRB is incorrect, the VRB has a duty to correct that information to ensure that it is accurate, relevant, up to date, complete and not misleading.
- 20.9.2** If a VRB member or member of staff finds an error, they should immediately bring the error to the attention of the relevant person (usually the Registrar, but for incorrect addresses, dates of birth, miss-spelt names, etc, the Case Manager Supervisor) who will ensure that the records are corrected where appropriate.<sup>100</sup>
- 20.9.3** If another person finds an error on a VRB file, these errors should be referred to the Registrar for any correction.
- 20.9.4** If a person asks the VRB to change, delete or add to personal information contained in a record the request should be dealt with under the provisions of the Freedom of Information Act.

## **20.10 IPP 8: Record-keeper to check accuracy etc. of personal information before use**

- 20.10.1** Members and staff must take reasonable care to check that personal information on applicants is accurate, up to date, and complete, before using it. Care must be taken to ensure that the information relates to the right person.

## **20.11 IPP 9: Personal information to be used only for relevant purposes**

- 20.11.1** The VRB must only use personal information for the process of determining an application for review, as that is the only relevant purpose of the VRB.

## **20.12 IPP 10: Limits on use of personal information**

- 20.12.1** The VRB must not use personal information for any purpose other than that for which it obtained the information, unless:
- the person whom the information is about consents, or

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<sup>100</sup> Amended 30 August 2002, to reflect new position titles.

- the use is necessary to protect against serious and imminent threat to a person's life or health, or
- the use is required or authorised by law, or
- the use is reasonably necessary to enforce criminal law or a law imposing pecuniary penalty, or to protect the public revenue, or
- the use is directly related to the purpose the VRB obtained the information.

**20.12.2** If the VRB uses personal information for the enforcement of the criminal law or of a law imposing a pecuniary penalty, or for the protection of the public revenue a notation of that use must be made on the applicant's file.

## **20.13 IPP 11: Limits of disclosure of personal information**

**20.13.1** The VRB must not disclose personal information unless:

- the person was made aware under IPP 2 that the information could be passed on; or
- the person could reasonably expect to know that that kind of disclosure is commonly made; or
- the person consents; or
- the disclosure is necessary to protect against serious and imminent threat to a person's life or health; or
- the disclosure is required or authorised by law; or
- the disclosure is reasonably necessary to enforce criminal law or a law imposing pecuniary penalty; or to protect the public revenue.

**20.13.2** Personal information should only be passed on to third parties in circumstances permitted by IPP 11 by the Principal Member, Executive Officer, or a Registrar. If the VRB discloses personal information for the enforcement of the criminal law or of a law imposing a pecuniary penalty, or for the protection of the public revenue a notation of that disclosure must be made on the applicant's file.

## **20.14 Tax File Numbers**

**20.14.1** Part of the Privacy Act relates to the collection, recording, use and security of tax file numbers. If you find any document at the VRB which contains a Tax File Number (TFN), please bring it immediately to the Registrars attention. The VRB should never have any document in its possession that contains a TFN.

The Tax File Number Guidelines provide for the incidental provision of TFN's. It is permissible for a TFN to be removed from a document received by the VRB.

## 20.15 Complaints

**20.15.1** If the Privacy Commission receives a complaint by a person alleging a breach of privacy by the VRB, the Privacy Commissioner's office will generally ask the complainant to raise the matter with the VRB first. If the matter has already been addressed by the VRB the Privacy Commission may make informal telephone contact with the VRB Privacy Contact Officer, the Director (Legal and Information Services). in order to obtain information sufficient to enable a decision to be made on whether or not a formal approach should be made to the VRB.

**20.15.2** If a written referral is received from the Privacy Commissioner it will be forwarded to the Principal Member. The response to that referral, and any subsequent correspondence, is to be coordinated by the Director (Legal and Information Services).

## 20.16 Confidentiality provisions in other legislation

**20.16.1** The Department of Veterans' Affairs has an agency agreement with the Department of Social Security to pay age pensions for veterans who do not qualify for service pension. As those age pensions are administered under the *Social Security Act 1991*, the strict confidentiality provisions of that legislation apply in relation to any personal information obtained for the purposes of administering the veteran's age pension.

**20.16.2** Similarly, the Department of Veterans' Affairs collects information for the purposes of the *Aged Care Act 1997* in relation to persons who reside in aged care facilities, such as nursing homes and hostels. That legislation has confidentiality provisions very similar to those contained in the *Social Security Act 1991*.

**20.16.3** Both Acts classify personal information obtained for the purposes of that legislation as "protected information" and make it a criminal offence:

- to access protected information; or
- to make a record of protected information; or
- to make use of such information except for the purposes of the relevant Act (ie, Social Security Act or Aged Care Act);

- to disclose such information to another person; or
- to seek to get access to such information; or
- to offer to supply such information,

without proper legal authority.

**20.16.4** Much of the information collected for the purposes of the *Social Security Act 1991* and the *Aged Care Act 1997* will be found in the Departmental files and the Departmental computer client database, and will be indistinguishable from other information collected for purposes of the VEA.

**20.16.5** Therefore, under no circumstances are VRB staff or members to give anyone other than Departmental staff and VRB staff and members access to Departmental files or Departmental computer records, whether supervised or not. Access by anyone else to Departmental files must be through the Department's FOI unit.

## **20.17 Unauthorised use of VRB and Departmental records by staff and members**

**20.17.1** In relation either to computer or paper file VRB records, it is at least a serious disciplinary offence to seek to access, or actually access, or provide to someone else, a personal record, whether Departmental or VRB, unless it is:

- in relation to the proper handling of an application for review to the VRB; or
- for another purpose authorised by law.

The mere fact that an officer or member is given the *capacity* to access a personal record does not *authorise* that officer or member to access the record.

The next page is Chapter 21 - Archives



# 21. ARCHIVES

## 21.1 Introduction

**21.1.1** This chapter deals with procedures followed by the VRB when organising the archival and retrieval of VRB records from Australian Archives or a commercial archives service (in this Chapter “Archives” refers to either service provider). It is the responsibility of each Registrar to ensure that files and records held in his or her Registry are maintained and preserved in a secure fashion, and that completed documents are archived on a regular basis designed to meet the requirements of the *Archives Act* and the VRB’s operational needs for access and file storage.

**21.1.2** [Section 5](#) of the *Archives Act 1983* defines the functions of the Australian Archives. These include the custody, management, public access, destruction, conservation and preservation of Commonwealth records which are no longer required for current use by Commonwealth agencies (including the VRB).

**21.1.3** Australian Archives also assists Commonwealth agencies in identifying which records are to be destroyed. This is based on efficiency and economy, eg, freeing valuable office space for other activities, as well as preserving records in order to meet administrative, legal, research or educational requirements.

## 21.2 Categories of transfers to Archives

**21.2.1** Records transferred to Archives generally fall into one of the following categories:

- **permanent accessions**

records which are to be retained permanently;

- **temporary accessions for eventual destruction**

records to be retained temporarily (for a specified period) and then destroyed;

- **temporary accessions for review**

records to be retained for a specified period and then reviewed for disposal action; or

- **provisionally permanent accessions**

records which both the agency and Australian Archives agree should not be destroyed, for example, files relating to Vietnam veterans.

## **21.3 VRB/Archives retention/destruction policy for case files**

**21.3.1** The VRB and Archives have agreed that the following retention/destruction policy for the disposal action of applicant's case files will operate:

<b>Case Type</b>	<b>Retention/Destruction Policy</b>
Completed cases (set aside, affirmed, dismissed or withdrawn)	Destroyed 7 years after VRB action completed
Lapsed cases where there has been no formal decision or withdrawal	Destroyed 25 years after VRB action completed
Files relating to Vietnam veterans	Retained permanently
VRB case audio tapes	VRB to hold tapes in each Registry, erase 2 years after VRB action has been completed, and then re-use those tapes.

Applicants' case files are to be transferred to Archives not later than six months after the VRB's final action.

## **21.4 Transfer of records to Archives**

**21.4.1** Applicants' case files to be transferred to Archives are to be placed in archival boxes in alphabetical or numerical order depending on arrangements with the local Archives service provider. The boxes are to be labelled with the box number and contents.

**21.4.2** The details of the boxes being transferred are to be entered into a Transfer Consignment List ([RV21:1](#)), listing the contents of the boxes in box number order. These lists are to be forwarded attached to a completed Proposal for Transfer of Records ([RV21:2](#)). The details of the records for archival storage provide a concise record of file location.

## 21.5 Retrieval of records from Archives

- 21.5.1** Record retrieval can occur if archival disposal action has been undertaken and subsequently an appeal is lodged to the Administrative Appeals Tribunal. The VRB file is then required for preparation of the section 37 documents.
- 21.5.2** Occasionally, record retrieval may also occur if the VRB, the Department of Veterans' Affairs or an applicant requires some information which is known or thought to be located on the VRB file. In these cases the VRB has the option of returning the file to Archives or retaining the file for future use, depending on the purpose behind the retrieval.

## 21.6 E-Mail records

- 21.6.1** All e-mail messages created or received using Commonwealth computer systems are Commonwealth records and must be managed in accordance with the *Archives Act 1983*. They are also subject to the *Freedom of Information Act 1982*, the *Privacy Act 1988*, and legal processes such as subpoena.
- 21.6.2** E-Mail messages that provide evidence of the VRB's processes or operations and activities, such as directives to staff, or policy or procedural development, should be captured into a record keeping system and retained in accordance with Australian Archives records disposal authorities. One way of capturing such records is to print the message and place it onto a relevant VRB policy or administration file.
- 21.6.3** E-Mail messages with a VRB business context but not a substantive part of a particular process or policy or procedural development process (such as a notification of a staff meeting, a message merely attaching a document, or a personal or social message) are of merely transitory value and can be destroyed under the Normal Administrative Practice provisions of the *Archives Act 1983*. It is important to note that while ever such e-mail messages are retained on a Commonwealth computer system, they are Commonwealth records and are subject to access legislation and legal processes.

The next page is Chapter 22 – Appointment of Members

## 22. Appointment of VRB Members

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<sup>101</sup> This chapter is included in the Operations Manual from August 2003

The next page is Chapter 23 – Members’ terms and conditions of appointment

## 23. VRB Members' Terms & Conditions of Appointment

<sup>102</sup>It must be emphasised that the information contained in this chapter is presented only as a guide to the conditions and entitlements for Veterans' Review Board members. It is essential that, in all cases, queries relating to individual service conditions and entitlements be directed to the relevant Personnel Section so that accurate information based on the particular personal circumstances of the member can be provided.

### 23.1 Daily Fees

23.1.1 Part-time members of the Board are paid a daily fee for each day employed for at least three hours. The daily fee includes a loading to compensate for the fact that part-time members are not eligible for sick leave, recreation leave or long service leave.

23.1.2 The daily rates to be paid to members are determined by the Remuneration Tribunal as part of the regular review of remuneration for politicians, senior public servants and a range of statutory officers. The current fees can be found on the Remuneration Tribunal web site at

<http://www.remtribunal.gov.au/Home/index.html>

23.1.3 The Personnel Section administers payment of fees in National Office of the Department of Veterans' Affairs, through the Principal Registry of the Veterans' Review Board. Any pay claim issues should be discussed, in the first instance, with the Director of Corporate Services, Principal Registry.

### 23.2 Superannuation

23.2.1 Part-time members are eligible to join the Public Sector Superannuation Scheme (PSS). Members who propose to join the scheme will be required to complete a confidential medical and personal statement.

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<sup>102</sup> This chapter is included in the Operations Manual from August 2003

- 23.2.2 Members may contribute between 2% and 10% of daily fees to the PSS Scheme. The percentage rate of contributions may be varied at any time.
- 23.2.3 Part-time members who do not join the PSS are entitled to the Employer Productivity Superannuation Contribution which will be paid into AGEST or other complying fund.
- 23.2.4 More detailed advice about superannuation can be obtain from, National Office, Personnel Section, Department of Veterans' Affairs.

## 23.3 Allowances

- 23.3.1 A range of allowances is payable to members to compensate them for costs incurred in the performance of their duty. A brief summary of the most common allowances follows.

In view of the often complex conditions relating to the allowances and the fact that entitlements will depend on personal circumstances, members should discuss their entitlement to allowances with the Personnel Section in the relevant state office of the Department of Veterans' Affairs should they have any questions.

### 23.3.2 Travelling Allowance

Travelling Allowance is payable to members who are absent, on official business, from their usual headquarters. It is intended to meet the costs incurred on accommodation, meals and incidental expenses.

The daily rate of Travelling Allowance is determined from time to time by the Remuneration Tribunal. <http://www.remtribunal.gov.au/Home/index.html>

- 23.3.3 Movement Requisitions for travel and claims for Travelling Allowance are processed through the Board's Principal Registry.

Travelling Allowance is paid in advance into the member's bank account, based on the expected trip itinerary. Movement Requisition Forms are obtained from the member's local Registry and are to be signed by the Delegate (usually the Registrar) and forwarded to Principal Registry for processing

- 23.3.4 It is not necessary to produce proof of expenditure, except where daily rates are insufficient to meet the costs incurred. In such instances, ALL receipts will be necessary to identify the additional expenses so that reimbursement of the appropriate amount can be considered. Such reimbursement is only made in exceptional circumstances.
- 23.3.5 The movement requisition form has an option for commercial accommodation that should be completed with either a tick in the yes or no box. If yes, the accommodation details **MUST** be completed. If no, details still should be



provided in case you need to be contacted urgently. On completion of travel, movement requisition forms should be acquitted and returned along with any boarding passes, taxi voucher stubs and unused taxi vouchers. All receipts are the responsibility of the traveller should the traveller be audited.

#### **23.3.6 Standard of Travel**

Part-time members are entitled to business-first class air travel where that is available. Where members wish to travel at a class below their entitlement, the Commonwealth will only cover the cost of the class of travel used.

23.3.7 All air travel must be through the current contract for Department of Veterans' Affairs, currently that is with QANTAS. Special rates are available for any part-time member who wishes to join the QANTAS Club. This is arranged through the Director Corporate Services, Principal Registry.

23.3.8 Frequent Flyer points obtained in relation to VRB travel belong to the Commonwealth and must not be used for private purposes.

#### **23.3.9 Official Travel by Private Vehicle**

A motor vehicle allowance, where a private vehicle is used for official travel, may be paid where no alternate form of public transport is available. Explanation can be sought from the Registrar in each state.

### **23.4 Leave Entitlements**

23.4.1 Part-time members are paid a daily fee which includes a loading to compensate for the fact that they are not entitled to receive payment for leave, including recreation leave, sick leave or long service leave.

### **23.5 Compensation**

23.5.1 Part-time members are covered by the provisions of the *Commonwealth Employees Rehabilitation and Compensation Act 1988*. This covers injury or illness, or the aggravation of a pre-existing condition, while employed on the Board's business, travelling by a reasonably direct route between the place of residence and a Registry in connection with the Board's business, or travelling on the Board's business. Further details may be obtained from the Personnel Section of the relevant state office of the Department of Veterans' Affairs. Certain compensation benefits cannot be paid after age 65.

## **23.6 Conflict Of Interest**

23.6.1 Members are obliged to disclose to the Minister any interest which may conflict, or be seen to conflict, with the performance of his/her functions as a member of the Veterans' Review Board.

## **23.7 Other Conditions**

23.7.1 Members should acquaint themselves with sections 163, 164 and 165 of the *Veterans' Entitlements Act 1986* relating to resignation, removal from office and disclosure of interests.

The next page is Chapter 24 – Official travel by staff and members

# 24. Official Travel By Staff & Members

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Veterans' Review Board

## OFFICIAL TRAVEL GUIDELINES

### 24.1 Introduction

- 24.1.1 These Guidelines are based upon and are to be read subject to the Chief Executive Instructions (CEI) issued by the Secretary to the Department of Veterans' Affairs under section 52 of the *Financial Management and Accountability Act 1997* and Financial Management and Accountability Regulation 6. That CEI prescribes the policy and procedures governing official travel that are binding on Commonwealth officers (including staff and statutory office holders) in the Veterans' Affairs portfolio. The legislative bases underpinning these Guidelines, as they impact on Members and staff, can be found at Official Travel Attachment A [p24\\_24 attachment](#)
- 24.1.2 Approval to undertake official travel is given on the basis that it represents an efficient and cost effective means of conducting the business of the VRB. Approval must be given by an officer authorised by an instrument issued by the Minister for Finance under section 64 of the *Constitution*. In the VRB, those officers are Registrars, Directors and the Executive Officer.
- 24.1.3 Unless otherwise indicated in these Guidelines, the term "officer" means a "Commonwealth officer" as understood in the *Constitution*, and thus applies to both VRB members and staff.

### 24.2 Members and Staff Travelling – Responsibilities

- 24.2.1 Transport bookings relating to air travel are to be made through the DVA's contracted travel services agent.
- 24.2.2 Transport bookings relating to rail and coach are to be made by the traveller directly with the railways or the coach company.
- 24.2.3 For car transport see Sections 12, 13 and 14 of these Guidelines.

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<sup>103</sup> This chapter is included in the Operations Manual from August 2003

24.2.4 Officers proposing to undertake official travel should be aware that it is not intended as expenditure on or for the personal benefit of the person undertaking the journey. Travel expenditure involves conditions of service and equity aspects. Due to the possibility that Officers could gain or grant personal benefits, officers incurring or approving travel expenditure are likely to be called upon to defend their decisions publicly. Accordingly, officers incurring and approving official travel must be sure that their decisions can withstand public scrutiny on the grounds of economy, efficiency and probity.

24.2.5 The officer travelling is to record on the Movement Requisition (MR) form (by attachment if necessary), the reasons for the use of any travel for official purposes. If the proposed travel is not consistent with business requirements then the travel should not be taken or approved at departmental expense.

24.2.6 When on official business away from “home base” officers are to ensure that the accommodation selected enables them to attend to business in a timely manner and at no unnecessary cost to the Board. For information on the use of taxis see 12.3 below.

Note: “Home base” means the city or town in which the officer ordinarily performs their duties.

24.2.7 Should a need arise for an officer to extend the period of travel beyond that previously approved, oral or e-mail approval from an authorised officer should be obtained if possible. Any variation to the original approval is to be noted when acquitting the MR, and further approval by the authorised officer where there is a change to the officer’s entitlement.

24.2.8 No officer holding an authorisation to approve travel should approve their own travel. Such travel must be approved by the Executive Officer, a Director, or Registrar, as appropriate.

## **24.3 Discount Fares**

24.3.1 When making travel arrangements Members and staff should seek to obtain the best possible value for money.

24.3.2 Members and staff booking economy class travel are to ask for discounted fares and to take such fares if available, taking into account the penalties and/or limitations that apply to the discounted fares.

24.3.3 Members and staff should not take out insurance when purchasing discount fares on domestic flights.

24.3.4 When a discount fare is used the amount of the fares together with the relevant account-centre code should be entered in the appropriate section of the MR prior to approval being given. When a discount fare is available and not taken the reason is to be recorded on the MR.

24.3.5 The advance purchase of speculative fixed-flight tickets is not permitted. However, Members and staff may advance purchase open-dated tickets where there is a guaranteed advantage to the VRB.

## **24.4 Departure Options**

24.4.1 Bearing in mind the need to avoid unnecessary costs, Members and staff are to make every effort to depart on the morning of their business. The scheduling of meetings should be undertaken with travel arrangements in mind. Circumstances will arise however, where it is necessary to travel the night before (business commitments, flight schedules or geographic distances for example). The officer approving the travel is to be fully aware of such circumstances when exercising their authority.

## **24.5 Movement Requisitions**

24.5.1 The movement requisition (MR) Form is the official document that records the approval of travel and generates any associated entitlement to travel allowance (TA). A MR must be completed and approved prior to departure for all travel other than authorised short local trips.

24.5.2 Each MR form is to have an identifying number added at the top right hand corner. This number should be used for all transactions relating to the travel.

## **24.6 Officers Authorised to Approve Travel – Responsibilities**

24.6.1 Officers authorised to approve travel have certain responsibilities. The first and foremost decision to be made is to ensure that the travel represents an efficient and effective means of conducting the VRB's business. When deciding which mode of transport is to be used the comparison should take into consideration the "whole of travel" not just the difference between the cost of fares. Other factors that may be taken into account in making this assessment are:

- (a) any payment of TA;

- (b) travelling time ( this would include salary received during the period of travel eg. Air travel normally requires less time than driving a motor vehicle).
  - (c) administrative time ( eg. Pick up and drop off a rental vehicle );
  - (d) estimated time of arrival;
- the effect on and condition of the officer after travel; and
- the potential increased risk of personal injury.

24.6.2 Having selected the appropriate mode of travel, the authorised officer shall:

- (a) approve the travel and proposed expenditure for the fares and TA for official travel within Australia;
  - (b) ensure that sufficient funds are available to meet the cost of travel;
  - (c) approve the use of a private vehicle when required (PSB Determination 10/1983) – see Section 14 of these guidelines;
  - (d) ensure that all details of the travel are contained in the MR, including flight numbers and times, fares cost, account codes, cabcharge details and accommodation requirements;
  - (e) ensure that the officer travelling has no outstanding TA overpayments which have exceeded the prescribed payment period (see Section 15.7 of these guidelines);
  - (f) ensure all calculations reflect current rates (for TA, Motor Vehicle Allowance etc);
  - (g) ensure that the itinerary maximises opportunity to obtain discount fares and that the need for overnight stays is minimum;
  - (h) sight documentary evidence of comprehensive insurance, vehicle registration and drivers licence prior to approving the use of a private vehicle (see Section 14 below);
  - (i) be satisfied that accommodation selected enables the officer to attend to official business in a timely manner and at no unnecessary cost to the VRB;
  - (j) ensure that all travel actions are carried out including acquittal of the MR within 14 days of completion of travel; and
- arrange to have all necessary travel documents including MRs and associated receipts retained for at least two financial years.

24.6.3 When domestic air travel is being undertaken the travel services contractor provides basic insurance (as detailed on the reverse side of the E ticket) against loss or damage of the personal effects carried by an official. This cover excludes electrical equipment eg laptop computers, light projectors etc. Additional cover is available upon request to the travel services contractor but the proposal to obtain this should also be considered by the authorised official. If necessary, the authorised official should obtain assistance from the Manager of the Travel Contract in National Office. In addition, Comcover insurance provides cover for loss or damage to personal effects (excluding cash), while an official is on approved travel in Australia. It is not necessary for officials to obtain additional insurance cover for their personal effects when travelling on official business.

## **24.7 Class of Travel – Domestic**

24.7.1 The Principal Member, all other Members and the Executive Officer, are entitled to fly business class within Australia on official business, although, in the interests of savings, economy class should be chosen in circumstances where it does not cause undue operational or personal inconvenience.

24.7.2 Staff are entitled to fly economy class on official business, unless otherwise stipulated in the current DVA Enterprise Agreement.

24.7.3 Members and staff travelling by rail or coach where more than one class is provided should travel by the higher class.

24.7.4 Where a journey extends over most of the night or beyond midnight the traveller is entitled at Commonwealth expense to sleeping accommodation where available.

24.7.5 Where Members and staff wish to travel at a class below that of their entitlement the Commonwealth will only pay the cost of the class of travel used.

## **24.8 Travel Itinerary**

24.8.1 All pre-booked transport requirements are to be listed on the Movement Requisition (MR). Cab-charge voucher requirements must also be noted on the MR. If the itinerary is extensive a separate attachment may be required. A copy of the travel confirmation/itinerary supplied by the travel provider must be attached to the MR.

As a general rule approval should not be given for Members and staff to utilise official travel in conjunction with approved leave. Particular care should be taken to ensure that all official travel represents an efficient and cost effective



means of conducting the VRB's business, is in the VRB's interest, and is not arranged to provide a personal benefit.

## **24.9 Travelling Allowance (TA)**

- 24.9.1 TA is an entitlement which comprises components for meals, accommodation and incidentals. "Incidentals" cover costs such as local and private telephone calls, dry cleaning and newspapers. Additional incidental expenditure such as official long-distance telephone calls may be reimbursed through post travel procedures. Supporting documentation, such as receipts, for this additional expenditure should be provided wherever possible.
- 24.9.2 TA is not intended as a reward for having to travel: it is paid only so that the person who is required to travel on official business does not suffer financial disadvantage as a result.
- 24.9.3 Under the manual MR system it is the responsibility of the officer travelling to calculate their TA entitlement using the Travel Calculator which automatically calculates the TA entitlements. Approval of the MR certifies that the calculations are correct
- 24.9.4 The Department of Employment and Workplace Relations (DEWR) reviews TA rates periodically for staff and issues updated schedules (TA Entitlements Ready Reckoner). The Remuneration Tribunal determines travel allowance for members. The officer travelling and the authorised officer are to ensure that the current rates are used when calculating TA. A copy of TA calculation printout should be attached to the MR.
- 24.9.5 If VRB staff or members receiving TA are provided with a meal which is being charged against official hospitality funds, an adjustment to TA must be made and the meals component of TA is not paid in respect to meals provided. Similarly where VRB staff or members attend a training course, seminar or other function where a meal or meals and/or accommodation is provided at no cost to the officer, the officer must make the necessary TA adjustments when calculating their entitlements. If the full meal and accommodation costs are met by the Commonwealth, only incidentals may be claimed. Remuneration Determination no 6 of 2000 sets out the relevant rates.
- 24.9.6 Travellers and authorised officers are responsible for ensuring that TA commences and/or ceases at the appropriate time for Members and staff who obtain approval to stop-over prior to, or following completion of, their official duty. It is important that any such stop overs do not give the impression that official funds have been used to provide travel for personal gain, such as a holiday away from the officer's home base.

24.9.7 TA entitlement commences one hour prior to the flight from “home base” and ceases one hour after the time of arrival of the return flight in the case of capital cities, and half an hour for other localities. When official travel does not include a requirement to be absent overnight, no TA is payable – refer to the part day travel clause in the current Enterprise agreement.

Note:

- a The MR should contain all actual flight details irrespective of the return time and date for official purposes.
- b TA payments are calculated on the basis of commencement/completion of official business commitments only.
- c Due to possible delays with increased security checking and baggage handling, the Authorised Official may alter the TA commencement/ceasing period to co-incide with the actual times that the travelling office is required to be present at the airport.

24.9.8 Overpayments of TA must be repaid within 14 days (see 15.7 below).

24.9.9 TA is paid directly into the employee’s nominated account upon presentation of a duly approved MR to QCS. Ideally, a request for TA should be lodged at least three days prior to travelling to ensure timely payment. In special circumstances payment of TA may be made in cash, subject to prior arrangements with the CPM.

24.9.10 Authorised Officers are to ensure that a VRB staff member located in a town or city other than the officer’s home base for a period greater than 21 days does not arrange an itinerary designed to avoid the application of review TA rates (refer to current Enterprise agreement).

## **24.10 Booking Arrangements**

24.10.1 Travellers are responsible for arranging their own travel bookings and accommodation.

24.10.2 Arrangements for travel should be made by telephone directly to the travel services contractor. On request, accommodation arrangements may be made by the travel services contractor or directly with the hotel/motel by the traveller. Car bookings are the responsibility of the traveller.

The contractor will make the required bookings immediately and advise the traveller of costs, which must be noted on the MR. The contractor may provide details of other discount fare rates and advise any conditions associated with those fares (see section 3 above).

Rental car bookings must be made with the Department's rental car provider. See Section 13 of this instruction.

## **24.11 Accommodation**

- 24.11.1 Officers are required to provide details of their intended accommodation arrangements, whether hotel/motel or other, on all MRs. Accommodation selected should enable the officer to attend to business in a timely manner and at no unnecessary cost to the VRB.
- 24.11.2 Many hotel/motel chains offer discounted accommodation rates for Commonwealth staff. Officers need to ask for the Government rate when booking their accommodation. Alternately, travellers may utilise the services of the travel services contractor or specialist accommodation booking company to prebook accommodation.
- 24.11.3 When a VRB member elects to take up private accommodation the MR must be noted to reflect this. The TA rate payable is 1/3 of the rate paid for commercial accommodation. (refer to Remuneration Determination no 6 of 2000)
- 24.11.4 It is the responsibility of the traveller to pay all accommodation and associated costs.

## **24.12 Car with Driver**

- 24.12.1 Taxis are the usual standard for car with driver services.
- 24.12.2 Officers should plan their travel movements to avoid unnecessary costs associated with excessive and/or uncoordinated car travel. Consideration should be given to the number of Cabcharge vouchers required prior to travel to minimise unnecessary post travel returns of unused vouchers.
- 24.12.3 Taxis may be used in conjunction with official travel only in the following circumstances:
- (a) day of departure:
    - (i) to work with luggage;
    - (ii) to airport from home or work; and,
    - (iii) from airport to accommodation and/or work.
  - (b) day of return:
    - (i) from accommodation to work and airport; and,

- (ii) from airport to home and/or work.
  - (c) during work: from the VRB's offices to other work related locations.
- 24.12.4 Taxis may also be used to travel between accommodation and work at a temporary station when such use represents an efficient use of public money.
- 24.12.5 Airport shuttle services should be considered instead of taxis when travelling to and from airports.
- 24.12.6 Officers are to meet their own transport costs for all personal travel such as to and from restaurants, hotels or places of entertainment.
- 24.12.7 Cabcharge vouchers are accountable forms. Officers responsible for the storage and issue of Cabcharge vouchers are to be aware of the need for security and the registration of all issued vouchers. Vouchers are not to be passed from one officer to another without the approval of the issuing officer. (CEI 5.10 Cabcharge refers)

## **24.13 Car Without Driver Service (Rental Cars)**

- 24.13.1 Rental cars may be used as a cost-effective alternative to taxi travel within a metropolitan area or as an alternative to air travel or where travel by air is not feasible. Private vehicles are not to be used except as noted in Section 14 below.
- 24.13.2 All requests for rental of a car without a driver for official travel must be made through the Department's rental vehicle contractor. The officer travelling must complete a MR.
- 24.13.3 Rental car use is limited to official travel only. However, authorised officials have the option of approving the use of rental vehicles for travel between the official's temporary work and accommodation where this represents an efficient use of public money and therefore avoiding the risks associated with officials using their private vehicles.- see section 14.3 of this instruction.
- 24.13.4 Close scrutiny is to be given to rental vehicle collection and return times with a view to minimising total hire charges.

## **24.14 Use of Private Vehicle**

- 24.14.1 As a general rule private vehicles are not to be used for official travel except where alternative methods, including air, car rental, coach or train, are not available or are not operationally efficient. On those occasions where the

use of a motor vehicle is necessary, the use of a rental vehicle is preferred option.

- 24.14.2 Approval to use a private motor vehicle must only be given if the use of the motor vehicle would result in greater efficiency or ensure the Commonwealth does not incur more expense than would be the case if public transport or a Commonwealth vehicle were used (part 6.1 of this Instruction and PSB Determination 1998/5 refers).
- 24.14.3 VRB staff and members who are authorised to use a private vehicle are entitled to be paid a motor vehicle allowance (MVA) (for VRB staff refer to the current DVA EA and for VRB members the Remuneration Tribunal Determination no 6 of 2000). The MVA must not exceed the cost to the Commonwealth of other viable modes of transport. For the purpose of this Instruction the daily hire rate (including fuel) of a large sedan shall be used to determine the amount payable by the Commonwealth.
- 24.14.4 When the duration of a trip is such that the allowance based on daily hire of a vehicle would exceed the MVA payable under Determination 10/83 then the lesser amount will be paid.
- 24.14.5 Where officers are given approval to use a private vehicle for official purposes the Commonwealth does not accept responsibility for any financial liability or loss which may be incurred as a result of an accident, mechanical failure etc including insurance excess costs. The Commonwealth does not provide or carry any insurance on private vehicles used for official purposes. Therefore, the authorising officer must be satisfied that the driver is appropriately licensed, the vehicle registered and carries adequate insurance cover prior to approving the use of a private vehicle, (refer to the DVA Managers Guide and the current DVA EA).
- 24.14.6 The only general exception to these arrangements is that a private vehicle may be used to travel from the officer's home base to another interstate location when an officer is to take up a posting of greater than one week. The usual tests of operational and cost efficiency still apply.
- 24.14.7 All private vehicle travel details/calculations are to be included on the MR. Following approval of the MR by the authorised officer, payment of MVA will be made in accordance with local arrangements.
- 24.14.8 The relevant Motor Vehicle Allowance rates are contained in the current DVA EA. Travellers and authorised officers are to ensure that the current rates are used when calculating MVA..
- 24.14.9 When an officer is given permission to use their vehicle and to carry passengers (staff members) on the journey, who would have otherwise travelled at the VRBs expense, the officer is entitled to a further allowance in addition to the MVA. The rates are provided by DEWRSB.

Officers using Commonwealth vehicles, whether carrying passengers or not, are not entitled to any MVA

Passengers carried in either Commonwealth vehicles or private vehicles used for official travel are not entitled to MVA payment.

## **24.15 After Travel**

- 24.15.1 It is the responsibility of the authorised officer who approved the original travel, or an officer nominated from the appropriate business entity, to follow up and monitor all necessary post travel acquittals/amendments.
- 24.15.2 On completion of travel, officers are to acquit a copy of the MR, attach the relevant boarding passes and cabcharge voucher butts and arrange to have it filed with the copy held by the Administrative Officer in National Office.
- 24.15.3 All MRs are to be acquitted within 14 days after travel if possible.
- 24.15.4 If there were no changes to the approved itinerary detailed on the MR form the officer shall sign the MR within 14 days after travel and arrange to have it filed as per Section 15.2 above.
- 24.15.5 If itinerary or other changes occur, regardless of whether these result in the need for adjustments to TA, an amendment MR with the revised details should be completed and passed with a copy of the original MR, to the authorised officer who approved the original travel, or, in that officer's absence, to another authorised officer of equal or higher classification.
- 24.15.6 Once approved the officer must present the appropriate documentation to the National Office where the form is then forwarded to the CPM, for the necessary adjustment in TA to be made without delay.
- 24.15.7 Any excess TA must be repaid as soon as possible but no later than 14 days after completing domestic travel, unless granted an extension by the relevant officer authorised to approve travel
- 24.15.8 On completion of travel, the authorised officer must ensure that all unused tickets or parts of tickets must be returned by the traveller to the airline. Similarly any unused Cabcharge vouchers must be returned to the issuing officer.
- 24.15.9 MR forms, properly acquitted, are to be held for a minimum of two financial years and may then be destroyed.

## **24.16 Ticket Downgrade – Reimbursement**

- 24.16.1 If for any reason a traveller has their travel status downgraded, the airline is to provide a fare adjustment slip. The traveller shall surrender the slip to the authorising officer as an after travel action.

## **24.17 International Travel – Short Term Missions**

- 24.17.1 The Secretary to DVA is authorised to approve overseas travel, including acquittal of post-travel amendment for the Principal Member. The Principal Member is authorised to approve overseas travel, including acquittal of post travel changes for staff and Members of the VRB.
- 24.17.2 Travel must be approved prior to an officer making travel arrangements.
- 24.17.3 Submissions are to be directed through the Travel Administrator, Personnel and Services Section, National Office, who will ensure that the correct allowances are calculated. Submissions should contain all relevant background material, including the proposed airline route, itinerary and a detailed costing, and be lodged at least four weeks prior to travel.
- 24.17.4 [NOT IN USE]
- 24.17.5 Itineraries are to have provisions for rest periods, which are not to interfere with the most cost-effective route. Officers are to ensure that appropriate rest periods are included in itineraries prior to submission for approval.
- 24.17.6 Where, in the course of a short-term mission, an officer undertakes a journey by air with a travelling time of more than 12 hours, the officer is not required to attend for duty until the officer has had a reasonable opportunity to recuperate (a rest period) at the destination or during a stopover en route
- 24.17.7 The total duration of rest periods at the destination and en route is not to exceed:
- (a) 48 hours in the case of travel:
    - (i) between Australia and Europe, the Middle East, Africa, the West Indies, South America or Central America (including Mexico);
    - (ii) eastwards from Australia to North America; or
    - (iii) westwards to Australia from North America (excluding British Colombia, Washington State, Oregon and California).
  - (b) 24 hours in any other case.

- 24.17.8 The travelling time for a journey means the duration of travel for the period which:
- (a) commences at the latest permitted airport check-in time for the scheduled time of departure from the locality where the journey originates; and
  - (b) concludes at the scheduled time of arrival at the locality which is the destination of the journey.
- 24.17.9 The travelling time for a journey is to exclude the duration of any rest period or period of leave or stopover at a locality at which the officer is not required to perform duty
- 24.17.10 Consistent with the need for appropriate rest periods, officers are to select the most cost-effective (direct) airline route when planning travel.
- 24.17.11 All officers should seek the best fare available through the VRB's contracted travel service provider.
- 24.17.12 Officers are entitled to travel 'Business Class' when undertaking international travel.
- 24.17.13 If an officer chooses to travel below 'Business Class' no credit or cash advantages may be gained by the traveller.
- 24.17.14 TA is to be calculated in accordance with the schedule issued by the DEWR. A schedule of rates is held by the DVA Travel Administrator, Personnel and Services Section, National Office.
- 24.17.15 Overseas travel is to be acquitted within 14 days of completion of travel.
- 24.17.16 TA adjustments are required when itinerary changes occur. Acquittal of accommodation must be supported by the appropriate documentation.
- 24.17.17 Any excess TA is to be repaid as soon as possible but no later than 28 days from completion of travel (unless an extension of time is granted by the Secretary).
- 24.17.18 Allowable expenses must be included in any claim in the currency in which they were incurred. Claims for expenses from more than one country should be treated separately.
- 24.17.19 Any unused tickets or parts of tickets should be returned to the travel services provider as soon as possible to ensure correct billing against the VRB.
- 24.17.20 Where an officer can clearly justify that there is a need to be granted a reasonable excess baggage allowance, that officer should meet the excess baggage costs personally and claim reimbursement on return.



24.17.21 The VRB, through the travel contractor, provides basic insurance (as detailed on the reverse side of the E-ticket) against loss or damage to personal effects carried by an officer. Additional cover is the responsibility of the officer. In addition, Comcover insurance provides cover for loss or damage to baggage, personal effects and cash, subject to upper limits, while an official is on official travel overseas. It is generally not necessary for officials to obtain additional insurance to cover their personal effects when travelling on official business.

24.17.22 Staff travelling overseas on official business are covered by the Safety, Rehabilitation and Compensation Act 1988. This means, generally, staff travelling overseas are covered for any injury or disease arising out of the course of employment.

Comcare also provides cover for overseas medical expenses including emergency medical evacuations. Prior to departure, officials travelling overseas should obtain a Comcover Traveller's Card from the local Travel Manager in State and National Offices or the National Comcover Administrator in National Office. This card provides contact details should the official require medical attention whilst travelling.

Where an officer becomes ill while overseas, the Department is responsible for paying the cost of any necessary medical or hospital treatment of the illness. The official is considered to be on duty during any period during which he or she is unable to perform duty due to illness. It is therefore not necessary for the officer to apply for sick leave.

Where an officer obtains essential emergency dental treatment, the official may be reimbursed the excess cost. The excess cost is the amount by which the treatment exceeds what it would have been charged if the treatment were carried out in Australia.

Official passports must be used for official travel and must be returned to the local travel manager for safe custody when not required. Lost or stolen passports must be reported to the nearest police station and the Australian High Commission, Embassy or Consulate if outside Australia. Within Australia, lost or stolen passports must be reported to the nearest police station and the Australian Federal Police and the Australian passport office. All cases of lost or stolen passports are to be reported to the local Travel Manager as soon as possible.

The Department of Foreign Affairs and Trade has issued Guidelines on Official Australian Contact with Representatives of Foreign States, Political Entities or Organisations. These provide guidance on government policy in relation to countries and organisations where contacts are sensitive politically. All officers travelling overseas should refer to the guidelines before travelling. The guidelines are available from the DVA Travel Administrator in the Personnel and Services Section in National Office.

## **24.18 Sponsored Travel**

- 24.18.1 Sponsored travel is also covered by CEI 10.11 ‘Ethical Behaviour’.
- 24.18.2 Where offers of sponsored domestic travel are received, the approval of the Executive Officer is to be sought. In the case of international travel, approval may only be given by the Secretary.
- 24.18.3 Approval to undertake official travel is given on the basis that it represents an efficient and cost effective means of conducting the VRB’s business and such travel will provide a tangible and required outcome. Travel for official purposes should be at the VRB’s expense. This means that transport, accommodation or living expenses should not come from sources other than official funds or the staff member’s own resources.
- 24.18.4 Travel sponsorship is unacceptable except when such travel is in the Government’s interest, travel at official expense is impractical and there exists no real or apparent conflict of interest. Sponsored Travel which would not otherwise be acceptable is not made acceptable by being undertaken during a period of leave.
- 24.18.5 Sponsored travel in a private capacity is accepted as long as it is in no way related to (or could appear to be related to) official duties, does not represent a conflict of interest with an officer’s public duty, or which could be interpreted as having been offered with the object of securing, or in return for, favour or preferential treatment.

## **24.19 Airline Lounge Membership**

- 24.19.1 Under the terms and conditions of the travel services contract, VRB members and staff are eligible for corporate membership (at their own cost) to the contractor’s airport lounge for periods of 1 to 5 years. Senior Officers and below may seek Executive Officer’s approval to have their membership paid at the VRB’s expense if it can be demonstrated that the officer is likely to travel frequently (ie more than 4 times a year) on official business. Memberships paid by the VRB are for no more than 2 years.

## **24.20 Frequent Flyer**

- 24.20.1 Under the travel services contract, VRB employees are not able to participate in a frequent flyer scheme when travelling on official business. An employee may only access frequent flyer points accrued under a previous travel services contract to offset official travel costs. This policy should be made known to people other than employees who travel at departmental expense.

24.20.2 With regard to the use of frequent flyer points, relevant sections of the APS Code of Conduct require officers:

to use Commonwealth resources in a proper manner;

to comply with any lawful and reasonable direction given by someone in the employee's Agency who has authority to give the direction;

while on duty overseas, at all times behave in a way that upholds the good reputation of Australia;

not to make improper use of inside information, or their duties, status, power or authority in order to gain, or seek to gain, a benefit or advantage for themselves or for any other person; and to disclose, and take reasonable steps to avoid any conflict of interest (real or apparent) in connection with APS employment.

## **24.21 Management – Audit Requirements**

24.21.1 Future auditing programs will include the scheduled auditing of the travel management systems of individual areas. Travellers, authorised officers and the officer/s responsible for pre and post travel action are reminded that all actions taken are to be in accordance with the information required on the MR.

24.21.2 It is the responsibility of VRB management to have systems in place which will ensure that at least the following requirements are satisfied:

- (a) all travel is properly approved;
- (b) allowances are calculated correctly (as per current rates);
- (c) control is maintained over all Cabcharge vouchers, (which are accountable forms);
- (d) expenditure records are maintained which show current expenditure and year- to-date totals etc;
- (e) all movement requisitions are properly acquitted;
- (f) all changes to original travel are recorded on the post travel document (Movement Requisition);
- (g) all papers relating to approval of travel are retained with the post travel documents; and
- (h) all travel documents are retained for a minimum of two financial (2) years.

24.21.3 Random sample checks of officers' travel documents will be part of management controls to assist in detecting and deterring travelling allowance fraud and/or errors.

## **24.22      References**

24.22.1      This document draws on information contained in Attachment A.

## **24.23      Penalties**

24.23.1      See sections 14, 41 and 61 of the the *Financial Management and Accountability Act 1997*.

## 24.24 Legislative Context

24.24.1 This policy impacts on members and staff who are required to travel on the business of the Veterans' Review Board. The legislative and regulatory basis of the policy, as it impacts on Members and staff is as follows:

24.24.2 Members:

24.24.2.1 The VRB's travel policy in relation to members is subject to, and is therefore based upon, the following legislation and legal instruments:

Instrument of Delegation issued by the Minister for Finance under s.64 of the *Constitution*;

Determination made on 18<sup>th</sup> December 1986 by the Governor-General in Council pursuant to s159 (3) of the *Veterans' Entitlements Act 1986*;

Public Service Board determination No. 10 of 1983 issued under the *Public Service Act 1922*;

Public Service Board determination No. 46 of 1984 issued under the *Public Service Act 1922*;

Public Service Board determination No. 5 of 1998 issued under the *Public Service Act 1922*;

Chief Executive Instructions Nos. 5.1 and 5.16 determined by the Secretary to the Department of Veterans' Affairs under the *Financial Management and Accountability Act 1997*;

Determinations of the Remuneration Tribunal made under the *Remuneration Tribunal Act*.

24.24.3 Staff:

24.24.3.1 The VRB's travel policy in relation to staff is subject to, and is therefore based upon, the following legislation and legal instruments:

Instrument of Delegation issued by the Minister for Finance under s.64 of the *Constitution*;

Chief Executive Instructions Nos. 5.1 and 5.16 determined by the Secretary to the Department of Veterans' Affairs under the *Financial Management and Accountability Act 1997*;

Public Service Board determination No. 10 of 1983 issued under the *Public Service Act 1922*;

Public Service Board determination No. 5 of 1998 issued under the *Public Service Act 1922*;

1999-2001 DVA Enterprise Agreement, made under the *Workplace Relations Act*;

Australian Workplace Agreements made under the *Workplace Relations Act*.

The next page is Chapter 25 – Payment of accounts

# 25. Payment of Accounts

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## 25.1 Payment on Invoice

# Please Note: The VRB does not pay accounts from statements. An invoice must be held for each individual transaction and payment is on invoice only.

25.1.1 Each invoice received by a Registry is to be imprinted with a date stamp on the face of the document.

25.1.2 The invoice is then checked to confirm that the goods and/or service have been received and that the details of the transaction are correct. If the goods and/or service has been received, and the invoice is correct, the invoice is stamped and certified (see audit approved format below).

Goods and/or Services Received on .....  Signed.....
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25.1.3 Should the invoice not be correct the service provider is to be contacted and the issue(s) resolved. When the invoice is satisfactory, return to procedure [25.1.2](#) above and certify the invoice.

25.1.4 Should the goods and/or service not have been provided, the invoice is not certified. Once the goods and/or service have been received, return to procedure [25.1.2](#) above and certify the invoice.

Invoices for subscriptions, plant hire, equipment rentals and other ad hoc items are ordinarily paid in advance. Before entering into an arrangement which requires a payment in advance, prior approval is required. For subscriptions, approval is through the Executive Officer; while for all other advance payments, approval is through the VRB Director of Corporate Services. Invoices for approved advance payments are as per [25.1.2](#) above.

25.1.5 A copy is made of the invoice and all supporting documentation. The registry receiving the goods and/or service retains the copy. This copy of the certified invoice will be the only VRB reference copy and is to be retained subject to the National Archives General Disposal Schedules.

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<sup>104</sup> This chapter is included in the Operations Manual from August 2003



The original certified invoice and all supporting documentation is to be sent to the Administrative Assistant, Principal Registry.

25.1.6 The Administrative Assistant, Principal Registry, completes a *Claim for Payment* form D5645 in accordance with the Department of Veterans' Affairs Executive Instruction 10.7 (Chart of Accounts) and attaches the invoice to the form. Details of the invoice are recorded on appropriate VRB spreadsheets

25.1.7 The *Claim for Payment* form is sent to the VRB Director of Corporate Services for approval of the payment. The approved claim is forwarded to the Departmental account payment provider (QCS).

After the invoice has been forwarded to the Departmental account payment provider (QCS) all enquiries should then be directed to the account provider helpdesk

## **25.2 Payment by corporate Credit Card**

25.2.1 Invoices are not to be paid by corporate credit card. Small payments can be reimbursed through petty cash (see 25.3) while the Departmental account payment provider (see 25.1) pays larger invoices.

25.2.2 A corporate credit card payment is appropriate when a supplier is unable, or unwilling, to issue an invoice for the goods and/or service.

25.2.3 All corporate credit cards have limits on both the individual transactions amount and the total credit available during the accounting period. The Director Corporate Services, Principal Registry, allocates the corporate credit card limits.

25.2.4 On completion of a corporate credit card transaction, the cardholder is to complete a dummy sales docket recording both the transaction details and the accounts coding information. Purchase information is also to be recorded on a commitment register.

25.2.5 Within 5 working days of the conclusion of each card statement period the cardholder must have completed the reconciliation of the purchases appearing on the monthly account. In the current system, reconciliation of individual purchases can be performed as soon as the bank has processed the merchant record – usually within a few days of the purchase. Cardholders are provided access to the “*FlexiPurchase*” website for this purpose. Individual cardholders should refer to their *FlexiPurchase User Guide* for details on this process. Procedures for disputed transactions are included in the *FlexiPurchase User Guide*.

25.2.6 Cardholders must print a copy of the reconciled statement and attach copies of transaction records and supporting documentation, before sending the

documents to their Registrar for certification. Where the card is issued to a Registrar, or a person in the Principal Registry, documentation is to be sent to the Director of Corporate Services, Principal Registry, for certification.

- 25.2.7 Following certification, the registry receiving the goods and/or service retains the certified reconciled statement. This copy of the certified reconciled statement will be the only VRB reference copy and is to be retained subject to the National Archives General Disposal Schedules.

## **25.3 Payment or reimbursement by Petty Cash**

Each petty cash holder should read, be familiar with and follow the Chief Executive Instruction No. 4.3 which can be accessed at

<http://intranet/dva/operational/finadmin/cei/ceis/CEI4.3.doc>

The Director of Corporate Services, Department of Veterans' Affairs Accounts Manager, or Department of Veterans' Affairs Finance Officer, may issue local instructions on petty cash advances from time to time, however, these must not be inconsistent with the Chief Executive Instructions.

### **MANAGEMENT OF PETTY CASH ADVANCE**

- 25.3.1 Supervisors are to ensure that officials taking over advances are given comprehensive written instructions on operating the advance and are adequately trained in their duties.

- 25.3.2 Advance holders must not make payments from the official advances for any purpose other than for the purpose for which the advance was established.

The level of the advance is to be set by the Department of Veterans' Affairs Finance Officer on the recommendation of the VRB Director of Corporate Services.

- 25.3.3 Official advances must be secure and held under lock and key when not in immediate use.

Advance holders are personally responsible for the money in their charge and, in the event of loss, the onus is on them to show that all reasonable steps were taken to prevent the loss if they are to avoid liability.

If an advance holder believes that there are faults in the system which are outside their control and which could make losses possible, they are to report this to local management immediately.

25.3.4 An advance may be transferred to another official where, for example, the current holder takes leave or moves to another position. Any person taking over an advance must prepare, and send to the delegate who authorised the advance, a statement detailing: (a) the full amount of the advance; (b) the sum total of vouchers on hand; (c) the amount of any reimbursement in transit; and (d) the unexpended balance of the advance. The statement must be signed by the original advance holder and the person taking over the advance; or, if the original advance holder cannot be present, signed by the person taking over the advance and an independent witness.

25.3.5 Advance holders are to arrange reimbursement of advances when required but at least once each month.

A claim for reimbursement is to be supported by: *Petty Cash Vouchers* (Department of Veterans' Affairs form D5649); a *Claim For Payment* form (D5645); and including a statement detailing the vouchers and balancing the advance. Reimbursement is by way of cash from the local DVA Collector of Public Monies or cheque which may be encashed at a branch of an approved bank or at a Regional Office of the Department of Finance.

25.3.6 The VRB Director of Corporate Services, Department of Veterans' Affairs Accounts Manager, or a Department of Veterans' Affairs Finance Officer, may check an advance at any time. The advance holder must provide the Accounts Manager or a Finance Officer with access to all documentation relating to the advance, and to the cash on hand. The advance holder must be present during the check of the advance.

#### PAYMENTS BY PETTY CASH

25.3.7 Payments of small invoices and purchase of small services may be made and reimbursed through petty cash, however the Australian Government credit card should be used wherever practical in preference to petty cash. A single transaction is not to exceed \$100 (one hundred dollars) and orders are not to be split to circumvent that limit.

25.3.8 Prior approval is required for all expenditure of petty cash. Receipts are required for reimbursement of all items over \$20 (twenty dollars) in value. Where no receipt is obtained for a transaction less than \$20 (twenty dollars) in value a statement detailing the transaction is to be provided and this may substitute for a receipt.

25.3.9 Petty cash is ordinarily paid by way of reimbursement, although, in special circumstances, an advance may be available at the discretion of the petty cash advance holder. The details of any advance in petty cash is to be noted, the note signed by the person receiving the advance and countersigned by the petty cash holder. The note concerning the advance is retained until the petty cash receipt and any unused advance are returned to the petty cash holder. The petty cash advance notice should be retained until petty cash advance is reconcilled. An

advance of monies is to be acquitted within three days immediately following the date on which the advance was made.

- 25.3.10 A claim for petty cash is to be made on a *Petty Cash Voucher* (Department of Veterans' Affairs form D5649). The voucher is to be completed by the claimant who is to arrange for the approval of the expenditure from an official holding appropriate authorisation before presenting the voucher for reimbursement. Separate vouchers are required for V1 and V2 reimbursements.
- 25.3.11 Following a petty cash reimbursement the advance holder is to record the relevant petty cash voucher details on a suitable register.
- 25.3.12 The official responsible for petty cash is to ensure the advance is reimbursed to the full amount several days prior to the end of the financial year. This will ensure all expenditure against petty cash is recorded in the appropriate financial year. A copy of the end of year reimbursement should be sent to the VRB Director Corporate Services.

The next page is - Principal Member Directions

# Principal Member Directions

## **Principal Member Directions issued under section 142(2) of the Act**

Direction 1/2002    Tape Recording of Hearings Conducted by the Veterans' Review Board ([Direction 1 2002](#))

The next page is Part 2 – Forms and letters

## Part 2 — Forms and Letters

### RV1:1 Application for Review Form

[Return to part [p1 1 1](#)]

#### Veterans' Review Board

This form should be completed by persons who wish to apply to the Veterans' Review Board for a review of a decision by the Repatriation Commission. The completed application form should be sent to any office of the Department of Veterans' Affairs, which will pass it to the Veterans' Review Board. In the event of an appeal against a decision, the information may be disclosed to the Administrative Appeals Tribunal and the Federal Court. The previous section explains more about how applications are made and how the Veterans' Review Board conducts a review.

---

DVA File number .....

Full name .....

Address.....

.....

Telephone (home) ..... (work) .....

I would like the Veterans' Review Board to review the following decision:

Decision: .....

.....

.....

Decision made by: .....

Date of decision: ...../...../..... Date I received decision: ...../...../.....

I am unhappy with the decision because:.....

.....

.....

.....

.....

I would like to be represented by: .....

Signature of applicant ..... Date ...../...../.....



## **L21 Invalid Application –(1<sup>st</sup> Letter)**

### **L21.1 Invalid Entitlement - No Rep**

[Return to [p2\\_5\\_1](#)]  
VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

The Department of Veterans' Affairs has referred to the Board your application for review received by the Department on [receipt date]. In that application you sought review of the Repatriation Commission decision of [Commission decision date] in respect of [issue].

I am writing to you because your application for review appears to be invalid.

To be valid, an application for review relating to entitlement matters must be received at an office of the Department of Veterans' Affairs within 12 months of notification to you of the Commission's decision. In your case, the Department's records show that advice of the decision of [Commission decision date] was mailed to you on that date to your current address. Your application for review was received by the Department on [receipt date] and therefore was made outside the 12 month statutory time limit.

For these reasons, your application for review will not proceed unless you advise me within 14 days of the date of this letter that you disagree with the facts as set out above. If you do disagree, it would be helpful if you could provide me with your reasons for disagreeing so that this matter can be reconsidered.

Yours sincerely

[author]  
[title]

[date]

## L21.1 Invalid Entitlement - With Rep

[Return to [p2\\_5\\_1](#)]  
VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

The Department of Veterans' Affairs has referred to the Board your application for review received by the Department on [receipt date]. In that application you sought review of the Repatriation Commission decision of [Commission decision date] in respect of [issue].

I am writing to you because your application for review appears to be invalid.

To be valid, an application for review relating to entitlement matters must be received at an office of the Department of Veterans' Affairs within 12 months of notification to you of the Commission's decision. In your case, the Department's records show that advice of the decision of [Commission decision date] was mailed to you on that date to your current address. Your application for review was received by the Department on [receipt date] and therefore was made outside the 12 month statutory time limit.

For these reasons, your application for review will not proceed unless you advise me within 14 days of the date of this letter that you disagree with the facts as set out above. If you do disagree, it would be helpful if you could provide me with your reasons for disagreeing so that this matter can be reconsidered.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter and enclosures have been sent to:

- Your Representative – [representative], [organisation]

## **L21.2 Invalid Assessment - No Rep**

[Return to [p2\\_5\\_1](#)]  
VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

The Department of Veterans' Affairs has referred to the Board your application for review received by the Department on [receipt date]. In that application you sought review of the Repatriation Commission decision of [Commission decision date] in respect of [issue].

I am writing to you because your application for review appears to be invalid.

To be valid, an application for review relating to pension assessment must be received at an office of the Department of Veterans' Affairs within 3 months of notification to you of the Commission's decision. In your case, the Department's records show that advice of the decision of [Commission decision date] was mailed to you on that date to your current address. Your application for review was received by the Department on [receipt date] and therefore was made outside the 3 month statutory time limit.

For these reasons, your application for review will not proceed unless you advise me within 14 days of the date of this letter that you disagree with the facts as set out above. If you do disagree, it would be helpful if you could provide me with your reasons for disagreeing so that this matter can be reconsidered.

Yours sincerely

[author]  
[title]

[date]

## L21.2 Invalid Assessment - With Rep

[Return to [p2\\_5\\_1](#)]  
VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

The Department of Veterans' Affairs has referred to the Board your application for review received by the Department on [receipt date]. In that application you sought review of the Repatriation Commission decision of [Commission decision date] in respect of pension assessment at [issue].

I am writing to you because your application for review appears to be invalid.

To be valid, an application for review relating to pension assessment must be received at an office of the Department of Veterans' Affairs within 3 months of notification to you of the Commission's decision. In your case, the Department's records show that advice of the decision of [Commission decision date] was mailed to you on that date to your current address. Your application for review was received by the Department on [receipt date] and therefore was made outside the 3 month statutory time limit.

For these reasons, your application for review will not proceed unless you advise me within 14 days of the date of this letter that you disagree with the facts as set out above. If you do disagree, it would be helpful if you could provide me with your reasons for disagreeing so that this matter can be reconsidered.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter and enclosures have been sent to:

- Your Representative – [representative], [organisation]

## **L21.3 Invalid Attendant Allowance - No Rep**

[Return to [p2 5 1](#)]

VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

The Department of Veterans' Affairs has referred to the Board your application for review received by the Department on [receipt date]. In that application you sought review of the Repatriation Commission decision of [Commission decision date] in respect of Attendant Allowance.

I am writing to you because your application for review appears to be invalid.

To be valid, an application for review relating to Attendant Allowance must be received at an office of the Department of Veterans' Affairs within 3 months of notification to you of the Commission's decision. In your case, the Department's records show that advice of the decision of [Commission decision date] was mailed to you on that date to your current address. Your application for review was received by the Department on [receipt date] and therefore was made outside the 3 month statutory time limit.

For these reasons, your application for review will not proceed unless you advise me within 14 days of the date of this letter that you disagree with the facts as set out above. If you do disagree, it would be helpful if you could provide me with your reasons for disagreeing so that this matter can be reconsidered.

Yours sincerely

[author]  
[title]

[date]

## **L21.3 Invalid Attendant Allowance - With Rep**

[Return to [p2\\_5\\_1](#)]

VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

The Department of Veterans' Affairs has referred to the Board your application for review received by the Department on [receipt date]. In that application you sought review of the Repatriation Commission decision of [Commission decision date] in respect of Attendant Allowance.

I am writing to you because your application for review appears to be invalid.

To be valid, an application for review relating to Attendant Allowance must be received at an office of the Department of Veterans' Affairs within 3 months of notification to you of the Commission's decision. In your case, the Department's records show that advice of the decision of [Commission decision date] was mailed to you on that date to your current address. Your application for review was received by the Department on [receipt date] and therefore was made outside the 3 month statutory time limit.

For these reasons, your application for review will not proceed unless you advise me within 14 days of the date of this letter that you disagree with the facts as set out above. If you do disagree, it would be helpful if you could provide me with your reasons for disagreeing so that this matter can be reconsidered.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter and enclosures have been sent to:

- Your Representative – [representative], [organisation]

## **L21.4 Invalid Both Entitlement & Assessment - No Rep**

[Return to [p2\\_5\\_1](#)]  
VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

The Department of Veterans' Affairs has referred to the Board your application for review received by the Department on [receipt date]. In that application you sought review of the Repatriation Commission decision of [Commission decision date] in respect of [issue], and pension assessment at [issue].

I am writing to you because your application for review appears to be invalid.

To be valid, an application for review relating to entitlement matters must be received at an office of the Department of Veterans' Affairs within 12 months of notification to you of the Commission's decision. The valid period for pension assessment matters is 3 months. In your case, the Department's records show that advice of the decision of [Commission decision date] was mailed to you on that date to your current address. Your application for review was received by the Department on [receipt date] and therefore was made outside the 12 month and 3 month statutory time limit.

For these reasons, your application for review will not proceed unless you advise me within 14 days of the date of this letter that you disagree with the facts as set out above. If you do disagree, it would be helpful if you could provide me with your reasons for disagreeing so that this matter can be reconsidered.

Yours sincerely

[author]  
[title]

[date]

## **L21.4 Invalid Both Entitlement & Assessment - With Rep**

[Return to [p2\\_5\\_1](#)]

VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

The Department of Veterans' Affairs has referred to the Board your application for review received by the Department on [receipt date]. In that application you sought review of the Repatriation Commission decision of [Commission decision date] in respect of [issue], and pension assessment at [issue].

I am writing to you because your application for review appears to be invalid.

To be valid, an application for review relating to entitlement matters must be received at an office of the Department of Veterans' Affairs within 12 months of notification to you of the Commission's decision. The valid period for pension assessment matters is 3 months. In your case, the Department's records show that advice of the decision of [Commission decision date] was mailed to you on that date to your current address. Your application for review was received by the Department on [receipt date] and therefore was made outside the 12 month and 3 month statutory time limit.

For these reasons, your application for review will not proceed unless you advise me within 14 days of the date of this letter that you disagree with the facts as set out above. If you do disagree, it would be helpful if you could provide me with your reasons for disagreeing so that this matter can be reconsidered.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter and enclosures have been sent to:

- Your Representative – [representative], [organisation]



## **L21.5 Invalid Both - Assessment Only - No Rep**

[Return to [p2\\_5\\_1](#)]  
VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

The Department of Veterans' Affairs has referred to the Board your application for review received by the Department on [receipt date]. In that application you sought review of the Repatriation Commission decision of [Commission decision date] in respect of [issue], and pension assessment at [issue].

I am writing to you because the part of your application for review relation to pension assessment appears to be invalid. That part of your application for review relating to entitlement matters is valid and will proceed.

To be valid, an application for review relating to pension assessment must be received at an office of the Department of Veterans' Affairs within 3 months of notification to you of the Commission's decision. In your case, the Department's records show that advice of the decision of [Commission decision date] was mailed to you on that date to your current address. Your application for review was received by the Department on [receipt date] and therefore was made outside the 3 month statutory time limit.

For these reasons, your application for review relating to pension assessment, will not proceed unless you advise me within 14 days of the date of this letter that you disagree with the facts as set out above. If you do disagree, it would be helpful if you could provide me with your reasons for disagreeing so that this matter can be reconsidered.

Yours sincerely

[author]  
[title]

[date]

## **L21.5 Invalid Both - Assessment Only - With Rep**

[Return to [p2\\_5\\_1](#)]

VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

The Department of Veterans' Affairs has referred to the Board your application for review received by the Department on [receipt date]. In that application you sought review of the Repatriation Commission decision of [Commission decision date] in respect of [issue], and pension assessment at [issue].

I am writing to you because the part of your application for review relation to pension assessment appears to be invalid. That part of your application for review relating to entitlement matters is valid and will proceed.

To be valid, an application for review relating to pension assessment must be received at an office of the Department of Veterans' Affairs within 3 months of notification to you of the Commission's decision. In your case, the Department's records show that advice of the decision of [Commission decision date] was mailed to you on that date to your current address. Your application for review was received by the Department on [receipt date] and therefore was made outside the 3 month statutory time limit.

For these reasons, your application for review relating to pension assessment, will not proceed unless you advise me within 14 days of the date of this letter that you disagree with the facts as set out above. If you do disagree, it would be helpful if you could provide me with your reasons for disagreeing so that this matter can be reconsidered.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter and enclosures have been sent to:

- Your Representative – [representative],[organisation]

## **L22          Doubtful/Disputed Application –(1<sup>st</sup> Letter)**

### **L22.1          Doubtful Entitlement - No Rep**

[Return to [p2\\_5\\_1](#)]  
VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

The Department of Veterans' Affairs has referred to the Board your application for review received by the Department on [receipt date]. In that application you sought review of the Repatriation Commission decision of [Commission decision date] in respect of [issue].

I am writing to you because it seems that your application for review might not be valid.

To be valid, an application for review relating to entitlement matters must be received at an office of the Department of Veterans' Affairs within 12 months of notification to you of the Commission's decision. In your case, the Department's records show that advice of the decision of [Commission decision date] was mailed to you on that date to your current address. Your application for review was received by the Department on [receipt date] and it therefore appears that it was received outside the 12 month statutory time limit.

In order to resolve this matter, I will arrange for your application to be listed for hearing before the Board as a matter of priority. At this hearing the Board will first consider whether or not your application is valid. If the Board agrees with you that the application is valid, it will then proceed to review the subject of the decision you have appealed. You should therefore be prepared to discuss both issues with the Board at this hearing.

Before this hearing can be arranged, it is necessary for you to complete the enclosed "applicant's advice" form and return it to the Board as soon as possible.

The Board will write to you again about a hearing once we have received your reply and you have had time to consider the contents of the report the Department of Veterans' Affairs will send you relating to your application.

Yours sincerely

[author]  
[title]

[date]

## L22.1 Doubtful Entitlement - With Rep

[Return to [p2\\_5\\_1](#)]  
VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

The Department of Veterans' Affairs has referred to the Board your application for review received by the Department on [receipt date]. In that application you sought review of the Repatriation Commission decision of [Commission decision date] in respect of [issue].

I am writing to you because it seems that your application for review might not be valid.

To be valid, an application for review relating to entitlement matters must be received at an office of the Department of Veterans' Affairs within 12 months of notification to you of the Commission's decision. In your case, the Department's records show that advice of the decision of [Commission decision date] was mailed to you on that date to your current address. Your application for review was received by the Department on [receipt date] and it therefore appears that it was received outside the 12 month statutory time limit.

In order to resolve this matter, I will arrange for your application to be listed for hearing before the Board as a matter of priority. At this hearing the Board will first consider whether or not your application is valid. If the Board agrees with you that the application is valid, it will then proceed to review the subject of the decision you have appealed. You should therefore be prepared to discuss both issues with the Board at this hearing.

Before this hearing can be arranged, it is necessary for you to complete the enclosed "applicant's advice" form and return it to the Board as soon as possible.

The Board will write to you again about a hearing once we have received your reply and you have had time to consider the contents of the report the Department of Veterans' Affairs will send you relating to your application.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter and enclosures have been sent to:

- Your Representative – [representative], [organisation]

## L22.2 Doubtful Assessment - No Rep

[Return to [p2\\_5\\_1](#)]  
VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

The Department of Veterans' Affairs has referred to the Board your application for review received by the Department on [receipt date]. In that application you sought review of the Repatriation Commission decision of [Commission decision date] in respect of pension assessment at [issue].

I am writing to you because it seems that your application for review might not be valid.

To be valid, an application for review relating to entitlement matters must be received at an office of the Department of Veterans' Affairs within 12 months of notification to you of the Commission's decision. In your case, the Department's records show that advice of the decision of [Commission decision date] was mailed to you on that date to your current address. Your application for review was received by the Department on [receipt date] and it therefore appears that it was received outside the 3 month statutory time limit.

In order to resolve this matter, I will arrange for your application to be listed for hearing before the Board as a matter of priority. At this hearing the Board will first consider whether or not your application is valid. If the Board agrees with you that the application is valid, it will then proceed to review the subject of the decision you have appealed. You should therefore be prepared to discuss both issues with the Board at this hearing.

Before this hearing can be arranged, it is necessary for you to complete the enclosed "applicant's advice" form and return it to the Board as soon as possible.

The Board will write to you again about a hearing once we have received your reply and you have had time to consider the contents of the report the Department of Veterans' Affairs will send you relating to your application.

Yours sincerely

[author]  
[title]

[date]

## L22.2 Doubtful Assessment - With Rep

[Return to [p2\\_5\\_1](#)]  
VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

The Department of Veterans' Affairs has referred to the Board your application for review received by the Department on [receipt date]. In that application you sought review of the Repatriation Commission decision of [Commission decision date] in respect of pension assessment at [issue].

I am writing to you because it seems that your application for review might not be valid.

To be valid, an application for review relating to entitlement matters must be received at an office of the Department of Veterans' Affairs within 12 months of notification to you of the Commission's decision. In your case, the Department's records show that advice of the decision of [Commission decision date] was mailed to you on that date to your current address. Your application for review was received by the Department on [receipt date] and it therefore appears that it was received outside the 3 month statutory time limit.

In order to resolve this matter, I will arrange for your application to be listed for hearing before the Board as a matter of priority. At this hearing the Board will first consider whether or not your application is valid. If the Board agrees with you that the application is valid, it will then proceed to review the subject of the decision you have appealed. You should therefore be prepared to discuss both issues with the Board at this hearing.

Before this hearing can be arranged, it is necessary for you to complete the enclosed "applicant's advice" form and return it to the Board as soon as possible.

The Board will write to you again about a hearing once we have received your reply and you have had time to consider the contents of the report the Department of Veterans' Affairs will send you relating to your application.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter and enclosures have been sent to:

- Your Representative – [representative], [organisation]

## L22.3      Doubtful Attendant Allowance - No Rep

[Return to [p2\\_5\\_1](#)]  
VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

The Department of Veterans' Affairs has referred to the Board your application for review received by the Department on [receipt date]. In that application you sought review of the Repatriation Commission decision of [Commission decision date] in respect of Attendant Allowance.

I am writing to you because it seems that your application for review might not be valid.

To be valid, an application for review relating to Attendant Allowance matters must be received at an office of the Department of Veterans' Affairs within 3 months of notification to you of the Commission's decision. In your case, the Department's records show that advice of the decision of [Commission decision date] was mailed to you on that date to your current address. Your application for review was received by the Department on [receipt date] and it therefore appears that it was received outside the 3 month statutory time limit.

In order to resolve this matter, I will arrange for your application to be listed for hearing before the Board as a matter of priority. At this hearing the Board will first consider whether or not your application is valid. If the Board agrees with you that the application is valid, it will then proceed to review the subject of the decision you have appealed. You should therefore be prepared to discuss both issues with the Board at this hearing.

Before this hearing can be arranged, it is necessary for you to complete the enclosed "applicant's advice" form and return it to the Board as soon as possible.

The Board will write to you again about a hearing once we have received your reply and you have had time to consider the contents of the report the Department of Veterans' Affairs will send you relating to your application.

Yours sincerely

[author]  
[title]

[date]

## L22.3 Doubtful Attendant Allowance – With Rep

[Return to [p2\\_5\\_1](#)]  
VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

The Department of Veterans' Affairs has referred to the Board your application for review received by the Department on [receipt date]. In that application you sought review of the Repatriation Commission decision of [Commission decision date] in respect of Attendant Allowance.

I am writing to you because it seems that your application for review might not be valid.

To be valid, an application for review relating to Attendant Allowance matters must be received at an office of the Department of Veterans' Affairs within 3 months of notification to you of the Commission's decision. In your case, the Department's records show that advice of the decision of [Commission decision date] was mailed to you on that date to your current address. Your application for review was received by the Department on [receipt date] and it therefore appears that it was received outside the 3 month statutory time limit.

In order to resolve this matter, I will arrange for your application to be listed for hearing before the Board as a matter of priority. At this hearing the Board will first consider whether or not your application is valid. If the Board agrees with you that the application is valid, it will then proceed to review the subject of the decision you have appealed. You should therefore be prepared to discuss both issues with the Board at this hearing.

Before this hearing can be arranged, it is necessary for you to complete the enclosed "applicant's advice" form and return it to the Board as soon as possible.

The Board will write to you again about a hearing once we have received your reply and you have had time to consider the contents of the report the Department of Veterans' Affairs will send you relating to your application.

Yours sincerely

[author]

[title]  
[date]

A copy of this letter and enclosures have been sent to:

- Your Representative – [representative], [organisation]



## **L22.4      Doubtful Entitlement & Assessment - No Rep**

[Return to [p2 5 1](#)]

VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

The Department of Veterans' Affairs has referred to the Board your application for review received by the Department on [receipt date]. In that application you sought review of the Repatriation Commission decision of [Commission decision date] in respect of [issue], and pension assessment at [issue].

I am writing to you because it seems that your application for review might not be valid.

To be valid, an application for review relating to entitlement matters must be received at an office of the Department of Veterans' Affairs within 12 months of notification to you of the Commission's decision. The valid period for pension assessment matters is 3 months. In your case, the Department's records show that advice of the decision of [Commission decision date] was mailed to you on that date to your current address. Your application for review was received by the Department on [receipt date] and it therefore appears that it was received outside the 12 month and 3 month statutory time limit.

In order to resolve this matter, I will arrange for your application to be listed for hearing before the Board as a matter of priority. At this hearing the Board will first consider whether or not your application is valid. If the Board agrees with you that the application is valid, it will then proceed to review the subject of the decision you have appealed. You should therefore be prepared to discuss both issues with the Board at this hearing.

Before this hearing can be arranged, it is necessary for you to complete the enclosed "applicant's advice" form and return it to the Board as soon as possible.

The Board will write to you again about a hearing once we have received your reply and you have had time to consider the contents of the report the Department of Veterans' Affairs will send you relating to your application.

Yours sincerely

[author]  
[title]

[date]

## **L22.4      Doubtful Entitlement & Assessment – With Rep**

[Return to [p2\\_5\\_1](#)]

VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

The Department of Veterans' Affairs has referred to the Board your application for review received by the Department on [receipt date]. In that application you sought review of the Repatriation Commission decision of [Commission decision date] in respect of [issue], and pension assessment at [issue].

I am writing to you because it seems that your application for review might not be valid.

To be valid, an application for review relating to entitlement matters must be received at an office of the Department of Veterans' Affairs within 12 months of notification to you of the Commission's decision. The valid period for pension assessment matters is 3 months. In your case, the Department's records show that advice of the decision of [Commission decision date] was mailed to you on that date to your current address. Your application for review was received by the Department on [receipt date] and it therefore appears that it was received outside the 12 month and 3 month statutory time limit.

In order to resolve this matter, I will arrange for your application to be listed for hearing before the Board as a matter of priority. At this hearing the Board will first consider whether or not your application is valid. If the Board agrees with you that the application is valid, it will then proceed to review the subject of the decision you have appealed. You should therefore be prepared to discuss both issues with the Board at this hearing.

Before this hearing can be arranged, it is necessary for you to complete the enclosed "applicant's advice" form and return it to the Board as soon as possible.

The Board will write to you again about a hearing once we have received your reply and you have had time to consider the contents of the report the Department of Veterans' Affairs will send you relating to your application.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter and enclosures have been sent to:

- Your Representative – [representative], [organisation]

## **L22.5      Doubtful - Both - Assessment Only - No Rep**

[Return to [p2\\_5\\_1](#)]  
VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

The Department of Veterans' Affairs has referred to the Board your application for review received by the Department on [receipt date]. In that application you sought review of the Repatriation Commission decision of [Commission decision date] in respect of [issue], and pension assessment at [issue].

I am writing to you because it seems that part of your application for review relating to pension assessment might not be valid. That part of your application for review relating to entitlement matters is valid and will proceed.

To be valid, an application for review relating to pension assessment matters must be received at an office of the Department of Veterans' Affairs within 3 months of notification to you of the Commission's decision. In your case, the Department's records show that advice of the decision of [Commission decision date] was mailed to you on that date to your current address. Your application for review was received by the Department on [receipt date] and it therefore appears that it was received outside the 3 month statutory time limit.

In order to resolve this matter, I will arrange for your application to be listed for hearing before the Board as a matter of priority. At this hearing the Board will first consider whether or not your application is valid. If the Board agrees with you that the application is valid, it will then proceed to review the subject of the decision you have appealed. You should therefore be prepared to discuss both issues with the Board at this hearing.

Before this hearing can be arranged, it is necessary for you to complete the enclosed "applicant's advice" form and return it to the Board as soon as possible.

The Board will write to you again about a hearing once we have received your reply and you have had time to consider the contents of the report the Department of Veterans' Affairs will send you relating to your application.

Yours sincerely

[author]  
[title]

[date]

## **L22.5      Doubtful - Both - Assessment Only – With Rep**

[Return to [p2\\_5\\_1](#)]  
VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

The Department of Veterans' Affairs has referred to the Board your application for review received by the Department on [receipt date]. In that application you sought review of the Repatriation Commission decision of [Commission decision date] in respect of [issue], and pension assessment at [issue].

I am writing to you because it seems that part of your application for review relating to pension assessment might not be valid. That part of your application for review relating to entitlement matters is valid and will proceed.

To be valid, an application for review relating to pension assessment matters must be received at an office of the Department of Veterans' Affairs within 3 months of notification to you of the Commission's decision. In your case, the Department's records show that advice of the decision of [Commission decision date] was mailed to you on that date to your current address. Your application for review was received by the Department on [receipt date] and it therefore appears that it was received outside the 3 month statutory time limit.

In order to resolve this matter, I will arrange for your application to be listed for hearing before the Board as a matter of priority. At this hearing the Board will first consider whether or not your application is valid. If the Board agrees with you that the application is valid, it will then proceed to review the subject of the decision you have appealed. You should therefore be prepared to discuss both issues with the Board at this hearing.

Before this hearing can be arranged, it is necessary for you to complete the enclosed "applicant's advice" form and return it to the Board as soon as possible.

The Board will write to you again about a hearing once we have received your reply and you have had time to consider the contents of the report the Department of Veterans' Affairs will send you relating to your application.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter and enclosures have been sent to:

- Your Representative – [representative], [organisation]

## **L23 Invalid Application –(2<sup>nd</sup> Letter)**

### **L23.1 Rejection Entitlement – No Rep**

[return to [p2 5 3](#)]  
[VRB Reg No]

[applicant]  
[Address]  
[Town/City postcode]

Dear M[] [applicant]

I refer to my letter dated [letter to applicant date] regarding the validity of your application for review of the Repatriation Commission decision of [Commission decision] in respect of [issue].

I have now classified your application as invalid, and it will not be considered by the Board. This is because your application was lodged outside the statutory time limit.

You may, however, lodge a new claim for pension or an application for an increase in pension with the Department of Veterans' Affairs.

Yours sincerely

[author]  
[title]

[date]

Copies of this letter have been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA No.]

## L23.1 Rejection Entitlement – With Rep

[return to [p2\\_5\\_3](#)]

[VRB Reg No]  
[applicant]

M[]  
[Address]  
[Town/City postcode]

Dear M[] [applicant]

I refer to my letter dated [letter to applicant date] regarding the validity of your application for review of the Repatriation Commission decision of [Commission decision] in respect of [issue].

I have now classified your application as invalid, and it will not be considered by the Board. This is because your application was lodged outside the statutory time limit.

You may, however, lodge a new claim for pension or an application for an increase in pension with the Department of Veterans' Affairs.

Yours sincerely

[author]  
[title]

[date]

Copies of this letter have been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA No.]  
Your representative - -[representative], [organisation]

## L23.2 Rejection Assessment – No Rep

[return to [p2\\_5\\_3](#)]

[VRB Reg No]  
[applicant]

M[]  
[Address]  
[Town/City postcode]

Dear M[] [applicant]

I refer to my letter dated [letter to applicant date] regarding the validity of your application for review of the Repatriation Commission decision of [Commission decision] in respect of [issue].

I have now classified your application as invalid, and it will not be considered by the Board. This is because your application was lodged outside the statutory time limit.

You may, however, lodge a new claim for pension or an application for an increase in pension with the Department of Veterans' Affairs.

Yours sincerely

[author]  
[title]

[date]

Copies of this letter have been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA No.]

## L23.2 Rejection Assessment – With Rep

[return to [p2\\_5\\_3](#)]

[VRB Reg No]  
[applicant]

M[]  
[Address]  
[Town/City postcode]

Dear M[] [applicant]

I refer to my letter dated [letter to applicant date] regarding the validity of your application for review of the Repatriation Commission decision of [Commission decision] in respect of [issue].

I have now classified your application as invalid, and it will not be considered by the Board. This is because your application was lodged outside the statutory time limit.

You may, however, lodge a new claim for pension or an application for an increase in pension with the Department of Veterans' Affairs.

Yours sincerely

[author]  
[title]

[date]

Copies of this letter have been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA No.]  
Your representative – {representative}, [organisation]



## **L23.3      Rejection Attendant Allowance – No Rep**

[return to [p2\\_5\\_3](#)]

[VRB Reg No]  
[applicant]

M[]  
[Address]  
[Town/City postcode]

Dear M[] [applicant]

I refer to my letter dated [letter to applicant date] regarding the validity of your application for review of the Repatriation Commission decision of [Commission decision] in respect of attendant allowance.

I have now classified your application as invalid, and it will not be considered by the Board. This is because your application was lodged outside the statutory time limit.

You may, however, lodge a new claim for pension or an application for an increase in pension with the Department of Veterans' Affairs.

Yours sincerely

[author]  
[title]

[date]

Copies of this letter have been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA No.]

## L23.3 Rejection Attendant Allowance – With Rep

[return to [p2\\_5\\_3](#)]

[VRB Reg No]  
[applicant]

M[]  
[Address]  
[Town/City postcode]

Dear M[] [applicant]

I refer to my letter dated [letter to applicant date] regarding the validity of your application for review of the Repatriation Commission decision of [Commission decision] in respect of attendant allowance.

I have now classified your application as invalid, and it will not be considered by the Board. This is because your application was lodged outside the statutory time limit.

You may, however, lodge a new claim for pension or an application for an increase in pension with the Department of Veterans' Affairs.

Yours sincerely

[author]  
[title]

[date]

Copies of this letter have been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA No.]  
Your representative – [representative], [organisation]

## **L23.4      Rejection Entitlement & Assessment - No Rep**

[return to [p2\\_5\\_3](#)]

[VRB Reg No]  
[applicant]

M[]  
[Address]  
[Town/City postcode]

Dear M[] [applicant]

I refer to my letter dated [letter to applicant date] regarding the validity of your application for review of the Repatriation Commission decision of [Commission decision] in respect of [issue] and pension assessment at [issue].

I have now classified your application as invalid, and it will not be considered by the Board. This is because your application was lodged outside the statutory time limit.

You may, however, lodge a new claim for pension or an application for an increase in pension with the Department of Veterans' Affairs.

Yours sincerely

[author]  
[title]

[date]

Copies of this letter have been sent to:  
The Repatriation Commission – [UIN]

The Department of Veterans' Affairs – [DVA No.]

## **L23.4      Rejection Entitlement & Assessment - With Rep**

[return to [p2\\_5\\_3](#)]

VRB No. [VRB No]

M[] [applicant]  
[Address]  
[Town/City postcode]

Dear M[] [applicant]

I refer to my letter dated [letter to applicant date] regarding the validity of your application for review of the Repatriation Commission decision of [Commission decision] in respect of [issue] and pension assessment at [issue].

I have now classified your application as invalid, and it will not be considered by the Board. This is because your application was lodged outside the statutory time limit.

You may, however, lodge a new claim for pension or an application for an increase in pension with the Department of Veterans' Affairs.

Yours sincerely

[author]  
[title]

[date]

Copies of this letter have been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA No.]  
Your representative – [representative], [organisation]

## **L23.5      Rejection (both) Assessment only - No Rep**

[return to [p2\\_5\\_3](#)]

[VRB Reg No]  
[applicant]

M[]  
[Address]  
[Town/City postcode]

Dear M[] [applicant]

I refer to my letter dated [letter to applicant date] regarding the validity of your application for review of the Repatriation Commission decision of [Commission decision] in respect of [issue] and pension assessment at [issue].

I have now classified the part of your application for review relating to pension assessment as invalid, and it will not be considered by the Board. This is because your application relating to pension assessment was lodged outside the statutory time limit. That part of your application for review relating to entitlement matters is valid and will proceed.

You may, however, lodge a new application for an increase in pension with the Department of Veterans' Affairs.

Yours sincerely

[author]  
[title]

[date]

Copies of this letter have been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA No.]

## **L23.5      Rejection (both) Assessment only - With Rep**

[return to [p2\\_5\\_3](#)]

[VRB Reg No]  
[applicant]

M[]  
[Address]  
[Town/City postcode]

Dear M[] [applicant]

I refer to my letter dated [letter to applicant date] regarding the validity of your application for review of the Repatriation Commission decision of [Commission decision] in respect of [issue] and pension assessment at [issue].

I have now classified the part of your application for review relating to pension assessment as invalid, and it will not be considered by the Board. This is because your application relating to pension assessment was lodged outside the statutory time limit. That part of your application for review relating to entitlement matters is valid and will proceed.

You may, however, lodge a new application for an increase in pension with the Department of Veterans' Affairs.

Yours sincerely

[author]  
[title]

[date]

Copies of this letter have been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA No.]  
Your representative – [representative], [organisation]

## **L24.1      Doubtful/Disputed Application - Advice of Priority Hearing – No Rep**

[return to [p2\\_5\\_4](#)]

[VRB Reg No]  
[applicant]

M[]  
[Address]  
[Town/City postcode]

Dear M[] [applicant]

I refer to your letter dated [veteran reply], in response to my letter of [Date 2] regarding the validity of your application for review by the Board of the Repatriation Commission decision of [Commission date] concerning [issue].

In order to resolve this matter, I will arrange for your application to be listed for hearing before the Board as a matter of priority. At this hearing the Board will first consider whether or not your application is valid. If the Board agrees with you that the application is valid, it will then proceed to review the subject of the decision you have appealed. You should therefore be prepared to discuss both issues with the Board at this hearing.

Before this hearing can be arranged, it is necessary for you to complete the enclosed “applicant’s advice” form and return it to the Board as soon as possible.

The Board will write to you again about a hearing once we have received your reply and you have had time to consider the contents of the report the Department of Veterans’ Affairs will send you relating to your application.

Yours sincerely

[author]  
[title]  
[date]

## **L24.1      Doubtful/Disputed Application - Advice of Priority Hearing – With Rep**

[return to [p2\\_5\\_4](#)]

[VRB Reg No]  
[applicant]

M[]  
[Address]  
[Town/City postcode]

Dear M[] [applicant]

I refer to your letter dated [veteran reply], in response to my letter of [Date 2] regarding the validity of your application for review by the Board of the Repatriation Commission decision of [Commission date] concerning [issue].

In order to resolve this matter, I will arrange for your application to be listed for hearing before the Board as a matter of priority. At this hearing the Board will first consider whether or not your application is valid. If the Board agrees with you that the application is valid, it will then proceed to review the subject of the decision you have appealed. You should therefore be prepared to discuss both issues with the Board at this hearing.

Before this hearing can be arranged, it is necessary for you to complete the enclosed “applicant’s advice” form and return it to the Board as soon as possible.

The Board will write to you again about a hearing once we have received your reply and you have had time to consider the contents of the report the Department of Veterans’ Affairs will send you relating to your application.

Yours sincerely

[author]  
[title]  
[date]

Copies of this letter have been sent to:  
Your representative – [representative], [organisation]



## L25 Departmental – s148(6A) request – Service of Documents

[return to [p2\\_5\\_5](#)]

The Secretary  
Department of Veterans' Affairs  
[INSERT DVA ADDRESS HERE]

Attention: Deputy Commissioner

Re: [applicant, VRB No: [VRB No], DVA No: [DVA No], Client ID: [ID]

### REQUEST UNDER SUBSECTION 148(6A) OF THE VETERANS' ENTITLEMENT ACT 1986

I refer to [applicant]'s application to the Board for review of the Repatriation Commission decision date of Comm Date] concerning [issue].

To enable the Board to properly consider this matter, I am requesting the following information under subsection 148(6A) of the *Veterans' Entitlements Act 1986*.

#### SERVICE OF DOCUMENTATION

Would you please provide a statement outlining:

- details of the general system in operation on [Comm date] concerning the provision of a delegate's decision to a claimant;
- the system of posting that was then in force including the method adopted for the pre-payment of mail and what records, if any, were kept of letters posted;
- the specific procedure adopted in respect of this claimant;
- the nature of the documentation usually forwarded to a claimant in accordance with subsection 34(2) of the *Veterans' Entitlements Act 1986*;
- the documentation actually forwarded to this claimant;
- and any other matters that you consider to be of relevance.

I would be pleased if you would forward this information to the Board as soon as it becomes available.

Yours sincerely

[Author]  
Registrar  
Delegate of the Principal Member

[date]

## L25 Departmental – s148(6A) request – other requests

[return to [p6\\_1\\_14](#)]

The Secretary  
Department of Veterans' Affairs  
[INSERT DVA ADDRESS HERE]

Attention: Deputy Commissioner

Re: [applicant], VRB No: [VRB No], DVA No: [DVA No.],

### REQUEST UNDER SUBSECTION 148(6A) OF THE VETERANS' ENTITLEMENT ACT 1986

I refer to [applicant]'s application to the Board for review of the Repatriation Commission decision date of [Comm date] concerning [issues].

To enable the Board to properly consider this matter, I am requesting the following information under subsection 148(6A) of the *Veterans' Entitlements Act 1986*.

- 

I would be pleased if you would forward this information to the Board as soon as it becomes available.

Yours sincerely

[author]  
Registrar  
Delegate of the Principal Member

[date]

## L311      Applicant – s148 Letter

[return to [p3 2 1](#)]

VRB No: [VRB No.]

[applicant]  
[address]

Dear [applicant]

I am writing regarding your application for review of the Repatriation Commission decision of [Comm date] in respect of [issues].

The Board has now received copies of the Departmental Report from the Department of Veterans' Affairs, and we need to find out whether you wish to attend the hearing and whether you wish to be represented. The choices you can make are set out in the enclosed Applicant's Advice form. Also included is some advice on representation and information about the Board that you may find helpful.

Please return the completed Applicant's Advice form to this office **within 28 days.** Even if you have already indicated that you will be represented in this matter, we need to confirm that arrangement. The Board would like to list your application for hearing as soon as possible. If you do not respond to this letter within the 28 days, the Board may decide to hear your application in your absence.

Please do not hesitate to contact the Board should you require further information or clarification on any matter.

Yours sincerely

[author]  
[title]

[date]

## L313 Form - Applicant's Advice

[return to [p3 2 1](#)]

# VETERANS' REVIEW BOARD

## APPLICANT'S ADVICE

This form seeks details from you about how you would like the Board to deal with your application. You should complete **BOTH** sections of the form and return it to the Board as soon as possible. Some information about representation and assistance is enclosed.

<b>Name:</b>	[applicant]	<b>VRB No:</b>	[VRB No.]
<b>Address:</b>	[address] [address contd.]	<b>Telephone:</b>	[home telephone]
<b>Matter(s):</b>	[issues]		

### 1. Attendance at Hearing

Tick **ONE** box only in this section

- ☐ I would like to attend the hearing in [location].
- ☐ I do not wish to attend the hearing but I would like to talk to the Board about my application by telephone during the hearing.
- ☐ I do not wish to attend the hearing and would like the Board to decide the application in my absence (although I understand that the Board may contact me if it needs to).

---

### 2. Representation

Tick **ONE** box only in this section

- ☐ I do not wish to be represented. I have read the Board's brochure "About the Veterans' Review Board" and I certify that I have obtained and sent to you all of the supporting evidence upon which I intend to rely. I am now ready to proceed to a hearing of this application and I would like you to arrange a hearing as soon as possible.
- ☐ I do not wish to be represented and I am NOT ready for my case to be heard because:
- \_\_\_\_\_
- \_\_\_\_\_
- ☐ I have arranged to be represented by \_\_\_\_\_
- of \_\_\_\_\_ who will advise the Board when we are ready for a hearing to be arranged.

**Applicant's Signature** \_\_\_\_\_ **Dated** \_\_\_\_/\_\_\_\_/\_\_\_\_

**NB** please ensure that you have completed **BOTH** sections on this form and that you have signed and dated it

## **RV3:3      Advice and Representation Sheet**

[return to [p3 2 1](#)]

### **Advice and Representation**

The law permits an applicant to be represented at the hearing of his or her application. It does not allow representatives to be legally qualified. However, there are a number of organisations that are willing to assist applicants with advice or provide lay representation. Some are listed below.

It is not a requirement that you appoint a representative and many applicants are now represented. If you approach an organisation, please bear in mind that there are only a few representatives and there may be a long delay before a representative can deal with your case. Some organisations may be willing to give you advice so that you can handle your own case.

---

**[Insert details of representatives, their contact numbers, and addresses]**

## RV3:4 'About the Veterans' Review Board' Pamphlet

[return to [p3 2 1](#)]



### ABOUT THE VETERANS' REVIEW BOARD

This brochure gives you important general information about the Veterans' Review Board (the VRB), how your application will be handled, and what you can do to prepare your case for a hearing. For more information, please contact your local VRB office – the telephone number is on the last page.

#### What is the VRB?

The VRB is a tribunal created by Parliament to review decisions about Repatriation pensions (other than service pensions) and attendant allowance. It is independent of the Repatriation Commission and the Department of Veterans' Affairs. It is made up of members who review decisions, and staff who assist the members.

#### Who are the members?

There are Senior Members, Services Members and other Members. Senior Members are usually lawyers and they preside at hearings. Services Members are selected from nominations submitted to the Minister for Veterans' Affairs by ex-service organisations. The other Members have a wide variety of qualifications. All members are appointed by the Governor-General.

#### How will members deal with my application?

The VRB holds hearings to consider applications for review (cases). Most cases are reviewed by a panel of 3 members – a Senior Member, a Services Member and one other Member. Sometimes two members will review a case if the third member is ill or unavailable. Whenever the VRB reviews a case, it must apply the law as set out in the *Veterans' Entitlements Act 1986* and other legislation.

### **Can I talk to the members about my application?**

Yes, but only at a hearing, which is held in private. The VRB encourages every applicant to take part in his or her hearing. You can do this by coming along to the hearing, or by asking the members to phone you during your hearing. It would be helpful if you would send to the VRB copies of any papers that you think support your case as early as possible before the hearing.

### **Do I have to attend my hearing?**

No, but the members usually find it helpful to talk to you, preferably in person or otherwise by phone. The members will review your case in your absence if you do not wish to take part in the hearing, but they may still ring to ask you some questions to help them make their decision if you are happy to make yourself available for this.

### **Can I be represented at my hearing?**

Yes, but you do not have to be represented. The Repatriation Commission can also be represented but this does not often happen. You can be represented at the hearing at your own expense by anyone other than a lawyer (although a lawyer could help you prepare your case).

Some ex-service organisations, and some private individuals, provide assistance and representation for applicants. Most provide their services free, but some charge a fee. Most organisations have only a limited number of representatives, so there is often some delay before they can finalise the preparation of your case. Generally speaking, hearings of represented cases take longer to arrange than unrepresented cases. If you do decide to be represented, make the arrangements as soon as possible to avoid later delay.

A list of some organisations that are willing to assist applicants with advice and provide representation free of charge is held in each VRB office. The VRB will usually not arrange a hearing until you, or your representative, confirm that you are ready for a hearing. The “Certificate of Readiness for Hearing” is a document that must be signed to indicate you are ready for a hearing.

### **Can I bring a friend to my hearing?**

Yes. A friend or relative is always welcome, whether or not you are represented, but expenses cannot be paid for your friend or relative to attend your hearing.

### Where and when are VRB hearings held?

The VRB holds hearings in each State capital and in Canberra. At times, hearings are also held in various regional centres. In Brisbane, Sydney and Melbourne hearings are conducted every week. They are less frequent in other capitals and regional centres but are normally conducted when about 15 cases are ready for hearing.

If you are concerned about possible delay because of where you live you should discuss the matter with the VRB office in your State – the telephone number is on the last page. We might be able to arrange a video hearing from your local regional centre. The VRB has arrangements with a number of regional colleges, universities, and hospitals to hire their video facilities. This may allow you to travel to your local video facility for a hearing, which would be conducted in private by television cable link between that facility and the VRB in a capital city.

### What will it cost me?

The VRB does not impose any fees or charges. The Department of Veterans' Affairs (DVA) will usually be able to pay travel costs based on the reasonable distance you needed to travel to the hearing.

**Please note:** If the VRB regularly conducts hearings at a place near where you live, but you choose to attend a hearing somewhere else (which you may do), DVA may only pay you the expenses you would have been entitled to had you attended a hearing at the closer locality. The fact that you might have chosen a representative at that distant location may not be regarded as a suitable reason for travelling to that place for a hearing. **The VRB does not process travel expense claims**, but we will tell you more about how to claim when we let you know the date for your hearing.

**Please note:** Expenses for representation, advice, or witnesses are your responsibility.

### What about costs of medical evidence?

You can apply to DVA for reimbursement of the costs (including associated travel costs) of obtaining medical evidence in support of your application to the VRB. Certain conditions apply and you should contact the local office of DVA for details. **The VRB does not process these claims.**

**Please note:** The application for reimbursement must be made within **3 months** after the relevant documentary medical evidence was submitted to the Board, and for associated travel costs within **3 months** after the travel.



## What happens at a hearing?

Members will do their best to make you feel at ease. However, they may need to ask you some questions to clarify the evidence in your case and to help them decide whether your claim should be granted or refused. Hearings are recorded on audiotape and are kept for two years. If you want a copy of the tape you should write to your VRB office. The members will not be able to tell you their decision at the hearing.

## What happens after a hearing?

The VRB will mail the decision and reasons to you as soon as possible after the hearing, usually within a few weeks. The VRB will also tell you about any appeal rights you may have should you be dissatisfied with the VRB's decision. If you were represented at your hearing, a copy of the VRB's decision and reasons will also be sent to your representative. The VRB cannot discuss the reasons for the decision in your case.

# PREPARING FOR A HEARING

## Types of matters

The VRB can review decisions about the following types of matters:

1. **Entitlement matters** – these are about whether injury, disease or death has been caused by service.
2. **Assessment matters** – these are about how much pension should be paid for incapacity from injury or disease that has already been accepted as caused by service.
3. **Attendant allowance matters** – these are about whether there is a need for an attendant to assist in everyday living activities because of service caused injury or disease.

## **1. Entitlement matters**

Understand what the VRB has to do

- In entitlement matters, the VRB has to determine the cause (or possible causes) of the injury, disease or death, and whether a cause can be related to service. The causes of some medical conditions are well known, but with others, medical experts are only able to suggest possible causes and they might have differing opinions. The causes of some conditions are not known at all. In most cases, the Repatriation Medical Authority will have issued binding Statements of Principles determining the medical causation issues relevant to your claim.

**Understand why your claim was rejected**

- Study carefully the Repatriation Commission's reasons for decision and the Report you have received from DVA (the Departmental Report), and ensure you understand why your claim was rejected.

**Gather evidence to support your claim**

- Normally, the reasons will refer to the Statements of Principles that concern your claim. It is always a good idea to discuss this material and your claim with your Local Medical Officer or treating specialist. It will help if you show them your Departmental Report. Statements of Principles can be found at the RMA web site: <http://www.rma.gov.au>.
- You should understand that Statements of Principles issued by the Repatriation Medical Authority (RMA) are binding on the Repatriation Commission, the VRB and the Administrative Appeals Tribunal. In other words, the VRB must follow them and cannot adopt other medical opinion on causation, however eminent the specialist.
- You should be prepared to explain at your hearing why you believe the conditions of service may have caused the injury, disease or death. It would be a good idea to make a note of any particular reason why you think conditions or events on service were involved.
- Think about whether there are other people who can give evidence to support your case on matters that are not known to you, or about accidents or illnesses that are not recorded in service documents. These people might be able to come with you to the hearing—if not, they might be able to give you a written statement, or you could arrange for them to be available to speak to the members by phone during the hearing.

## **What happens if your claim is successful?**

- If the VRB accepts that the injury or disease has been caused by service, it may ask the Repatriation Commission to assess the rate of your pension, or alternatively, the VRB may immediately proceed to assess your pension itself. **So, you should also read the next section.**

## **2. Assessment matters**

### **Understand what the VRB has to do**

There are three levels of pension that can be payable:

- A percentage of the general rate of pension (0-100%).
- The extreme disablement adjustment (an additional 50% on top of the general rate).
- Earnings-related rates of pension (the intermediate rate and the special (TPI) rate).

### **General rate of pension**

- In assessing a general rate of pension (0-100%), the law requires the VRB to apply the “Guide to the Assessment of Rates of Veterans’ Pensions” (GARP). GARP is used to determine a medical “impairment rating” (for physical or functional loss) and a “lifestyle rating” (for the effects of accepted disabilities on mobility, personal relationships, leisure activities, and home or work activities). Combining these ratings gives a “degree of incapacity”, which, if you are not entitled to one of the earnings-related rates of pension (that is, special rate or intermediate rate), becomes the percentage of the general rate of pension you will be entitled to receive.
- The VRB must therefore understand how your disabilities that have been accepted as caused by your service have affected you in your daily life from the time you made your claim to the date of your hearing. The members might need to ask you some questions. They have to consider how your medical problems limit your ability to perform everyday functions and how your accepted disabilities restrict your social, recreational, occupational and domestic activities. You may have chosen to fill in a lifestyle report on these matters and the members might also need to ask you questions about that.

### **Extreme disablement adjustment (EDA)**

- If you have turned 65 and your degree of incapacity is determined either before or at your hearing to be 100% and you are ineligible for the special (TPI) or

intermediate rates of pension, you might be eligible for the extreme disablement adjustment (EDA) which is an additional 50%.

- To qualify for the EDA, you must be assessed under GARP as meeting certain minimum impairment and lifestyle levels. Therefore, the members must use GARP to assess how your medical problems limit your everyday functions and how your accepted disabilities restrict your lifestyle. This usually involves a number of detailed questions.

### **The special (TPI) and intermediate rates of pension**

- The VRB cannot assess your pension at the special (TPI) or intermediate rates unless you first have a degree of incapacity of at least 70% and you meet certain other tests set out in the *Veterans' Entitlements Act 1986*. The special rate is normally payable to veterans who are totally incapacitated for work by their accepted disabilities alone. The intermediate rate is normally payable to those who are fit only for part-time work as a result of accepted disabilities alone. If factors like age or non-accepted disabilities affect your ability to work or played a part in causing you to stop work, these pensions might not be payable. Stricter tests apply if you had turned 65 years before you made your claim.
- To apply these tests, the members will have to know when and why you left your last work, what other work you might have done, and what steps you may have taken to find alternative work. They will also need to know what other disabilities you may have that have not been accepted as caused by your service, and how they affect your ability to work.

### **Gather evidence to show how your disabilities affect you**

- You might show the Departmental Report to your treating doctor and ask if he or she agrees with the opinions expressed by the Departmental Medical Officer about the degree of your impairment and incapacity. The VRB might find it difficult to change your pension assessment without written medical evidence supporting your claim.
- Re-read the answers you may have given in your lifestyle report and be prepared to explain them if required. Think about whether other people can help you to explain how your service-related disabilities affect you.
- If you are seeking pension at the special or intermediate rates, it might be in your interests to get a statement from your last employer explaining whether your disabilities affected your work or why you left work. Medical reports for any workers' compensation, superannuation or invalid pension claim you have made might also be helpful if you can get copies.

### 3. Attendant allowance matters

#### Understand what the VRB has to do

- Attendant allowance is generally payable if, because of service caused injury or disease, you need the help of an attendant. The service caused injury or disease must affect the cerebro-spinal system or be similar in effect or severity to such an injury or disease. A higher rate of the allowance is payable if you are blind as well as being either deaf or cannot speak because of service caused injury or disease.

#### Gather evidence to show how your disabilities affect you

- You might show the Departmental Report to your treating doctor and ask if he or she agrees with the opinions expressed by the Departmental Medical Officer about how your injuries or diseases affect your capacity to perform activities such as feeding, bathing, dressing and other activities of normal daily living. The VRB might find it difficult to grant an allowance without written medical evidence supporting your claim.

### Keep the VRB informed of your preparation

You or your representative should regularly tell your VRB Case Manager what is being done to gather further evidence for your hearing. Doing this will let us know that you are actively pursuing your case, and will give us an idea when you might be ready for a hearing. In some cases the Case Manager might be able to assist if you are having difficulties gathering evidence. We want to hear your case as soon as possible. If we do not hear from you or your representative, we will write to you, asking you to tell us what is being done to pursue your case.

### What should I bring to my hearing?

First, you should bring your copy of the Departmental Report that was sent to you by DVA. You should also bring any other papers you think will support your case – for example, doctors' reports, service records, diaries. However, it is important that you send copies of these to the VRB as early as possible before your hearing (at least by the time the "Certificate of Readiness for Hearing" has been sent to the VRB). If your representative has these documents, you should make sure he or she has sent copies to the VRB.

### Change of address

You **MUST** notify **BOTH** the VRB and DVA as soon as possible if you change your address.

## **Service Charter**

The VRB has a Service Charter, which sets out the VRB's commitment of service to you and your responsibilities to the VRB. You can obtain a copy by contacting a VRB Registry.

### **MORE INFORMATION?**

**If you still have any questions,  
please contact the VRB  
on the following numbers:**

If you live in a:  
Metropolitan area — 1300 550 460  
Country area — 1800 550 460

**Internet: [www.vrb.gov.au](http://www.vrb.gov.au)**

## L311      Applicant -s148 Letter -Overseas

[return to [p3 2 2](#) or [p3 2 8](#)]

VRB No: [VRB No]

[applicant]

[address]

[country]

Dear [applicant]

I am writing regarding your application for review of the Repatriation Commission decision of [Comm date] in respect of [issue].

The Board has now received copies of the Departmental Report from the Department of Veterans' Affairs, and we need to find out whether you wish to attend the hearing and whether you wish to be represented. The choices you can make are set out in the enclosed Applicant's Advice form. Also included is some advice on representation and information about the Board that you may find helpful.

If you will be temporarily or permanently resident in Australia in the near future, and intend to attend the hearing of your application, please indicate this on the attached form. However, you must note that the Board will **not** reimburse any travel expenses you may incur in coming to your hearing, with the exception of expenses incurred from your temporary/permanent Australian residence to Board premises and return (for the purpose of attending the hearing only).

If you will not be temporarily or permanent resident in Australia in the near future, the Board can arrange to talk to you by telephone during the hearing. If you do wish to take part in the hearing in this way, please indicate this on the attached Applicant's Advice form. The Board will contact you regarding a suitable hearing time.

The Board might be able to arrange a video hearing for you if you so wish.

Please arrange for the completed Applicant's Advice form to be returned to this office **within six weeks**. Even if you have already indicated that you will be represented in this matter, we need to confirm that arrangement. As the Board would like to list your application for hearing as soon as possible if you do not

respond to this letter within the six weeks, the Board may decide to hear your application in your absence.

The Department of Veterans' Affairs may pay reasonable travelling expenses for you to attend a hearing, however the Board might be able to arrange a video hearing from a location closer to where you live if you wish.

Please do not hesitate to contact the Board should you require further information or clarification on any matter.

Yours sincerely

[author]

[title]

[date]

Continued...



# VETERANS' REVIEW BOARD

## APPLICANT'S ADVICE (OVERSEAS)

This form seeks details from you about how you would like the Board to deal with your application. You should complete BOTH sections of the form and return it to the Board as soon as possible. Some information about representation and assistance is enclosed.

<b>Name:</b>	[applicant]	<b>VRB No:</b>	[VRB No]
<b>Address:</b>	[address] [country]	<b>Telephone:</b>	[telephone number]
	<b>Matter(s):</b> [issue]		

Please note that the Board has no power to pay travel expenses for applicants resident outside Australia.

### 1. Attendance at Hearing

Tick one box only in this section

- ☐ I would like to attend the hearing at your office in \_\_\_\_\_  
(At your own expense you may wish to attend a hearing at one of our State Offices - if so, please indicate which State office)
- ☐ I do not wish to attend the hearing but, if possible, I would like the Board to arrange a video hearing.
- ☐ I do not wish to attend the hearing but I would like to talk to the Board about my application by telephone during the hearing.
- ☐ I do not wish to attend the hearing and would like the Board to decide the application in my absence (although I understand that the Board may contact me if it needs to).

---

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### 2. Representation

Tick one box only in this section

- ☐ I do not wish to be represented. I have read the Board's brochure "About the Veterans' Review Board" and I certify that I have obtained and sent to you all of the supporting evidence upon which I intend to rely. I am now ready to proceed to a hearing of this application and I would like you to arrange a hearing as soon as possible.
- ☐ I do not wish to be represented and I am NOT ready for my case to be heard because:

\_\_\_\_\_  
\_\_\_\_\_

- ☐ I have arranged to be represented by \_\_\_\_\_  
of \_\_\_\_\_ who will advise the Board when we are ready for a hearing to be arranged.

**Applicant's Signature** \_\_\_\_\_ **Dated** \_\_\_\_/\_\_\_\_/\_\_\_\_

## L321 Form - Certificate of Readiness (Applicant)

[Return to [p3\\_2\\_3](#)]

# VETERANS' REVIEW BOARD

## CERTIFICATE OF READINESS

### FOR HEARING

**Name of Applicant:** [applicant]

**Board Reference No:** [VRB No.]

#### **I CERTIFY THAT:**

I am now ready to proceed to hearing of this application. I have read the brochure 'About the Veterans' Review Board'. I have obtained all the supporting evidence upon which I intend to rely and have forwarded that material to the Board.

#### **NOTE**

A hearing date will be arranged as soon as possible after receipt of this form at the Board. Please indicate unsuitable dates or times for you during the **next three months**.

Unsuitable:

.....  
.....

#### **Confirmation of Applicant Hearing Attendance Details**

**Applicant** (please tick one)

- ☐ **Attending**
- ☐ **Not Attending**
- ☐ **By Telephone No** .....
- ☐ **By Video Link at** .....

Signature of Applicant..... Dated ...../...../.....

TO: Registrar  
Veterans' Review Board  
[VRB address]

**L321 Form -Certificate of Readiness (Overseas Applicant)**

[return to [p3\\_2\\_3](#)]

**VETERANS' REVIEW BOARD**  
**CERTIFICATE OF READINESS**  
**FOR HEARING**

**Name of Applicant:** [applicant]

**Board Reference No:** [VRB No.]

**I CERTIFY THAT:**

I am now ready to proceed to hearing of this application. I have read the brochure 'About the Veterans' Review Board'. I have obtained all the supporting evidence upon which I intend to rely and have forwarded that material to the Board.

**NOTE**

A hearing date will be arranged as soon as possible after receipt of this form at the Board. Please indicate unsuitable dates or times for you during the **next three months**.

Unsuitable:

.....  
.....  
.....

**TEMPORARY RESIDENCE IN AUSTRALIA**

I will temporarily be in Australia in the **next six months** and wish to attend the hearing. I will be available to have a hearing in ..... (a capital city only)  
on ..... (suitable dates)

(cross out this box if not applicable)

Signature of Applicant..... Dated ...../...../.....

TO: Registrar  
Veterans' Review Board  
[VRB address]

# **VETERANS' REVIEW BOARD**

## **CERTIFICATE OF READINESS**

### **FOR HEARING**

**Name of Applicant:** [applicant]

**Board Reference No:** [VRB No.]

**Representative's Name:** [representative], [organisation]

#### **I CERTIFY THAT:**

I am now ready to proceed to hearing of this application. I have discussed the brochure 'About the Veterans' Review Board' with the applicant. I have obtained all the supporting evidence upon which I intend to rely and have forwarded that material to the Board.

#### **NOTE**

A hearing date will be arranged as soon as possible after receipt of this form at the Board. Please indicate unsuitable dates or times for you or the applicant during the **next three months**.

Unsuitable:

.....  
.....  
.....

#### **Confirmation of Representative/Applicant Hearing Attendance Details**

**Representative** (please tick one)

☐ **Attending**

☐ **Not Attending**

☐ **By Telephone No.** .....

**Applicant** (please tick one)

☐ **Attending**

☐ **Not Attending**

☐ **By Telephone No.** .....

☐ **By Video Link at** .....

Signature of Representative..... Dated ...../...../.....

TO: Registrar  
Veterans' Review Board  
[VRB address]

## L81 Form - Listing Instructions

[return to [p3\\_2\\_3](#) or [p3\\_2\\_5](#)]

### LISTING INSTRUCTIONS

[VRB No.] **Listing Priority:** [priority] **Queue Date:** [listing queue insertion date]

**DVA File No:** [DVA No.]

**Applicant:**

M[ ] [applicant first name] [applicant family name]  
[applicant address]

[applicant home telephone] (H)

**Veteran:** M[ ] [veteran first name] [veteran family name] (Client ID [UIN])

**Representative :** [representative], [organisation]

**Attendance:** [attendance details type]

**Hearing Location:** [hearing location]

**Applicant Unavailability Date Range:**

**Days available for Hearing:** Mon Tue Wed Thu Fri

**Specified Hearing Time:**

**Board to Arrange Transport:** No

**Commission Attending:** No

**Commission Representative:**

**Special Instructions:**

**Included Members :**

**Excluded Members :**

**Date of Decisions:** [Commission date]

**Issues:** [issues]

**Other Current Applications:**

[author]

[title]

[date]

## **L34 Applicant – Confirmation In Absentia Hearing Request**

### **L34 Applicant - Confirmation In Absentia Hearing Request - No Rep**

[return to [p3\\_2\\_3](#)]

VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

I am writing regarding your application for review of the Repatriation Commission decision of [Commission date] in respect of [issue].

The Board understands that you will not be attending the hearing and the hearing will be conducted in your absence as requested. You will be advised of the Board's decision as soon as possible after it has been made.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter has been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA No.]

## **L34        Applicant - Confirmation In Absentia Hearing Request - With Rep**

[return to [p3\\_2\\_3](#)]

VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

I am writing regarding your application for review of the Repatriation Commission decision of [Commission date] in respect of [issue].

The Board understands that you will not be attending the hearing and the hearing will be conducted in your absence as requested. You will be advised of the Board's decision as soon as possible after it has been made.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter has been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA No.]  
Your Representative – [representative], [organisation]

## **L314      Representative -Nominated by Applicant**

[return to [p3 2 4](#)]

VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

I am writing regarding the application for review lodged by M[] [applicant] in respect of the Repatriation Commission decision of [commission date] in respect of [issue].

We have been advised that M[] [applicant] has arranged to be represented by you.

Please find enclosed a 'Certificate of Readiness for Hearing' form. Would you please arrange for this form to be returned to the Board when all the material on which you intend to rely has been forwarded to the Board and the application is ready to be heard.

Please advise if you require a copy of the Departmental Report for this application.  
[delete if report already sent]

Yours sincerely

[author]  
[title]

[date]



## L33 Applicant –Addition to Departmental Report

### L33.1 Applicant - Addition - Not Ready - No Rep

[return to [p3\\_3\\_2](#)]

[VRB Reg No]  
[applicant]

M[]  
[Address]  
[Town/City postcode]

Dear M[] [applicant]

I refer to your application to the Board for review of the Repatriation Commission decision of [Commission decision date] concerning [issue].

Please add the enclosed documents to your copy of the Departmental Report. They are:

This letter, (p##)  
[DOCUMENT] (p##)  
[DOCUMENT] (p##)

These pages should follow on from the last page of the Departmental Report (p##). If they do not, or if you think other pages might be missing, please contact me immediately.

Your application will be listed for hearing when we receive advice from you that your case is ready to proceed.

Yours sincerely

[author]  
[title]

[date]

Copies of this letter and attachments have been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA No.]

## L33.1      Applicant - Addition - Not Ready - With Rep

[return to [p3\\_3\\_2](#)]

[VRB Reg No]  
[applicant]

M[]  
[Address]  
[Town/City postcode]

Dear M[] [applicant]

I refer to your application to the Board for review of the Repatriation Commission decision of [Commission decision date] concerning [issue].

Please add the enclosed documents to your copy of the Departmental Report. They are:

This letter, (p##)  
[DOCUMENT] (p##)  
[DOCUMENT] (p##)

These pages should follow on from the last page of the Departmental Report (p##). If they do not, or if you think other pages might be missing, please contact me immediately.

Your application will be listed for hearing when we receive advice from your representative that your case is ready to proceed.

Yours sincerely

[author]  
[title]

[date]

Copies of this letter and attachments have been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA No.]  
Your Representative – [representative], [organisation]

## L33.2      Applicant - Addition - Prelist - No Rep

[return to [p3\\_3\\_2](#)]

[VRB Reg No]  
[applicant]

M[]  
[Address]  
[Town/City postcode]

Dear M[] [applicant]

I refer to your application to the Board for review of the Repatriation Commission decision of [Commission decision date] concerning [issue].

Please add the enclosed documents to your copy of the Departmental Report. They are:

This letter, (p##)  
[DOCUMENT] (p##)  
[DOCUMENT] (p##)

These pages should follow on from the last page of the Departmental Report (p##). If they do not, or if you think other pages might be missing, please contact me immediately.

You will be advised shortly of a hearing date.

Yours sincerely

[author]  
[title]

[date]

Copies of this letter and attachments have been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA No.]

## L33.2      Applicant - Addition - Prelist - With Rep

[return to [p3\\_3\\_2](#)]

M[]  
[Address]  
[Town/City postcode]

[VRB Reg No]  
[applicant]

Dear M[] [applicant]

I refer to your application to the Board for review of the Repatriation Commission decision of [Commission decision date] concerning [issue].

Please add the enclosed documents to your copy of the Departmental Report. They are:

This letter, (p##)  
[DOCUMENT] (p##)  
[DOCUMENT] (p##)

These pages should follow on from the last page of the Departmental Report (p##). If they do not, or if you think other pages might be missing, please contact me immediately.

You will be advised shortly of a hearing date.

Yours sincerely

[author]  
[title]

[date]

Copies of this letter and attachments have been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA No.]  
Your Representative – [representative], [organisation]

### **L33.3      Applicant - Addition - Listed - No Rep**

[return to [p3\\_3\\_2](#)]

[VRB Reg No]  
[applicant]

M[]  
[Address]  
[Town/City postcode]

Dear M[] [applicant]

I refer to your application to the Board for review of the Repatriation Commission decision of [Commission decision date] concerning [issue].

Please add the enclosed documents to your copy of the Departmental Report. They are:

This letter, (p##)  
[DOCUMENT] (p##)  
[DOCUMENT] (p##)

These pages should follow on from the last page of the Departmental Report (p##). If they do not, or if you think other pages might be missing, please contact me immediately.

You should have recently received advice regarding the date, time and place of the hearing of your application.

Yours sincerely

[author]  
[title]

[date]

Copies of this letter and attachments have been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA No.]

### **L33.3      Applicant - Addition - Listed - With Rep**

[return to [p3\\_3\\_2](#)]

[VRB Reg No]  
[applicant]

M[]  
[Address]  
[Town/City postcode]

Dear M[] [applicant]

I refer to your application to the Board for review of the Repatriation Commission decision of [Commission decision date] concerning [issue].

Please add the enclosed documents to your copy of the Departmental Report. They are:

This letter, (p##)  
[DOCUMENT] (p##)  
[DOCUMENT] (p##)

These pages should follow on from the last page of the Departmental Report (p##). If they do not, or if you think other pages might be missing, please contact me immediately.

You should have recently received advice regarding the date, time and place of the hearing of your application.

Yours sincerely

[author]  
[title]

[date]

Copies of this letter and attachments have been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA No.]  
Your representative – [representative], [organisation]

## **L33.4      Applicant - Addition - In Absentia - No Rep**

[return to [p3\\_3\\_2](#)]

M[]  
[Address]  
[Town/City postcode]

[VRB Reg No]  
[applicant]

Dear M[] [applicant]

I refer to your application to the Board for review of the Repatriation Commission decision of [Commission decision date] concerning [issue].

Please add the enclosed documents to your copy of the Departmental Report. They are:

This letter, (p##)

[DOCUMENT] (p##)

[DOCUMENT] (p##)

These pages should follow on from the last page of the Departmental Report (p##). If they do not, or if you think other pages might be missing, please contact me immediately.

The application will be heard in your absence as requested. You will be advised of the Board's decision as soon as possible after it has been made.

Yours sincerely

[author]  
[title]

[date]

Copies of this letter and attachments have been sent to:

The Repatriation Commission – [UIN]

The Department of Veterans' Affairs – [DVA No.]

## **L33.4      Applicant - Addition - In Absentia - With Rep**

[return to [p3\\_3\\_2](#)]

[VRB Reg No]  
[applicant]

M[]  
[Address]  
[Town/City postcode]

Dear M[] [applicant]

I refer to your application to the Board for review of the Repatriation Commission decision of [Commission decision date] concerning [issue].

Please add the enclosed documents to your copy of the Departmental Report. They are:

This letter, (p##)  
[DOCUMENT] (p##)  
[DOCUMENT] (p##)

These pages should follow on from the last page of the Departmental Report (p##). If they do not, or if you think other pages might be missing, please contact me immediately.

The application will be heard in your absence as requested. You will be advised of the Board's decision as soon as possible after it has been made.

Yours sincerely

[author]  
[title]

[date]

Copies of this letter and attachments have been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA No.]  
Your Representative – [representative], [organisation]



## **L35            Department - S31 Review - No Rep**

[return to [p3\\_5\\_3](#)]

The Secretary  
Department of Veterans' Affairs  
[INSERT DVA ADDRESS HERE]

Attention: Deputy Commissioner [INSERT STATE HERE]

Re: M[] [applicant]    VRB No: [VRB No.]    DVA File No: [DVA No.]    Client ID:  
[UIN]

In carrying out an initial examination of the application for review by the Board lodged by the above named applicant, it seems that the Commission's decision might be in error due to the following circumstances.

[INSERT FACTS HERE]

Copies of relevant documents are attached.

Given these circumstances, the Board requests that the attached documents be referred to a section 31 Review Officer and consideration be given to conducting a review under that section.

It would be appreciated if the Board could be informed in writing of the result of this request.

Yours sincerely

[author]  
[title]

[date]

## **L35            Department - S31 Review - With Rep**

[return to [p3\\_5\\_3](#)]

The Secretary  
Department of Veterans' Affairs  
[INSERT DVA ADDRESS HERE]

Attention: Deputy Commissioner [INSERT STATE HERE]

Re: M[] [applicant]    VRB No: [VRB No.]    DVA File No: [DVA No.]    Client ID:  
[UIN]

In carrying out an initial examination of the application for review by the Board lodged by the above named applicant, it seems that the Commission's decision might be in error due to the following circumstances.

[INSERT FACTS HERE]

Copies of relevant documents are attached.

Given these circumstances, the Board requests that the attached documents be referred to a section 31 Review Officer and consideration be given to conducting a review under that section.

It would be appreciated if the Board could be informed in writing of the result of this request.

Yours sincerely

[author]  
[title]

[date]

## **L36.1      Applicant - Seeking Advice After S31 Review - No Rep**

[return to [p3\\_5\\_9](#)]

VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

I am writing regarding your application for review of the Repatriation Commission decision of [Commission date] in respect of [issue].

The Commission has now advised the Board that it has reviewed that decision and has decided that [INSERT S31 DECISION]. I assume that you have already been sent a copy of the Commission's decision.

The purpose of this letter is to find out whether you wish to proceed with your application to the Board.

If you are satisfied with the Commission's decision, we would like you to withdraw your application. You may do this by completing the enclosed form and returning it to me.

If you are still dissatisfied with the Commission's decision, please advise me in writing which aspects of the decision you wish the Board to review and we will continue with your application.

If you have previously nominated a representative, you may wish to discuss this matter with him/her before deciding what you wish to do.

If you decide to withdraw your application, this will not affect the decision of the Commission.

Yours sincerely

[author]  
[title]

[date]

## **L36.1      Applicant - Seeking Advice After S31 Review - With Rep**

[return to [p3\\_5\\_9](#)]

VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

I am writing regarding your application for review of the Repatriation Commission decision of [Commission date] in respect of [issue].

The Commission has now advised the Board that it has reviewed that decision and has decided that [INSERT S31 DECISION]. I assume that you have already been sent a copy of the Commission's decision.

The purpose of this letter is to find out whether you wish to proceed with your application to the Board.

If you are satisfied with the Commission's decision, we would like you to withdraw your application. You may do this by completing the enclosed form and returning it to me.

If you are still dissatisfied with the Commission's decision, please advise me in writing which aspects of the decision you wish the Board to review and we will continue with your application.

If you have previously nominated a representative, you may wish to discuss this matter with him/her before deciding what you wish to do.

If you decide to withdraw your application, this will not affect the decision of the Commission.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter and enclosures have been sent to:

- Your Representative – [representative], [organisation]

## **L41        Author - Request releasing of Confidential Material - No Rep**

[return to [p4\\_2\\_2](#)]

VRB No: [VRB No.]

[INSERT AUTHOR'S NAME]  
[INSERT AUTHOR'S ADDRESS]

Dear [AUTHOR'S NAME]

M[] [applicant] has applied for review of a decision of the Repatriation Commission.

Included among the Department of Veterans' Affairs papers relevant to this decision is a document prepared by yourself. I have enclosed a copy of that document, which you will see you have marked "confidential".

The Board must decide whether or not this document should be released to M[] [applicant], to assist in preparing for the hearing of the application for review.

It would therefore be appreciated if you would advise the Board whether or not you agree to its release to M[] [applicant]. If you do not agree, it would be appreciated if you would explain to the Board in writing why you disagree.

I must inform you that even though you might not agree to its release, the Board has a discretion to release the report if it thinks that course appropriate. It is therefore important for you to explain any reasons you may have for objecting to the release in whole or in part.

If the Board decides to release the report against your wishes, it will advise you of that fact and its reasons for doing so.

Yours sincerely

[author]  
[title]

[date]

## **L41          Author – Requesting release of Confidential Material - With Rep**

[return to [p4\\_2\\_2](#)]

VRB No: [VRB No.]

[INSERT AUTHOR'S NAME]  
[INSERT AUTHOR'S ADDRESS]

Dear [AUTHOR'S NAME]

M[] [applicant] has applied for review of a decision of the Repatriation Commission.

Included among the Department of Veterans' Affairs papers relevant to this decision is a document prepared by yourself. I have enclosed a copy of that document, which you will see you have marked "confidential".

The Board must decide whether or not this document should be released to M[] [applicant], or the representative, to assist in preparing for the hearing of the application for review.

It would therefore be appreciated if you would advise the Board whether or not you agree to its release to M[] [applicant]. If you do not agree, it would be appreciated if you would explain to the Board in writing why you disagree, and additionally, whether or not you would agree to it being released to M[] [applicant]'s representative only, subject to an undertaking of confidentiality, and if not, why not?

I must inform you that even though you might not agree to its release, the Board has a discretion to release the report if it thinks that course appropriate. It is therefore important for you to explain any reasons you may have for objecting to the release in whole or in part.

If the Board decides to release the report against your wishes, it will advise you of that fact and its reasons for doing so.

Yours sincerely

[author]  
[title]

[date]

## **L42.1 Author – Confidential Material Released Without Approval Advice - No Rep**

[return to [p4 2 8](#)]

VRB No: [VRB No.]

[INSERT AUTHOR NAME]  
[INSERT AUTHOR ADDRESS]

Dear [AUTHOR'S NAME]

I refer to the Board's letter to you dated [INSERT DATE 1 HERE] concerning release to M[] [applicant] of a document dated [INSERT DATE 2 HERE] written by you concerning M[] [veteran].

You will recall that you did not agree to the release of that document to M[] [applicant], and you set out reasons for your opinion.

The Board has considered this matter, and in particular the reasons you expressed. The Board has decided, however, that your document should be released to M[] [applicant] for the purpose of preparation for the hearing of the review.

Enclosed is a copy of the Board's decision and reasons in this matter.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter and attachments have been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA No.]

## **L42.1 Author – Confidential Material Released Without Approval Advice- With Rep**

[return to [p4 2 8](#)]

VRB No: [VRB No.]

[INSERT AUTHOR NAME]

[INSERT AUTHOR ADDRESS]

Dear [AUTHOR'S NAME]

I refer to the Board's letter to you dated [INSERT DATE 1 HERE] concerning release to M[] [applicant] of a document dated [INSERT DATE 2 HERE] written by you concerning M[] [veteran].

You will recall that you did not agree to the release of that document to M[] [applicant], and you set out reasons for your opinion.

The Board has considered this matter, and in particular the reasons you expressed. The Board has decided, however, that your document should be released to M[] [applicant] for the purpose of preparation for the hearing of the review.

Enclosed is a copy of the Board's decision and reasons in this matter.

Yours sincerely

[author]

[title]

[date]

A copy of this letter and attachments have been sent to:

The Repatriation Commission – [UIN]

The Department of Veterans' Affairs – [DVA No.]

Your Representative – [representative], [organisation]



## **L42.2 Author- Confidential Material Released Without Approval Advice - Release to Representative ONLY - With Rep**

[return to [p4 2 10](#)]

VRB No: [VRB No.]

[INSERT AUTHOR NAME]  
[INSERT AUTHOR ADDRESS]

Dear [AUTHOR'S NAME]

I refer to the Board's letter to you dated [INSERT DATE 1 HERE] concerning release to M[] [applicant] of a document dated [INSERT DATE 2 HERE] written by you concerning M[] [veteran].

You will recall that you did not agree to the release of that document to M[] [applicant], and you set out reasons for your opinion.

The Board has considered this matter, and in particular the reasons you expressed. The Board agrees with you that the document should not be made available to M[] [applicant] but the Board has decided it should be released to the representative to enable the representative to properly prepare for the hearing of M[] [applicant]'s review. However, this release will only be made if the representative undertakes to observe the confidentiality of the document.

Enclosed is a copy of the Board's decision and reasons in this matter.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter and attachments have been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA No.]

## **L42.3      Applicant – Release of Confidential Material Advice - ONLY PART of Material Released - No Rep**

[return to [p4 2 9](#)

VRB No: [VRB No.]

[INSERT AUTHOR NAME]  
[INSERT AUTHOR ADDRESS]

Dear [AUTHOR'S NAME]

I refer to the Board's letter to you dated [INSERT DATE 1 HERE] concerning release to M[] [applicant] of a document dated [INSERT DATE 2 HERE] written by you concerning M[] [veteran].

In your letter you referred to the condition [DELETE MATTERS NOT APPLICABLE] of whether eligible to claim a pension.

You will recall that you did not agree to the release of that document to M[] [applicant], and you set out reasons for your opinion.

The Board has considered this matter, and in particular the reasons you expressed. The Board has decided, however, that part of your document (see enclosed) should be released to M[] [applicant] for the purpose of preparation for the hearing of the review.

Enclosed is a copy of the Board's decision and reasons in this matter.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter and attachments have been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA No.]

## **L42.3      Applicant – Release of Confidential Material Advice - ONLY PART of Material Released to Applicant - With Rep**

[return to [p4 2 9](#)]

VRB No: [VRB No.]

[INSERT AUTHOR NAME]  
[INSERT AUTHOR ADDRESS]

Dear [AUTHOR'S NAME]

I refer to the Board's letter to you dated [INSERT DATE 1 HERE] concerning release to M[] [applicant] of a document dated [INSERT DATE 2 HERE] written by you concerning M[] [veteran].

In your letter you referred to the condition [DELETE MATTERS NOT APPLICABLE] of war widow's pension.

You will recall that you did not agree to the release of that document to M[] [applicant], and you set out reasons for your opinion.

The Board has considered this matter, and in particular the reasons you expressed. The Board has decided, however, that part of your document (see enclosed) should be released to M[] [applicant] for the purpose of preparation for the hearing of the review.

Enclosed is a copy of the Board's decision and reasons in this matter.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter and attachments have been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA No.]  
Your Representative – [representative], [organisation]

## **L43 Applicant – Release of Confidential Material Advice**

### **L43.1 WITH Author's Consent - Release to Applicant - No Rep**

[return to [p4 2 3](#)]

VRB No: [VRB No.]

[applicant]  
[applicant address]

Dear [applicant]

I am writing about your application for review of the Repatriation Commission decision of [Commission decision date] in respect of [issue].

When the Department of Veterans' Affairs prepared the Departmental Report for your application, it excluded a document prepared by [INSERT AUTHOR HERE] because it had been marked confidential. The Board has been in contact with [INSERT AUTHOR HERE] who has agreed that the document should now be released to you in connection with your application.

I am therefore enclosing a copy of [INSERT AUTHOR HERE]'s document which has been page-numbered so that you may include it in your copy of the Departmental Report.

Yours sincerely

[author]  
[title]

[date]

Copies of this letter and attachments have been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA No.]

## **L43.1      Applicant – Release of Confidential Material Advice - With Rep**

[return to [p4 2 3](#)]

VRB No: [VRB No.]

[applicant]  
[applicant address]

Dear [applicant]

I am writing about your application for review of the Repatriation Commission decision of [Commission decision date] in respect of [issue].

When the Department of Veterans' Affairs prepared the Departmental Report for your application, it excluded a document prepared by [INSERT AUTHOR HERE] because it had been marked confidential. The Board has been in contact with [INSERT AUTHOR HERE] who has agreed that the document should now be released to you in connection with your application.

I am therefore enclosing a copy of [INSERT AUTHOR HERE]'s document which has been page-numbered so that you may include it in your copy of the Departmental Report.

Yours sincerely

[author]  
[title]

[date]

Copies of this letter and attachments have been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA No.]  
Your Representative – [representative], [organisation]

## **L43.2      Applicant – Release of Confidential Material Advice - WITHOUT Author's Consent - No Rep**

[return to [p4 2 8](#)]

VRB No: [VRB No.]

[applicant]  
[applicant address]

Dear [applicant]

I am writing about your application for review of the Repatriation Commission decision of [Commission decision date] in respect of [issue].

When the Department of Veterans' Affairs prepared the Departmental Report for your application, it excluded a document prepared by [INSERT AUTHOR HERE] because it had been marked confidential. The Board has decided however, that the document should be released to you so that you may prepare for the hearing of your application.

I am therefore enclosing a copy of [INSERT AUTHOR HERE]'s document which has been page-numbered so that you may include it in your copy of the Departmental Report.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter and attachments have been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA No.]

## **L43.2      Applicant – Release of Confidential Material Advice - WITHOUT Author's Consent - With Rep**

[return to [p4 2 8](#)]

VRB No: [VRB No.]

[applicant]  
[applicant address]

Dear [applicant]

I am writing about your application for review of the Repatriation Commission decision of [Commission decision date] in respect of [issue].

When the Department of Veterans' Affairs prepared the Departmental Report for your application, it excluded a document prepared by [INSERT AUTHOR HERE] because it had been marked confidential. The Board has decided however, that the document should be released to you so that you may prepare for the hearing of your application.

I am therefore enclosing a copy of [INSERT AUTHOR HERE]'s document which has been page-numbered so that you may include it in your copy of the Departmental Report.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter and attachments have been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA No.]  
Your Representative – [representative], [organisation]

## **L43.3      Applicant – Release of Confidential Material Advice - Document NOT Released to Applicant - No Rep**

[return to [p4 2 9](#)]

VRB No: [VRB No.]

[applicant]  
[applicant address]

Dear [applicant]

I am writing about your application for review of the Repatriation Commission decision of [Commission decision date] in respect of [issue].

When the Department of Veterans' Affairs prepared the Departmental Report for your application, it omitted a confidential document prepared by [INSERT AUTHOR HERE] relevant to your claim.

[INSERT AUTHOR HERE] has not agreed to the Board making the document available to you. Although the Board has a discretion to release the document to you despite the author's objection to its disclosure, it has decided not to release the document at this time due to the nature of its contents.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter and attachments have been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA No.]



## **L43.3      Applicant – Release of Confidential Material Advice - Document NOT Released to Applicant - With Rep**

[return to [p4 2 9](#)]

VRB No: [VRB No.]

[applicant]  
[applicant address]

Dear [applicant]

I am writing about your application for review of the Repatriation Commission decision of [Commission decision date] in respect of [issue].

When the Department of Veterans' Affairs prepared the Departmental Report for your application, it omitted a confidential document prepared by [INSERT AUTHOR HERE] relevant to your claim.

[INSERT AUTHOR HERE] has not agreed to the Board making the document available to you. Although the Board has a discretion to release the document to you despite the author's objection to its disclosure, it has decided not to release the document at this time due to the nature of its contents.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter and attachments have been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA No.]  
Your Representative – [representative], [organisation]

## **L43.4      Part of Document Released to Applicant - No Rep**

[return to [p4 2 9](#)]

VRB No: [VRB No.]

[applicant]  
[applicant address]

Dear [applicant]

I am writing about your application for review of the Repatriation Commission decision of [Commission decision date] in respect of [issue].

When the Department of Veterans' Affairs prepared the Departmental Report for your application, it omitted a confidential document prepared by [INSERT AUTHOR HERE] relevant to your claim.

[INSERT AUTHOR HERE] has not agreed to the Board making the whole document available to you. Although the Board has a discretion to release the document to you despite the author's objection to its disclosure, it has decided to release only part of the document at this time due to the nature of its contents. This has been page-numbered so that you may include it in your copy of the Departmental Report.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter and attachments have been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA No.]

## **L43.4      Applicant – Release of Confidential Material Advice - Part of Document Released to Applicant - With Rep**

[return to [p4 2 9](#)]

VRB No: [VRB No.]

[applicant]  
[applicant address]

Dear [applicant]

I am writing about your application for review of the Repatriation Commission decision of [Commission decision date] in respect of [issue].

When the Department of Veterans' Affairs prepared the Departmental Report for your application, it omitted a confidential document prepared by [INSERT AUTHOR HERE] relevant to your claim.

[INSERT AUTHOR HERE] has not agreed to the Board making the whole document available to you. Although the Board has a discretion to release the document to you despite the author's objection to its disclosure, it has decided to release only part of the document at this time due to the nature of its contents. This has been page-numbered so that you may include it in your copy of the Departmental Report.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter and attachments have been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA No.]  
Your Representative – [representative], [organisation]

## **L44 Applicant – Release of Material Withheld by DVA**

### **L44.1 Applicant - Release Material withheld by DVA - to Applicant - No Rep**

[return to [p4\\_3\\_5](#)]

VRB No: [VRB No.]

[applicant]

[applicant address]

Dear [applicant]

I am writing about your application for review of the Repatriation Commission decision of [Commission decision date] in respect of [issue].

When the Department of Veterans' Affairs prepared the Departmental Report for your application, it omitted some documents that appear to be relevant to the review you have sought. The Board has decided that copies of those documents should be made available to you.

I have enclosed copies of the documents with this letter. They have been page-numbered so that you may include them in your copy of the Departmental Report.

Yours sincerely

[author]

[title]

[date]

## **L44.1      Applicant - Release Material withheld by DVA - to Applicant - With Rep**

[return to [p4 3 5](#)]

VRB No: [VRB No.]

[applicant]  
[applicant address]

Dear [applicant]

I am writing about your application for review of the Repatriation Commission decision of [Commission decision date] in respect of [issue].

When the Department of Veterans' Affairs prepared the Departmental Report for your application, it omitted some documents that appear to be relevant to the review you have sought. The Board has decided that copies of those documents should be made available to you.

I have enclosed copies of the documents with this letter. They have been page-numbered so that you may include them in your copy of the Departmental Report.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter and attachments have been sent to:  
Your Representative – [representative], [organisation]

## **L44.2      Applicant – Release of material withheld by DVA - - No Material Release to Applicant - No Rep**

[return to [p4 3 6](#)]

VRB No: [VRB No.]

[applicant]  
[applicant address]

Dear [applicant]

I am writing about your application for review of the Repatriation Commission decision of [Commission decision date] in respect of [issue].

When the Department of Veterans' Affairs prepared the Departmental Report for your application, it omitted some documents that appear to be relevant to the review. The Department was concerned that their release may have been prejudicial to your health or well being.

The Board has considered whether or not it should itself release those documents to you. As the Board agrees with the view of the Department that their release may be prejudicial to your health and well being, it has decided that they should not be released to you.

Yours sincerely

[author]  
[title]

[date]

## **L44.2      Applicant – Release of Material Withheld by DVA - No Material Release to Applicant - With Rep**

[return to [p4\\_3\\_6](#)]

VRB No: [VRB No.]

[applicant]  
[applicant address]

Dear [applicant]

I am writing about your application for review of the Repatriation Commission decision of [Commission decision date] in respect of [issue].

When the Department of Veterans' Affairs prepared the Departmental Report for your application, it omitted some documents that appear to be relevant to the review. The Department was concerned that their release may have been prejudicial to your health or well being.

The Board has considered whether or not it should itself release those documents to you. As the Board agrees with the view of the Department that their release may be prejudicial to your health and well being, it has decided that they should not be released to you.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter and attachments have been sent to:  
Your Representative – [representative], [organisation]

## **L45.1 Representative – Offering Release of Confidential Material**

[return to [p4 2 10](#)]

VRB No: [VRB No.]

[representative]  
[organisation]  
[address]

Dear [representative]

I am writing regarding the application for review lodged by M[] [applicant] in respect of the Repatriation Commission decision of [commission date] in respect of [issue]. M[] [applicant] has nominated you as the representative, and you have agreed to act on the applicant's behalf.

When the Department of Veterans' Affairs prepared the Departmental Report for M[] [applicant]'s application, it excluded a confidential document prepared by [INSERT AUTHOR HERE]. [INSERT AUTHOR HERE] has not agreed to the Board making the document available to M[] [applicant]. The Board has considered this matter and has agreed that the nature of the document is such that it should not be released to [applicant].

However, in order to avoid any disadvantage to the preparation of M[] [applicant]'s application, the Board has decided to release the document to you, rather than M[] [applicant].

However this document will be provided to you only if you give an undertaking that you will observe the confidential nature of the document and that you will NOT disclose it or the contents to M[] [applicant], or persons other than members or staff of the Veterans' Review Board, or officers of the Department of Veterans' Affairs. Upon receipt of your written undertaking to this effect, the Board's Registry will forward a copy of the document to you.

Yours sincerely

[author]  
[title]

[date]



## **L45.2 Representative- Offering Release of Prejudicial Material**

[return to [p4 3 7](#)]

VRB No: [VRB No.]

[representative]  
[organisation]  
[address]

Dear [representative]

I am writing regarding the application for review lodged by [applicant] in respect of the Repatriation Commission decision of [commission date] in respect of [issue]. M[] [applicant] has nominated you as the representative, and you have agreed to act on the applicant's behalf.

When the Department of Veterans' Affairs prepared the Departmental Report on M[] [applicant]'s application, it omitted some documents of relevance as it was concerned that their release to M[] [applicant] may prejudice the applicant's health or well being. The Board has considered this matter and has decided that their action was the proper course.

However, in order to avoid any disadvantage to the preparation of M[] [applicant]'s application, the Board has decided to release the documents to you, rather than M[] [applicant].

However these documents will be provided to you only if you give an undertaking that you will observe the prejudicial nature of the documents and that you will NOT disclose them or their contents to M[] [applicant], or persons other than members or staff of the Veterans' Review Board, or officers of the Department of Veterans' Affairs. Upon receipt of your written undertaking to this effect, the Board's Registry will forward copies of the documents to you.

Yours sincerely

[author]  
[title]

[date]

## **RV6:1    Administrative Screening Initial Examination Form**

Return to part [p6\\_1\\_8](#)

### **Initial Screening**

Applicant: .....

Veteran: .....

VRB No: .....

This application concerns (issues): .....

.....

.....

### **CHECKLIST**

- ☐ Application for review correctly registered
- ☐ Decision for review correctly identified
- ☐ All pages of Departmental Report numbered and legible

Number of time slots: .....

[YES] [NO] Vietnam veteran

[YES] [NO] Previous VRB decisions to exclude members (refer to SRO)

[YES] [NO] Prejudicial or confidential information (refer to SRO)

[YES] [NO] Appears to have unusual features (refer to SRO)

### **ENTITLEMENT**

- ☐ Within time limit (12 months)
- ☐ Service documents in Departmental Report
- ☐ Claim in Departmental Report
- ☐ Medical reports in Departmental Report
- ☐ UV risk assessment in Departmental Report
- ☐ Death certificate in Departmental Report (if death claim)

**ASSESSMENT**

- ☐ Within time limit (3 months)
- ☐ Claim or application for increase in Departmental Report
- ☐ Lifestyle questionnaire in Departmental Report
- ☐ Combined impairment assessment in Departmental Report
- ☐ Audiogram report in Departmental Report. Date: ...../...../.....
- ☐ Spirometry report in Departmental Report. Date: ...../...../.....

**Comment to SRO**

.....

.....

.....

.....

.....

.....

.....

Signature of Review Officer: ..... Date: ...../...../.....

## RV6:2 Telephone Response to s148 Letter

[return to [p6 1 9](#)]

### Applicant's Telephone Advice

The applicant telephoned me on: ...../...../..... at ..... am/pm.

**I advised the applicant why the following information was needed, and that it may be made available to the Repatriation Commission and the Department of Veterans' Affairs.**

Name:	VRB No.
Issue:	

### Attendance at Hearing

- ☐ The applicant would like to attend the hearing in [city].
- ☐ The applicant does not wish to attend the hearing but I would like to talk to the Board about my application by telephone during the hearing.
- ☐ The applicant does not wish to attend the hearing and would like the Board to decide the application in absentia. **I advised that the Board might contact the applicant if it needed to.**

### Representation

- ☐ The applicant does not wish to be represented and has advised that no more supporting evidence would be sent to the Board. The applicant is now ready to proceed to a hearing of this application. The applicant will be unavailable on the following days over the next three months:  
.....
- ☐ The applicant does not wish to be represented but is not yet ready for the application to be heard because: .....  
.....
- ☐ The applicant [has arranged/will arrange] to be represented by  
..... of .....  
who will advise the Board when we are ready for a hearing to be arranged.

VRB Officer's signature: ..... Date: ...../...../.....

## L61 Applicant – Follow Up Action – No Response to s148 Letter

### L61.1 Applicant – Follow Up Action – No Response to s148 Letter - First Reminder

[return to [p6 1 9](#)]

VRB No: [VRB N0.]

[applicant]  
[address]

Dear M[ ] [applicant]

I am writing regarding your application for review of the Repatriation Commission decision of [Commission date] in respect of [issue].

On [S148 was sent date] the Board wrote to you to find out how you would like the Board to deal with your application. With that letter was an "Applicant's Advice" form, which you were to complete and return. To date, no reply has been received.

Another copy of the "Applicant's Advice" form, is enclosed for your completion and immediate return.

The Board would like to hear your application as soon as possible. Accordingly, unless you return the form, or notify the Board within 14 days concerning why the matter should not be listed for hearing, the Board may hear your application in your absence without further notice.

Yours sincerely

[author]  
[title]

[date]

#### **[IF REPRESENTATIVE KNOWN]**

A copy of this letter has been sent to:

- Your Representative – [representative], [organisation]

## **L61.2      Applicant – Follow Up Action – No Response to s148 Letter - s148(4) Advice Being Listed in Absence**

[return to [p6\\_1\\_9](#)]

VRB No: [VRB N0.]

[applicant]  
[address]

Dear M[] [applicant]

I am writing regarding your application for review of the Repatriation Commission decision of [Commission date] in respect of [issue].

On [S148 was sent date] the Board wrote to you to find out how you would like the Board to deal with your application. A further letter was sent on [S148 Follow Up Action Occurred]. With each letter was an "Applicant's Advice" form, which you were to complete and return. To date, no reply has been received.

As you have not responded to those letters, I have directed that your application be listed for hearing in your absence. Your application is likely to be listed for hearing and decision by the Board at any time within the next two months. You will not be sent any further notice until the Board's decision in this matter.

Yours sincerely

[author  
[title]

[date]  
[IF REPRESENTATIVE IS KNOWN]

A copy of this letter has been sent to:

- Your Representative – [representative], [organisation]

## **L315      Applicant – Follow Up Action – No Response- s151 Adj- Phone me**

### **L315.1      Applicant – Follow Up Action - No response - No Rep**

[return to [p3\\_2\\_3](#) or [p6\\_1\\_10](#)]

VRB No: [VRB N0.]

M[] [applicant]  
[address]

Dear M[] [applicant]

I am writing regarding your application for review of the Repatriation Commission decision of [commission date] in respect of [issue].

On [S148 action completed date] you advised the Board of how you wished to proceed with your application and that you would not be represented.

Since receiving this advice, the Board has not received any further notification from you regarding the readiness of your application to proceed at a hearing.

In view of the length of time the application has been outstanding, the Board would like to deal with this matter as soon as possible. If you are ready to proceed at a hearing, please complete and return the enclosed 'Certificate of Readiness' form. If you are not yet ready to proceed at a hearing, it would be appreciated if you would notify the Board when you expect the application will be ready to be listed for hearing.

I look forward to receiving advice on this matter. Please contact me if you have any questions concerning your application.

Yours sincerely

[author]  
[title]

[date]

## **L315.1    Applicant – Follow up - No response - With Rep**

[return to [p3 2 5](#) or [p6 1 10](#)]

VRB No: [VRB N0.]

M[] [applicant]  
[address]

Dear M[] [applicant]

I am writing regarding your application for review of the Repatriation Commission decision of [commission date] in respect of [issue].

On [S148 action completed date] you advised the Board of how you wished to proceed with your application and that you would were to be represented in this matter by [representative] [organisation].

Since receiving this advice, the Board has not received any further notification from your representative, or yourself, regarding the readiness of your application to proceed at a hearing.

In view of the length of time the application has been outstanding, the Board would like to deal with this matter as soon as possible. It would be appreciated if you would contact your representative and have them either lodge a 'Certificate of Readiness' to proceed at a hearing if the matter is so ready, or if the matter is not yet ready, indicate when the application is expected to be ready to be listed for hearing.

I look forward to receiving advice on this matter. Please contact me if you have any questions concerning your application.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter has been sent to:

- Your Representative – [representative], [organisation]



## **L315.2    Applicant – Follow Up - s151 Adjournment - No Rep**

[return to [p6 1 13](#)]

VRB No: [VRB No.]

[applicant]  
[Address  
address continued]

Dear [title] [applicant]

I am writing regarding your application for review of the Repatriation Commission decision of [Comm Date] in respect of [issue].

The Board's records show that the last action concerning the application was on [INSERT DATE] when the Board adjourned a hearing of your application under section 151 of the Veterans' Entitlement Act to allow you to [INSERT REASON].

In view of the length of time the application has been outstanding, the Board would like to deal with this matter as soon as possible. If you are ready to proceed at a hearing, please complete and return the enclosed 'Certificate of Readiness' form. If you are not yet ready to proceed at a hearing, it would be appreciated if you would notify the Board when you expect the application will be ready to be listed for hearing.

I look forward to receiving advice on this matter. Please contact me if you have any questions concerning your application.

Yours sincerely

[author]  
[title]

[date]

## **L315.2    Applicant – Follow Up - s151 Adjournment - With Rep**

[return to [p6\\_1\\_13](#)]

VRB No: [X##/####]

[applicant]  
[Address  
address continued]

Dear [title] [applicant]

I am writing regarding your application for review of the Repatriation Commission decision of [Comm Date] in respect of [issue].

The Board's records show that the last action concerning the application was on [INSERT DATE] when the Board adjourned a hearing of your application under section 151 of the Veterans' Entitlement Act to allow you and your representative to [INSERT REASON].

In view of the length of time the application has been outstanding, the Board would like to deal with this matter as soon as possible. It would be appreciated if you would contact your representative and have them either lodge a 'Certificate of Readiness' to proceed at a hearing if the matter is so ready, or if the matter is not yet ready, indicate when the application is expected to be ready to be listed for hearing.

I look forward to receiving advice on this matter. Please contact me if you have any questions concerning your application.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter has been sent to:

- Your Representative – [representative] [organisation]

### **L315.3    Applicant – Follow Up Action - Phone Me - No Rep**

[return to [p3\\_2\\_3](#) or [p6\\_1\\_10](#)]

VRB No: [VRB N0.]

M[] [applicant]  
[address]

Dear M[] [applicant]

I am writing regarding your application for review of the Repatriation Commission decision of [commission date] in respect of [issue].

It would be appreciated if you would telephone me at your earliest convenience on the telephone number above to discuss some matters arising from your application.

Yours sincerely

[Author]  
[title]

[date]

### **L315.3    Applicant – Follow up Action - Phone Me - With Rep**

[return to [p3\\_2\\_5](#) or [p6\\_1\\_10](#)]

VRB No: [VRB N0.]

M[] [applicant]  
[address]

Dear M[] [applicant]

I am writing regarding your application for review of the Repatriation Commission decision of [commission date] in respect of [issue].

It would be appreciated if you would telephone me at your earliest convenience on the telephone number above to discuss some matters arising from your application.

Yours sincerely

[Author]  
[title]

[date]

A copy of this letter has been sent to:

- Your Representative – [representative], [organisation]

## RV6:5 Advice to Applicant of Intention to List Application for Hearing

[return to [p6\\_1\\_10](#) or [p6\\_1\\_15](#)]

[VRB Reg No]

M[] [applicant]

[Address]

[Town/City postcode]

Dear M[] [applicant]

I am writing regarding your application for review by the Board of the Repatriation Commission decision of [**Date 1**] concerning [**whatever**].

The Board's records show that the last action concerning your application was on [Commission decision date] when [**what happened**].

It has now been over 12 months since the Board received your application the papers from the Department of Veterans' Affairs. In view of the length of time that your application has been outstanding, I have directed that your application be listed for hearing. You will be notified shortly of the date, time and place of the hearing.

Yours sincerely

REGISTRAR

[Date]

A copy of this letter has been sent to:

- Your representative, [**Representative**]

### *Alternative last paragraph:*

It has now been over 12 months since the Board received your application the papers from the Department of Veterans' Affairs. In view of the length of time that your application has been outstanding, and the nature of the matters raised by your application, I consider that delaying the hearing of this matter any further is unlikely to assist in progressing it. Therefore, I have directed that your application be listed for hearing. You will be notified shortly of the date, time and place of the hearing.

## RV6:6 Form - Administrative Screening Final Examination

[return to [p6 1 14](#)]

### FINAL SCREENING

APPLICANT: ..... VRB NO...../.....

ISSUES: .....

.....

.....

.....

☐ Audiogram report in Departmental Report. Date: ...../...../.....

☐ Spirometry report in Departmental Report. Date: ...../...../.....

☐ Combined impairment assessment. Date: ...../...../.....

☐ section 148 (6A) response approved. Date: ...../...../.....

☐ section 152 response approved. Date: ...../...../.....

**Do not list until:** .....

Time slots required: ☐ 1 ☐ 2 ☐ 3

Members NOT to sit: ..... .....

Members to sit if possible: ..... .....

This application is ready for listing as a result of:

☐ The receipt of a Certificate of Readiness; or

☐ At the direction of the Registrar.

The following comments are relevant to the application:

.....

.....

.....

.....  
[Signature of VRB Officer]

Date: ...../...../.....

Listing arrangements confirmed by applicant/representative: [YES] [NO]

Date: ...../...../.....

## L301      Applicant – Clarification of Matters for Review

p6\_1\_14

[Application: vrb\_reg\_num]

[Applicant:      APN\_TITLE\_TXT;      APN\_GIVEN-NME(first      initial      only);  
APN\_SURNAME]

[Applicant:      APN\_ADDR\_LINE\_1]

[Applicant:      APN\_ADDR\_LINE\_2]

[Applicant: APN\_ADDR\_LINE\_3; APN\_STATE\_TXT; APN\_PCDE\_NUM]

Dear [Applicant: APN\_TITLE\_TXT; APN\_SURNAME]

I am writing regarding your application for review of the Repatriation Commission decision of [Application: commsn\_dec\_dte].

When the Commission made its decision it decided a number of different matters. It is not clear from your application whether you wish the Board to review all of those matters or only some of them.

If there are one or more matters decided by the Commission that you DO NOT want the Board to review, would you please indicate that in Form 1 by putting a cross in the box next to those matters that you DO NOT want the Board to review.

However, if you DO want the Board to review ALL the matters decided by the Commission, complete Form 2.

I assume that you are satisfied with that part of the Commission's decision to accept (**user to insert disabilities accepted in the Commission's decision**) as service-related, and you do not want the Board to review that part of the decision. Therefore I have not included that in the form. However, if you are dissatisfied with some aspect of that part of the decision please indicate in the space provided on the form.

If you have nominated a representative, you should discuss this letter and the form with your representative.

Please complete and sign one of the forms, then return it to the Board within 28 days.

Yours sincerely

[Author]

[title]

[date]

continued.....

[Application: vrb\_reg\_num]

Complete EITHER Form 1 or Form 2  
DO NOT COMPLETE BOTH FORMS

## FORM 1

**NOTE:** If you have a representative, you should discuss this form with your representative before sending it to the Board.

**IMPORTANT:** if you put a cross ☒ in a box below, that matter will be taken to be withdrawn and the Board will NOT review it.

I DO NOT want the Board to review any matter that I have crossed below:

- ☐
- ☐
- ☐
- ☐
- ☐

If there is some other matter (not listed above) that you want the Board to review that was decided or you think should have been decided by the Repatriation Commission when it considered your claim or application, please indicate:

.....  
.....  
.....

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

[Applicant: APN\_TITLE\_TXT; APN\_GIVEN-NME(first initial only);  
APN\_SURNAME]

[Applicant: APN\_ADDR\_LINE\_1]

[Applicant: APN\_ADDR\_LINE\_2]

[Applicant: APN\_ADDR\_LINE\_3; APN\_STATE\_TXT; APN\_PCDE\_NUM]

continued.....



[Application: vrb\_reg\_num]

**Complete EITHER Form 1 or Form 2**

**DO NOT COMPLETE BOTH FORMS**

**NOTE: If you have a representative, you should discuss this form with your representative before sending it to the Board.**

## **FORM 2**

I would like the Board to review ALL THE MATTERS decided by the Repatriation Commission in its decision of [Application: commsn\_dec\_dte] listed in Form 1.

If there is some other matter (not listed in Form 1) that you want the Board to review that was decided or you think should have been decided by the Repatriation Commission when it considered your claim or application, please indicate:

.....  
.....  
.....

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

[Applicant: APN\_TITLE\_TXT; APN\_GIVEN-NME(first initial only);  
APN\_SURNAME]

[Applicant: APN\_ADDR\_LINE\_1]

[Applicant: APN\_ADDR\_LINE\_2]

[Applicant: APN\_ADDR\_LINE\_3; APN\_STATE\_TXT; APN\_PCDE\_NUM]

## **L612      Applicant – Lifestyle Questionnaire Letter**

[return to [p6\\_1\\_14](#)]

VRB No: [VRB No]

[applicant]  
[address]

Dear [applicant]

I am writing regarding your application for review of the Repatriation Commission decision of [Comm date] in respect of [issue].

I note that in that decision, the Commission's delegate disagreed with your self-assessment of lifestyle ratings. If you believe that the delegate's assessment of your lifestyle was too low, it might be in your interests to provide the Board with a more complete picture of the lifestyle effects of your war-caused disabilities by completing a full lifestyle questionnaire. I have enclosed a form for that purpose. You do not have to complete this form, but the Board might not be able to assess lifestyle any higher than that assessed by the delegate unless there is evidence of the actual lifestyle effects of your disabilities. The questionnaire is designed to assist applicants to give such evidence.

You should discuss this letter with your representative.

If you decide to complete this form, please return it to me at the above address.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter has been sent to:

- Your Representative – [representative] [organisation]

## L6.1A.1 Case Appraisal

Return to [p6 1A 3](#)

VRB No:		DVA No:	
Applicant :		Representative	
Veteran / Member		Organisation	
Birth date:	p	Death date:	p
Date of claim / AFI:			p
Date of RC decision:			p
Date of Application for Review:	within 3 months [yes/no]  within 12 months [yes/no]		p
Does applicant have standing to apply?	[yes/no] veteran / widow / LPR / person approved / other	s31 review? [yes/no]	p
<u>Matters under review</u> Conditions claimed:			p
Conditions rejected:			p
Pension rates: .			p

Dates of effect:			
Attendant Allowance	[refused / lower rate]	Date of effect:	p
Have all the matters under review been confirmed by applicant? [yes/no]			p

## SERVICE

1st enlistment or appointment	from	to	Army / Navy / RAAF / Other	p
2nd enlistment or appointment			Army / Navy / RAAF / Other	p
<i>Eligible service – TYPE</i>	FROM	TO	WHERE	
				p
				p
				p
				p
				p
				p

## DISABILITIES UNDER REVIEW / CAUSES OF DEATH

Claimed Injury / Disease/ Cause of death		p
Diagnosed as: By:		p
Alternative Diagnosis By:		p
Contended causes / hypotheses arising:		p
Standard(s) of proof: <input type="checkbox"/> 120(1)&(3) <input type="checkbox"/> 120(2)&(3) <input type="checkbox"/> 120(4)		
Clinical onset / worsening:		p
Medical report:		p
Medical report:		p
Medical report:		p
Smoking History		p
Alcohol History		p

Current SoP(s)		
Factor(s)	Evidence	
		p
		p
<i>Gorton</i> SoPs: <sup>105</sup>		
Factor(s)	Evidence	
		p
		p
<i>McKenna</i> SoPs: <sup>106</sup>		
Factor(s)	Evidence	
		p
		p

---

<sup>105</sup> *Gorton* SoPs are SoPs to which the applicant has an accrued right to have applied: see [Repatriation Commission v. Gorton \[2001\] FCA 1194](#)

<sup>106</sup> *McKenna* SoPs are SoPs concerning another injury or disease through which the link to service might arise: see [McKenna v. Repatriation Commission \[1999\] FCA 323](#)

Evidence opposing the contention or hypothesis:		p
Further evidence that could be obtained:		
Comments		

## PENSION ASSESSMENT

Current rate:		Date of effect:	p
Other rate under review:		Date of effect:	p

## NEW EVIDENCE REGARDING IMPAIRMENT AND LIFESTYLE EFFECTS

Disability	New evidence	Page



## COMBINED IMPAIRMENT

Disability	Test Result	Page	Impairment	GARP Table

Combined Impairment	
---------------------	--

## LIFESTYLE EFFECTS

Veteran's Lifestyle Rating Choice	Method	[1-self] [2-shade] [3-LQ] Veteran's Date: Rating: Self		p
---	--------	--	--	---

Lifestyle Effect	Description	Rating
Personal Relationships		
Mobility		
Recreational & Community		
Domestic Activities		
Employment Activities		
<b>Average Rating</b>	$( \quad ) + ( \quad ) + ( \quad ) + ( * \quad ) \div 4 =$	

\*Highest of Domestic and Employment Activities

## DEGREE OF INCAPACITY

Combined Impairment	
Lifestyle Rating	
<b>Degree of Incapacity</b>	

Does a s.27 addition for amputation, etc, apply?	[YES / NO]	Item No:
--	------------	----------

**Is the degree of incapacity to be accepted as outside the shaded area? [YES / NO]**

**If YES, reasons:**

**Is a new lifestyle questionnaire required? [YES / NO]**

**Requested on     /     /     .**

## WORK CAPACITY AND EMPLOYMENT HISTORY

Still working? [yes / no]	Kind of work:	Hours per week:	p
Kinds of work veteran has skills, etc to undertake			p
Do accepted disabilities, alone, prevent veteran from undertaking such work?  (a) for less than 8 hours per week?   (b) for less than ½ normal working hours or 20 hours per week?		[yes / no]   [yes / no]	p
Last kind of work:		Date Ceased:	p
Reasons ceased last kind of work			p
Previous kind of work:		Date Ceased:	p
Reasons changed kind of work:			p
Reasons not working at application day:			p
Age at application day:	Age when ceased work:	Nature of last job (if over 65): [Non-employee / Employee]	p
Loss of earnings? [yes / no]			p

Attempted to seek work? [yes / no]			p
Reasons for not obtaining work			p
(1)(a)	Incapacity at <b>70% or greater</b> , or pulmonary tuberculosis case [yes / no]		
(1)(b)	Totally and permanently incapacitated from war caused disabilities <b>alone</b> ?		
Evidence:			
(1)(c) part 1	Incapacity <b>prevents undertaking remunerative work</b> ?		
Evidence:			
(1)(c) part 2	Suffering a <b>loss of salary or wages</b> on own account?		
(2)(a)	<b>Ceased</b> to engage or <b>prevented</b> from engaging in work for other reasons?		
Evidence:			
(2)(b)	Has been <b>genuinely seeking work</b> and that but for incapacity (the substantial cause) would be seeking work?		
Evidence:			
(2A) (replaces 1(c) for veterans aged over 65 years)	<b>INCAPACITY PREVENTS UNDERTAKING LAST PAID WORK?</b>		
	(2B) Suffering a <b>loss of salary or wages</b> on own account <b>from war-caused injury or disease</b> ?		
	Undertaking <b>last paid work</b> after turning <b>65</b> years? [yes / no]		
	<b>Working</b> for a continuous period of <b>10</b> years? [yes / no]		
Evidence:			

## L6.1A.2 Case Appraisal Action

Return to [p6 1A 4](#)

Applicant:		VRB No.	State:
Matters:			Time:
Issues:			Appraisal
Action to take:			Research
Interview notes:			Interview
Action notes:			Other Action
Outcome:			
Comments:			

## L6.1A.3 Case Appraisal Monthly Report

### Case Appraisal Monthly Report

Return to [p6\\_1A\\_4](#)

Reg. No. <sup>107</sup>	Initial appraisal <sup>108</sup>	Interview <sup>109</sup>	s.148(6A) request <sup>110</sup>	Applicant to obtain evidence <sup>111</sup>

---

<sup>107</sup> list the VRB registration numbers of all cases in which relevant action occurred during the reporting period.

<sup>108</sup> insert “Y” if an initial appraisal was conducted on this case in the reporting period.

<sup>109</sup> insert “F” or “T” to indicate whether an interview was conducted face-to-face or by telephone in the reporting period.

<sup>110</sup> identify nature of request (eg, “psychiatric report”, “spirometry report”).

<sup>111</sup> indicate the nature of evidence being sought (eg, “smoking history”).

## L62 Dismissal Letter Section 155AA(4)

[return to [p6 2 9](#)]

[VRB Reg No]

M[] [applicant]

[Address]

[Town/City postcode]

Dear M[] [applicant]

I am writing regarding your application for review by the Board of the Repatriation Commission decision of [Date 1] concerning [whatever].

Your application has been outstanding for more than two years and I consider that you should be ready by now to proceed at a hearing. Therefore, in accordance with subsection 155AA (4) of the *Veterans' Entitlements Act 1986*, I am giving you this written notice requesting you to provide **within 28 days** a written statement that you are ready to proceed at a hearing or reasons why you are not ready to proceed at a hearing.

The statement must be signed by you and sent to the above address. However, you may authorise another person to represent you in relation to this notice. Such authorisation must be in writing and on the enclosed form. You should **not** send this authorisation back to me. You should give it as quickly as possible to the person you have authorised so that he or she can send it to me together with the statement I have requested **within the 28 days** allowed.

The information in your statement may be provided to the Repatriation Commission and the Department of Veterans' Affairs.

If the required statement is not provided within 28 days after this notice was received at your postal address, or I consider that the statement provided does not contain a reasonable explanation for your failure to proceed at a hearing, your application will be dismissed. This means that the matter would then be finalised.

If you no longer wish to proceed with your application, you should notify me in writing and I will arrange for it to be withdrawn.

Yours sincerely

REGISTRAR

Delegate of the  
Principal Member  
of the Board

[Date]

A copy of this letter has been sent to:

- Your representative, [Representative]



## L62a Dismissal Authorisation Form

[return to [p6 2 9](#)]

### Veterans' Review Board Authorisation under Section 155AC

The information on this form may be provided to the Repatriation Commission and the Department of Veterans' Affairs.

On ...../...../..... I received a notice in the form of a letter dated ...../...../..... from the Registrar of the Veterans' Review Board concerning my outstanding application for review in respect of.....

.....  
.....

The notice requested me to provide, **within 28 days** after that notice was received at my postal address:

- a written statement that I am ready to proceed at a hearing; or
- reasons why I am not so ready.

I authorise.....

of .....

to represent me in relation to that notice, and to respond in writing on my behalf.

Applicant's Signature: ..... Date: ...../...../.....

**The authorised representative must return this form to:**

**[VRB address]**

## L63.1 – Dismissal - Hearing Requested S155AA(4)(c)

[return to [p6\\_2\\_17](#)]

VRB No: [VRB No]

[applicant]  
[address]

Dear [applicant]

On [ENTER DATE] I sent you a notice under subsection 155AA(4) of the *Veterans' Entitlements Act 1986* (the Act) regarding your application for review of the Repatriation Commission decision of [Comm date] in respect of [issue].

[if represented omit this paragraph]

I have now received your statement. As this statement indicates that you are ready to proceed at a hearing, a hearing date is now being arranged as a matter of priority. You will be advised shortly of the date, time and place.

[if unrepresented omit this paragraph]

I have now received your authorised representative's statement. As this statement indicates that you are ready to proceed at a hearing, a hearing date is now being arranged as a matter of priority. You will be advised shortly of the date, time and place.

Yours sincerely

[author]  
Registrar  
Delegate of the Principal Member of the Board

[date]

A copy of this letter has been sent to:

- The Repatriation Commission -
- The Department of Veterans' Affairs – [DVA No]
- Your representative – [representative] [organisation]

## L63.2 Dismissal - S155AA(5) Letter & Reasons to Applicant

[return to [p6 2 15](#)]

VRB No: [VRB No.]

[applicant]  
[address]

Dear [applicant]

On [ENTER DATE] I sent you a notice under subsection 155AA(4) of the *Veterans' Entitlements Act 1986* (the Act) regarding your application for review of the Repatriation Commission decision of [Comm date] in [issue].

I have not received a written statement giving a reasonable explanation for your failure to be ready to proceed at a hearing. Accordingly, I have dismissed your application under subsection 155AA(5) of the Act.

Enclosed are the reasons for my decision.

If you are dissatisfied with this decision, you have a right to apply to the Administrative Appeals Tribunal(AAT) for a review of that decision. Your application to the AAT must be in writing and be posted to the Administrative Appeals Tribunal, GPO Box 9955 in your nearest capital city within 28 days of your receipt of this letter.

Yours sincerely

[author]  
Registrar  
Delegate of the Principal Member of the Board

[date]

A copy of this letter has been sent to:

- The Repatriation Commission
- The Department of Veterans' Affairs – [DVA No.]
- Your representative – {representative} [organisation]

Continued...



## Veterans' Review Board

Applicant:

VRB No:

DECISION TO DISMISS APPLICATION
<p>The application to review the Repatriation Commission decision of <b>[Date 1]</b> concerning <b>[whatever]</b> is dismissed under section <b>155AA(5)</b> of the <i>Veterans' Entitlements Act 1986</i>.</p>

## STATEMENT OF REASONS

The history of this application is as follow:

- **[Date 2]** — the application for review was lodged.
- **[Date 3]** — Departmental section 137 report was received by the Board.
- **[Date 4]** — the Board wrote to the applicant in accordance with subsection 148 (1) of the Veterans' Entitlements Act 1986 (the Act) asking whether the applicant wished to appear at the hearing of the review and if so, whether personally or by representation.
- **[Date 5]** — a reply received from the applicant.
- **[Date 6, etc]** — **[insert information about all correspondence, conversations, etc, in which the Board attempted to obtain a request for hearing]**

In accordance with subsection **155AA (4)**, I wrote to the applicant on **[Date 7]** requesting, within 28 days, a written statement that the applicant was ready to proceed at a hearing or reasons why the applicant was not so ready.

The applicant has failed to provide that statement within 28 days.

In these circumstances, I must dismiss the application under section **155AA (5)** of the Act.

REGISTRAR

Delegate of the  
Principal Member  
of the Board

**[Date]**

## L63.3 Dismissal - Reasonable Explanation S155AA(6)

[return to [p6 2 20](#)]

[VRB Reg No]

M[] [applicant]

[Address]

[Town/City postcode]

Dear M[] [applicant]

On [Date 1] I sent you a notice under subsection **155AA (4)** of the *Veterans' Entitlements Act 1986* regarding your application for review by the Board of the Repatriation Commission decision of [Comm Date] concerning [issue].

I have now received [your/your authorised representative's] statement dated [Date 3]. I consider that this statement contains a reasonable explanation for your failure to be ready to proceed at a hearing at this time.

However, under the legislation I am required to write to you in 3 months time unless a date, time and place is fixed for the commencement or resumption of the hearing of your review and again ask you to provide a written statement as to the readiness of your application. If you fail to reply within 28 days or I then consider that the statement provided does not contain a reasonable explanation for your failure to be ready to proceed at a hearing, your application must be dismissed.

The Repatriation Commission has the right to apply to the Administrative Appeals Tribunal for a review of my decision that you have provided a reasonable explanation.

Yours sincerely

[Author]

REGISTRAR

Delegate of the

Principal Member

of the Board

[Date]

A copy of this letter has been sent to:

- Repatriation Commission
- Department of Veterans' Affairs
- Your representative, [Representative]

## L63.4 Dismissal Letter & Reasons to Applicant S155AA(7)

[return to [p6\\_2\\_22](#)]

[VRB Reg No]

M[] [applicant]

[Address]

[Town/City postcode]

Dear M[] [applicant]

On [Date] I sent you a notice under subsection **155AA (4)** of the *Veterans' Entitlements Act 1986* (the Act) regarding your application for review by the Board of the Repatriation Commission decision of [Comm Date] concerning [issue].

I have received [your/your authorised agent's] statement in reply, dated [Date]. As I consider that this statement does not contain a reasonable explanation for your failure to be ready to proceed at a hearing, I have dismissed your application under subsection **155AA (7)** of the Act.

Enclosed are the reasons for my decision.

If you are dissatisfied with this decision, you have a right to apply to the Administrative Appeals Tribunal for a review of that decision. Advice on how to lodge an application is attached to this letter.

Yours sincerely

REGISTRAR

Delegate of the  
Principal Member  
of the Board

[Date]

A copy of this letter has been sent to:

- The Repatriation Commission
- The Department of Veterans' Affairs
- Your representative, [Representative]



## Veterans' Review Board

Applicant:

VRB No:

DECISION TO DISMISS APPLICATION
<p>The application to review the Repatriation Commission decision of <b>[Date 1]</b> concerning <b>[whatever]</b> is dismissed under section 155AA(7) of the <i>Veterans' Entitlements Act 1986</i>.</p>

## STATEMENT OF REASONS

The history of this application is as follow:

- **[Date 2]** — the application for review was lodged.
- **[Date 3]** — Departmental section 137 report was received by the Board.
- **[Date 4]** — the Board wrote to the applicant in accordance with subsection 148 (1) of the Veterans' Entitlements Act 1986 (the Act) asking whether the applicant wished to appear at the hearing of the review and if so, whether personally or by representation.
- **[Date 5]** — a reply received from the applicant.
- **[Date 6, etc]** — **[insert information about all correspondence, conversations, etc, in which the Board attempted to obtain a request for hearing]**

In accordance with subsection 155AA(4), I wrote to the applicant on **[Date 7]** requesting, within 28 days, a written statement that the applicant was ready to proceed at a hearing or reasons why the applicant was not so ready.



By letter dated [**Date 8**], a statement was received from the [**applicant/the applicant's authorised representative**]. The statement said that the applicant was not ready to proceed at a hearing because [**summarise reasons given**].

In my opinion, the applicant has had sufficient time to [**contemplated or promised course of action**]. [**Insert other reasons for it not being reasonable.**]

Therefore, I consider that the statement provided does not contain a reasonable explanation for the applicant's failure to be ready to proceed at a hearing.

In these circumstances, I must dismiss the application under section 155AA(7) of the Act.

REGISTRAR

Delegate of the  
Principal Member  
of the Board

[**Date**]

## L64 Dismissal – s155AB(4) letter

[return to [p6 2 24](#)]

VRB No: [VRB No]

[applicant]  
[address]

### **Notice under section 155AB Veterans' Entitlements Act 1986**

Dear [applicant]

I am writing regarding your application for review of the Repatriation Commission decision of [Comm date] concerning [issue].

In my letter of [INSERT DATE], I advised you that I considered the statement provided by [INSERT YOU/YOUR REPRESENTATIVE] contained a reasonable explanation for your failure to be ready to proceed at a hearing. I also advised that I would be writing to you again after 3 months unless a date, time and place had been fixed for the commencement or resumption of the hearing of your review. This has not occurred.

In accordance with subsection 155AB(4) of the *Veterans' Entitlements Act 1986*, I am writing to request that you provide **within 28 days** after you receive this notice, a written statement that you are ready to proceed or reasons why you are not ready to proceed at a hearing. Form 1 is enclosed for this purpose. The statement must be signed by you and sent to me at the above address (or you may use the enclosed prepaid envelope).

If a written statement is not provided within 28 days after you receive this notice, or the statement does not provide a reasonable explanation as to why you are not ready to proceed at a hearing, your application must be dismissed and cannot be reopened.

If you do not wish to continue with the application you may withdraw it. In that case, you may tick the appropriate box on Form 1 and return the form to the above address (you may use the enclosed prepaid envelope).

If you wish, you may authorise someone to represent you in relation to this notice. The authorisation must be in writing. Form 2 is enclosed for this purpose. You should **not** send Form 2 back to me. You should give it to the person you have authorised to represent you so that he or she can send it to me together with the statement I have requested **within the 28 days** allowed. If you choose to be represented in relation to this notice and your representative fails to respond or does not provide a reasonable explanation within the 28 days, your application must be dismissed.

If you are appointing a representative for the purpose of this notice it may be in your interests to confirm with them that they have responded before the 28 days have passed.

A copy of this letter has been sent to the person currently identified as your representative. You may wish to appoint that person for the purpose of responding to this notice. However, your representative cannot do so unless you complete Form 2 and give it to them.

If you do not understand this letter or wish to discuss it, please telephone me on the above number.

Yours sincerely

[author]  
Registrar  
Delegate of the Principal Member of the Board

[date]

A copy of this letter has been sent to:

- Your Representative – [representative] [organisation]

**Form 1**  
**Response to s155AB notice**

VRB No: [VRB NO]

**Complete this form, sign it, and return it to me at the Board’s address on the letter.**

TICK ONLY ONE OF THESE BOXES:

- ☐ I AM READY for my application to proceed at a hearing.
- ☐ I WISH TO WITHDRAW my application for review. (If you tick this box, your application will be finalised without being reviewed by the Veterans’ Review Board. Once it has been withdrawn it cannot be reopened.)
- ☐ I AM NOT READY for my application to proceed at a hearing. (NOTE: if you tick this box you MUST provide an explanation for not being ready to proceed at a hearing. If your explanation is not reasonable or you do not provide an explanation, your application will be dismissed and it cannot be reopened.)

I am not ready to proceed at a hearing because .....

.....

.....

.....

.....

.....

.....

.....

(Your explanation is very important. If you need more space, write on the back of this form or attach another page.)

Signed ..... Date: .....

*(Privacy notice:* Personal information contained in this form may be provided to the Department of Veterans’ Affairs and the Repatriation Commission. DO NOT send this form to the Department or the Repatriation Commission. Send it ONLY to the Board’s address on the letter.)

**Form 2**  
**Authorisation under Section 155AC**  
**TO BE COMPLETED BY APPLICANT**

VRB No: [VRB No]

On ...../...../..... I received a notice in the form of a letter dated [date]  
from the Delegate of the Principal Member of the Veterans' Review Board concerning  
my outstanding application for review in respect of .

The notice requested me to provide, **within 28 days** after that notice was received at  
my postal address:

- a written statement that I am ready to proceed at a hearing; or
- reasons why I am not so ready.

I authorise .....

of .....

to represent me in relation to that notice, and to respond in writing on my behalf.

Applicant's Signature: ..... Date: ...../...../.....

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**Response to Notice**

**TO BE COMPLETED BY AUTHORISED REPRESENTATIVE**

- ☐ THE APPLICANT IS READY to proceed at a hearing.
- ☐ THE APPLICANT IS NOT READY to proceed at a hearing.  
(NOTE: You MUST provide an explanation for not being ready to proceed at a  
hearing. If the explanation is not reasonable or you do not provide an explanation  
**within 28 days** from when the applicant received the notice, the application  
**must be dismissed** and it cannot be reopened.)

The applicant is not ready to proceed at a hearing because .....

.....

.....

.....

.....

(Your explanation is very important. If you need more space, write on the back of this  
form or attach another page.)

Signed ..... Date: .....

## L65.1 – Dismissal - Hearing Requested S155AB(4)(a)

[return to [p6\\_2\\_17](#)]

VRB No: [VRB No]

[applicant]  
[address]

Dear [applicant]

On [ENTER DATE] I sent you a notice under subsection 155AB(4) of the *Veterans' Entitlements Act 1986* (the Act) regarding your application for review of the Repatriation Commission decision of [Comm date] in respect of [issue].

[if represented omit this paragraph]

I have now received your statement. As this statement indicates that you are ready to proceed at a hearing, a hearing date is now being arranged as a matter of priority. You will be advised shortly of the date, time and place.

[if unrepresented omit this paragraph]

I have now received your authorised representative's statement. As this statement indicates that you are ready to proceed at a hearing, a hearing date is now being arranged as a matter of priority. You will be advised shortly of the date, time and place.

Yours sincerely

[author]  
Registrar  
Delegate of the Principal Member of the Board

[date]

A copy of this letter has been sent to:

- The Repatriation Commission -
- The Department of Veterans' Affairs – [DVA No]
- Your representative – [representative] [organisation]

## L65.2 Dismissal - S155AB(5) Letter & Reasons - to Applicant

[return to [p6 2 15](#)]

VRB No: [VRB No.]

[applicant]  
[address]

Dear [applicant]

On [ENTER DATE] I sent you a notice under subsection 155AB(4) of the *Veterans' Entitlements Act 1986* (the Act) regarding your application for review of the Repatriation Commission decision of [Comm date] in [issue].

I have not received a written statement giving a reasonable explanation for your failure to be ready to proceed at a hearing. Accordingly, I have dismissed your application under subsection 155AB(5) of the Act.

Enclosed are the reasons for my decision.

If you are dissatisfied with this decision, you have a right to apply to the Administrative Appeals Tribunal(AAT) for a review of that decision. Your application to the AAT must be in writing and be posted to the Administrative Appeals Tribunal, GPO Box 9955 in your nearest capital city within 28 days of your receipt of this letter.

Yours sincerely

[author]  
Registrar  
Delegate of the Principal Member of the Board

[date]

A copy of this letter has been sent to:

- The Repatriation Commission
- The Department of Veterans' Affairs – [DVA No.]
- Your representative – {representative} [organisation]

Continued...



## Veterans' Review Board

Applicant:

VRB No:

DECISION TO DISMISS APPLICATION
<p>The application to review the Repatriation Commission decision of <b>[Date 1]</b> concerning <b>[whatever]</b> is dismissed under section <b>155AB(5)</b> of the <i>Veterans' Entitlements Act 1986</i>.</p>

## STATEMENT OF REASONS

The history of this application is as follow:

- **[Date 2]** — the application for review was lodged.
- **[Date 3]** — Departmental section 137 report was received by the Board.
- **[Date 4]** — the Board wrote to the applicant in accordance with subsection 148 (1) of the Veterans' Entitlements Act 1986 (the Act) asking whether the applicant wished to appear at the hearing of the review and if so, whether personally or by representation.
- **[Date 5]** — a reply received from the applicant.
- **[Date 6, etc]** — **[insert information about all correspondence, conversations, etc, in which the Board attempted to obtain a request for hearing]**

In accordance with subsection **155AB (4)**, I wrote to the applicant on **[Date 7]** requesting, within 28 days, a written statement that the applicant was ready to proceed at a hearing or reasons why the applicant was not so ready.



The applicant has failed to provide that statement within 28 days.

In these circumstances, I must dismiss the application under section **155AB (5)** of the Act.

REGISTRAR

Delegate of the  
Principal Member  
of the Board

[Date]

## L65.3 Dismissal - Reasonable Explanation S155AB(6)

[return to [p6 2 20](#)]

[VRB Reg No]

M[] [applicant]

[Address]

[Town/City postcode]

Dear M[] [applicant]

On [Date 1] I sent you a notice under subsection **155AB (4)** of the *Veterans' Entitlements Act 1986* regarding your application for review by the Board of the Repatriation Commission decision of [Comm Date] concerning [issue].

I have now received [your/your authorised representative's] statement dated [Date 3]. I consider that this statement contains a reasonable explanation for your failure to be ready to proceed at a hearing at this time.

However, under the legislation I am required to write to you in 3 months time unless a date, time and place is fixed for the commencement or resumption of the hearing of your review and again ask you to provide a written statement as to the readiness of your application. If you fail to reply within 28 days or I then consider that the statement provided does not contain a reasonable explanation for your failure to be ready to proceed at a hearing, your application must be dismissed.

The Repatriation Commission has the right to apply to the Administrative Appeals Tribunal for a review of my decision that you have provided a reasonable explanation.

Yours sincerely

[Author]

REGISTRAR  
Delegate of the  
Principal Member  
of the Board

[Date]

A copy of this letter has been sent to:

- Repatriation Commission
- Department of Veterans' Affairs
- Your representative, [Representative]

## L65.4 Dismissal – Letter & Reasons to Applicant Section 155AB(7)

[return to [p6 2 23](#)]

[VRB Reg No]

M[] [applicant]

[Address]

[Town/City postcode]

Dear M[] [applicant]

On **[Date 1]** I sent you a notice under subsection s155AB(4) of the *Veterans' Entitlements Act 1986* (the Act) regarding your application for review by the Board of the Repatriation Commission decision of **[Date 2]** concerning **[whatever]**.

I have now received **[your/your authorised representative's]** statement dated **[Date 3]**. I consider that this statement does not contain a reasonable explanation for your failure to be ready to proceed at a hearing.

I have dismissed your application under subsection 155AB(7) of the Act. Enclosed are my reasons for decision.

If you are dissatisfied with this decision, you have the right to apply to the Administrative Appeals Tribunal (AAT) for a review of my decision. Advice on how to lodge an application to the AAT is attached to this letter.

Yours sincerely

REGISTRAR  
Delegate of the  
Principal Member  
of the Board

**[Date]**

A copy of this letter has been sent to:

- Repatriation Commission
- Department of Veterans' Affairs
- Your representative, **[Representative]**



## Veterans' Review Board

Applicant:

VRB No:

DECISION TO DISMISS APPLICATION
<p>The application to review the Repatriation Commission decision of <b>[Date 1]</b> concerning <b>[whatever]</b> is dismissed under section 155AB(7) of the <i>Veterans' Entitlements Act 1986</i>.</p>

## STATEMENT OF REASONS

The history of this application is as follow:

- **[Date 2]** — the application for review was lodged.
- **[Date 3]** — Departmental section 137 report was received by the Board.
- **[Date 4]** — the Board wrote to the applicant in accordance with subsection 148 (1) of the Veterans' Entitlements Act 1986 (the Act) asking whether the applicant wished to appear at the hearing of the review and if so, whether personally or by representation.
- **[Date 5]** — a reply received from the applicant.
- **[Date 6, etc]** — **[insert information about all correspondence, conversations, etc, in which the Board attempted to obtain a request for hearing]**

In accordance with subsection 155AB(4), I wrote to the applicant on **[Date 7]** requesting, within 28 days, a written statement that the applicant was ready to proceed at a hearing or reasons why the applicant was not so ready.

By letter dated [**Date 8**], a statement was received from the [**applicant/the applicant's authorised representative**]. The statement said that the applicant was not ready to proceed at a hearing because [**summarise reasons given**].

In my opinion, the applicant has had sufficient time to [**contemplated or promised course of action**]. [**Insert other reasons for it not being reasonable.**]

Therefore, I consider that the statement provided does not contain a reasonable explanation for the applicant's failure to be ready to proceed at a hearing.

In these circumstances, I must dismiss the application under section 155AB(7) of the Act.

REGISTRAR

Delegate of the  
Principal Member  
of the Board

[**Date**]

## L66 Representative – s155 Unauthorised COR

[return to [p6 2 18](#)]

[VRB Reg No]

[Representative]

[Address]

[Town/City postcode]

Dear [Representative]

On [Date 1] I sent a notice under subsection [155AA (4)/155AB (4)] of the *Veterans' Entitlements Act 1986* (the Act) to the applicant regarding the application for review by the Board of the Repatriation Commission decision of [Date 2] concerning [whatever].

On [Date 3] you requested that the application be listed for hearing. Such a request does not satisfy the requirements of paragraph [155AA (4) (c)/155AB (4) (a)] of the Act.

That provisions requires a written statement from the applicant, or a person authorised under section 155AC of the Act to represent the applicant in relation to my notice, indicating that the applicant is ready to proceed at a hearing.

You may not be aware that the [applicant/an authorised representative of the applicant] responded to my notice with a written statement for the purposes of paragraph [155AA (4) (d)/155AB (4) (b)] explaining why the applicant is not ready to proceed at a hearing. A copy of that response is attached.

If the applicant is in fact now ready to proceed at a hearing, you should arrange for the applicant to provide a written statement to that effect or to sign the enclosed form authorising you to provide that written statement.

Yours sincerely

REGISTRAR

[Date]

## RV6:11 Dismissals AAT Rights of Appeal Information

[return to [p6 2 16](#) or [p6 2 21](#) or [p6 2 22](#)]

### APPEAL RIGHTS

An applicant may apply to the Administrative Appeals Tribunal for review of a decision by the Principal Member or a delegate of the Principal Member to dismiss an application.

An application to the Tribunal must be in writing and should be lodged **within 28 days** of receipt at your postal address of the decision to dismiss the application. An application form is available from the Tribunal's registries, but the use of this form is not essential and the application can be made by letter. The address of the Tribunal is:

Deputy Registrar  
Administrative Appeals Tribunal  
GPO Box 9955  
[Capital city State Postcode]

Legal advice or assistance in making an application may be available from the organisations listed on the reverse of this sheet.

If legal aid is refused by the Legal Aid Office, legal and financial assistance may then be sought in writing through the Commonwealth Attorney-General's Department. The Legal Aid Office's letter of refusal should be enclosed with an application for this assistance, which should be addressed to:

Senior Assistance Secretary  
Evaluation and Assistance Branch  
Attorney-General's Department  
Robert Garran Offices  
BARTON ACT 2600

**[The reverse of this sheet is to contain addresses of the Legal Aid offices]**

## RV6:18 Section 155AA(4)/AB(4) Letter Following AAT Decision to Set Aside S155(5) Dismissal

[return to [p6 2 28](#)]

[VRB Reg No]

M[] [applicant]

[Address]

[Town/City postcode]

Dear M[] [applicant]

I wrote to you on [Date 1] enclosing my decision and reasons for dismissing your application for review concerning [whatever].

In a decision dated [Date 2], the Administrative Appeals Tribunal set aside my decision and remitted it to the Board. I have taken into account the Tribunal's decision and consider that you should now be ready to proceed to a hearing.

Therefore, I now request, under subsection [155AA (4)/155AB (4)] of the *Veterans' Entitlements Act 1986*, that you provide to me, within 28 days, a written statement that you are now ready to proceed at a hearing, or reasons why you are not ready to proceed at a hearing.

The statement must be signed by you and sent to the above address. However, you may authorise another person to represent you in relation to this notice. Such authorisation must be in writing and on the enclosed form. You should **not** send this authorisation back to me. You should give it as quickly as possible to the person you have authorised so that he or she can send it to me together with the statement I have requested **within the 28 days** allowed.

The information in your statement may be provided to the Repatriation Commission and the Department of Veterans' Affairs.

If the required statement is not provided within 28 days after this notice was received at your postal address, or I consider that the statement provided does not contain a reasonable explanation for your failure to proceed at a hearing, your application will be dismissed. This means that the matter would then be finalised.

Continued.....



If you no longer wish to proceed with your application, you should notify me in writing and I will arrange for it to be withdrawn.

Yours sincerely

REGISTRAR

Delegate of the  
Principal Member  
of the Board

**[Date]**

A copy of this letter has been sent to:

- Repatriation Commission
- Department of Veterans' Affairs
- Your representative, [Representative]

## RV6:19 Section 155AA(4)/AB(4) Letter Following AAT Decision to Set Aside S155(5) Dismissal — Letter Received and a Reasonable Explanation for Not Being Ready

[return to [p6 2 29](#)]

[VRB Reg No]

M[] [applicant]  
[Address]  
[Town/City postcode]

Dear M[] [applicant]

I wrote to you on [**Date 1**] enclosing my decision and reasons for dismissing your application for review concerning [**whatever**].

In a decision dated [**Date 2**], the Administrative Appeals Tribunal set aside my decision and decided that you had provided the written statement required under the Act. I have now considered that statement and am satisfied that it contains a reasonable explanation for your failure to be ready to proceed at a hearing.

However, under the legislation I am required to write to you in 3 months time unless a date, time and place is fixed for the commencement or resumption of the hearing of your review and again ask you to provide a written statement as to the readiness of your application. If you fail to reply within 28 days or I then consider that the statement provided does not contain a reasonable explanation for your failure to be ready to proceed at a hearing, your application must be dismissed.

The Repatriation Commission has the right to apply to the Administrative Appeals Tribunal for a review of my decision that you have provided a reasonable explanation.

Yours sincerely

REGISTRAR  
Delegate of the  
Principal Member  
of the Board

[Date]

A copy of this letter has been sent to:

- Repatriation Commission
- Department of Veterans' Affairs
- Your representative, [**Representative**]

**RV6:20 Section 155AA(4)/AB(4) Dismissal Letter  
Following AAT Decision to Set Aside S155(5) Dismissal —  
Letter Received But NOT a Reasonable Explanation for Not  
Being Ready**

[return to [p6 2 29](#)]

[VRB Reg No]

M[] [applicant]

[Address]

[Town/City postcode]

Dear M[] [applicant]

I wrote to you on [**Date 1**] enclosing my decision and reasons for dismissing your application for review concerning [**whatever**].

In a decision dated [**Date 2**], the Administrative Appeals Tribunal set aside my decision and decided that you had provided the written statement required under the Act. I have now considered that statement and consider that it does not contain a reasonable explanation for your failure to be ready to proceed at a hearing.

I have dismissed your application under subsection [**155AA (7)/155AB (7)**] of the Act. Enclosed are my reasons for decision.

If you are dissatisfied with this decision, you have the right to apply to the Administrative Appeals Tribunal (AAT) for a review of my decision. Advice on how to lodge an application to the AAT is attached to this letter.

Yours sincerely

REGISTRAR  
Delegate of the  
Principal Member  
of the Board

[Date]

A copy of this letter has been sent to:

- Repatriation Commission
- Department of Veterans' Affairs
- Your representative, [**Representative**]

## RV6:21 Section 155AA(4)/AB(4) Letter Following AAT Decision to Set Aside S155(7) Dismissal — Reasonable Explanation for Not Being Ready

[return to [p6 2 30](#)]

[VRB Reg No]

M[] [applicant]  
[Address]  
[Town/City postcode]

Dear M[] [applicant]

I wrote to you on [**Date 1**] enclosing my decision and reasons for dismissing your application for review concerning [**whatever**].

In a decision dated [**Date 2**], the Administrative Appeals Tribunal set aside my decision and decided that you had provided a reasonable explanation for your failure to be ready to proceed at a hearing.

Under the legislation I am required to write to you in 3 months time unless a date, time and place is fixed for the commencement or resumption of the hearing of your review and again ask you to provide a written statement as to the readiness of your application. If you fail to reply within 28 days or I then consider that the statement provided does not contain a reasonable explanation for your failure to be ready to proceed at a hearing, your application must be dismissed.

Yours sincerely

REGISTRAR  
Delegate of the  
Principal Member  
of the Board

[Date]

A copy of this letter has been sent to:

- Your representative, [**Representative**]

## L67 Department - s126 request action

[return to [p6\\_3\\_3](#)]

[VRB Reg No]

Deputy Commissioner  
Department of Veterans' Affairs

[Address]

[City postcode]

Attention: Manager, Compensation

Re: [Deceased applicant], [DVA file No]  
Application for review concerning [whatever].

I understand that the abovenamed recently died.

Would you please initiate action under section 126 of the *Veterans' Entitlements Act 1986* in order to determine:

- Who the legal personal representative of the applicant is;
- Whether that person wishes to continue the application to the Board;
- If not (or there is no legal personal representative), whether there is some other person who the Repatriation Commission should approve to continue the application, and if so, arrange for a delegate of the Commission to make such a determination.

Please advise me of the result of this action as soon as possible.

REGISTRAR

[Date]

## L671      Applicant – s126 LPR Advice

[return to [p6\\_3\\_5](#)]

VRB No: [VRB No.]

[applicant]  
[address]

Dear [applicant]

I am writing regarding the late [INSERT FORMER APPLICANT'S NAME]'s application for review of the Repatriation Commission decision of [comm date] in respect of [issues] which is still outstanding.

I understand that as the legal personal representative you wish to continue with the application.

As you are now the applicant, we need to find out, whether you wish to attend the hearing and whether you wish to be represented. The choices you can make are set out in the enclosed Applicant's Advice form. Also included is some advice on representation and information about the Board that you may find helpful. You have the same rights as the original applicant, who had been represented by Mr Robert Fitz RSL Launceston.

Please return the completed Applicant's Advice form to this office **within 28 days**. As the Board would like to list your application for hearing as soon as possible if you do not respond to this letter within the 28 days, the Board may decide to hear the application in your absence.

Please do not hesitate to contact the Board should you require further information or clarification on any matter.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter has been sent to:

## L671 – Applicant – s126 LPR Advice

[return to [p6\\_3\\_5](#)]

VRB No: [VRB No.]

[applicant]  
[address]

Dear [applicant]

I am writing regarding the late [INSERT FORMER APPLICANT'S NAME]'s application for review of the Repatriation Commission decision of [Comm date] in respect of [issues] which is still outstanding.

I understand that you have been approved by the Repatriation Commission to continue with the application.

As you are now the applicant, we need to find out, whether you wish to attend the hearing and whether you wish to be represented. The choices you can make are set out in the enclosed Applicant's Advice form. Also included is some advice on representation and information about the Board that you may find helpful. You have the same rights as the original applicant, who had been represented by Mr Robert Fitz RSL Launceston.

Please return the completed Applicant's Advice form to this office **within 28 days**. As the Board would like to list your application for hearing as soon as possible if you do not respond to this letter within the 28 days, the Board may decide to hear the application in your absence.

Please do not hesitate to contact the Board should you require further information or clarification on any matter.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter has been sent to:

- The above named Representative – [representative] [organisation]

## L68 Applicant – Transfer File Out

[return to [p6 4 1](#)]

[VRB No.]

[Applicant Title, Initial, Surname]  
[Applicant address]

Dear [Applicant Title, Surname]

I am writing about your application for review of the Repatriation Commission decision of [Commission Date] in respect of [Matters].

As you now reside in [select choice column 1], I have arranged the transfer of your application to the Board's office in [select choice column 2]. That office will contact you shortly, should you have any enquiries please direct them to that office, details below.

[column 1 registry address]

Yours sincerely

[Author]  
[Job Title]

[Date]

A copy of this letter has been sent to:

- The Repatriation Commission
- The Department of Veterans' Affairs [DVA No.]
- Your representative, [Representative Title, Initial, Surname, Organisation]

	<b><u>number 1 slot</u></b>	<b><u>number 2 slot</u></b>
ACT	Australian Capital Territory	New South Wales
NS W	New South Wales	New South Wales
VIC	Victoria	Victorian
QL D	Queensland	Queensland
SA	South Australia	South Australian
NT	Northern Territory	South Australian
WA	Western Australia	Western Australian
TAS	Tasmania	Victorian & Tasmanian



## L71 Applicant - Hearing Attendance

### L71 Applicant – Hearing Attendance — Overseas Application

[return to [p7 7 2](#)]

[VRB Reg No]

M[] [applicant]  
[Address]  
[Town/City postcode]  
[Country]

Dear M[] [applicant]

#### **NOTICE OF HEARING**

**DATE:**

**TIME:** (specify applicant's local time)

Your Telephone Number:

The Board has arranged a hearing, as above, for your application for review of the Repatriation Commission decision of [Commission decision date] in respect of [**whatever**].

The Board will ring you on the above number as close as possible to the time (your local time) shown above, it is important that you are available at this time.

#### ***[optional paragraph:***

You should contact your representative to make sure [**he/she**] will be ready and available for the hearing on this date and time./

To confirm these arrangements, please complete the enclosed card and return it to this office immediately.

Please have your copy of the Departmental Report with you when the Board telephones.

Yours sincerely

REVIEW OFFICER

[Date]

A copy of this letter has been sent to:

- The Repatriation Commission
- The Department of Veterans' Affairs
- Your representative, [**Representative**]

## L71 Applicant – Hearing Attendance – Videoconference

[return to [p7\\_9\\_2](#)]

VRB No: V01/0571

[Insert Applicant's Name & Address]

Dear [Insert Applicant's name]

### **NOTICE OF HEARING**

**Date:** [Insert Day & Date]  
**Time:** [Insert Time]  
**Place:** [Insert Remote Location  
Videoconference Address Details]

The Board has arranged a hearing, as above, for your application for review of the Repatriation Commission decision of [Insert date] in respect of [Insert matters].

The hearing will be conducted by videoconference link between you and your representative, [representative], at the [ Insert Remote Location Videoconference Address Details], with the Board Members sitting in Melbourne. The Video Conference Unit is located [Insert Remote Physical Location Details] .

Upon arrival at the [Describe Location – eg hospital], please proceed to [Insert Location Details], where your representative, [Insert Representative's name] will meet you and guide you to the videoconference unit. You should aim to meet [Insert Representative's Name] at the [Describe Location – eg hospital], approximately 10 to 15 minutes prior to your hearing time, to ensure you are ready to proceed at the designated commencement time detailed above.

It is very important that you are available at the time and date set out above and I understand that your representative has already contacted you regarding the hearing.

To confirm your agreement to these arrangements, you should complete the enclosed card and return it to this office immediately – no stamp is required. If, for some unexpected reason you subsequently find that you are unable to attend at the appointed date & time, you must contact me immediately. Requests for postponements can only be granted where the circumstances are unavoidable. You should also note that the Board cannot postpone a matter on the scheduled day of a hearing.

Please bring your copy of the Departmental report to the hearing. **If you have any other papers you would like Board the members to consider at your hearing, please send them to this office immediately, or arrange for your representative to do so.** This is also very important, as the production of new evidence during a videoconference hearing will cause a delay in proceedings, while the Board decides how to handle the evidence.

The provision of further evidence at a Videoconference hearing may require the Board to adjourn the hearing to a new date, in order to ensure a proper consideration of any new material. This is inconvenient for both you and the Board.

I have attached a guide relating to travel and related expenses together with a claim form, which [Insert Representative's Name], will be able to assist you in completing.

All travel payments are now made by the Department of Veterans' Affairs by electronic funds transfer into claimant's bank accounts.

Yours sincerely

[author]

Case Manager

[Insert Date]

A copy of this letter has been sent to:

- The Repatriation Commission
- Your Representative – [Insert Representative's Name].

## L71.1 Applicant and Representative Attending

[return to [p7\\_9\\_2](#)]

VRB No: [VRB No.]

M[ ] [applicant]  
[address]

Dear M[ ] [applicant]

### NOTICE OF HEARING

Date: [day], [hearing date]  
Time: [hearing time] [AM/PM]  
Place: [hearing location]

The Board has arranged a hearing, as above, for your application for review of the Repatriation Commission decision of [Commission date] in respect of [issues].

It is very important that you are available at this time. If you will not be available please contact me immediately.

You should contact your representative to make sure they will be ready and available for the hearing on this date and time.

To confirm these arrangements, you should complete the enclosed card and return it to this office immediately – no stamp is required.

Please bring to the hearing your copy of the Departmental report and any other papers you would like the members of the Board to see. If necessary VRB Staff will arrange photocopies.

Attached is a guide concerning travel and related expenses.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter has been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA No.]  
Your Representative – [representative], [organisation]

## L71.2      Applicant and Representative by Phone - Different Location

[return to [p7 9 2](#)]

VRB No: [VRB No.]

M[ ] [applicant]  
[address]  
[address]  
[address]

Dear M[ ] [applicant]

### NOTICE OF HEARING

Date:	[day], [hearing date]
Time:	[hearing time] [AM/PM]
Your Phone No:	[applicant telephone]
Representative Phone No:	[rep telephone]

The Board has arranged a hearing, as above, for your application for review of the Repatriation Commission decision of [Commission date] in respect of [issues].

The Board will ring you and your representative on the above numbers as close as possible to the time (your local time) shown above, it is important that you and your representative are available at this time.

You should contact your representative to make sure they will be ready and available for the hearing on this date and time.

To confirm these arrangements, you should complete the enclosed card and return it to this office immediately – no stamp is required.

Please have your copy of the Departmental Report with you when the Board telephones.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter has been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA No.]  
Your Representative – [representative], [organisation]

## **L71.3      Applicant and Representative by Phone - Same Location**

[return to [p7\\_9\\_2](#)]

VRB No: [VRB No.]

M[ ] [applicant]  
[address]  
[address]  
[address]

Dear M[ ] [applicant]

### NOTICE OF HEARING

Date: [day], [hearing date]  
Time: [hearing time] [AM/PM]  
Your Phone No: [applicant or rep telephone]

The Board has arranged a hearing, as above, for your application for review of the Repatriation Commission decision of [Commission date] in respect of [issues].

The Board will ring you and your representative on the above number as close as possible to the time (your local time) shown above, it is important that you and your representative are available at this time.

You should contact your representative to make sure they will be ready and available for the hearing on this date and time.

To confirm these arrangements, you should complete the enclosed card and return it to this office immediately – no stamp is required.

Please have your copy of the Departmental Report with you when the Board telephones.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter has been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA No.]  
Your Representative – [representative], [organisation]

## L71.4      Applicant Attending - No Representative

[return to [p7\\_9\\_2](#)]

VRB No: [VRB No.]

M[ ] [applicant]  
[address]  
[address]  
[address]

Dear M[ ] [applicant]

### NOTICE OF HEARING

Date:            [day], [hearing date]  
Time:           [hearing time] [AM/PM]  
Place:          [hearing location]

The Board has arranged a hearing, as above, for your application for review of the Repatriation Commission decision of [Commission date] in respect of [issues].

It is very important that you are available at this time. If you will not be available please contact me immediately.

To confirm these arrangements, you should complete the enclosed card and return it to this office immediately – no stamp is required.

Please bring to the hearing your copy of the Departmental report and any other papers you would like the members of the Board to see. If necessary VRB staff will arrange photocopies.

Attached is a guide concerning travel and related expenses.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter has been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA No.]

## L71.5 - Applicant attending - Representative by Phone

[return to [p7\\_9\\_2](#)]

VRB No: [VRB No.]

M[ ] [applicant]  
[address]  
[address]  
[address]

Dear M[ ] [applicant]

### NOTICE OF HEARING

Date: [day], [hearing date]

Time: [hearing time] [AM/PM]

Place: [hearing location]

Representative Phone No: [rep telephone]

The Board has arranged a hearing, as above, for your application for review of the Repatriation Commission decision of [Commission date] in respect of [issues].

It is very important that you are available at this time. If you will not be available please contact me immediately.

When you are at the hearing, the Board will ring your representative on the above number as close as possible to the time (your local time) shown above, it is important that your representative is available at this time.

You should contact your representative to make sure they will be ready and available for the hearing on this date and time.

To confirm these arrangements, you should complete the enclosed card and return it to this office immediately – no stamp is required.

Please bring to the hearing your copy of the Departmental Report and any other papers you would like the members of the Board to see. If necessary VRB staff will arrange photocopies.

Attached is a guide concerning travel and related expenses.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter has been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA No.]  
Your Representative – [representative], [organisation]



## L71.6      Applicant by Phone - No Representative

[return to [p7\\_9\\_2](#)]

VRB No: [VRB No.]

M[ ] [applicant]  
[address]  
[address]  
[address]

Dear M[ ] [applicant]

### NOTICE OF HEARING

Date: [day], [hearing date]  
Time: [hearing time] [AM/PM]  
Your Phone No: [applicant telephone]

The Board has arranged a hearing, as above, for your application for review of the Repatriation Commission decision of [Commission date] in respect of [issues].

The Board will ring you on the above number as close as possible to the time (your local time) shown above, it is important that you are available at this time.

To confirm these arrangements, you should complete the enclosed card and return it to this office immediately – no stamp is required.

Please have your copy of the Departmental Report with you when the Board telephones.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter has been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA No.]

## L71.7      Applicant by Phone - Representative Attending

[return to [p7\\_9\\_2](#)]

VRB No: [VRB No.]

M[ ] [applicant]  
[address]  
[address]  
[address]

Dear M[ ] [applicant]

### NOTICE OF HEARING

Date:            [day], [hearing date]  
Time:           [hearing time] [AM/PM]  
Place:          [hearing location]  
Your Phone No: [applicant telephone]

The Board has arranged a hearing, as above, for your application for review of the Repatriation Commission decision of [Commission date] in respect of [issues].

I understand that your representative will be attending the hearing. The Board will ring you on the above number as close as possible to the time (your local time) shown above, it is important that you are available at this time.

You should contact your representative to make sure they will be ready and available for the hearing on this date and time.

To confirm these arrangements, you should complete the enclosed card and return it to this office immediately – no stamp is required.

Please have your copy of the Departmental Report with you when the Board telephones.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter has been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA No.]  
Your Representative – [representative], [organisation]

## L71.8      Applicant not attending - Representative attending

[return to [p7\\_9\\_2](#)]

VRB No: [VRB No.]

M[ ] [applicant]  
[address]  
[address]  
[address]

Dear M[ ] [applicant]

### NOTICE OF HEARING

Date: [day], [hearing date]

Time: [hearing time] [AM/PM]

Place: [hearing location]

The Board has arranged a hearing, as above, for your application for review of the Repatriation Commission decision of [Commission date] in respect of [issues].

I understand that you will not be attending the hearing but your representative will be. It is very important that your representative be available at this time.

You should contact your representative to make sure they will be ready and available for the hearing on this date and time.

To confirm these arrangements, you should complete the enclosed card and return it to this office immediately – no stamp is required.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter has been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA No.]  
Your Representative – [representative], [organisation]

## **L71.9      Applicant not attending - Representative by phone**

[return to [p7\\_9\\_2](#)]

VRB No: [VRB No.]

M[ ] [applicant]  
[address]  
[address]  
[address]

Dear M[ ] [applicant]

### NOTICE OF HEARING

Date: [day], [hearing date]

Time: [hearing time] [AM/PM]

Representative Phone No: [rep phone No.]

The Board has arranged a hearing, as above, for your application for review of the Repatriation Commission decision of [Commission date] in respect of [issues].

I understand that you will not be attending the hearing but your representative will be available to speak on the telephone. The Board will ring your representative on the above number as close as possible to the time (your local time) shown above, it is very important that your representative be available at this time.

You should contact your representative to make sure they will be ready and available for the hearing on this date and time.

To confirm these arrangements, you should complete the enclosed card and return it to this office immediately – no stamp is required.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter has been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA No.]  
Your Representative – [representative], [organisation]

## RV7:5 Acknowledge of Notice of Hearing

[return to [p7 9 3](#)]

Office Use Only

[Applicant]

[VRB No.]

[time] [AM/PM], [Hearing Date]

***Veterans Review Board***

***Acknowledgment of notice of hearing***

I have received notice of the hearing of my application.

I agree to the arrangements set out in the notice.

.....

Signature

.....

Date

## RV7:6 Guide for Applicant's Claiming Travelling Expenses

[return to [p7 9 3](#) or [p14 2 10](#) or [p14 2 12](#)]

### VETERAN'S REVIEW BOARD TRAVELLING EXPENSES INFORMATION Rates are effective from 1 July 2003

An applicant attending a hearing arranged by the Board may claim travelling expenses. Travel expenses are ordinarily based on travelling to and from the hearing from the address to which the notice is sent. Claim forms are available from reception on the day of the hearing and must be forwarded directly to the Department of Veterans' Affairs for processing. The Board will certify on the form that you attended the hearing. No money is reimbursed by the Board.

General details about travelling expenses which can be claimed are listed below.

#### TRANSPORT

##### **Travel by private car, bus, train, tram or ferry**

If you travel by any one, or any combination, of these types of transport you will receive payment calculated at 24.8 cents per kilometre over the most direct route. Receipts are not required.

##### **Travel by plane, taxi, hire-car or community transport**

To be paid the expenses incurred by you for travel by these types of transport, a medical certificate from a doctor certifying that you need to travel by this type of transport is required. If a medical certificate is not obtained you can only be paid 24.8 cents per kilometre over the most direct route. Receipts are required.

#### MEALS AND ACCOMMODATION

##### **For same day travel**

If your return journey is 401 kilometres or more you will receive payment of \$20.60. If your return journey is between 100-399 kilometres you will receive payment of \$10.20.

##### **Overnight absence**

If you need to be absent from home overnight, a combined commercial accommodation and meal allowance of up to \$121.70 for each night spent in a capital city and up to \$102.40 each night for a non-capital city is payable. Receipts are required confirming the cost of accommodation.

Subsidised accommodation is paid at a lower rate.

If you stay with family or friends an amount of \$32.00 is payable and a receipt is not required.

If an attendant travels with you, the combined allowance paid is up to \$166.40 for each night and a certificate from your doctor is required stating that you need an attendant.

#### CAR PARKING

There are meter and commercial parking areas near the Board's premises but fees can only be reimbursed if parking costs exceed \$50 over a six month period commencing on either 1 January or 1 July each year.

#### MAKING YOUR CLAIM

A Board staff member is available to help you complete a claim form when you attend the Board for a hearing. Claims must be lodged with the Department of Veterans' Affairs within 3 months of the Board hearing.

If you have any questions concerning travel or you need to make any special arrangements please ring the Board on:

<b>(For metropolitan callers)</b>	<b>1300 550 460</b>
<b>(For country callers)</b>	<b>1800 550 460</b>

## RV7:8 Listing Schedule

[return to [p7\\_9\\_7](#) or [p13\\_9\\_1](#) or [p15\\_2\\_4](#)]

VRB System for Application Management – Listing Schedule
--

Case Manager: \_\_\_\_\_

Location:	[hearing location]	[senior member]	Panel (HR):	[No.]
Date:	[date]	[services member]	Itinerary:	[No.]
		[member]	Week:	[No.]

Time:	Applicant:	Veteran	DVA No:
-------	------------	---------	---------

Address:	Tel:
----------	------

Attendance:

Representative:	Organisation:
-----------------	---------------

VRB Reg No:	RC Decision Date:	VRB's Decision's
[Issues]		

Author: _____	Tape No: _____	Tape Counter: _____ to _____
---------------	----------------	------------------------------

Time:	Applicant:	Veteran	DVA No:
-------	------------	---------	---------

Address:	Tel:
----------	------

Attendance:

Representative:	Organisation:
-----------------	---------------

VRB Reg No:	RC Decision Date:	VRB's Decision's
[Issues]		

Author: _____	Tape No: _____	Tape Counter: _____ to _____
---------------	----------------	------------------------------

## RV8:1 Delegation from Principal Member to Senior Members


[return to [p8\\_3\\_1](#)]

### VETERANS' ENTITLEMENTS ACT 1986

#### DELEGATION PURSUANT TO SECTION 166

I, Stephen Francis Michael SKEHILL, Principal Member of the Veterans' Review Board, acting in accordance with section 166 of the Veterans' Entitlements Act 1986, hereby delegate to those persons who, from time to time, hold appointments pursuant to section 158 of that Act as Senior Members of the Veterans' Review Board my powers under sections 143(1) and 144(2) of that Act, provided that such powers shall only be exercised by those persons in accordance with directions issued by me from time to time.

Dated this *5th* day of *August* 1987.

  
S.F. SKEHILL  
PRINCIPAL MEMBER

RV7:4



## RV8:2      Directions Reconstituting Panel(s)

[return to [p8\\_3\\_2](#)]

### VETERANS' REVIEW BOARD DIRECTION UNDER SECTION 143

Direction No.: [##]

I, [**whoever**] a Senior Member of the Veterans' Review Board, acting in accordance with the delegation to me made by the Principal Member of the Board on [**Date 1**], direct, under to Section 143 (1) of the *Veterans' Entitlements Act 1986*, that the persons who are to constitute the Veterans' Review Board for the purpose of reviews conducted by the Board in hearing Room [1], in [**wherever**] on [**day and date**], shall be:

(Presiding Member);

(Services Member);

(Member);

and in Hearing Room [2], shall be:

(Presiding Member)

(Services Member)

(Member)

and the earlier direction [###] of [**Date 2**] is amended accordingly.

SENIOR MEMBER

[**Date**]

## **RV8:3     Direction Appointing Presiding Member for Quorum**

[return to [p8\\_4\\_1](#)]

### **VETERANS' REVIEW BOARD DIRECTION UNDER SECTION 144**

Direction No.: [##]

Due to the unavailability of [NAME 1], Senior Member, I, [whoever] a Senior Member of the Veterans' Review Board, acting in accordance with the delegation to me made by the Principal Member of the Board on [Date 1], direct, under subsection 144 (2) of the *Veterans' Entitlements Act 1986*, that for the purpose of reviewing the applications in hearing room [1/2] on [Date 2] in [wherever], [NAME 2] shall preside.

SENIOR MEMBER

[Date]

## **RV8:4      Appointment of Acting Senior Member**

[return to [p8\\_5\\_1](#)]

## **RV8:5      Appointment of Acting Member**

[return to [p8\\_5\\_1](#)]

## RV8:6 Itinerary Questionnaire

### Veterans' Review Board

Itinerary Advice

Period dd/mm to dd/mm/yyyy

Return to [p8\\_2\\_4](#)

Name: Given Name Surname
-----------------------------

---

WEEK 1: dd/mm – dd/mm/yyyy
----------------------------

Hearings ☐ Travel ☐ Not Available ☐

WEEK 2: dd/mm – dd/mm/yyyy
----------------------------

Hearings ☐ Travel ☐ Not Available ☐

WEEK 3: dd/mm – dd/mm/yyyy
----------------------------

Hearings ☐ Travel ☐ Not Available ☐

WEEK 4: dd/mm – dd/mm/yyyy
----------------------------

Hearings ☐ Travel ☐ Not Available ☐

WEEK 5: dd/mm – dd/mm/yyyy
----------------------------

Hearings ☐ Travel ☐ Not Available ☐

---

During the itinerary \_\_\_\_\_

I sat on ..... days and authored ..... decisions  
(number) (number)

Of the D&R authored, I typed ..... decisions  
(number)

I signed ..... finalised decisions within ONE week  
(number)

I signed ..... finalised decisions within TWO weeks  
(number)

I signed ..... finalised decisions within THREE weeks  
(number)

---

DATE: ..... / ..... / SIGNATURE: .....

Please return to: Executive Assistant, PO Box 294, WODEN ACT 2606

**FAX:** (02) 6289 4848 **NO LATER THAN:**

## RV8:7 Itinerary

### Veterans' Review Board Allocation of Members dd mmmm – dd mmmm yyyy

Return to [p8 2 4](#)

	dd/mm-dd/mm	dd/mm-dd/mm	dd/mm-dd/mm	dd/mm-dd/mm	dd/mm-dd/mm
NSW					
HR1					
NSW					
HR2					
NSW					
HR3					
VIC					
HR1					
VIC					
HR2					
VIC					
HR3					
QLD					
HR1					
QLD					
HR2					
QLD					
HR3					
SA					
HR1					

\*\* Acting Senior Member \* Acting Member # Not Available for Travel

Veterans Review Board  
Allocation of Members  
dd mmmm – dd mmmm yyyy

	dd/mm-dd/mm	dd/mm-dd/mm	dd/mm-dd/mm	dd/mm-dd/mm	dd/mm-dd/mm
WA HR1					
TAS HR1					
N O T  A V A I L A B L E					
U N A T T A C H E D					

\*\* Acting Senior Member \* Acting Member # Not Available for Travel

## RV9:1 Covering Letter for Draft Decision

[return to [p9\\_3\\_6](#)]

[VRB Reg No]

M[] [applicant]  
[Address]  
[Town/City postcode]

Dear M[] [applicant]

I am writing regarding your application for review by the Board of the Repatriation Commission decision of [Commission decision date] in respect of [whatever].

A panel of the Board have looked at the available documentation on this matter and consider that the material would justify making a decision in your favour — to accept that [whatever] was [war/defence]-caused and that you are entitled to be paid pension with effect from [date].

This is only a proposed decision and does not reflect the final decision of the Board. Draft reasons for the proposed decision have been prepared and a copy is attached. A final decision will not be made until the Board hears from you and considers any views you may put forward. If it is your wish, we will arrange a hearing at which you may attend, be represented, or both.

Please consider this matter carefully, if you are represented, it may be appropriate to discuss this matter with him/her before making a decision. If you would be satisfied for the Board to decide your application in this way, please complete the attached form and return it to me. Alternatively, if you are dissatisfied with some aspect of the proposed decision, please set out your views and the matter will be reconsidered.

Your right of appeal against the Board's decision will not be affected in any way if you do consent to the proposed decision and subsequently change your mind. The Repatriation Commission also has the right of appeal if it is dissatisfied with the Board's decision.

Yours sincerely

REVIEW OFFICER

[Date]

A copy of this letter has been sent to:

- Your representative, [Representative]



## RV9:2 Draft Decision Acceptance Form

[return to [p9 3 6](#)]

### VETERANS' REVIEW BOARD DRAFT DECISION

---

This form should be completed and returned to the Board when you have considered the draft decision. If you have appointed a representative, we suggest you discuss the draft decision with him/her before replying. If you are dissatisfied with the Board's draft decision, please set out your objections in writing and the matter will be reconsidered. The Board will not take any steps to finalise your application until it hears from you.

---

Applicant:.....

VRB No:.....

DVA No:.....

#### Tick one box only

☐ I am satisfied with the draft decision forwarded to me.

I understand that the Board has not yet made the decision and that if it is unable to confirm the draft decision I will be given the opportunity to attend a hearing of my application.

☐ I am **not** satisfied with the draft decision. I have attached a note explaining why I am dissatisfied and I would like the Board to consider whether or not the draft decision can be amended to meet my wishes. I understand that, if the Board cannot do so, I will be given the opportunity to attend a hearing of my application.

signed:.....

Date: ...../...../.....

To: REGISTRAR

Veterans' Review Board

[address]

## **RV9:3      Covering Letter for Draft Decision Accepted**

[return to [p9\\_3\\_9](#)]

## RV9:4 Covering Letter for Draft Decision Not Accepted or Not Varied

[return to [p9\\_3\\_11](#)]

[VRB Reg No]

M[] [applicant]

[Address]

[Town/City postcode]

Dear M[] [applicant]

I am writing again regarding your application for review by the Board of the Repatriation Commission decision of [Commission decision date] in respect of [whatever].

Following our recent correspondence, I now wish to advise you that the Board has reconsidered its draft decision and have concluded that they cannot, at this stage, agree to the amendments which you have requested. The Board has made no formal decision on these matters, but believes that a hearing should be arranged, at which time full consideration of your application and submissions will be given.

You will be contacted regarding a date, time and place for a hearing, once you or your representative notify the Board of your readiness to proceed.

Yours sincerely

REVIEW OFFICER

[Date]

A copy of this letter has been sent to:

- The Repatriation Commission
- The Department of Veterans' Affairs
- Your representative, [**Representative**]

### *Alternative Paragraph 2.*

As you chose not to accept the Board's draft decision, the Board has made no formal decision regarding your application. A hearing will now be necessary to enable further consideration of your application.

## **L101      Applicant – Postponement Advice**

### **L101.1    Loss of Priority – no rep**

[return to [p10\\_3\\_3](#)]

VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

We previously advised you that a hearing of your application for review had been arranged for [hearing date]. That hearing was postponed when you advised [INSERT REASON].

Because you could have avoided the need for this postponement, I confirm that your application will not be given priority for relisting and a new hearing will only be arranged once you have lodged a further Certificate of Readiness for Hearing and after applications currently ready to proceed have been heard.

Yours sincerely

[author name  
[title]

[date]

A copy of this letter has been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [Departmental file No.]

## L101.1 Loss of priority – with rep

[return to [p10\\_3\\_3](#)]

VRB No: [VRB No.]

[applicant address]

Dear M[] [applicant]

We previously advised you that a hearing of your application for review had been arranged for [INSERT HEARING DATE]. That hearing was postponed when your representative advised [INSERT REASON].

Because your representative could have avoided the need for this postponement, I confirm that your application will not be given priority for relisting and a new hearing will only be arranged once your representative has lodged a further Certificate of Readiness for Hearing and after applications currently ready to proceed have been heard.

Yours sincerely

[author name]

[title]

[date]

A copy of this letter has been sent to:

The Repatriation Commission – [UIN]

The Department of Veterans' Affairs – [Departmental file No.]

Your representative – [representative name and organisation]

## **L101.2    Retain Priority – no rep**

[return to [p10\\_3\\_3](#)]

VRB No:        [VRB No.]

[applicant name]  
[address]

Dear M[] [applicant]

We previously advised you that a hearing of your application for review had been arranged for . That hearing was postponed when you advised [INSERT REASON].

Because this postponement was unavoidable, your application will be given priority for relisting once you lodge a further Certificate of Readiness for Hearing.

Yours sincerely

[author name]  
[title]

[date]

A copy of this letter has been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [Departmental file No.]

## L101.2 Retain Priority – with rep

[return to [p10\\_3\\_3](#)]

VRB No: [VRB No.]

[applicant address]

Dear M[] [applicant]

We previously advised you that a hearing of your application for review had been arranged for [INSERT HEARING DATE]. That hearing was postponed when your representative advised [INSERT REASON].

Because this postponement was unavoidable, your application will be given priority for relisting once your representative lodges a further Certificate of Readiness for Hearing.

Yours sincerely

[author name]

[title]

[date]

A copy of this letter has been sent to:

The Repatriation Commission – [UIN]

The Department of Veterans' Affairs – [Departmental file No.]

Your representative – [representative name and organisation]

## L112 Request for withdrawal – No representative

[return to [p3 5 9](#) or [p11 2 2](#) or [p11 3 3](#)]

# VETERANS' REVIEW BOARD

## REQUEST FOR WITHDRAWAL

Prior to the commencement of a review, an applicant has an unqualified right to withdraw. After a review has been commenced by the Board, that is, if a hearing has been held, the applicant may only withdraw with the consent of the Board.

**Once a matter has been withdrawn it cannot be reopened**

**Name of Applicant:** [applicant name]

**VRB No:** [VRB file No.]

**DVA File No:** [DVA file No.]

I wish to withdraw the application for review in respect of a Repatriation Commission decision dated [Commission decision date] concerning the following matter(s):

☐ [Issues]

Please **TICK** any matters that you **WISH TO WITHDRAW**.

**I understand that by withdrawing a matter, that matter is then finalised and will not be reviewed by the Board.**

**Applicant's Signature .....**

**Dated...../...../.....**



## L112 Request for withdrawal – With representative

[return to [p11\\_2\\_2](#) or [p11\\_3\\_3](#)]

# VETERANS' REVIEW BOARD

## REQUEST FOR WITHDRAWAL

Prior to the commencement of a review, an applicant has an unqualified right to withdraw. After a review has been commenced by the Board, that is, if a hearing has been held, the applicant may only withdraw with the consent of the Board.

**Once a matter has been withdrawn it cannot be reopened**

**Name of Applicant:** M[] [applicant]

**VRB No:** [VRB file No.]

**DVA File No:** [DVA file No.]

I wish to withdraw the application for review in respect of a Repatriation Commission decision dated date concerning the following matter(s):

☐ [Issues]

Please **TICK** any matters that you **WISH TO WITHDRAW**.

**I understand that by withdrawing a matter, that matter is then finalised and will not be reviewed by the Board.**

**Applicant's Signature .....**

**Dated...../...../.....**

## **L111      Applicant – Withdrawal Advice**

### **L111.1    Applicant – Withdrawal Advice - Consent required**

[return to [p11 4 3](#)]

VRB No: [VRB No.]

M[] [applicant]  
[applicant address]

Dear M[] [applicant]

I have received advice that you wish to withdraw your application for in respect of [issue].

As your application had been previously part-heard by the Board, it was necessary to refer your request to withdraw your application to a panel of the Board for a decision.

I am now writing to inform you that the Board has consented to the withdrawal of your application. This in effect means the matter is finalised and the Board will take no further action in this matter.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter has been sent to:

- The Repatriation Commission – [UIN]
- The Department of Veterans' Affairs – [DVA file No.]
- Your Representative – [representative], [organisation]

## **L111.2 Applicant – Withdrawal Advice - Consent not required**

[return to [p11\\_3\\_2](#)]

VRB No: [VRB No.]

M[] [applicant]  
[applicant address]

Dear M[] [applicant]

I have received advice that you wish to withdraw your application for in respect of [issue].

In accordance with your wishes, the Board will take no further action in this matter.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter has been sent to:

- The Repatriation Commission – [UIN]
- The Department of Veterans' Affairs – [DVA file No.]
- Your Representative – [representative], [organisation]

## **L111.3    Applicant – Withdrawal Advice - S31**

[return to [p11\\_3\\_2](#)]

VRB No: [VRB No.]

M[] [applicant]  
[applicant address]

Dear M[] [applicant]

I have received advice that you wish to withdraw your application for in respect of [issue].

I understand that this follows a decision of a Delegate of the Repatriation Commission that [insert details of S31 decision].

In accordance with your wishes, the Board will take no further action in this matter.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter has been sent to:

- The Repatriation Commission – [UIN]
- The Department of Veterans' Affairs – [DVA file No.]
- Your Representative – [representative], [organisation]

## **RV11:3 Advice of Refusal to Consent to Withdrawal**

[return to [p11\\_4\\_3](#)]

## RV12:1 Summons to Attend Hearing

[return to [p12 8 1](#)]

### Regulation 10, Veterans' Entitlements Regulations

#### SUMMONS

In the matter of the application by *(insert applicant's name)*  
for review of a decision of the Repatriation Commission

To: *(name and address of witness)*

YOU ARE HEREBY SUMMONED pursuant to subsection 151 (2) of the *Veterans' Entitlements Act 1986* to appear before the Veterans' Review Board at *(place, time and date of hearing)* and on each subsequent day of the hearing of the above-mentioned proceeding until you are excused or released from further attendance to give evidence ( \* and to produce the following documents:)

*(insert presiding member's name)*  
Presiding Member

Date *(insert date of issue)*

\* *Omit if inapplicable*

**Note:** This summons is issued at the request of *(insert name of requestor)*

**Note:** Failure to comply with this summons is an offence under section 168 of the *Veterans' Entitlements Act 1986*, which provides penalty of a fine of \$1,000 or imprisonment for 6 months, or both.

## RV12:2 Summons to Telephone Hearing

[return to [p12\\_8\\_1](#)]

### Regulation 10, Veterans' Entitlements Regulations

#### SUMMONS

In the matter of the application by *(insert applicant's name)*  
for review of a decision of the Repatriation Commission

To: *(name and address of witness)*

YOU ARE HEREBY SUMMONED pursuant to subsection 151 (2) of the *Veterans' Entitlements Act 1986* to give evidence to the Veterans' Review Board by telephone at *(time and date of hearing)* and on each subsequent day of the hearing of the above-mentioned proceeding until you are excused or released from further such requirement, by telephoning the Veterans' Review Board on *(insert VRB telephone number)* at the time stated above and such other time or times as the Board may require of you in connection with the hearing.

*(insert presiding member's name)*  
Presiding Member

Date *(insert date of issue)*

\* *Omit if inapplicable*

**Note:** This summons is issued at the request of *(insert name of requestor)*

**Note:** Failure to comply with this summons is an offence under section 168 of the *Veterans' Entitlements Act 1986*, which provides penalty of a fine of \$1,000 or imprisonment for 6 months, or both.

## RV12:3 Affidavit of Service

[return to [p12 8 2](#)]

### AFFIDAVIT OF SERVICE

On ..... at .....am/pm, I, ..... ,  
(date) (time) (name of person who served the summons)

say on oath that I showed and gave the original of the summons signed by (*Presiding Member's name*), a copy of which is attached, to

.....  
(person to whom summons was given)

SWORN at: .....

Before me:

.....  
A Justice of the Peace

Continued



## **STATEMENT OF RIGHTS OF PERSON NAMED IN SUMMONS**

You may apply to have this summons set aside in an appropriate case. Such an application must take the form of an affidavit sworn or affirmed by you, setting out the facts, matters and reasons on which you base your application. This application must be lodged with the Registrar of the Veterans' Review Board, in the Registry from which the summons was issued, at or before the time at which the summons is returnable. Such an application may be lodged either personally, or by your agent, or by fax.

If lodged by fax, it must be marked for the attention of the Presiding Member who issued the summons. Lodgement in this manner will not be complete until you have received by fax an acknowledgment of receipt of a clear and legible copy of the affidavit. This fax receipt shall be evidence of lodgement. If an affidavit has been lodged by fax, you will subsequently be required to file either in the Registry of the Veterans' Review Board or in the hearing, a clear and legible copy of the affidavit on paper of durable quality.

In deciding whether to grant an application to set aside a summons, either in whole or in part, the Board may, without limiting the grounds available, take into account the grounds:

- (a) that compliance with the summons would cause the person named hardship or serious inconvenience;
- (b) that the evidence to be given by the person named could be obtained by other means without significantly greater expense.

If you apply to have this summons set aside you must, within 24 hours of making your application to the Board, give a copy of your application to the person who sought the summons.

## RV13:1 Record of Proceeding

[return to [p13 9 1](#) or [p15 2 4](#)]

VRB System for Application Management Record of Proceeding
---

Case Manager: \_\_\_\_\_ VRB Reg No:  
[VRB No.]

Location:	[hearing location]	[senior member]	Panel (HR):	[No.]
Date:	[date]	[services member]	Itinerary:	[No.]
Time:		[member]	Week:	[No.]

Applicant: \_\_\_\_\_ DVA No: \_\_\_\_\_  
.....  
Address: \_\_\_\_\_ Tel: \_\_\_\_\_

Veteran \_\_\_\_\_ Date of Death: \_\_\_\_\_

Service: \_\_\_\_\_

Attendance confirmation received:

Attendance:

Representative:

Organisation:

Other attendees:

VRB Reg No:	RC Decision Date:
-------------	-------------------

Matter issue(s):	VRB's Decision(s):	Date of effect:
------------------	--------------------	-----------------

[Issues]

Author: \_\_\_\_\_ Members Initials: \_\_\_\_\_

Tape No: \_\_\_\_\_ Tape Counter: \_\_\_\_\_ to \_\_\_\_\_

Files available: ☐M ☐C ☐H ☐S Docs (insert details of missing files overleaf)

Exhibits:

## **RV15:3 Cause of S151 Adjournment Form**

[return to [p15\\_2\\_4](#)]

## RV16:4 s152 reply to Senior Member

[return to [p16 7 3](#)]

### SECTION 152 REPLY

File No. [VRB No.]          Applicant

M  
Senior Member

Please find underleaf the following report from the Department in reply to the Board's request of [Publish date]. Please advise if the reply is satisfactory.

DATE	REPORT

[Author]  
[title]  
[date]

---

Registrar

Please:

- ☐ Arrange for the application to be relisted.
- ☐ Arrange for papers to be submitted as an administrative matter to consider a further request.
- ☐ Further request to the Department (draft attached).

Senior Member  
[date]

## **L161      Section 152 Reply**

### **L161.1      Advice of S152 Reply Adequate – Unrepresented Applicant**

[return to [p16 8 1](#)]

VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

I am writing regarding your application for review of the Repatriation Commission decision of [Commission decision date] in respect of [issue].

The Board considered your application on [hearing date]. That hearing was adjourned to enable the Board to seek a further report from the Secretary of the Department of Veterans' Affairs.

The reply from the Department of Veterans' Affairs has now been received and a copy is attached for your information. The reply has been page numbered so you can add it to your copy of the Departmental report.

Unless you advise the Board within 14 days that you are not ready to proceed at a hearing, I will make arrangements for the Board to resume the hearing of your application, and you will then shortly be advised details of the hearing.

Yours sincerely  
[author]  
[title]

[date]

A copy of this letter has been sent to:

- The Repatriation Commission – [UIN]
- The Department of Veterans' Affairs – [DVA file No.]

## **L161.1 Advice of S152 Reply Adequate – Represented Applicant**

[return to [p16 8 1](#)]

VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

I am writing regarding your application for review of the Repatriation Commission decision of [Commission decision date] in respect of [issue].

The Board considered your application on [hearing date]. That hearing was adjourned to enable the Board to seek a further report from the Secretary of the Department of Veterans' Affairs.

The reply from the Department of Veterans' Affairs has now been received and a copy is attached for your information. The reply has been page numbered so you can add it to your copy of the Departmental report.

Unless you advise the Board within 14 days that you are not ready to proceed at a hearing, I will make arrangements for the Board to resume the hearing of your application, and you will then shortly be advised details of the hearing.

Yours sincerely  
[author]  
[title]

[date]

A copy of this letter has been sent to:

- The Repatriation Commission – [UIN]
- The Department of Veterans' Affairs – [DVA file No.]
- Your Representative – [representative], [organisation]

## **L161.2 Advice of S152 Reply Inadequate – Unrepresented Applicant**

[return to [p16 7 5](#)]

VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

I am writing regarding your application for review of the Repatriation Commission decision of [Commission decision date] in respect [issue].

The Board considered your application on [hearing date]. That hearing was adjourned to enable the Board to seek a further report from the Secretary of the Department of Veterans' Affairs.

The reply from the Department of Veterans' Affairs has now been received. This information was submitted to the Board and the Senior Member decided that additional information is required and a request for further information from the Department has been made.

Attached is a copy of the information received and the further request for information. These have been numbered so you can add it to your copy of the Departmental report.

We will again write to you when the Department has provided this additional information. In the meantime the hearing of your application remains adjourned.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter has been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA file No.]

## **L161.2 Advice of S152 Reply Inadequate – Represented Applicant**

[return to [p16.7.5](#)]

VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

I am writing regarding your application for review of the Repatriation Commission decision of [Commission decision date] in respect of [issue].

The Board considered your application on [hearing date]. That hearing was adjourned to enable the Board to seek a further report from the Secretary of the Department of Veterans' Affairs.

The reply from the Department of Veterans' Affairs has now been received. This information was submitted to the Board and the Senior Member decided that additional information is required and a request for further information from the Department has been made.

Attached is a copy of the information received and the further request for information. These have been numbered so you can add it to your copy of the Departmental report.

We will again write to you when the Department has provided this additional information. In the meantime the hearing of your application remains adjourned.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter has been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA file No.]  
Your Representative – [representative], [organisation]



## **L161.3    S152 Supplementary request**

[return to [p16 7 4](#)]

The Secretary  
Department of Veterans' Affairs  
[INSERT ADDRESS HERE]  
[INSERT CITY, STATE, POSTCODE HERE]

Attention: Deputy Commissioner

Re: [APN\_TITLE\_TXT;APN\_GIVEN-NME(first initial only);APN\_SURNAME],  
VRB No: [VRB\_REG\_NUM], DVA File No: [DVA\_FILE\_NUM], Client ID:  
[CLIENT\_ID]

The Senior Member advised that the section 152 response is not satisfactory and has made the following comments:

[INSERT COMMENTS]

The hearing of the review remains adjourned under section 152 pending your further response.

Yours sincerely

[USR\_NME]  
[USR\_JOB\_TTL\_TXT]

[DATE]

## RV17:1 Decisions and Reasons Format

[return to [p17\\_3\\_1](#)]



# VETERANS' REVIEW BOARD

## DECISION AND REASONS

VRB N°: [VRB Reg No]

DVA N°: [DVA File No]

[Applicant/Veteran]: [Name]

### Decision under review:

The Repatriation Commission [**decision**]

### Hearing by Board:

Heard: [City] on [Date]

Before:	[Name]	Senior Member
	[Name]	Services Member
	[Name]	Member

Appearances: [Name]

[Name]

Tape: [Tape No]

### Decision of the Board:

On the [Date] Veterans' Review Board decided to:

[VRB's decision]



[page break]

## REASONS FOR DECISION

## **L173      Applicant – Decision & Reasons Covering Letter**

### **L173.1      All Matters Finalised – No Rep**

[return to [p17\\_4\\_1](#)]

VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

I am writing regarding your application for review of the Repatriation Commission decision of [Commission decision date] in respect of [issue].

The Board considered your application on [hearing date]. Enclosed is a copy of the Board's formal Decision & Reasons.

There may be some aspect of the Board's decision with which you are dissatisfied. If this is the case, you may have a right to apply to the Administrative Appeals Tribunal (AAT) for review of the Board's decision. The Repatriation Commission also has this right. Details of your right to apply to the AAT, and of the sources from which you might seek legal or financial assistance, are attached.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter has been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA file No.]

## **L173.1 All Matters Finalised – With Rep**

[return to [p17\\_4\\_1](#)]

VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

I am writing regarding your application for review of the Repatriation Commission decision of [Commission decision date] in respect of [issue].

The Board considered your application on [hearing date]. Enclosed is a copy of the Board's formal Decision & Reasons.

There may be some aspect of the Board's decision with which you are dissatisfied. If this is the case, you may have a right to apply to the Administrative Appeals Tribunal (AAT) for review of the Board's decision. The Repatriation Commission also has this right. Details of your right to apply to the AAT, and of the sources from which you might seek legal or financial assistance, are attached.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter has been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA file No.]

## **L173.2 Applicant – Decision & Reasons letter - S152 – all matters adjourned – No Rep**

[return to [p16\\_5\\_1](#) or [p17\\_4\\_3](#)]

VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

I am writing regarding your application for review of the Repatriation Commission decision of 16 November 1999 in respect of pension assessment at 100% of the General rate.

The Board considered your application on 24 September 2001. That hearing was adjourned to enable the Board to seek a further report from the Secretary of the Department of Veterans' Affairs. Your application will again be listed for hearing when the Board has received that report from the Department.

Attached is a copy of the Board's formal Decision and Reasons and the request to the Department. These have been page numbered so you can add them to your copy of the Departmental report.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter has been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA file No.]

## **L173.2 Applicant – Decision & Reasons letter - S152 – all matters adjourned – With Rep**

[return to [p16\\_5\\_1](#) or [p17\\_4\\_3](#)]

VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

I am writing regarding your application for review of the Repatriation Commission decision of 16 November 1999 in respect of pension assessment at 100% of the General rate.

The Board considered your application on 24 September 2001. That hearing was adjourned to enable the Board to seek a further report from the Secretary of the Department of Veterans' Affairs. Your application will again be listed for hearing when the Board has received that report from the Department.

Attached is a copy of the Board's formal Decision and Reasons and the request to the Department. These have been page numbered so you can add them to your copy of the Departmental report.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter has been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA file No.]  
Your Representative – [representative], [organisation]

## **L173.3 Applicant – Decision & Reasons letter - S152 Part finalised/part adjourned - No Rep**

[return to [p16\\_5\\_1](#) or [p17\\_4\\_3](#)]

VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

I am writing regarding your application for review of the Repatriation Commission decision of [Commission decision date] in respect of [issue].

The Board considered your application on [hearing date]. There may be some aspect of the Board's decision with which you are dissatisfied. If this is the case, you may have a right to apply to the Administrative Appeals Tribunal (AAT) for review of the Board's decision. The Repatriation Commission also has this right. Details of your right to apply to the AAT, and of the sources from which you might seek legal or financial assistance, are attached.

Please note, however, that your application in respect of [INSERT MATTERS ADJOURNED] was adjourned to enable the Board to seek a further report from the Secretary of the Department of Veterans' Affairs. Your application will again be listed for hearing when the Board has received that report from the Department.

Attached is a copy of the Board's formal Decision and Reasons and the request to the Department. These have been page numbered so you can add them to your copy of the Departmental report.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter has been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA file No.]

## **L173.3 Applicant – Decision & Reasons letter - S152 Part finalised/part adjourned - with Rep**

[return to [p16\\_5\\_1](#) or [p17\\_4\\_3](#)]

VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

I am writing regarding your application for review of the Repatriation Commission decision of [Commission decision date] in respect of [issue].

The Board considered your application on [hearing date]. There may be some aspect of the Board's decision with which you are dissatisfied. If this is the case, you may have a right to apply to the Administrative Appeals Tribunal (AAT) for review of the Board's decision. The Repatriation Commission also has this right. Details of your right to apply to the AAT, and of the sources from which you might seek legal or financial assistance, are attached.

Please note, however, that your application in respect of [INSERT MATTERS ADJOURNED] was adjourned to enable the Board to seek a further report from the Secretary of the Department of Veterans' Affairs. Your application will again be listed for hearing when the Board has received that report from the Department.

Attached is a copy of the Board's formal Decision and Reasons and the request to the Department. These have been page numbered so you can add them to your copy of the Departmental report.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter has been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA file No.]  
Your Representative – [representative], [organisation]



## **L173.4 Applicant – Decisions & Reasons Letter - S151 - Failure to Attend - No Rep**

[return to [p15 2 2](#) or [p17 4 3](#)]

VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

I am writing regarding your application for review of the Repatriation Commission decision of [Commission decision date] in respect of [issue].

The hearing of your application was set down for [hearing date] and you were advised of these arrangements by our letter dated [INSERT DATE]. Unfortunately, for some reason you failed to attend the scheduled hearing.

The Board has adjourned the hearing to a date, time and place to be nominated by the Registrar (see enclosed decision and reasons).

The Registrar will decide when your application for review will again be set down for hearing. If you do not attend that hearing, your application will be dealt with on the information that is before the Board. You will then be notified by the Board of the result of that hearing.

The Board will notify you of the date, time, and place of the hearing shortly.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter has been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA file No.]

## **L173.4 Applicant – Decision & Reasons Letter - S151 - Failure to Attend - With Rep**

[return to [p15 2 2](#) or [p17 4 3](#)]

VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

I am writing regarding your application for review of the Repatriation Commission decision of [Commission decision date] in respect of [issue].

The hearing of your application was set down for [hearing date] and you and your representative were advised of these arrangements by our letter dated [INSERT DATE]. Unfortunately, for some reason you and your representative failed to attend the scheduled hearing.

The Board has adjourned the hearing to a date, time and place to be nominated by the Registrar (see enclosed decision and reasons).

The Registrar will decide when your application for review will again be set down for hearing. If you do not attend that hearing, your application will be dealt with on the information that is before the Board. You will then be notified by the Board of the result of that hearing.

The Board will notify you of the date, time, and place of the hearing shortly.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter has been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA file No.]  
Your representative – [representative], [organisation]

## **L173.5 Applicant – Decision & Reasons Letter - S151 - Inadequate Case Preparation by Advocate**

[return to [p15 2 3](#) or [p17 4 3](#)]

VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

I am writing regarding your application for review of the Repatriation Commission decision of [Commission decision date] in respect of [issue].

The Board adjourned the hearing on [hearing date] because more evidence was needed to present your case adequately, even though your representative had previously certified that your case was ready to proceed at a hearing.

Before your application can be relisted for hearing, your representative must:

- forward any further evidence to the Board; and
- sign a further Certificate of Readiness for Hearing, certifying that your case is ready to proceed.

Because the Board is satisfied that your representative could have avoided the need for adjournment if your case had been properly prepared, your application will be relisted for hearing only if the Registrar is satisfied that the reasons for the adjournment have been addressed. To avoid disadvantaging other applicants who are waiting for a hearing, the Registrar will have the sole discretion when to re-list your case for hearing.

Attached is a copy of the Board's decision and reasons. These have been numbered so you can add them to your copy of the Departmental Report.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter has been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA file No.]  
Your Representative – [representative], [organisation]



## **L173.6 Applicant – Decision & Reasons Letter - S151-All Matters Adjourned to Obtain More Evidence - No Rep**

[return to [p15\\_3\\_1](#) or [p17\\_4\\_3](#)]

VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

I am writing regarding your application for review of the Repatriation Commission decision of [Commission decision date] in respect of [issue].

The Board adjourned the hearing of your application on [hearing date] to enable you to obtain more evidence in support of your application.

Before your application can be relisted for hearing, you must:

- forward any further evidence to the Board; and
- sign a further Certificate of Readiness for Hearing, certifying that your case is ready to proceed.

A form for that purpose is enclosed.

Attached is a copy of the Board's decision and reasons. These have been numbered so you can add them to your copy of the Departmental Report.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter has been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA file No.]

## **L173.6 Applicant – Decision & Reasons Letter - S151 - All Matters Adjourned to Obtain More Evidence - With Rep**

[return to [p15\\_3\\_1](#) or [p17\\_4\\_3](#)]

VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

I am writing regarding your application for review of the Repatriation Commission decision of [Commission decision date] in respect of [issue].

The Board adjourned the hearing of your application on [hearing date] to enable your representative to obtain more evidence in support of your application.

Before your application can be relisted for hearing, your representative must:

- forward any further evidence to the Board; and
- sign a further Certificate of Readiness for Hearing, certifying that your case is ready to proceed.

A form for that purpose is enclosed.

Attached is a copy of the Board's decision and reasons. These have been numbered so you can add them to your copy of the Departmental Report.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter has been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA file No.]  
Your Representative – [representative], [organisation]

## **L173.7 Applicant – Decision & Reasons Letter -S151 Part finalised/part adjourned - Obtain More Evidence - No Rep**

[return to [p17 4 3](#)]

VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

I am writing regarding your application for review of the Repatriation Commission decision of [Commission decision date] in respect of [issue].

The Board considered your application on [hearing date]. Enclosed is a copy of the Board's formal Decision & Reasons.

There may be some aspect of the Board's decision with which you are dissatisfied. If this is the case, you may have a right to apply to the Administrative Appeals Tribunal (AAT) for review of the Board's decision. The Repatriation Commission also has this right. Details of your right to apply to the AAT, and of the sources from which you might seek legal or financial assistance, are attached.

Please note, however, that your application in respect of [INSERT MATTERS ADJOURNED] was adjourned at your request to enable you to obtain more evidence in support of your application.

Before your application can be relisted for hearing, you must:

- forward any further evidence to the Board; and
- sign a further Certificate of Readiness for Hearing, certifying that your case is ready to proceed. A form for that purpose is enclosed.

Attached is a copy of the Board's decision and reasons. These have been numbered so you can add them to your copy of the Departmental Report.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter has been sent to:

The Repatriation Commission – [UIN]

The Department of Veterans' Affairs – [DVA file No.]

## **L173.7 Applicant –Decision & Reasons Letter S151 -Part finalised/part adjourned to Obtain More Evidence -With Rep**

[return to [p17 4 3](#)]

VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

I am writing regarding your application for review of the Repatriation Commission decision of [Commission decision date] in respect of [issue].

The Board considered your application on [hearing date]. Enclosed is a copy of the Board's formal Decision & Reasons.

There may be some aspect of the Board's decision with which you are dissatisfied. If this is the case, you may have a right to apply to the Administrative Appeals Tribunal (AAT) for review of the Board's decision. The Repatriation Commission also has this right. Details of your right to apply to the AAT, and of the sources from which you might seek legal or financial assistance, are attached.

Please note, however, that your application in respect of [INSERT MATTERS ADJOURNED] was adjourned at your request to enable you to obtain more evidence in support of your application.

Before your application can be relisted for hearing, you must:

- forward any further evidence to the Board; and
- sign a further Certificate of Readiness for Hearing, certifying that your case is ready to proceed. A form for that purpose is enclosed.

Attached is a copy of the Board's decision and reasons. These have been numbered so you can add them to your copy of the Departmental Report.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter has been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA file No.]  
Your Representative – [representative], [organisation]



## RV17:4 AAT Rights of Appeal Information

[return to [p17\\_4\\_2](#)]

### APPEAL RIGHTS

An applicant may apply to the Administrative Appeals Tribunal for review of a decision of the Veterans' Review Board to affirm, vary, or set aside a decision of the Repatriation Commission.

The Repatriation Commission may also apply for a review of a decision of the Board.

An application to the Tribunal must be in writing and lodged **within 12 months** of receipt of the Board's decision at your postal address. However, an application must be lodged **within 3 months** if the applicant is to benefit from full backdating of pension if the application to the Tribunal succeeds.

An application form is available from the Tribunal's registries, but the use of this form is not essential and the application can be made by letter. The address of the Tribunal is:

Deputy Registrar  
Administrative Appeals Tribunal  
GPO Box 9955  
[Capital city State Postcode]

Legal advice or assistance in making an application may be available from the organisations listed on the reverse of this sheet.

If legal aid is refused by the Legal Aid Office, legal and financial assistance may then be sought in writing through the Commonwealth Attorney-General's Department. The Legal Aid Office's letter of refusal should be enclosed with an application for this assistance, which should be addressed to:

Senior Assistance Secretary  
Evaluation and Assistance Branch  
Attorney-General's Department  
Robert Garran Offices  
BARTON ACT 2600

**[The reverse of this sheet is to contain addresses of the Legal Aid offices]**

## **L171      Applicant – E48VRB Review Own Decision**

### **L171.1      No VRB Power to Review Own Decisions – No Rep**

[return to [p5\\_4\\_1](#) or [p17\\_5\\_4](#)]

VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

I refer to [INSERT REASON HERE] on [INSERT DATE HERE] raising certain matters relating to the Board's decision and reasons following the hearing of your application for review in respect of post traumatic stress disorder with alcohol dependence, abdominal pains.

I am unable, and it would not be proper for me, to discuss the merits of any Board decision. I must also inform you that the Board has no power to review its own decisions or to reopen an application. The proper course of action if a party is dissatisfied with a Board decision is to apply to the Administrative Appeals Tribunal (AAT) or to seek judicial review. Your appeal rights to the AAT and how to lodge such an application were enclosed with the Board's decisions and reasons.

Your letter has been placed on the Board's file and will be part of our records. I am sorry I cannot be of any further assistance in this matter.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter has been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA file No.]

## **L171.1 No VRB Power to Review Own Decisions – With Rep**

[return to [p5 4 1 p17 5 4](#)]

VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

I refer to [INSERT REASON HERE] on [INSERT DATE HERE] raising certain matters relating to the Board's decision and reasons following the hearing of your application for review in respect of post traumatic stress disorder with alcohol dependence, abdominal pains.

I am unable, and it would not be proper for me, to discuss the merits of any Board decision. I must also inform you that the Board has no power to review its own decisions or to reopen an application. The proper course of action if a party is dissatisfied with a Board decision is to apply to the Administrative Appeals Tribunal (AAT) or to seek judicial review. Your appeal rights to the AAT and how to lodge such an application were enclosed with the Board's decisions and reasons.

Your letter has been placed on the Board's file and will be part of our records. I am sorry I cannot be of any further assistance in this matter.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter has been sent to:

- The Repatriation Commission – [UIN]
- The Department of Veterans' Affairs – [DVA file No.]
- Your representative – [representative], [organisation]

## **L171.2 No Amendment to Decision Possible – No Rep**

[return to [p17\\_5\\_4](#)]

VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

I refer to [INSERT REASON HERE] on [INSERT DATE HERE] raising certain matters relating to the Board's decision and reasons following the hearing of your application for review in respect of post traumatic stress disorder with alcohol dependence, abdominal pains.

Apart from clerical or typographical errors made in recording of a decision whereby the formal decision does not reflect the actual decision taken by the Board, the Board has no power to amend its own decisions. In this case, the Board has confirmed that the matter raised did not affect the decision reached by the Board. The decision must therefore stand.

I am unable, and it would not be proper for me, to discuss the merits of any Board decision. The proper course of action if a party is dissatisfied with a Board decision is to apply to the Administrative Appeals Tribunal (AAT) or to seek judicial review. Your appeal rights to the AAT and how to lodge such an application were enclosed with the Board's decisions and reasons.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter has been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA file No.]

## **L171.2 No Amendment to Decision Possible – With Rep**

[return to [p17\\_5\\_4](#)]

VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

I refer to [INSERT REASON HERE] on [INSERT DATE HERE] raising certain matters relating to the Board's decision and reasons following the hearing of your application for review in respect of post traumatic stress disorder with alcohol dependence, abdominal pains.

Apart from clerical or typographical errors made in recording of a decision whereby the formal decision does not reflect the actual decision taken by the Board, the Board has no power to amend its own decisions. In this case, the Board has confirmed that the matter raised did not affect the decision reached by the Board. The decision must therefore stand.

I am unable, and it would not be proper for me, to discuss the merits of any Board decision. The proper course of action if a party is dissatisfied with a Board decision is to apply to the Administrative Appeals Tribunal (AAT) or to seek judicial review. Your appeal rights to the AAT and how to lodge such an application were enclosed with the Board's decisions and reasons.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter has been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA file No.]  
Your Representative – [representative], [organisation]

## **L171.3 Possible S31 Review to Amend Decision – No Rep**

[return to [p17\\_5\\_4](#)]

VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

I refer to [INSERT REASON HERE] on [INSERT DATE HERE] raising certain matters relating to the Board's decision and reasons following the hearing of your application for review in respect of pension assessment at 100% of the General rate.

Apart from clerical or typographical errors made in recording of a decision whereby the formal decision does not reflect the actual decision taken by the Board, the Board has no power to amend its own decisions. In this case, the Board has confirmed that [INSERT BOARD'S CONFIRMATION OF DECISION] was in fact the decision reached by the Board and was the Board's intention. The decision must therefore stand.

However, the Board has acknowledged that an obvious error was made. I have therefore referred the matter to the Department of Veterans' Affairs for it to consider rectifying the situation. A copy of my letter to the Department is enclosed.

You should be aware that the Department has no obligation to take such action. This attempt to rectify the situation is quite separate from any Administrative Appeals Tribunal appeal rights you may have.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter has been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA file No.]

## **L171.3 Possible S31 Review to Amend Decision – With Rep**

[return to [p17\\_5\\_4](#)]

VRB No: [VRB No.]

M[] [applicant]  
[address]

Dear M[] [applicant]

I refer to [INSERT REASON HERE] on [INSERT DATE HERE] raising certain matters relating to the Board's decision and reasons following the hearing of your application for review in respect of pension assessment at 100% of the General rate.

Apart from clerical or typographical errors made in recording of a decision whereby the formal decision does not reflect the actual decision taken by the Board, the Board has no power to amend its own decisions. In this case, the Board has confirmed that [INSERT BOARD'S CONFIRMATION OF DECISION] was in fact the decision reached by the Board and was the Board's intention. The decision must therefore stand.

However, the Board has acknowledged that an obvious error was made. I have therefore referred the matter to the Department of Veterans' Affairs for it to consider rectifying the situation. A copy of my letter to the Department is enclosed.

You should be aware that the Department has no obligation to take such action. This attempt to rectify the situation is quite separate from any Administrative Appeals Tribunal appeal rights you may have.

Yours sincerely

[author]  
[title]

[date]

A copy of this letter has been sent to:  
The Repatriation Commission – [UIN]  
The Department of Veterans' Affairs – [DVA file No.]  
Your Representative – [representative], [organisation]

## **L172      Department – Request Commission Amend VRB decision**

[return to [p17\\_5\\_4](#)]

The Secretary  
Department of Veterans' Affairs  
[INSERT ADDRESS HERE]  
[INSERT CITY, STATE, POSTCODE HERE]

Attention: Deputy Commissioner

Re: M[] [applicant] ,

VRB No: [VRB No.], DVA File No: [DVA File No.], Client ID: [UIN]

This case was heard by the Board on [INSERT DATE1 HERE] and the decision and reasons were published on [INSERT DATE2 HERE].

It has since been brought to my notice that an error appears to have been made by the Board in its decision. [INSERT DETAILS OF DECISION HERE].

In accordance with the Board's procedures, this matter was referred to the Board panel that heard the case to consider whether the decision could be amended. The panel has agreed that there is an obvious error, but has decided that it has no power to amend its decision.

I am therefore writing to you to request that you consider rectifying the situation by appropriate section 31 review.

Yours sincerely

[Author]  
[Title]

[date]



## **RV17:9 Suggested Format for Decision and Reasons Amending Decision**

[return to [p17\\_5\\_5](#)]

## RV17:10 Letter Notifying Amendment of Decision

[return to [p17\\_5\\_5](#)]

VRB Ref No. [VRB Reg. No.]

[applicant name]  
[applicant address]  
[state] [postcode]

Dear [applicant name]

The Department of Veterans' Affairs has pointed out certain inconsistencies in the Board's reasons for decision following the hearing of your application.

A typographical error has been made in the recording of the decision. Apart from clerical or typographical errors made in recording of a decision, whereby the formal decision does not reflect the actual decision taken by the Board, the Board has no legislative power to amend its own decisions.

**Under section 140A of the *Veterans' Entitlements Act 1986*, the Presiding Member has directed me to amend page [insert page number(s)] of the Decision and Reasons to read:**

**[insert amendment(s) Eg "On 27 September 2001, the Veterans' Review Board decided to: ..." instead of: "On 28 November 2000".]**

This amendment does not affect any right you had, and were advised about earlier, to apply to the Administrative Appeals Tribunal.

I have sent a copy of this letter to the Repatriation Commission.

Yours sincerely,

[Registrar Name]  
REGISTRAR

[date]

cc: Repatriation Commission ([DVA file number])  
Your representative, [representative name], [representative organisation]  
Department of Veteran Affairs – [DVA UIN]

## RV18:1 List (Monthly) of AAT Applications Lodged

[return to [p18 2 2](#)]

Section 29(11) notices received from

### Administrative Appeals Tribunal

[state] Registry Month ending [date]

	Case1	Case2	Case3	Case4	Case5
<b>VRB Reg'n No.</b>					
<b>AAT Reg'n No.</b>					
<b>Surname and Initials</b>					
<b>Senior Member</b>					
<b>Services Member</b>					
<b>Member</b>					
<b>Case Type</b>					
<b>VRB Decision</b>					
<b>29(11) Received</b>					
<b>Tape No</b>					

#### NOTES

1. In surname and initials write "Resp" after the name if the Repatriation Commission is the applicant.
2. Place an \* after the member who wrote the reasons for decision.
3. Case Type = Assessment =A; Attendant's Allowance = A/A; Date of Effect = DOE; Entitlement = E; Service Pension or Other = O.
4. Decision Type = Affirmed = A; Set Aside = S/A.

## RV18:2 AAT Practice Direction

[return to [p18\\_5\\_1](#)]

### General Practice Direction

This practice direction has effect from 1 July 1998.

This practice direction sets out the procedure to be adopted for all applications lodged in the Tribunal throughout Australia where the applicant is represented. This procedure can be varied by specific direction of the Tribunal. The practice direction is designed to assist the Tribunal achieve the dual purpose of attempting to obtain an agreed resolution where possible and ensuring that appropriate steps are taken to prepare for the hearing of those matters which do not settle.

There will always be some cases where it is obvious from the outset that settlement is either inappropriate or unlikely to be achieved. In those cases the Tribunal will concentrate on preparing the application for hearing.

In relation to matters in the compensation jurisdiction this Practice Direction must be read in conjunction with the President's Direction concerning conciliation conferences made on 1 July 1998.

#### 1. Section 37 Documents

Within 28 days of receipt of the Section 29 notice the respondent is required to file a copy of the Section 37 Documents with the Tribunal and send a copy of these documents to each party. Further copies will be requested if the matter proceeds to a hearing. A full explanation as to the preparation and presentation of the Section 37 Documents is contained in a separate practice direction.

This time period may be shortened in appropriate cases if application is made pursuant to section 37(1A) of the Administrative Appeals Tribunal Act 1975. The time period may also be lengthened by the Tribunal under section 37(1).

#### 2. Conferences

Conferences in the Tribunal are conducted by a Tribunal Member or Conference Registrar. Generally there will be only two conferences held. If a matter has not settled during the conference process then the future conduct of the matter, including the possibility of mediation and the requirements for a hearing, will be discussed at the final conference. If the matter is to be listed for hearing then both parties will give details of the witnesses they will call, state whether the evidence of particular witnesses can be tendered by consent with no cross examination, and give an estimate of the hearing time. The parties should also be prepared to discuss venue and other matters relating to the listing of the hearing.

Specific directions relating to the lodging of documents and other procedural matters may be given at any time.

##### 2.1 First Conference

The first conference will usually be held 6 to 10 weeks after an application for review has been lodged. The conference can either be in person or by telephone. If there are any special circumstances, a party may request that a conference be held at an earlier or later date.

##### *Statement of Issues*

A brief statement setting out the issue(s) that the applicant and the respondent consider to be in dispute must be exchanged and lodged with the Tribunal at least one working day prior to the first conference. The statement of issues must address the specific issue(s) in question and must not be expressed in general terms. ie. statements that the issue is whether or not the applicant is entitled to compensation are not appropriate. All appointments for the purpose of obtaining medical reports must be made prior to the conference by both parties and details provided at the conference.

### *At the First Conference*

At this conference, the issue(s) in dispute and the need to gather any further evidence will be discussed and the prospect of settlement will be explored.

## **2.2 Second Conference**

The second conference will usually be held 12 to 16 weeks after the first conference. It may be in person or by telephone. The evidence that has been placed before the Tribunal and the merits of each case will be discussed with a view to settlement.

### *Statements of Facts and Contentions and Expert Reports and Witness Statements*

At least 14 days prior to the second conference the applicant is to lodge and serve a statement of facts and contentions. This statement must clearly and concisely set out the facts upon which the party relies and any contentions to be drawn from those facts, and should include references to relevant legislation and case law and should not be just a repetition of the statement of issues. All expert reports and the statement of all witnesses, including the applicant, must also be exchanged and lodged at this time.

At least 7 days prior to the second conference the respondent is to lodge and serve a statement in reply, together with all expert reports and witness statements.

If the facts are not in dispute, an agreed statement of facts should be lodged 14 days before the second conference. The applicant and respondent will then have 7 days to lodge a statement of the contentions which they say should be drawn from those facts.

Any departure from these procedures must be with the consent of the Tribunal.

## **3. Hearing**

### *Hearing Certificate*

Within 7 days after the final conference, or as otherwise directed, if a matter has not settled, both parties are to lodge and serve a hearing certificate. Hearing certificates can be obtained from the appropriate registry. If a hearing certificate is not provided then the application may be listed without further consultation.

### *Medical Witnesses*

Subject to compliance with any statutory time limits, the lodgement and service of a medical report ensures that it will be taken into account at the hearing, whether or not the author of the report gives oral evidence. The Tribunal will not generally require a doctor to give oral evidence where a report has been appropriately lodged and exchanged. Parties should consider carefully the need for oral medical evidence at any hearing.

A party may require the attendance for cross-examination of a medical practitioner making such a report. Whether that party procures that attendance by the issue and service of a summons or otherwise, the medical practitioner will not become the party's witness, but that party could be liable to pay conduct money or witness' expenses.

A party who procures the attendance of a medical practitioner as mentioned above must, as soon as practicable, inform all other parties to the proceedings and the Tribunal that he or she has done so.

Failure of the medical practitioner to attend in these circumstances will not, in itself, render the report incapable of being taken into account. Such failure may however be relevant in assessing the weight to be given to such a report.

Where a medical practitioner making a report is cross-examined, the party tendering the report may re-examine the witness.

### *List of Cases*

Both parties are to lodge and exchange a list of cases on which they intend to rely at the hearing at least two working days before the hearing date.

### *Telephone or Video Proceedings*

At the discretion of the presiding Member, part of any hearing may be conducted either by telephone or video link. A party seeking to have evidence taken in this manner should seek the other party's written consent before applying to the presiding Member for an appropriate direction. The presiding Member may wish to conduct a directions hearing before exercising this discretion.

Where evidence is to be given either by telephone or video link, the party whose witness it is will make all necessary arrangements and provide the relevant registry with details of the proceedings, the witness, location, telephone numbers and the date, time and estimated duration.

The costs shall be borne by the party who calls the witness subject to the discretion of the presiding Member to waive charges. If no specific direction as to waiver is obtained, application can be made to the Registrar or District Registrar to waive the charges where the party concerned meets the criteria set out in regulation 19(6) of the Administrative Appeals Tribunal Regulations.

Details of costs can be obtained from the appropriate registry.

## **4. Other Matters**

### *Adjournments*

Once a matter has been listed for hearing before the Tribunal, an adjournment will not be granted unless the party requesting the adjournment can satisfy the Tribunal that it should be granted.

### *Directions Hearings*

A directions hearing may be listed at any time if the matter requires it, or the parties have not complied with this practice direction or with specific directions made by the Tribunal. Either party can make a request for a directions hearing if the need arises. The request should be in writing and set out the reasons for which the directions hearing is sought.

### *Interpreters*

Interpreters will be provided by the Tribunal. Parties must ensure that the appropriate Registry is advised in sufficient time for arrangements to be made. Interpreters will be accredited at the first professional level, Interpreter, with the National Authority for Accreditation of Translators and Interpreters (NAATI). Only in languages where no professional level interpreter is accredited will a Paraprofessional Interpreter be utilised.

## **5. Refund of Application Fees**

Application fees can only be refunded if the Tribunal has certified that the application has been determined in a way that is favourable to the applicant. The Member signing a decision will determine whether the decision is favourable to the applicant.

## **6. Costs**

The Tribunal has the power under the Safety, Rehabilitation and Compensation Act 1988, the Seafarers Rehabilitation and Compensation Act 1992, the Freedom of Information Act 1982, the Mutual Recognition Act 1992 the Lands Acquisition Act 1989 to order or recommend that the respondent pay the costs, or part of the costs, of a successful applicant, or where the application has been instituted by the Commonwealth. Under the Safety, Rehabilitation and Compensation Act 1988, the Tribunal may also award costs to a person where the application has been instituted by the Commonwealth.

Unless the order determines otherwise, the costs payable may include:

- witness expenses at the prescribed rate;
- all reasonable and proper disbursements; and
- 75 percent of all professional costs, including counsel's fees, which would be allowable under the Federal Court Scale.

Costs will be assessed on a party and party basis.

Costs may be agreed between the parties. Where there is no agreement, a Registrar of the Tribunal will tax the bill, but may refer any question for the direction of the Tribunal. Either party may apply to the Tribunal for a direction on any question related to costs, before the taxation is concluded.

Justice Jane Mathews  
President

18 May 1998

**RV18:3 Administrative Appeals Tribunal - Section 37 Document**

[return to [p18\\_5\\_2](#)]

**ADMINISTRATIVE APPEALS TRIBUNAL ACT 1975  
SECTION 37 STATEMENT**

---

**AAT NO:** [AAT No.]

**APPLICANT:**

**RESPONDENT:** Repatriation Commission

**REPRESENTATIVE:**

**ADDRESS:**

**TELEPHONE NO:**

**VETERAN'S NAME:**

**DATE OF BIRTH:**

**DISABILITY PENSION RATE:**

**DVA NO:**

**DATE OF DEATH:**

**SERVICE PENSION:**

**VRB No's:**

**DECISION UNDER REVIEW:**

**On 2001 the Veterans' Review Board decided in respect of:**

[VRB No.]

To set aside

**REASONS FOR DECISION:** A statement in accordance with paragraph 37(I)(a) of the *Administrative Appeals Tribunal Act 1975* is contained at document **T2**, being a copy of the decision of the Veterans' Review Board issued pursuant to Section 140 of the *Veterans' Entitlements Act 1986*.



**CASE HISTORY TABLES:**

Table 1 Summary of Events Relevant to the Decision under Review.

Table 2 Summary of Disability Pension History.

Table 3 Summary of Disabilities determined to be Service and Non-Service related.

Table 4 Index to Documents

Table 1

Summary of events relevant to the decision under review	
EVENTS	DATE
Informal Claim for Pension and Medical Treatment	
Formal Claim for Pension and Medical Treatment	
Repatriation Commission decision and advice letter	
Application for review to the Veterans' Review Board (VRB)	
Veterans' Review Board decision	
Veterans' Review Board advice letter	
Application for review to the Administrative Appeals Tribunal (AAT)	
Section 29(11) notice received by Veterans' Review Board (VRB)	
Section 37 Report prepared by:	
Section 37 Report sent to the applicant & AAT	

Table 2

Summary of Disability Pension Rate			
	PENSION RATE	DECISION BODY	DECISION DATE
First grant of pension			
Consequent changes in pension rate			

Table 3

Summary of disabilities determined to be service and <i>non</i> -service related
--

Please see next page.

for Executive Officer  
[date]

**ADMINISTRATIVE APPEALS TRIBUNAL ACT 1975**  
**SECTION 37 STATEMENT**

**AAT No:** [AAT No]

**APPLICANT:**

**RESPONDENT:** Repatriation Commission

Table 4

INDEX TO DOCUMENTS			
DOCUMENT NO.	FOLIO NO.	DATE RECEIVED	DESCRIPTION OF DOCUMENTS
T1			<i>Application for review to the Administrative Appeals Tribunal (AAT)</i>
T2			<i><u>Section 37 Statement:</u></i> <i>Decision and Reasons of the Veterans' Review Board</i>
T3			<i>Statements of Principles:</i>

DOCUMENTS RELEVANT TO THE DECISION UNDER REVIEW			
T4			<i>Service Documents</i>
T5			

## RV18:8 Covering Letter to AAT

[return to [p18\\_7\\_1](#)]

[VRB No]

The Registrar  
Administrative Appeals Tribunal  
[address]

Dear Sir

**Veteran / Applicant:** [applicant]  
**Respondent:** Repatriation Commission  
**AAT reference:** [AAT No]

I refer to the veteran's appeal to the Administrative Appeals Tribunal.

I enclose a copy of the statement and documents pursuant to Section 37 of the *Administrative Appeals Tribunal Act 1975*.

Although the photocopies are the best we have been able to produce, their legibility depends upon the quality of the originals. These original documents are available for inspection if required. As the majority of the original documents are contained in records of the Department of Veterans' Affairs please address any correspondence in this matter to that Department at [DVA address].

Yours sincerely

[author]  
[title]

[date]

A copy of this letter and a copy of the s37 statement have been sent to the following:

- The applicant/veteran, [applicant], [address]
- [Solicitor/Representative]
- The Advocate, Repatriation Commission, [local Commission address]

## RV18:9 List (4 Weekly) of Section 37 Documents Lodged

[return to [p18 7.5](#)]

TAS - SECTION 37 DOCUMENTS LODGED - AAT – [date]								
4 weeks Ending	VRB No	AAT Reg. No	Applicant Name	Date Request Received	Date s37 Due	Date s37 Lodged	No days Taken	Autho r of S37
30.06.02								
31.07.02								
31.08.02								
30.09.02								
31.10.02								
30.11.02								
31.12.02								
31.01.03								
28.02.03								
29.03.03								
30.04.03								
31.05.03								
30.06.03								

## RV19      FOI Application Form

[return to [p19 2 3](#)]

### Veterans' Review Board Freedom of Information Application Form

#### Application for access to documents

##### **Veteran's details (if known)**

Surname \_\_\_\_\_

Given Names \_\_\_\_\_

File Number \_\_\_\_\_

Postal address \_\_\_\_\_

Date of Birth \_\_\_\_\_

If veteran deceased, Date of Death \_\_\_\_\_

##### **Applicant's details**

Surname \_\_\_\_\_

Given Names \_\_\_\_\_

File Number \_\_\_\_\_

Postal address \_\_\_\_\_

Telephone Numbers Home ( ) \_\_\_\_\_ Work ( ) \_\_\_\_\_

Relationship to veteran \_\_\_\_\_

##### **Application Details**

(Please describe the documents you want as clearly as you can)

---

---

---

Please make arrangements for  
me to inspect the documents ☐

Signature \_\_\_\_\_ Date    /    /

Please send me copies of the  
documents to my address above ☐

**Please submit this form to your local office of the Veterans' Review Board.**

(Please read the attached important information)

## **Veterans' Review Board registry addresses**

Principal Registry	PO Box 294, Woden, ACT 2606
NSW Registry	GPO Box 1631, Sydney, NSW 2001
VIC Registry	PO Box 12696, A'Beckett Street, Melbourne, VIC 8006
QLD Registry	GPO Box 349, Brisbane, QLD 4001
SA Registry	7 <sup>th</sup> Floor, 44 Waymouth Street, Adelaide, SA 5000
WA Registry	9 <sup>th</sup> Floor, 140 St Georges Terrace, Perth, WA 6000
TAS Registry	GPO Box 253, Hobart, TAS 7001

## **How much will an FOI request cost me?**

Under the FOI Act, veterans and their dependants who make an application in conjunction with an application for review of pension, allowance or benefit under the Veterans' Entitlements Act do not pay a fee or charge, providing the documents are relevant to the application for review.

All other requests must be accompanied by an application fee of \$30. An application for internal review of any decisions under the FOI Act costs \$40. Additional charges may also be imposed for the costs of processing an application.

Fees may be remitted where requests relate to personal affairs of the applicant, payment of fee would cause financial hardship to the applicant or giving of access is in the general public interest.

## RV19:1 FOI Schedule of Fees and Charges Under FOI Act

[return to [p19 2 7](#)]

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#### Charges

Application fee	\$30
Review of decision	\$40

#### Additional Charges

Locating documents	\$15 per hour
Photocopy	10¢ per page
Supervised inspection	\$12.50 per hour



## RV19:2 FOI Letter Acknowledging Request

[return to [p19 2 8](#)]

VRB Reference [VRB No]

[FOI applicant]  
[address]

Dear [FOI applicant]

### APPLICATION UNDER FOI Act

On [receipt of application date] I received from you an application under the *Freedom of information Act*.

That application requested [details of request]. However, there is likely to be some delay in answering your request. This due to [state reason].

The Board will make every effort to complete your request within 30 days of lodgement of the application and, if that is not possible I will write to you again.

Yours sincerely

[author]  
[Registrar / Director Legal and Information Services]

[date]

## RV19:3 FOI Letter Transcript Refused

[return to [p19 2 9](#)]

VRB Reference [VRB No]

[FOI applicant]  
[address]

Dear [FOI applicant]

### APPLICATION UNDER FOI Act

On [receipt of application date] I received from you an application under the *Freedom of information Act*.

That application requested supply of a typed transcript of a Board hearing in [hearing location] on [details of hearing].

On [insert date of conversation] I discussed with you the request for a transcript and explained that Board policy is to supply a copy of the audio-cassette tape made during the hearing.

**{Option 1}** As you have indicated that you would be satisfied to receive a copy of the audio-cassette tape, one has been made and is enclosed. If you are still unhappy with the decision not to supply a transcript, you can seek an internal review of the decision.

**{Option 2}** As you have indicated that you are not happy to receive only a copy of the audio-cassette tape, the Board must refuse your request. If you are unhappy with my decision you can seek and internal review of the decision.

An application for internal review must be made in writing to *The Director (Legal and Information Services), Veterans' Review Board, GPO Box 1631, Sydney, NSW 2001* and accompanied by a fee of \$40.

Yours sincerely

[author]  
Registrar

[date]

## **RV21:1    Archives Transfer Consignment List**

## **RV21:2   Archives Proposal of Transfer of Records**

The next page is Part 3 – Legislation

# Part 3 — Legislation

## Extracts from the Veterans' Entitlements Act 1986

### Part IX—Veterans' Review Board

#### Division 1—Preliminary

##### **133 Interpretation**

In this Part, unless the contrary intention appears:

*applicant* means a person who makes an application.

*application* means an application under this Part to the Board for a review of a decision of the Commission.

*member* means the Principal Member, a Senior Member or another member of the Board.

*pension* means pension under Part II or IV.

*Principal Member* means the Principal Member of the Board.

*relevant documentary medical evidence*, in relation to an application made in respect of a veteran or a deceased veteran, means certificates, reports or other documents from:

- (a) a medical practitioner; or
- (b) a hospital, or similar institution, in which the veteran or deceased veteran received medical treatment;

about a medical condition of the veteran or deceased veteran and reasonably used in support of the application.

*review* means a review of a decision.

*Senior Member* means a Senior Member of the Board.

*Services member* means a member who, on the occasion of his or her appointment, or on any occasion of his or her re-appointment, as a member, was a person selected from lists submitted in accordance with a request made under subsection 158(3).

*veteran* means:

- (a) a veteran as defined by subsection 5(1); or
- (b) a member of the Forces or a member of a Peacekeeping Force, as defined by subsection 68(1).

#### Division 2—Continuance of Veterans' Review Board

##### **134 Continuance of Veterans' Review Board**

- (1) The Veterans' Review Board, being the Board established by section 107VB of the *Repatriation Act 1920*, is continued in existence.

- (2) The Board consists of a Principal Member and such number of Senior Members, and such number of other members, as are appointed in accordance with this Act.

### **Division 3—Review by the Board of decisions**

#### **135 Review of decisions in respect of pensions and attendant allowances**

- (1) Where a person:
- (a) who has made a claim for a pension in accordance with section 14;
  - (b) who has made application for a pension, or for an increased pension, in accordance with section 15; or
  - (c) who has made an application for attendant allowance under section 98;
- is dissatisfied with any decision of the Commission in respect of the claim or application (including a decision under section 20 or 21 approving a date from which payment of a pension, or payment of a pension at a higher rate, may be made, but not being a decision under subsection 19A(1)), the person may, subject to this Act, make application to the Board for a review of the decision of the Commission.
- (2) Where the Commission, upon a review under section 31 of a decision in relation to a pension or attendant allowance, has made a further decision:
- (a) revoking that decision; or
  - (b) revoking that decision and substituting a new decision; or
  - (c) varying that decision;
- the veteran, or the dependant of a deceased veteran, as the case may be, affected by that further decision may make application to the Board for a review:
- (d) of the further decision of the Commission revoking that previous decision; or
  - (e) of the new decision of the Commission that was substituted for that previous decision; or
  - (f) of that previous decision as varied by the further decision of the Commission.
- (3) Where the Commission makes a determination:
- (a) under subsection 31(6) cancelling or suspending, or decreasing the rate of, a pension or attendant allowance;
  - (b) under subsection 31(8) increasing the rate of a pension or attendant allowance; or
  - (c) under subsection 31(9) fixing the date of re-commencement of a pension or attendant allowance that has been suspended;
- the veteran, or the dependant of a veteran, as the case may be, affected by that determination may make application to the Board for a review of that decision of the Commission to cancel or suspend that pension or attendant allowance, to decrease or increase the rate of that pension or attendant allowance or fixing the date of re-commencement of that pension or attendant allowance that has been suspended, as the case may be.
- (4) Subject to subsections (5) and (5A), an application under subsection (1) or (2) to the Board to review a decision of the Commission may be made within 12 months after service on the person to whom the decision relates of a copy of that decision in accordance with subsection 34(2), but not otherwise.
- (5) An application under subsection (1), (2) or (3) to the Board to review a decision of the Commission:
- (a) assessing a rate of pension or increased rate of pension;
  - (b) refusing to grant a pension on the ground that the extent of the incapacity of the veteran is insufficient to justify the grant of a pension;

- (c) refusing to increase the rate of a pension;
- (d) reducing the rate of a pension; or
- (e) cancelling or suspending a pension, or fixing the date of re-commencement of a pension that has been suspended;

may be made within 3 months after service on the person to whom the decision relates of a copy of that decision in accordance with subsection 34(2), but not otherwise.

- (5A) An application by a person under subsection (1), (2) or (3) to the Board to review a decision of the Commission, whether the decision was made before or is made after the commencement of this subsection, refusing to grant an application for attendant allowance under section 98 may be made within a period of 3 months after service on the person of notice of the decision or within a period of 3 months after the commencement of this subsection, whichever last expires, but not otherwise.

(6) If:

- (a) the Commission, upon a review under section 31 of a decision (the *original decision*) of a kind referred to in subsection (1), (2) or (3), has made a further decision:
  - (i) revoking that decision; or
  - (ii) revoking that decision and substituting a new decision; or
  - (iii) varying that decision; and
- (b) application had not, before the further decision was made, been made to the Board for a review of the original decision;

application is not to be made for a review of the original decision but may be made for a review:

- (c) of the further decision of the Commission revoking the original decision; or
- (d) of the new decision of the Commission that was substituted for the original decision; or
- (e) of the original decision as varied by the further decision of the Commission.

(7) If:

- (a) the Commission, upon a review under section 31 of a decision (the *original decision*) of a kind referred to in subsection (1), (2) or (3), has made a further decision:
  - (i) revoking that decision; or
  - (ii) revoking that decision and substituting a new decision; or
  - (iii) varying that decision; and
- (b) an application had been made to the Board for a review of the original decision but the hearing of the application:
  - (i) had not commenced before the further decision was made; or
  - (ii) had commenced but was not completed before the further decision was made;

the application is to be treated as if it were an application made for a review:

- (c) of the further decision of the Commission revoking the original decision; or
- (d) of the new decision of the Commission that was substituted for the original decision; or
- (e) of the original decision as varied by the further decision of the Commission.

### **136 Application for review**

- (1) An application to the Board for a review:
  - (a) shall be in writing; and



- (b) shall be made by forwarding the application to, or delivering the application at, an office of the Department in Australia;  
and may set out a statement of the reasons for the application.
- (2) An application under subsection (1) relating to a pension granted to, or claimed for, a veteran, or a dependant of a deceased veteran, may be made:
  - (a) by the veteran or dependant, as the case may be;
  - (b) with the approval of the veteran or dependant, as the case may be, by another person on behalf of the veteran or dependant;
  - (c) in the case of a veteran or dependant, as the case may be, who is unable, by reason of physical or mental incapacity, to approve a person to make an application on his or her behalf—on behalf of the veteran or dependant, by a person approved by the Commission; or
  - (d) in the case of a dependant who is under the age of 18 years, on behalf of the dependant:
    - (i) by a parent or guardian of the dependant;
    - (ii) by another person approved by a parent or guardian of the dependant; or
    - (iii) if there is not a parent or guardian of the dependant alive or willing and able to make, or approve a person to make, such an application on behalf of the dependant—by another person, being a person approved by the Commission.
- (3) Subsection (2) does not limit the application of section 126 in relation to applications under subsection (1) of this section.

### **137 Secretary to prepare report**

- (1) Within 6 weeks after an application for review made under subsection 135(1), (2) or (3) is received at an office of the Department in Australia, the Secretary shall:
  - (a) cause to be prepared a report referring to the evidence under the control of the Department that is relevant to the review; and
  - (b) subject to subsection (2), cause a copy of that report to be served on the applicant.
- (2) Where the report prepared by the Secretary in pursuance of subsection (1) contains or refers to any information, opinion or other matter:
  - (a) that, in the opinion of the Secretary, is of a confidential nature; or
  - (b) that, in the opinion of the Secretary, it might be prejudicial to the physical or mental health or well-being of the applicant to communicate to the applicant;
 the document served on the applicant in pursuance of paragraph (1)(b) shall not contain or refer to that information, opinion or other matter.
- (3) Where a copy of a report is served on an applicant in accordance with subsection (1), the applicant may, within 28 days after service of the report or within such further period as the applicant may request in writing before the expiration of that period, furnish to the Secretary in writing any comments the applicant wishes to make concerning the report.
- (4) The Secretary shall forward to the Principal Member of the Board all the relevant documents, including any comments furnished to the Secretary by the applicant concerning the report served on the applicant and, if a further investigation has been made in consequence of those comments of the applicant, a supplementary report referring to any evidence obtained in that further investigation:
  - (a) if the applicant duly furnishes comments in accordance with subsection (3) and no further investigation is made in consequence of those comments—as soon as practicable after receipt of those comments;

- (b) if a further investigation is made in consequence of comments furnished by the applicant—as soon as practicable after the completion of that further investigation; or
- (c) in any other case—as soon as practicable after the expiration of the period or extended period referred to in subsection (3).

### **138 Board not bound by technicalities etc.**

- (1) The Board, in conducting a review, in hearing a review or in making a decision on a review of a decision:
  - (a) is not bound by technicalities, legal forms or rules of evidence; and
  - (b) shall act according to substantial justice and the merits and all the circumstances of the case and, without limiting the generality of the foregoing, shall take into account any difficulties that, for any reason, lie in the way of ascertaining the existence of any fact, matter, cause or circumstance, including any reason attributable to:
    - (i) the effects of the passage of time, including the effect of the passage of time on the availability of witnesses; or
    - (ii) the absence of, or a deficiency in, relevant official records including an absence or deficiency resulting from the fact that an occurrence that happened during the service of a veteran, or of a member of the Forces, or a member of a Peacekeeping Force, as defined by subsection 68(1), was not reported to the appropriate authorities.
- (2) The Commission may make available to the Board:
  - (a) statements of principles applied by the Commission in deciding claims for pension and applications for pension and attendant allowance and increased pension and in conducting reviews under section 31; and
  - (b) such other material as the Commission considers may be of assistance to the Board in the exercise of its powers or the performance of its functions under this Act.
- (3) Nothing in this section authorizes the Commission to direct the Board with respect to its consideration of a particular review by the Board.

### **139 Decision of Board**

- (1) On review of a decision, the Board shall have regard to the evidence that was before the Commission when the decision was made and to any further evidence before the Board on the review that was not before the Commission, being further evidence relevant to the review.
- (2) It is the duty of the Board, in reviewing a decision of the Commission, to satisfy itself with respect to, or to determine, as the case requires, all matters relevant to the review.
- (3) For the purpose of reviewing a decision of the Commission, the Board may exercise all the powers and discretions that are conferred by this Act on the Commission in like manner as they are required by this Act to be exercised by the Commission, and shall make a decision, in writing:
  - (a) affirming the decision under review;
  - (b) varying the decision under review; or
  - (c) setting aside the decision under review and making a decision in substitution for the decision so set aside.
- (4) Where the Board sets aside a decision of the Commission refusing to grant a pension to a person and substitutes for it a decision granting a pension to the person, the Board shall assess the rate or rates at which the pension is to be paid to the person or remit the matter

to the Commission to assess the rate or rates at which the pension is to be paid to the person.

#### **140 Statements of decisions of the Board etc.**

- (1) Where the Board reviews a decision of the Commission, the Board shall:
  - (a) record its decision on the review in writing;
  - (b) prepare a written statement setting out its reasons for that decision, including its findings on any material questions of fact, and referring to the evidence or other material on which those findings were based;
  - (c) file the decision and the written statement with the records of the case; and
  - (d) cause to be served on each of the relevant persons:
    - (i) a copy of the decision; and
    - (ii) subject to subsection (2), a copy of the written statement referred to in paragraph (b) of this subsection;and on the applicant for the review, or a person authorized by the applicant, particulars of the person's right to make application to the Administrative Appeals Tribunal for a review of the decision of the Commission affirmed by that decision of the Board, the decision of the Commission as varied by that decision of the Board or the decision of the Board in substitution for the decision of the Commission set aside by the Board, as the case may be.
- (2) Where a statement prepared by the Board in pursuance of paragraph (1)(b) upon a review of a decision of the Commission contains or refers to any information, opinion or other matter:
  - (a) that, in the opinion of the Board, is of a confidential nature; or
  - (b) that, in the opinion of the Board, might be prejudicial to the physical or mental health or well-being of the applicant to communicate to the applicant;the document served on the applicant in pursuance of subparagraph (1)(d)(ii) shall not contain or refer to that information, opinion or other matter.
- (2A) The copies of a decision and statement that are required by subsection (1) to be served on the Commission in respect of a review of a decision by the Board shall be served on the Commission by forwarding them to, or delivering them at, the prescribed address of the Commission (addressed to the Commission).
- (3) In this section:
  - (a) a reference to the relevant persons, in relation to a review, shall be read as a reference to:
    - (i) the applicant for the review, or a person authorized by that applicant; and
    - (ii) the Commission; and
  - (b) a reference to a decision of the Board on a review shall be read as including a reference to any assessment made by the Board on the review in pursuance of subsection 139(3) or (4).

#### **140A Correction of errors in decisions or statements of reasons**

- (1) If, after the making of a decision by the Board, the Board is satisfied that there is an obvious error in the text of the decision or in a written statement of reasons for the decision, the Board may direct a registrar or a deputy registrar to alter the text of the decision or statement in accordance with the directions of the Board.
- (2) If the text of a decision or statement is so altered, the altered text is taken to be the decision of the Board or the statement of reasons for the decision, as the case may be.

- (3) Examples of obvious errors in the text of a decision or statement of reasons are where:
- (a) there is an obvious clerical or typographical error in the text of the decision or statement of reasons; or
  - (b) there is an inconsistency between the decision and the statement of reasons.
- (4) The powers of the Board under this section may be exercised by the Principal Member or by the member who presided in respect of the review to which the decision relates.

## **Division 4—Organization of the Board**

### **141 Constitution of Board for exercise of powers**

- (1) Subject to this section, the Board shall, for the purposes of a review, be constituted by:
- (a) the Principal Member or a Senior Member;
  - (b) a Services member; and
  - (c) one other member.
- (1A) The Board may, for the purposes of a particular review, be constituted by:
- (a) the Principal Member; and
  - (b) a Senior Member; and
  - (c) a Services Member.
- (2) With the approval of the Minister, the Board may, for the purposes of a particular review, or of a review included in a particular class of reviews, be constituted by:
- (a) the Principal Member or a Senior Member; or
  - (b) one member, not being the Principal Member or a Senior Member; only.

### **142 Principal Member responsible for arrangement of business**

- (1) The Principal Member is responsible for the efficient operation of the Board.
- (2) The Principal Member may give directions:
- (a) for the purpose of increasing the efficiency of the operations of the Board; and
  - (b) as to the arrangement of the business of the Board.

### **143 Members to constitute Board**

- (1) The Principal Member may give directions, from time to time in writing, as to the persons who are to constitute the Board:
- (a) for the purpose of a particular review or particular reviews; or
  - (b) for the purposes of reviews listed for hearing at a specified place during a specified period, or during specified periods, being reviews so listed for hearing by, or in accordance with the directions of, the Principal Member.
- (2) Where the Board, constituted in accordance with a direction given under subsection (1), completes its hearing of a review listed for hearing at the place and during a period specified in that direction but does not make its decision on the review, those members who constitute the Board in accordance with that direction, by force of this subsection, continue to constitute the Board, unless the Principal Member otherwise directs, for the purpose of making a decision in writing on that review.

#### **144 Member ceasing to be member etc.**

- (1) Where one of the members constituting the Board by virtue of a direction under section 143 ceases to be a member or ceases, for any reason, to be available for the purposes of a review at the place where the review is to be, or is being, heard or continued, the 2 remaining members shall be deemed to constitute the Board by virtue of the direction given under section 143 until the Principal Member re-allocates the review, under section 143, for further hearing.
- (2) Where the member referred to in subsection (1) is the Principal Member or a Senior Member, the Principal Member shall direct which of the 2 remaining members shall preside at any hearing of the review.
- (3) Where:
  - (a) the hearing of a review has been commenced but has not been completed before the Board; and
  - (b) the review has not been re-allocated as mentioned in subsection (1);the review may be listed for further hearing at a particular place and time in accordance with directions given by the Principal Member with respect to the listing of reviews for hearing or further hearing and, if it is so listed:
  - (c) the Board constituted by the members directed to constitute the Board for the hearing of reviews listed for hearing at that place during the period in which that time occurs may continue the hearing of the review and decide the review; and
  - (d) the review shall be deemed to have been re-allocated for further hearing and decision accordingly.
- (4) The Board to which a review is deemed to have been re-allocated under subsection (3) may, but need not, include a member who was one of the members who constituted the Board for the purpose of hearing the review before the re-allocation took place.
- (5) Where a review re-allocated as mentioned in subsection (1), or deemed to have been re-allocated under subsection (3), had been commenced, but had not been completed, before the re-allocation took place, the Board as constituted for the purpose of that review by virtue of that re-allocation may, in the review before it, have regard to any record of the review before the Board as previously constituted.

#### **145 Places of sitting**

Sittings of the Board shall be held from time to time as required, and at such places in Australia as may be convenient.

### **Division 5—Proceedings before the Board**

#### **146 Principal Member or Senior Member to preside at hearing**

- (1) Where the Principal Member is included in the members constituting the Board for the purpose of a review, he or she shall preside at any hearing of the review.
- (2) Where the Principal Member is not included in the members constituting the Board for the purpose of a review, the Senior Member who is included in those members shall preside at any hearing of the review.

#### **147 Parties to review before Board**

- (1) The parties to a review by the Board of a decision of the Commission are:
  - (a) the applicant for the review; and
  - (b) the Commission.

- (2) A party to a review may:
- (a) appear in person, or be represented at the party's own expense by a person other than a legal practitioner, at any hearing of the review; and
  - (b) make such submissions, in writing, to the Board as the party, or the party's representative, considers relevant to the review.

Note: if the Principal Member gives an applicant a notice under subsection 155AA(4) or 155AB(4) and the applicant wants to be represented by another person in relation to it, the applicant must so authorise the representative in writing after receiving the notice (see section 155AC).

- (3) In this section, a reference to a legal practitioner shall be read as including a reference to any person who:
- (a) holds a degree of Bachelor of Laws, Master of Laws or Doctor of Laws or Bachelor of Legal Studies; or
  - (b) is otherwise qualified for admission as a barrister, solicitor, or barrister and solicitor, of the High Court or of the Supreme Court of a State or Territory.

#### **148 Procedure of Board**

- (1) The Principal Member shall, upon receipt of the relevant documents relating to a review of a decision of the Commission, cause to be served on each party to the review a notice informing the party that the Board is to review the decision of the Commission and requesting the party to inform the Principal Member, in writing, within a reasonable time specified in the notice, whether the party wishes to appear on the hearing of the review and, if the party wishes so to appear, whether the party intends to appear on the hearing personally or by another person under section 147.
- (2) Where either party to a review of a decision of the Commission informs the Principal Member that the party wishes to appear on the hearing of the review of the decision by the Board, the Principal Member shall:
  - (a) cause a date, time and place to be fixed for the hearing of the review; and
  - (b) cause notice of the date, time and place so fixed to be served on each party to the review.
- (3) The Principal Member may defer fixing a date, time and place for the hearing of a review under subsection (2) until the parties to the review have informed the Principal Member that they are ready to proceed at a hearing.
- (4) Where a party to a review of a decision of the Commission does not inform the Principal Member, within the time specified in the notice served on the party under subsection (1), that the party wishes to appear on the hearing of the review, the review may be heard and determined in the absence of that party.
- (5) The Principal Member:
  - (a) may give general directions, not inconsistent with subsections (1), (2), (3) and (4) as to the procedure of the Board with respect to reviews before it, including reviews the hearings of which have not been commenced; and
  - (b) may give directions, not inconsistent with subsections (1), (2), (3) and (4), as to the procedure of the Board with respect to a particular review before the Board, either before or after the hearing of the review has commenced.
- (6) The presiding member in respect of a particular review may, in respect of a matter not dealt with by directions under subsection (5), give directions, not inconsistent with subsections (1), (2), (3) and (4), as to the procedure to be followed on a hearing of the review, either before or after the hearing of the review has commenced.
- (6A) The Principal Member may, in relation to a review, request the Secretary:
  - (a) to give to the Principal Member further documents in the Secretary's custody; or

- (b) to obtain, and give to the Principal Member, further documents; or
  - (c) to arrange for the making of any investigation or medical examination and to give to the Principal Member a report of the investigation or examination.
- (7) In giving a direction or making a request under this section, the Principal Member or a presiding member shall have regard to the need for the review to be conducted with as little formality and technicality, and with as much expedition, as the requirements of this Act and a proper consideration of the matters before the Board permit.

#### **149 Questions to be decided by majority of Board**

- (1) A question before the Board on a review shall be decided according to the opinion of a majority of the members constituting the Board.
- (2) Where the Board is constituted for the purposes of a review by 2 members only and the 2 members cannot agree on a question arising in the review, the Board shall adjourn the review and refer the matter to the Principal Member for the giving of any necessary directions, or the taking of any other action, under section 143 or 144.

#### **150 Hearing to be in private except in special circumstances**

- (1) Subject to this section, the hearing of a review shall be in private.
- (2) The presiding member may give directions (whether in writing or otherwise) as to the persons who may be present at any hearing of a review.
- (3) If requested to do so by the applicant, the presiding member may permit a hearing, or a part of a hearing, of a review to take place in public.

#### **151 Powers of Board**

- (1) The Board may:
  - (a) take evidence on oath or affirmation for the purposes of a review; or
  - (b) adjourn a hearing of a review from time to time.
- (2) The presiding member in relation to a review may:
  - (a) summon a person to appear at any hearing of the review to give evidence and to produce such documents (if any) as are referred to in the summons;
  - (b) require a person appearing at a hearing of the review for the purpose of giving evidence either to take an oath or to make an affirmation; and
  - (c) administer an oath or affirmation to a person so appearing.
- (3) The applicant for a review by the Board of a decision of the Commission is a competent and compellable witness upon the hearing of the review of that decision by the Board.
- (4) The oath or affirmation to be taken or made by a person for the purposes of this section is an oath or affirmation that the evidence that the person will give will be true.
- (5) The power of the Board under paragraph (1)(a) to take evidence on oath or affirmation for the purposes of a review may be exercised on behalf of the Board by the presiding member in relation to the review or by another person (whether a member or not) authorized by the presiding member, and that power may be so exercised within or outside Australia, but the Board may direct that the power is to be so exercised subject to limitations specified by the Board.
- (6) Where a person other than the presiding member in relation to a review is authorized, in accordance with subsection (5), to take evidence for the purposes of the review:
  - (a) the first-mentioned person has, for the purposes of taking that evidence, all the powers of the Board under subsection (1) and all the powers of the presiding member under subsection (2); and

- (b) for the purposes of the exercise of those powers by the first-mentioned person, this Part has effect (except where the context otherwise requires) as if a reference to the Board, or to the presiding member, in relation to the review included a reference to the first-mentioned person.

#### **152 Request to Secretary for documents etc.**

- (1) The Board may, at any time, request the Secretary:
  - (a) to forward to the Board further documents in the custody of the Secretary relating to a review;
  - (b) to obtain, and forward to the Board, further documents relating to a review; or
  - (c) to arrange for the making of any investigation, or any medical examination, that the Board thinks necessary with respect to a review, and to forward to the Board a report of that investigation or examination.
- (2) Where a request is made under subsection (1), the Board shall adjourn any hearing of the review to which the request relates and may, in the case of a review of a decision with respect to a pension assessment, vary that assessment pending the completion of that review, having regard to the records and evidence on which the Commission reached that decision.

#### **153 Information may be made available to parties**

- (1) Subject to subsections (2) and (3), where, after the relevant documents relating to a review have been forwarded to the Principal Member of the Board in accordance with subsection 137(4) and before the commencement of the hearing of the review, a party to the review furnishes any information to the Board for the purposes of the review, the Board shall make that information available to the other party to the review.
- (2) Where the Board is of the opinion:
  - (a) that any information under the control of the Board is of a confidential nature; or
  - (b) that it might be prejudicial to the physical or mental health or well-being of the applicant to communicate any such information to the applicant;
 the Board may refrain from making it available to the applicant, but may make it available to a person representing the applicant.
- (3) Subsection (1) does not apply to information furnished, as set out in that subsection, by a party to a review other than the Commission unless the Board is of the opinion that it contains, or foreshadows the presentation of, evidence or a submission that has not been considered by the Commission in connection with the review.

#### **154 Period of operation of certain decisions of Board**

- (1) A decision of the Board on a review of a decision of the Commission of a kind referred to in paragraph 135(5)(a), (b), (c) or (d) shall, unless reviewed by the Administrative Appeals Tribunal and, subject to subsection (2) of this section, be binding upon the applicant and the Commission for a period of 6 months commencing on the day on which the Board makes that decision.
- (2) If, during the period referred to in subsection (1), the applicant is of the opinion that his or her incapacity has increased, subsection (1) does not prevent:
  - (a) the applicant from making application under subsection 15(1) or (2) for an increased pension or for a pension; or
  - (b) the grant of an increased pension, or a pension, from a date within that period, by the Commission upon its consideration of such an application or by the Board upon review of the decision of the Commission on such an application.



## **155 Withdrawal of application**

- (1) An applicant for review by the Board of a decision of the Commission may withdraw the application at any time before the Board has commenced the review and, with the consent of the Board, at any time after the Board has commenced the review.
- (2) The withdrawal of an application to review a decision of the Commission does not prevent the applicant from subsequently making another application under section 135 to review that decision within the time allowed by that section.

## **155AA Power to dismiss application—initial consideration**

- (1) In this section:  
*standard review period*, in relation to an application for review, means the period of 2 years after the day on which the application was received at an office of the Department in Australia.
- (2) This section applies to an application for review unless:
  - (a) the hearing of the review has finished within the standard review period; or
  - (b) as at the end of the standard review period, a date, time and place is fixed for the commencement or resumption of the hearing of the review.
- (3) For the purposes of paragraph (2)(a), the hearing of a review is taken to have finished when there are no further submissions to be made to the Board by any of the parties to the review.
- (4) If, at the end of the standard review period:
  - (a) this section applies to an application for review; and
  - (b) the Principal Member considers that the applicant should be ready to proceed at a hearing;the Principal Member must give a written notice to the applicant requesting the applicant to provide to the Principal Member, within 28 days after receiving the notice;
  - (c) a written statement indicating that the applicant is ready to proceed at a hearing; or
  - (d) a written statement explaining why the applicant is not ready to proceed at a hearing.
- (5) If the applicant does not provide a written statement under paragraph (4)(c) or (d) within the 28 days, the Principal Member must dismiss the application and must notify the applicant and the Commission of the dismissal.
- (6) If:
  - (a) the applicant provides a written statement under paragraph (4)(d) within the 28 days; and
  - (b) the Principal Member considers that the statement contains a reasonable explanation for the applicant's failure to be ready to proceed at a hearing;the Principal Member must notify the applicant and the Commission of this.
- (7) If:
  - (a) the applicant provides a written statement under paragraph (4)(d) within the 28 days; and
  - (b) the Principal Member considers that the statement does not contain a reasonable explanation for the applicant's failure to be ready to proceed at a hearing;the Principal Member must dismiss the application and must notify the applicant and the Commission of the dismissal.

### **155AB Power to dismiss application—subsequent consideration**

- (1) In this section:

*extended review period*, in relation to an extension notice, means the period of 3 months after the day on which the Principal Member has given the extension notice to the applicant for review.

*extension notice* means a notice under subsection 155AA(6) or subsection (6) of this section.

- (2) If the Principal Member has given an applicant for review an extension notice, this section applies to that application unless:
- (a) the hearing of the review has finished within the extended review period; or
  - (b) as at the end of the extended review period, a date, time and place is fixed for the commencement or resumption of the hearing of the review.
- (3) For the purposes of paragraph (2)(a), the hearing of a review is taken to have finished when there are no further submissions to be made to the Board by any of the parties to the review.
- (4) If this section applies to an application for review at the end of the extended review period, the Principal Member must give a written notice to the applicant requesting the applicant to provide to the Principal Member, within 28 days after receiving the notice:
- (a) a written statement indicating that the applicant is ready to proceed at a hearing; or
  - (b) a written statement explaining why the applicant is not ready to proceed at a hearing.
- (5) If the applicant does not provide a written statement under paragraph (4)(a) or (b) within the 28 days, the Principal Member must dismiss the application and must notify the applicant and the Commission of the dismissal.
- (6) If:
- (a) the applicant provides a written statement under paragraph (4)(b) within the 28 days; and
  - (b) the Principal Member considers that the statement contains a reasonable explanation for the applicant's failure to be ready to proceed at a hearing;
- the Principal Member must notify the applicant and the Commission of this.
- (7) If:
- (a) the applicant provides a written statement under paragraph (4)(b) within the 28 days; and
  - (b) the Principal Member considers that the statement does not contain a reasonable explanation for the applicant's failure to be ready to proceed at a hearing;
- the Principal Member must dismiss the application and must notify the applicant and the Commission of the dismissal.

### **155AC Representation of applicant where outcome could be dismissal of application**

- (1) An applicant for review may authorise another person to represent the applicant in relation to a notice under subsection 155AA(4) or 155AB(4).
- (2) An authorisation under subsection (1) must be in writing.
- (3) The applicant may authorise the representative only after the applicant has received the notice.
- (4) If the Principal Member has approved a form for the purposes of subsection (1), the applicant must authorise the representative in that form.

- (5) If the applicant does authorise a representative, the representation is to be at the applicant's own expense.

### **155A Review by Administrative Appeals Tribunal**

- (1) Application may be made to the Administrative Appeals Tribunal, subject to section 29 of the *Administrative Appeals Tribunal Act 1975*, for review of the following decisions of the Principal Member:
- (a) the decision to dismiss an application under subsection 155AA(5) or 155AB(5);
  - (b) the decision under paragraph 155AA(6)(b) or 155AB(6)(b) that an applicant has provided a reasonable explanation for the applicant's failure to be ready to proceed at a hearing;
  - (c) the decision under paragraph 155AA(7)(b) or 155AB(7)(b) that an applicant has provided no reasonable explanation for the applicant's failure to be ready to proceed at a hearing.
- (2) Where a decision of a kind referred to in subsection (1) is made and a written notice of the decision is given to a person whose interests are affected by the decision, the notice must include a statement to the effect that, if the person is dissatisfied with the decision, application may, subject to the *Administrative Appeals Tribunal Act 1975*, be made to the Administrative Appeals Tribunal for review of the decision and, except where subsection 28(4) of that Act applies, also include a statement to the effect that the person may request a statement under section 28 of that Act.
- (3) A failure to comply with subsection (2) does not affect the validity of the decision.

## **Division 6—Date of operation of decisions of Board**

### **156 Date of operation of decision by Board**

- (1) Except where:
- (a) the Board affirms the decision under review; or
  - (b) the Board sets aside the decision under review and makes a decision in substitution for the decision set aside that has the effect only of revoking a decision of the Commission to cancel or suspend a pension;
- the Board shall specify in its decision on a review under this Part the date from which its decision is to operate, being a date fixed in accordance with section 157.
- (2) Where the Board sets aside the decision under review and makes, in substitution for the decision set aside, a decision that has the effect only of revoking a decision of the Commission to cancel or suspend a pension, the decision to cancel or suspend the pension shall be deemed never to have had any force or effect.

### **157 Dates that may be specified**

- (1) In this section:

***Board's decision***, in relation to a review by the Board of a Commission's decision, means the decision of the Board, upon its review of the Commission's decision, setting aside the Commission's decision and substituting another decision for it or varying the Commission's decision, but does not include a decision of the Board affirming the Commission's decision.

***Commission's decision***, in relation to a review by the Board, means a decision of the Commission that has been reviewed by the Board.

**substituted decision** means a decision made by the Board in substitution for a decision of the Commission that has been set aside by the Board upon its review of that decision of the Commission.

**varied decision** means a decision of the Commission as varied by a decision of the Board upon its review of that decision of the Commission.

- (2) Where the Board, upon its review of a decision of the Commission, sets aside that decision and substitutes another decision for it, or varies that decision:
  - (a) if the effect of the substituted decision, or the varied decision, as the case may be, is to grant a pension or attendant allowance to a person, the Board may fix, as the date from which the Board's decision is to operate:
    - (i) if the person made application for the review within 3 months after service on the person of a copy of the Commission's decision—a date not earlier than the earliest date as from which the Commission could, if it had not refused to grant a pension or attendant allowance, as the case may be, to the person, have approved payment of a pension or of attendant allowance to the person; or
    - (ii) in any other case—a date not more than 6 months before the date on which the person's application for review of the Commission's decision was received at an office of the Department in Australia;
  - (b) if the substituted decision, or the varied decision, as the case may be, is a decision of a kind specified in subsection (3)—the Board shall remit the matter to the Commission to fix the date as from which the Board's decision is to operate, being:
    - (i) if the Board's decision was made for a reason set out in subsection 31(7)—the date on which the Board's decision was made or an earlier or later date; or
    - (ii) in any other case—the date of the first available pension pay-day occurring after the date on which a copy of the Board's decision is served on the Commission under section 140;
  - (c) if the substituted decision, or the varied decision, as the case may be, has the effect of altering the description or nature of the war-caused injury or war-caused disease from which a veteran is suffering, or the description or nature of the defence-caused injury or defence-caused disease from which a member of the Forces or a member of a Peacekeeping Force is suffering—the Board may fix, as the date as from which that alteration is to operate, such date, being the date on which its decision is made or an earlier or later date, as it determines is fair and reasonable in all the circumstances; or
  - (d) in any other case—the Board may fix, as the date as from which the Board's decision is to operate, a date not earlier than the earliest date that the substituted decision, or varied decision, could have operated if it had been made by the Commission in place of the Commission's decision.
- (3) The kinds of decisions specified in this subsection are:
  - (a) a substituted decision or a varied decision that has the effect of reducing the rate at which a pension is to be paid (not being a pension that is suspended);
  - (b) a substituted decision that has the effect of suspending a pension (not being a pension that has been cancelled or is suspended); and
  - (c) a substituted decision that has the effect of cancelling a pension (not being a pension that is suspended).
- (4) Where a Board's decision that sets aside a Commission's decision and substitutes another decision for it, or that varies a Commission's decision, is to operate as from a particular date, the substituted decision or the varied decision, as the case may be, shall operate as from the same date.

- (5) In this section, a reference to the cancellation of a pension shall be read as including a reference to the cancellation of a pension for the reason that the degree of incapacity of the veteran from war-caused injury or war-caused disease, or both, or the degree of incapacity of the member of the Forces or of the member of a Peacekeeping Force, from defence-caused injury or defence-caused disease, or both, is less than 10 per centum (including nought per centum).

## **Division 7—Membership of the Board**

### **158 Appointment of members of Board**

- (1) The members of the Board shall be appointed by the Governor-General.
- (2) The Board must have at all times among its members persons selected from lists submitted to the Minister as requested under subsection (3).
- (3) The Minister may, from time to time, request organizations representing veterans throughout Australia to submit to the Minister lists of names of persons from which the organization concerned recommends that a selection be made of persons to serve as Services members of the Board.
- (4) The Principal Member shall be appointed as a full-time member.
- (5) A member other than the Principal Member may be appointed either as a full-time member or as a part-time member.

### **159 Terms of appointment**

- (1) Subject to this Division, a member holds office for such period, not exceeding 5 years, as is specified in the instrument of appointment, but is eligible for re-appointment.
- (2) A person who has turned 65 is not to be appointed as a full-time member.
- (2A) A person is not to be appointed as a full-time member for a period that extends beyond the date on which the person will turn 65.
- (3) A member holds office on such terms and conditions (if any) in respect of matters not provided for by this Part, as are determined by the Governor-General by instrument in writing.

### **160 Remuneration and allowances of members**

- (1) A member shall be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration is in operation, the member shall be paid such remuneration as is prescribed.
- (2) A member shall be paid such allowances as are prescribed.
- (3) This section has effect subject to the *Remuneration Tribunals Act 1973*.

### **161 Acting members**

- (1) The Minister may appoint a person to act as a member:
  - (a) during any period, or during all periods, when a member, being a full-time member, is absent from duty or from Australia or is, for any reason, unable to perform the functions of his or her office; or
  - (b) during any period, or during all periods, when a member, being a part-time member, is, for any reason, unavailable to perform the duties of his or her office.
- (2) The Minister may:

- (a) determine the terms and conditions of appointment, including remuneration and allowances, of a person acting as a member in pursuance of an appointment under subsection (1); and
  - (b) at any time terminate such an appointment.
- (3) Where a person is acting as a member in accordance with paragraph (1)(a) or (b) and the office of that member becomes vacant while the person is so acting, that person may continue so to act until the Minister otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.
- (4) Where a person has been appointed under subsection (1) to act in the place of a member (in this subsection referred to as the *absent member*) who is absent or unavailable, the Minister may, by reason of a pending review or other special circumstances, direct, before the absent member ceases to be absent or unavailable, that the person so appointed shall continue to act in the appointment after the absent member ceases to be absent or unavailable, until the person so appointed resigns the appointment or the Minister terminates the appointment, but a person shall not continue to act by virtue of this subsection for more than 12 months after the absent member ceases to be absent or unavailable.
- (5) A person acting in the place of the Principal Member, a Senior Member or another member has all the powers, and shall perform all the functions and duties, conferred or imposed by this Part on the Principal Member, Senior Member or other member, as the case may be.
- (6) Where the Board as constituted for the purpose of a review includes a person acting, or purporting to be appointed to act, as a member under this section, or a person so acting, or purporting to be appointed so to act, has done any act, the validity of any decision of, or any direction given or other act done by, the Board as so constituted or of the act done by the person so acting, or purporting to be appointed so to act, shall not be called in question in any proceeding on the ground that the occasion for the person to act, or for the appointment of the person to act, had not arisen or that the occasion for his or her appointment to act had passed or the appointment had ceased to have effect.
- (7) The appointment of a person to act as a member ceases to have effect if the person resigns the appointment by writing signed by the person and delivered to the Minister.
- (8) Section 162 applies to and in relation to a person appointed under subsection (1) to act in place of a member on a full-time basis as if the person were a member, and section 165 applies to any person appointed under subsection (1) to act in place of a member as if the person were a member.

## **162 Leave of absence**

- (1) Subject to section 87E of the *Public Service Act 1922*, a full-time member has such recreation leave entitlements as are determined by the Remuneration Tribunal.
- (2) The Minister may grant a full-time member leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.

## **163 Resignation**

A member may resign office by writing signed by the member and delivered to the Governor-General.

## **164 Removal from office**

- (1) The Governor-General may remove a member from office on the ground of proved misbehaviour or physical or mental incapacity.

- (2) The Minister may suspend a member from office on the ground of misbehaviour or physical or mental incapacity.
- (3) Where the Minister suspends a member from office, the Governor-General may, on the recommendation of the Minister:
  - (a) remove the member from office;
  - (b) direct that the suspension of the member continue for such further period as the Governor-General specifies; or
  - (c) direct that the suspension of the member terminate.
- (4) The suspension of a member from office under this section does not affect any entitlement of the member to be paid remuneration and allowances.
- (5) If:
  - (a) a member becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with the member's creditors or makes an assignment of the member's remuneration for their benefit;
  - (b) a member, being a member who has been appointed as a full-time member:
    - (i) engages, except with the approval of the Minister, in paid employment outside the duties of the member's office; or
    - (ii) is absent from duty, except on leave of absence, for 14 consecutive days or 28 days in any 12 months; or
  - (c) a member fails, without reasonable excuse, to comply with the member's obligations under section 165;the Governor-General shall remove the member from office.
- (6) The Governor-General may, with the consent of a member who is:
  - (a) an eligible employee for the purposes of the *Superannuation Act 1976*; or
  - (b) a member of the superannuation scheme established by deed under the *Superannuation Act 1990*;by notice in writing, retire the member on the ground of physical or mental incapacity.
- (6A) The notice must specify the day on which the member is to be retired.
- (6B) The day specified in the notice must not be a day earlier than the day on which the Governor-General signed the notice.
- (7) A member shall not be suspended, removed or retired from office except as provided by this section.
- (8) In spite of anything contained in this section, a member who:
  - (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and
  - (b) has not reached his or her maximum retiring age within the meaning of that Act;is not capable of being retired from office on the ground of invalidity within the meaning of Part IVA of that Act unless the Commonwealth Superannuation Board of Trustees No. 2 has given a certificate under section 54C of that Act.
- (9) In spite of anything contained in this section, a member who:
  - (a) is a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; and
  - (b) is under 60 years of age;is not capable of being retired from office on the ground of invalidity within the meaning of that Act unless the Commonwealth Superannuation Board of Trustees No. 1 has given a certificate under section 13 of that Act.

### **165 Disclosure of interests**

- (1) Where a member who is, or is to be, a member of the Board as constituted by virtue of a direction under section 143, or of a re-allocation as mentioned in subsection 144(1) or deemed to have been made under subsection 144(3), for the purposes of a review has or acquires any interest, pecuniary or otherwise, that could conflict with the proper performance of the member's functions in relation to that review:
  - (a) the member shall disclose the interest to the applicant and the Commission; and
  - (b) except with the consent of the applicant and the Commission, the member shall not take part in the review, or exercise any powers in relation to the review, by the Board of the relevant decision of the Commission.
- (2) Where the Principal Member becomes aware that a member who is, or is to be, a member of the Board as constituted by virtue of a direction under section 143 or of a re-allocation as mentioned in subsection 144(1) or deemed to have been made under subsection 144(3), for the purposes of a review has in relation to that review such an interest as is mentioned in subsection (1) of this section:
  - (a) if the Principal Member considers that the member should not take part, or should not continue to take part, in the review—the Principal Member shall give a direction to the member accordingly; or
  - (b) in any other case—the Principal Member shall cause the interest of the member to be disclosed to the applicant and to the Commission.

## **Division 8—Miscellaneous**

### **166 Delegation**

- (1) The Principal Member may, either generally or as otherwise provided by the instrument of delegation, by writing signed by the Principal Member, delegate to a Senior Member or to an acting Senior Member all or any of the Principal Member's powers under this Part, other than this power of delegation.
- (1A) The Principal Member may, by writing signed by him or her, also delegate all or any of his or her powers under section 155AA or 155AB to a registrar or a deputy registrar.
- (2) A power delegated under this section, when exercised by the delegate, shall, for the purposes of this Part, be deemed to have been exercised by the Principal Member.
- (3) A delegation under this section does not prevent the exercise of a power by the Principal Member.

### **167 Protection of members and witnesses**

- (1) A member has, in the performance of his or her duties as a member, the same protection and immunity as a Justice of the High Court.
- (2) A person representing a party at a hearing of a review before the Board has the same protection and immunity as a barrister has in appearing for a party in proceedings in the High Court.
- (3) Subject to this Part, a person summoned to attend, or appearing, before the Board as a witness has the same protection, and is, in addition to the penalties provided by this Part, subject to the same liabilities, as a witness in proceedings in the High Court.

### **168 Failure of witness to attend**

A person who has been served, as prescribed, with a summons to appear as a witness before the Board and tendered reasonable expenses shall not, without reasonable excuse:



- (a) fail to attend as required by the summons; or
- (b) fail to appear and report from day to day unless excused, or released from further attendance, by a member.

Penalty: \$1,000 or imprisonment for 6 months, or both.

#### **169 Refusal to be sworn or to answer questions etc.**

- (1) A person appearing as a witness before the Board shall not, without reasonable excuse:
  - (a) when required in pursuance of section 151 either to take an oath or make an affirmation—refuse or fail to comply with the requirement;
  - (b) refuse or fail to answer a question that the person is required to answer by the presiding member; or
  - (c) refuse or fail to produce a document that the person is required to produce by a summons under this Part served on the person as prescribed.

Penalty: \$1,000 or imprisonment for 6 months, or both.

- (2) A person appearing as a witness before the Board shall not knowingly give evidence that is false or misleading in a material particular.

Penalty: \$2,000 or imprisonment for 12 months, or both.

#### **170 Contempt of Board**

- (1) A person shall not:
  - (a) obstruct or hinder the Board or a member in the performance of the functions of the Board; or
  - (b) disrupt a hearing before the Board.

Penalty: \$2,000 or imprisonment for 12 months, or both.

- (2) In subsection (1), *member* includes an acting member.

#### **170A Medical expenses**

- (1) The Commonwealth may, subject to this section, pay to an applicant for a review an amount to cover the medical expenses incurred by him or her in respect of relevant documentary medical evidence submitted to the Board for the purposes of the review.
- (2) Subsection (1) does not apply to any relevant documentary medical evidence obtained before the day on which a copy or notice of the decision referred to in section 135 that is subject to review was served on the applicant.
- (3) The applicant is not to be paid:
  - (a) if the applicant has submitted to the Board for the purposes of the review relevant documentary medical evidence relating to only one medical condition—more than \$425 for medical expenses; or
  - (b) if the applicant has submitted to the Board for the purposes of the review relevant documentary medical evidence relating to more than one medical condition—more than \$425 for the medical expenses incurred in respect of the evidence relating to any one of those conditions.
- (4) An amount is not payable in respect of medical expenses unless:
  - (a) the person who has incurred the expenses; or
  - (b) any person approved by that person or by the Commission;
 applies in writing to the Commission for payment under subsection (5).
- (5) The application for payment must:

- (a) be in accordance with a form approved by the Commission; and
- (b) be made:
  - (i) if the relevant documentary medical evidence was submitted to the Board before 1 January 1995—before 1 April 1995; or
  - (ii) in any other case—within 3 months after the relevant documentary medical evidence was submitted to the Board; and
- (c) be lodged, together with any document that the applicant considers relevant, at an office of the Department in Australia.

#### **170B Travelling expenses for obtaining medical evidence**

- (1) If an applicant has had to travel to obtain any relevant documentary medical evidence submitted to the Board, the applicant is, subject to this section, entitled to be paid in relation to that travel the travelling expenses that are prescribed.
- (2) If:
  - (a) the applicant is accompanied by an attendant when travelling to obtain the evidence; and
  - (b) the Commission is of the view that it is reasonable for the applicant to be so accompanied by an attendant;
 the attendant is, subject to this section, entitled to be paid in relation to that travel the travelling expenses that are prescribed.
- (3) Travelling expenses are not payable in respect of travel outside Australia.
- (4) Travelling expenses are not payable unless:
  - (a) the person who has incurred the expenses; or
  - (b) any person approved by that person or by the Commission;
 applies in writing to the Commission for payment under subsection (5).
- (5) The application for payment must:
  - (a) be in accordance with a form approved by the Commission; and
  - (b) be made:
    - (i) if the travel was done before 1 January 1995—before 1 April 1995; or
    - (ii) in any other case—within 3 months after the end of the travel; and
  - (c) be lodged, together with any document that the applicant considers relevant, at an office of the Department in Australia.
- (6) The Commonwealth is to pay the travelling expenses to which a person is entitled under this section.

#### **170C Advance of travelling expenses**

- (1) If the Commission is satisfied that:
  - (a) it is reasonable to expect that a person may become entitled to travelling expenses under section 170B; and
  - (b) it is appropriate, in all the circumstances, that the person should be paid an advance on account of those expenses;
 the Commission may authorise the payment of that advance to the person.
- (2) If:
  - (a) a person has received an advance on account of any travelling expenses that the person is likely to incur; and
  - (b) the person:
    - (i) does not incur those travelling expenses; or

- (ii) incurs travelling expenses that are less than the amount of the advance;  
the person is liable to repay to the Commonwealth:
  - (c) the amount of the advance; or
  - (d) the difference between the amount of the advance and the amount of the travelling expenses;
- as the case requires.

#### **171 Fees for witnesses**

- (1) A person, other than the applicant, summoned to appear as a witness at a hearing before the Board is entitled to be paid, in respect of the person's attendance, fees, and allowances for expenses, fixed by or in accordance with the regulations in respect of his or her attendance.
- (2) Subject to subsection (3), the fees and allowances shall be paid:
  - (a) in a case where the witness was summoned at the request of the applicant—by that applicant; and
  - (b) in any other case—by the Commonwealth.
- (3) The Board may, in its discretion, order that the fees and allowances of a witness referred to in paragraph (2)(a) shall be paid, in whole or in part, by the Commonwealth.

#### **172 Staff to assist Board**

Any staff required to assist the Board shall be persons appointed or employed under the *Public Service Act 1922* and made available for the purpose by the Secretary.

#### **173 Oath or affirmation of office**

- (1) A person who is appointed or re-appointed as a member, or to act as a member, shall not discharge the duties of the office unless the person has taken an oath, or made an affirmation, in accordance with the form of oath or affirmation in Schedule 4.
- (2) The oath or affirmation shall be made before a justice of the peace or a commissioner for taking affidavits.

## **Part X—Review of Decisions by Administrative Appeals Tribunal**

#### **174 Interpretation**

- (1) In this Part, unless the contrary intention appears, **reviewable decision** means a decision in respect of which application may be made to the Administrative Appeals Tribunal under section 175.
- (2) In this Part:  
**veteran** includes:
  - (a) a Commonwealth veteran; and
  - (b) an allied veteran; and
  - (c) an Australian mariner; and
  - (d) an allied mariner; and
  - (e) a member of the Forces, or a member of a Peacekeeping Force, as defined by subsection 68(1).

## **175 Applications for review**

- (1) Where a decision made by the Commission has been reviewed by the Board upon a request made under section 135 and affirmed, varied or set aside, then, subject to section 29 of the *Administrative Appeals Tribunal Act 1975*, application may be made to the Administrative Appeals Tribunal for a review:
  - (a) of the decision of the Commission that was so affirmed;
  - (b) of the decision of the Commission as so varied; or
  - (c) of the decision made by the Board in substitution for the decision so set aside; as the case may be.
- (2) Where the Commission, under section 57B, affirms a decision of the Commission referred to in section 57 or sets it aside and substitutes another decision for it, a person may apply to the Administrative Appeals Tribunal for a review of the decision so affirmed or substituted.
- (2AAA) If the Commission under section 79U:
  - (a) affirms a decision of the Commission referred to in subsection 79T(1); or
  - (b) sets it aside and substitutes another decision for it;a person may apply to the Administrative Appeals Tribunal for a review of the decision so affirmed or substituted.
- (2AA) If the Commission, under section 118ZU, affirms a decision of the Commission referred to in section 118ZS or sets it aside and substitutes another decision for it, a person may apply to the Administrative Appeals Tribunal for a review of the decision so affirmed or substituted.
- (2A) A person's right to apply to the Administrative Appeals Tribunal under subsection (2), (2AAA) or (2AA) is subject to section 29 of the *Administrative Appeals Tribunal Act 1975*.

Note: section 29 of the *Administrative Appeals Tribunal Act 1975* deals with the manner of applying for review.
- (3) Where the Commission varies a decision under subsection 31(2) after an application had been made to the Administrative Appeals Tribunal for a review of that decision but before the determination of that application, then, unless the applicant for the review withdraws the application, the application shall be treated as if it were an application for a review of the decision as so varied.
- (4) Where the Commission, under section 115, affirms a decision of the Commission in respect of an application for an allowance or benefit referred to in subsection 115(1), or sets aside such a decision and substitutes another decision for it, then, subject to section 29 of the *Administrative Appeals Tribunal Act 1975*, application may be made to the Administrative Appeals Tribunal for a review:
  - (a) of the decision so affirmed; or
  - (b) of the decision made by the Commission under section 115 in substitution for the decision so set aside.

## **176 Application of Administrative Appeals Tribunal Act**

- (1) The *Administrative Appeals Tribunal Act 1975* applies in relation to reviewable decisions as if paragraph 25(3)(a) of that Act had been omitted.
- (2) For the purposes of the application of section 27 of the *Administrative Appeals Tribunal Act 1975* to and in relation to a reviewable decision:

- (a) if that decision is a decision of the Commission as varied by the Board—the Commission shall be taken to be a person whose interests are affected by that reviewable decision; and
  - (b) if the Board has set aside a decision of the Commission under section 19 or 31 of this Act and made another decision in substitution for the decision so set aside—the Commission shall be taken to be a person whose interests are affected by the decision of the Board to set aside the decision of the Commission and by the decision of the Board made in substitution for the decision so set aside.
- (3) Section 28 of the *Administrative Appeals Tribunal Act 1975* does not apply to or in relation to a person whose interests are affected by a reviewable decision:
  - (a) in the case of a decision of a kind referred to in paragraph 175(1)(a) or (c) or in subsection 175(2), (2AA) or (4)—if the person has been served with a copy of that decision and with the statement related to that decision in accordance with section 34, 57E, 118ZX or 140 of this Act, whichever was applicable; or
  - (b) in the case of a decision of a kind referred to in paragraph 175(1)(b)—if the person has been served with copies of the decision made by the Commission and of the decision made by the Board varying that decision made by the Commission, and with the respective statements related to those decisions, in accordance with section 34 or 140 of this Act, whichever was applicable.
- (4) Section 29 of the *Administrative Appeals Tribunal Act 1975* applies to and in relation to an application to the Administrative Appeals Tribunal for a review of a reviewable decision:
  - (a) as if “ending 3 months” were substituted for “ending on the twenty-eighth day” in subsection (2) of that section; and
  - (b) as if at the end of subsection (7) there were added “until such date, being a date not more than 12 months after the date on which the document setting out the terms of the decision was furnished to the applicant, as the Tribunal deems fit”.
- (5) Section 30 of the *Administrative Appeals Tribunal Act 1975* applies to a proceeding before the Administrative Appeals Tribunal for a review of a reviewable decision as if paragraphs (1)(a) and (b) of that section were omitted.
- (6) Subject to section 30 of the *Administrative Appeals Tribunal Act 1975* in its application in accordance with subsection (5) of this section, the parties to a proceeding before the Administrative Appeals Tribunal for a review of a reviewable decision are:
  - (a) if the person who has duly applied for a review of the decision is a person other than the Commission:
    - (i) the person who has so applied; and
    - (ii) the Commission; or
  - (b) in any other case:
    - (i) the Commission; and
    - (ii) the veteran, or dependant of a deceased veteran, affected by that decision.
- (7) Notwithstanding subsection 43(1) of the *Administrative Appeals Tribunal Act 1975*, where the Administrative Appeals Tribunal sets aside a decision under subsection 31(6) to cancel or suspend, or reduce the rate of, a pension or attendant allowance, or a decision under subsection 31(8) to increase the rate of a pension or attendant allowance, being:
  - (a) a decision of the Commission that has been affirmed by the Board; or
  - (b) a decision of the Board that was made in substitution for a decision of the Commission;
 the Administrative Appeals Tribunal need not make another decision in substitution for the decision so set aside.

- (8) Notwithstanding subsection 43(1) of the *Administrative Appeals Tribunal Act 1975*, where the Administrative Appeals Tribunal sets aside a decision:
- (a) to cancel or suspend a pension under section 56E; or
  - (b) to reduce the rate of a pension under section 56D; or
  - (c) to increase the rate of a pension under section 56C;
- and the decision was one that was:
- (d) affirmed by the Commission under section 57B; or
  - (e) made by the Commission in substitution for a decision set aside under section 57B;
- the Administrative Appeals Tribunal need not make another decision in substitution for the decision set aside by it.
- (9) Despite subsection 43(1) of the *Administrative Appeals Tribunal Act 1975*, if the Administrative Appeals Tribunal:
- (a) sets aside a decision that a person ceases to be entitled to a seniors health card; and
  - (b) the decision was one that was:
    - (i) affirmed by the Commission under section 118ZU; or
    - (ii) made by the Commission in substitution for a decision set aside under that section;
- the Tribunal need not make another decision in substitution for the decision set aside by it.

#### **177 Effective dates of certain determinations relating to payment of pension or seniors health card**

- (1) This section is in addition to, and not in substitution for, any of the provisions of section 43 of the *Administrative Appeals Tribunal Act 1975* in their application to proceedings for a review by the Administrative Appeals Tribunal of a reviewable decision.
- (2) Where the Administrative Appeals Tribunal, upon application made under subsection 175(1) for a review of a decision of the Commission that has been affirmed or varied by a decision of the Board or a decision of the Board made in substitution for a decision of the Commission, grants a pension (not being a service pension or income support supplement) or attendant allowance, or increases the rate at which a pension (not being a service pension or income support supplement) is to be paid, the Tribunal may approve payment of the pension or of attendant allowance, or payment of the pension at the increased rate, as the case may be:
- (a) if the application is made within 3 months after service on the applicant of a document setting out the terms of that decision of the Board—from a date not earlier than the earliest date as from which the Board could, if it had granted a pension or attendant allowance or increased the rate of the pension, have approved payment of the pension or attendant allowance, or payment of the pension at an increased rate, as the case may be; or
  - (b) in any other case:
    - (i) if the review relates to a claim in accordance with section 14—from a date not more than 6 months before the date on which the application under subsection 175(1) was made; or
    - (ii) if the review relates to an application in accordance with section 15, or to an application for attendant allowance—from the date on which the application under subsection 175(1) was made.
- (3) Where the Administrative Appeals Tribunal, on a review of a decision of a kind described in subsection 176(7), (8) or (9), varies or sets aside that decision, the Administrative Appeals Tribunal may fix, as the date as from which its decision (including any decision made by it in substitution for the decision set aside) is to operate, a date, being:

- (a) if application for the review was made within 3 months after service on the applicant of a copy of the decision of the Board or the Commission, as the case may be—a date not earlier than the date as from which the decision under review was to operate; or
  - (b) in any other case—a date not earlier than the date on which the application was made to the Administrative Appeals Tribunal.
- (4) Where the Administrative Appeals Tribunal fixes, as the date from which its decision to set aside a decision of the Commission, or of the Board, to cancel a pension is to have operated, a date (in this subsection referred to as the *later date*) after the date (in this subsection referred to as the *earlier date*) on which that pension was to be cancelled, that decision to cancel that pension shall, by force of this subsection, have effect, and be deemed to have had effect, as if it had not cancelled that pension but had suspended it from that earlier date until that later date.
- (5) Where the Administrative Appeals Tribunal, upon application made under subsection 175(2) for a review of a decision of the Commission under section 57B, grants a pension or increases the rate at which a pension is to be paid, the Tribunal may approve payment of the pension, or payment of the pension at the increased rate, as the case may be:
  - (a) if the application is made within 3 months after the service on the applicant of a document setting out the terms of that decision of the Commission made under section 57B—from a date not earlier than the earliest date as from which the Commission could, if it had, on its review under section 57B, granted a pension or increased the rate of the pension, have approved payment of the pension, or payment of the pension at the increased rate, as the case may be; or
  - (b) in any other case—from the date on which the application under subsection 175(2) was made.
- (5A) Subject to subsections (5B) and (5C), if the Administrative Appeals Tribunal, upon application made under subsection 175(2AA) for a review of a decision of the Commission under section 118ZU, determines that a person is entitled to a seniors health card, the determination takes effect from a date specified by the Tribunal.
- (5B) If the application to the Administrative Appeals Tribunal is made within 3 months after the service on the applicant of a document setting out the terms of the decision of the Commission made under section 118ZU, the date specified by the Tribunal must not be earlier than the date from which, had the Commission determined that the person is entitled to a seniors health card, such a determination could have taken effect.
- (5C) If subsection (5B) does not apply to a person, the date specified by the Administrative Appeals Tribunal must not be earlier than the date on which the application under subsection 175(2AA) was made.
- (6) Where the Administrative Appeals Tribunal, upon application under subsection 175(4) for a review of a decision made by the Commission with respect to an application for an allowance under section 97, 102, 103 or 104, grants the allowance referred to in that section, or increases the rate at which the allowance so referred to is to be paid, the Tribunal may approve payment of the allowance, or of the allowance at the increased rate, as the case may be:
  - (a) if the application was made within 3 months after service on the applicant of a document setting out the terms of that decision—from a date not earlier than the earliest date as from which the Commission could, if it had not made that decision, have approved payment of the allowance, or payment of the allowance at the increased rate, as the case may be; or
  - (b) in any other case—from the date on which the application under subsection 175(4) was made.

### **178 Period of operation of certain decisions of Administrative Appeals Tribunal**

- (1) Where, on a review of a reviewable decision, the decision of the Administrative Appeals Tribunal expressly, or in effect:
  - (a) assesses a rate of pension or increased rate of pension;
  - (b) refuses to grant a pension, on the ground that the extent of the incapacity of the veteran was insufficient to justify the grant of such a pension;
  - (c) refuses to increase the rate of a pension; or
  - (d) reduces the rate of a pension;that decision of the Administrative Appeals Tribunal shall, subject to subsection (2), be binding on the parties to the proceedings before that Tribunal for a period of 6 months commencing on the day on which that Tribunal makes the decision.
- (2) If, during the period referred to in subsection (1), the person to whom the pension is payable, or who was refused a pension, is of the opinion that his or her incapacity has increased, subsection (1) does not prevent:
  - (a) the person from making application for an increased pension or for a pension; or
  - (b) the grant of increased pension or of a pension, from a date within that period, by the Commission upon its consideration of such an application or by the Board on a review of the decision of the Commission on such an application.
- (3) In this section, *pension* does not include service pension or income support supplement.

## **Miscellaneous provisions of the Veterans' Entitlements Act 1986**

### **5T Lodgment of claims and documents**

- (1) For the purposes of this Act, a claim, application or other document is taken to have been:
  - (a) forwarded to, or delivered at, an office of the Department in Australia if the claim, application or document is:
    - (i) forwarded to, or delivered at, a place approved by the Commission for the purposes of this subsection; or
    - (ii) delivered to a person approved by the Commission for the purposes of this subsection; and
  - (b) received at an office of the Department in Australia on the day on which it is received at that place or delivered to that person.
- (2) The Commission may approve a place within or outside Australia for the purposes of subparagraph (1)(a)(i).
- (3) For the purposes of this Act, a claim or application is taken to have been made on the day on which it is received at an office of the Department in Australia.

### **19A Refusal to undergo medical examination etc. may delay consideration of claim or application**

- (1) Where:
  - (a) a claimant, being a veteran, has refused or failed to undergo a medical examination for the purpose of the investigation of the claim or the consideration of the claim by the Commission; or
  - (b) a claimant has refused or failed:



- (i) to consent to the release to the Secretary, or to the Commission, of information concerning a veteran for the purpose of the investigation or consideration of the claim; or
- (ii) to comply with a request under paragraph 32(1)(c) to furnish material to the Commission;

the Commission may, if it is of the opinion that that medical examination, information or material is likely to affect the decision it will make in respect of the claim, defer further consideration of the claim until the veteran has undergone the medical examination, or the claimant has consented to the release of the information or furnished the material, as the case may be, and, if it does so, the Commission shall serve on the claimant a notice, in writing, informing the claimant that the claim has been so deferred.

- (2) If, at the expiration of 6 months after a claimant has been informed under subsection (1) that a claim has been deferred by reason of the refusal or failure of a veteran to undergo a medical examination, the veteran has not undergone the medical examination, the claim shall, by force of this subsection, be deemed to have been refused.
- (3) If, at the expiration of 6 months after a claimant has been informed under subsection (1) that a claim has been deferred by reason that the claimant has refused or failed to consent to the release of information or to furnish material:
  - (a) the claimant has not consented to the release of the information; or
  - (b) the claimant has not furnished the material or satisfied the Commission that the material is not in the claimant's possession or under the claimant's control;
 as the case may be, the claim shall, by force of this subsection, be deemed to have been refused.
- (4) In this section:

*claimant* means a person who has made a claim under section 14 or an application under section 15.

*claim* means a claim made in accordance with section 14.

## **21A Determination of degree of incapacity**

- (1) The Commission shall, subject to subsections (2) and (3), determine the degree of incapacity of a veteran from war-caused injury or war-caused disease, or both, according to the provisions of the approved Guide to the Assessment of Rates of Veterans' Pensions.
- (2) Subject to subsection (3), the degree of incapacity shall be determined as 10% or a multiple of 10%, but not exceeding 100%.
- (3) The Commission may determine that the degree of incapacity of a veteran from war-caused injury or war-caused disease, or both, is less than 10% (including 0%), and, where it does so, it shall not assess a rate of pension, but shall refuse to grant a pension to the veteran on the ground that the extent of the incapacity of the veteran from that war-caused injury or war-caused disease, or both, is insufficient to justify the grant of a pension.

## **22 General rate of pension and extreme disablement adjustment**

- (1) This section applies to a veteran who is being paid, or is eligible to be paid, a pension under this Part, other than a veteran to whom section 23, 24 or 25 applies.
- (2) Subject to this Division, the rate at which pension is payable to a veteran to whom this section applies in respect of the incapacity of the veteran from war-caused injury or war-caused disease, or both, is the rate per fortnight that constitutes the same percentage of the general rate as the percentage determined by the Commission in accordance with section

21A to be the degree of incapacity of the veteran from that war-caused injury or war-caused disease, or both, as the case may be.

- (3) For the purposes of this section, the maximum rate per fortnight is \$216.90 per fortnight.
- (4) Where:
- (a) either:
    - (i) the degree of incapacity of a veteran from war-caused injury or war-caused disease, or both, is determined under section 21A to be 100% or has been so determined by a determination that is in force; or
    - (ii) a veteran is, because he or she has suffered or is suffering from pulmonary tuberculosis, receiving or entitled to receive a pension at the maximum rate per fortnight specified in subsection (3);
  - (b) the veteran has attained the age of 65;
  - (c) the veteran has an impairment rating of at least 70 points and a lifestyle rating of at least 6 points, each determined in accordance with the approved Guide to the Assessment of Rates of Veterans' Pensions; and
  - (d) the veteran is not receiving a pension at a rate provided for by section 23, 24 or 25;
- the rate at which pension is payable to the veteran is increased by 50% of the maximum rate set out in subsection (3).
- (5) For the purpose of subsection (4), a veteran who has been granted a pension at a rate specified in subsection (3) or provided for by section 23, 24 or 25 shall be taken to be receiving a pension at the rate specified in, or provided for by, the provision concerned even if:
- (a) the rate has been reduced, or the pension is not payable, because of section 26, 30C, 30D or 74;
  - (b) amounts are being deducted from the pension under section 79, 30P or 205; or
  - (c) the pension has been suspended under subsection 31(6).

### **31 Review by Commission**

- (1) Where:
- (a) the time has not expired for making application to the Board under section 135 for a review of a decision of the Commission with respect to:
    - (i) a claim for a pension in accordance with section 14;
    - (ii) an application for an increased pension, or for a pension, in accordance with section 15; or
    - (iii) an application for attendant allowance under section 98; or
  - (b) an application has been duly made to the Board under section 135 for a review of such a decision of the Commission but has not been determined by the Board;
- the Commission may, in its discretion, review that decision and, if it varies that decision, it may approve as the date as from which the variation shall operate a date not earlier than the earliest date as from which the decision as so varied could have operated if it had been made by the Board, in substitution for the original decision, upon a review of the original decision.
- (2) Where application has been duly made, otherwise than by the Commission, to the Administrative Appeals Tribunal under section 175 for a review of:
- (a) a decision of the Commission that has been affirmed by the Board; or
  - (b) a decision made by the Board in substitution for a decision of the Commission;
- but the review has not been determined, the Commission may, in its discretion, review that decision and, with the consent of the applicant, vary that decision and, if it varies that decision, it may approve as the date as from which the variation shall operate a date not

earlier than the earliest date as from which the decision as so varied could have operated if the variation had been made by the Administrative Appeals Tribunal upon a review of the decision.

- (3) The Commission may, for the purpose only of correcting a manifest error, vary the date approved by the Board as the date as from which a decision of the Board made in substitution for a decision of the Commission is to operate.
- (4) Where the Commission is satisfied that evidence before the Commission when it made a decision was false in a material particular, the Commission may, in its discretion, review the decision and, if it varies the decision, it may approve as the date as from which the variation shall operate a date, which may be a date before or after the commencement of the review, considered by the Commission to be appropriate in all the circumstances.
- (5) For the purposes only of approving a date under subsection (1) as the date as from which a variation of a decision to which paragraph (1)(a) applies shall operate, the Commission shall assume that an application had been made to the Board to review the decision on the date on which the Commission commenced its review of the decision.
- (5A) The Commission may, for the purpose of reviewing a decision under this section, of exercising its powers under subsection (6) for a reason specified in paragraph (6)(a) or (b) or of exercising its powers under subsection (8), by notice in writing served on a veteran who is in receipt of a pension under this Part, request the veteran:
  - (a) to undergo, as provided in the notice, a medical examination for the purpose of the review, or the exercise of those powers, as the case may be; or
  - (b) to consent to the release to the Commission of information concerning the veteran of a kind described in the notice, being information that, in the opinion of the Commission, may be relevant to the review, or the exercise of those powers, as the case may be.
- (6) Where the Commission is satisfied that:
  - (a) having regard to any matter that affects the payment of a pension or attendant allowance, being a matter that was not before the Commission, the Board or the Administrative Appeals Tribunal, as the case requires, when the decision to grant the pension or attendant allowance, or a decision to vary the rate of the pension or attendant allowance, was made;
  - (b) by reason of a refusal or failure of any person to comply with a provision of this Act;
  - (c) by reason of a refusal or failure of a veteran to comply with a notice served on the veteran under subsection (5A) or with a request made under paragraph 32(1)(c); or
  - (d) by reason of the circumstances referred to in a paragraph of section 24A being applicable to the veteran;in a case to which paragraph (a), (b) or (c) applies, a pension or attendant allowance should be cancelled or suspended or is being paid at a higher rate than it should be or, in a case to which paragraph (d) applies, a pension is being paid at a higher rate than it should be, the Commission may, by determination in writing, cancel or suspend or decrease the rate of the pension or attendant allowance, or decrease the rate of the pension, as the case may be, with effect, subject to subsection (7), from the day on which the determination was made or such later day as is specified in the determination.
- (6A) Where the Commission is, under subsection (6), satisfied that the rate of a pension payable to a veteran is higher than it should be by reason that the degree of incapacity of the veteran from war-caused injury or war-caused disease, or both, is less than 10 per centum (including nought per centum), it shall cancel the pension that was payable to the veteran.

- (6B) The cancellation of a pension payable to a veteran under subsection (6A) does not affect any decision of the Commission, the Board or the Administrative Appeals Tribunal that is in force determining that the veteran is suffering from a war-caused injury or a war-caused disease, or both.
- (7) Where a determination is made under subsection (6):
- (aa) by reason of the Commission having regard to a matter that affects the payment of a pension or attendant allowance in the circumstances specified in paragraph (6)(a); or
  - (a) by reason of the refusal or failure of a person to comply with a provision of this Act, other than:
    - (i) subsection 127(4) in relation to a notice under paragraph 127(1)(f); or
    - (ii) subsection 128(4); or
  - (b) by reason that an amount has been paid by way of pension or attendant allowance that, but for the false statement or misrepresentation of any person, would not have been paid;
- a date earlier than the date of the determination may be specified in the determination as the date as from which the cancellation, suspension or decrease, as the case may be, is to take effect.
- (7A) Subsection (7) does not apply to a determination made under subsection (6) for a reason set out in paragraph (6)(c).
- (8) Where the Commission is satisfied that, having regard to any matter that affects the payment of a pension or attendant allowance, the rate of the pension or attendant allowance is less than it should be, the Commission may, by determination in writing, increase the rate of the pension or attendant allowance with effect from the date of the determination, or such earlier date, or such later date, as is specified in the determination.
- (9) Where the Commission determines that a pension or attendant allowance be suspended:
- (a) the Commission may, in the same determination, fix the date of re-commencement of the pension or attendant allowance; or
  - (b) if the Commission does not so fix the date of re-commencement, the Commission shall, in a subsequent determination, fix the date of re-commencement of the pension or attendant allowance unless it makes a further determination cancelling the pension or attendant allowance.
- (10) If the Commission refuses or fails to review, under this section, a decision in relation to a pension or attendant allowance, the refusal or failure is not subject to review by the Board or by the Administrative Appeals Tribunal.
- (11) A decision by the Commission upon its review under this section of a decision in relation to a pension or attendant allowance is not subject to review by the Board or the Administrative Appeals Tribunal unless the Commission cancels or suspends the pension or attendant allowance, or varies the decision, reviewed by the Commission.
- (12) This section applies to and in relation to a decision made before or after the commencement of this section but does not apply to or in relation to a decision of the Board referred to in subsection 154(1), or a decision of the Administrative Appeals Tribunal referred to in subsection 178(1), that is binding on the Commission by reason that the period specified in that subsection has not expired.

## **126 Death of claimant**

- (1) On the death of a claimant, the claim does not lapse in respect of any period before the death of the claimant, but the legal personal representative of the claimant, or a person approved by the Commission, may take such action in respect of the claim as the claimant

could have taken if the claimant had not died and, for that purpose, the legal personal representative or person so approved shall be treated as the claimant.

- (2) On the death of a pensioner, the legal personal representative of the pensioner, or a person approved by the Commission, may take such action in respect of a variation of, or the suspension or cancellation of, the pensioner's pension effected before the death of the pensioner, or effected after the death of the pensioner as from a date before the death of the pensioner, as the pensioner could have taken if he or she had not died and, for that purpose, the legal personal representative or person so approved shall be treated as the pensioner.
- (3) If there is a legal personal representative of a deceased claimant or deceased pensioner, the Commission shall not approve a person for the purpose of subsection (1) or (2) unless it is satisfied that:
  - (a) the person has notified the legal personal representative of the deceased claimant, or deceased pensioner, that the legal personal representative has, or may have, a right under subsection (1) or (2), as the case may be; and
  - (b) the legal personal representative has refused, or failed within a reasonable time after having been so notified, to take any action in respect of the claim or pension, as the case may be.
- (4) In this section, **claim** means a claim in accordance with section 14, 35B, 36D, 37D, 38D, 39D or 45I, an application in accordance with section 15, and an application for review under Division 16 of Part IIIB, section 135 or 175, and **claimant** has a corresponding meaning.

### **132 Payment of travelling expenses in certain cases**

- (1) Subject to such conditions as are prescribed, where:
  - (a) a claimant; or
  - (b) a person likely to be affected by a review under section 31;travels:
  - (c) within Australia, for the purpose of attending, at the request of the Commission or a delegate of the Commission, before the Commission or such a delegate for a discussion in relation to the claim or review; or
  - (d) within or outside Australia, for the purpose of attending, at the request of the Secretary or the Commission, for a medical examination or medical investigation related to the claim or review;he or she is entitled to receive such travelling expenses in connection with that travel as are prescribed.
- (2) Subject to such conditions as are prescribed, an attendant who travels in Australia for the purpose of accompanying a claimant or person likely to be affected by a review under section 31 to a discussion, or for a medical examination or a medical investigation referred to in subsection (1) of this section, is entitled to be paid such travelling expenses in connection with that travel as are prescribed.
- (3) Subject to such conditions as are prescribed, a person summoned under section 32 or 57F to give evidence or produce documents, or both, is entitled to receive such travelling expenses in connection with his or her travel to give that evidence or produce those documents, or both, as are prescribed.
- (4) Subject to such conditions as are prescribed, an attendant who travels in Australia for the purpose of accompanying a person referred to in subsection (3) when that person gives evidence or produces documents, or both, in pursuance of a summons under section 32 or

- 57F is entitled to be paid such travelling expenses in connection with that travel as are prescribed.
- (5) Subject to such conditions as are prescribed, an applicant for a review under section 135 is entitled, if the applicant travels in Australia for the purpose of attending a hearing of the review by the Board, to receive such travelling expenses in connection with that travel as are prescribed.
  - (6) Subject to such conditions as are prescribed, an attendant who travels in Australia for the purpose of accompanying an applicant referred to in subsection (5) to a hearing of a review is entitled to be paid such travelling expenses in connection with that travel as are prescribed.
  - (7) Subject to such conditions as are prescribed, where:
    - (a) the party (not being the Commission) to proceedings for a review of a reviewable decision who made application for the review under section 175; or
    - (b) if the Commission made application for the review—the other party to the proceedings for the review whose interests are affected by the reviewable decision;
 travels within Australia for the purpose of attending before the Administrative Appeals Tribunal in connection with the review, the party is entitled to receive such travelling expenses in connection with that travel as are prescribed.
  - (8) Subject to such conditions as are prescribed, an attendant who travels within Australia for the purpose of accompanying a party referred to in subsection (7) on an attendance before the Administrative Appeals Tribunal referred to in that subsection is entitled to be paid such travelling expenses in connection with that travel as are prescribed.
  - (9) Where a claim for a pension:
    - (a) is made on behalf of the claimant:
      - (i) by a person who is a dependant of the claimant; or
      - (ii) by a person approved under paragraph 16(b), (c) or (d) to make the claim on behalf of the claimant; or
    - (b) is prosecuted by a person who is the legal personal representative of the claimant, or by a person approved under section 126, following the death of the claimant; and that person travels within Australia with the approval of the Commission for the purpose of:
      - (c) an investigation, by the Department or the Commission, of the claim; or
      - (d) attending at a hearing of a review of a decision, in respect of the claim, of the Commission by the Board;
 the person is, subject to such conditions as are prescribed, entitled to be paid such travelling expenses in connection with that travel as are prescribed.
  - (10) Travelling expenses to which a person is entitled to under this section are payable by the Commonwealth.
  - (11) Where a person who has travelled in Australia is entitled to be paid travelling expenses under this section in connection with that travel, application for payment of travelling expenses in respect of that travel:
    - (a) may be made:
      - (i) by that person; or
      - (ii) with the approval of that person or, if that person is, by reason of physical or mental ailment or of that person's death, unable to approve a person to make the application on his or her behalf, with the approval of the Commission, by another person on behalf of that person;

- (b) shall be made in writing and in accordance with a form approved by the Commission;
  - (c) shall be accompanied by such evidence available to the applicant as the applicant considers may be relevant to the application;
  - (d) shall be made:
    - (i) by forwarding to, or delivering at, an office of the Department in Australia the application and the evidence referred to in paragraph (c); or
    - (ii) if the application is in respect of travel referred to in subsection (5) or (6)—by forwarding the application and the evidence referred to in paragraph (c) to, or delivering the application and the evidence so referred to at, an office of the Board or an office of the Department in Australia; and
  - (e) shall be made within 3 months after the completion of that travel, and not otherwise.
- (12) In this section *claim* means a claim in accordance with section 14, 35B, 36D, 37D, 38D, 39D or 45I, an application in accordance with section 15 and an application for a review under Division 16 of Part IIIB, section, 115 or 135 and *claimant* has a corresponding meaning.

### **132A Advance of travelling expenses**

- (1) Where the Commission is satisfied:
- (a) that a person may reasonably be expected to become entitled to be paid travelling expenses under subsection 132(5) or (6) or under subsection 132(9) by virtue of paragraph (d) of that subsection; and
  - (b) that it is in all the circumstances appropriate for the person to be paid an advance on account of the travelling expenses that the person is expected to become entitled to be paid;
- the Commission may authorise a payment to the person of an advance on account of the travelling expenses that the person is expected to become entitled to be paid.
- (2) If the amount of the advance paid to a person on account of any travelling expenses in respect of any travel of the person exceeds the amount of travelling expenses that become payable to the person in respect of that travel, the person is liable to repay an amount equal to the excess to the Commonwealth.

### **212 Delegation by Minister**

- (1) The Minister may, either generally or as otherwise provided by the instrument of delegation, by writing signed by the Minister, delegate:
- (a) to a commissioner, or to an officer or employee of the Australian Public Service, all or any of the Minister's powers under this Act, other than this power of delegation; and
  - (b) to the Principal Member of the Board, all or any of the Minister's powers under section 161 or 162 of this Act.
- (2) A power delegated under this section, where exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Minister.
- (3) A delegation under this section does not prevent the exercise of a power by the Minister.
- (4) In this section, *commissioner* includes an acting commissioner.

### **213 Delegation by Commission**

- (1) The Commission may, either generally or as otherwise provided by the instrument of delegation, by writing under its seal, delegate to a commissioner, or to an officer or

employee of the Australian Public Service, all or any of its powers under this Act, under the regulations, under the *Veterans' Entitlements (Transitional Provisions and Consequential Amendments) Act 1986* or under any of the provisions of an Act repealed by subsection 3(1) of this Act in their application, notwithstanding their repeal, by virtue of the *Veterans' Entitlements (Transitional Provisions and Consequential Amendments) Act 1986*, other than this power of delegation.

- (2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act or the regulations, be deemed to have been exercised by the Commission.
- (3) A delegation of a power under this section does not prevent the exercise of a power by the Commission.
- (4) In this section, *commissioner* includes an acting commissioner.

#### **214 Delegation by Secretary**

- (1) The Secretary may, either generally or as otherwise provided by the instrument of delegation, by writing signed by the Secretary, delegate to an officer or employee of the Australian Public Service, all or any of the Secretary's powers under this Act or the regulations, other than this power of delegation.
- (2) A power delegated under this section, when exercised by a delegate, shall, for the purposes of this Act or the regulations, be deemed to have been exercised by the Secretary.
- (3) A delegation under this section does not prevent the exercise of a power by the Secretary.

#### **215 Annual report**

- (1) The Commission shall, as soon as practicable after 30 June in each year, prepare and furnish to the Minister a report on the operation of this Act during the year that ended on that 30 June.
- (2) The Minister shall cause a copy of a report furnished to the Minister under subsection (1) to be laid before each House of the Parliament within 15 sitting days of that House after the day on which the Minister receives the report.
- (3) The first report to be prepared and furnished under subsection (1) shall be a report:
  - (a) on the administration and operation of the *Repatriation Act 1920* in respect of the period that commenced on 1 July 1985 and ended on the day immediately preceding the date fixed under section 2; and
  - (b) on the operation of this Act in respect of the period that commenced on the date fixed under section 2 and ends on 30 June 1986.
- (4) The Principal Member of the Board shall, as soon as practicable after 30 June in each year, prepare and furnish to the Minister a report on the operations of the Board during the year that ended on that 30 June.
- (5) The Minister shall cause a copy of a report furnished to the Minister under subsection (4) to be laid before each House of the Parliament within 15 sitting days of that House after the day on which the Minister receives the report.
- (6) The first report to be prepared and furnished to the Minister under subsection (4) shall be a report on the operations of the Board:
  - (a) under the *Repatriation Act 1920* in respect of the period that commenced on 1 July 1985 and ended on the day immediately preceding the date fixed under section 2; and
  - (b) under this Act in respect of the period that commenced on the date fixed under section 2 and ends on 30 June 1986.



## 216 Regulations

The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which are by this Act required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and, in particular, for prescribing penalties not exceeding a fine of \$500 for a contravention of the regulations.

# Extracts from Veterans' Entitlements Regulations

## 9 Travelling expenses under section 110 or 132 of the Act

- (1) In this regulation:

***attendant*** means:

- (a) a person who is authorised by the Commission under section 110 of the Act to accompany a veteran or a dependant of a deceased veteran as his or her attendant; or
- (b) a person who accompanies a person referred to in subsection 132 (1), (3), (5) or (7) of the Act; or
- (c) if the Commission is of the view that it is reasonable for an applicant under section 170B of the Act to be accompanied by an attendant—a person who accompanies the applicant.

***commercial accommodation*** means accommodation provided by a commercial establishment such as a hotel or motel.

***entitled person*** means a person who is entitled to be paid travelling expenses under section 110, 132 or 170B of the Act.

***private accommodation*** means accommodation that is not commercial accommodation or subsidised accommodation.

***residence***, in relation to a person at a time, means the permanent or temporary place of residence of that person at that time.

***subsidised accommodation*** means accommodation provided on a cost-recovery basis by an organisation that receives a subsidy for providing the accommodation, such as a hostel.

***travel***, in relation to an entitled person, means travel referred to in section 110, 132 or 170B of the Act from his or her residence to his or her destination and return.

- (2) Subject to this regulation, and to regulations 9AD and 9AE, travelling expenses comprise the amount required to reimburse in whole or part expenditure on:
- (a) transport;
  - (b) accommodation; or
  - (c) meals;

necessarily incurred by or on behalf of an entitled person in connection with travel referred to in section 110, 132 or 170B of the Act.

- (3) Subject to subregulations (4) and (4A), and regulation 9AD, the amount of travelling expenses payable to an entitled person in respect of transport for travel shall not exceed an amount calculated by the Commission as the cost of travel by the most appropriate form of transport over the relevant distance.
- (4) Subject to regulation 9AD, where the cost incurred by an entitled person in respect of transport for travel referred to in subregulation (3) is less than the amount calculated by the

Commission under that subregulation, the cost so incurred shall be the amount of travelling expenses payable to that person in respect of transport.

- (4A) If an entitled person incurs parking fees at or in the vicinity of 1 or more places to which the person has travelled for a purpose referred to in section 110, 132 or 170B of the Act that exceed \$50 in a prescribed period, the travelling expenses payable to the person include the amount by which the fees exceed \$50.
- (4B) In subregulation (4A), **prescribed period** means the period of 6 months beginning on 1 January or 1 July in 1998 or any subsequent year.
- (5) For the purposes of subregulation (3), the most appropriate form of transport is the form determined by the Commission having regard to:
- (a) the forms of transport that were reasonably available to the person for the purpose of that travel;
  - (b) the cost of each of those forms of transport including, where a form of transport was reasonably available in more than one class, differences in cost between those classes;
  - (c) the desirability of using the cheapest form of suitable transport for the purposes of that travel;
  - (d) the degree of any mental or physical disablement of the person;
  - (e) the distance travelled; and
  - (f) whether the route taken in that travel was the most direct, practical route;
- as the most appropriate form of transport for that travel.
- (6) For subregulation (3), the relevant distance for travel by an entitled person under section 110 of the Act is:
- (a) if the distance from the residence of the entitled person to the treatment location is more than 50 km and the entitled person's application is endorsed for treatment — that distance; or
  - (b) if the distance from the residence of the entitled person to the treatment location is more than 50 km and the entitled person's application is not endorsed for treatment — 50 km; or
  - (c) subject to subregulation (8), if the distance from the residence of the entitled person to the treatment location is 50 km or less — that distance.
- (7) In subregulation (6), **endorsed for treatment** means written confirmation endorsed on the application by the entitled person's treating practitioner that:
- (a) the treatment met the health care needs of the entitled person; and
  - (b) the treatment location was as close as practical to the entitled person's residence.
- (8) For paragraph (6) (c), if the Commission is satisfied that another suitable treatment location was closer to the entitled person's residence, the relevant distance is the distance from the entitled person's residence to that treatment location.
- (9) For subregulation (3), the relevant distance for travel under section 132 of the Act is the distance that in all the circumstances is reasonable.
- (10) For subregulation (3), the relevant distance for travel under section 170B of the Act is the distance by the most direct practicable route from the entitled person's residence to the place attended by that person to obtain relevant documentary medical evidence.

- (11) For this regulation, the cost of transport between 2 places by private motor vehicle, bus, train, tram or ferry is taken to be 21 cents per kilometre over the most direct route between the places, regardless of the mode of transport used.
- (12) Subject to subregulations (13), (14), (15) and (18), the amount of travelling expenses payable to an entitled person in respect of each night's accommodation and meals during the course of travel is the amount specified for whichever of the following kinds of accommodation was used on that night:
  - (a) for commercial accommodation that is not in a capital city — \$80 each night;
  - (b) for commercial accommodation that is in a capital city — \$95 each night;
  - (c) for subsidised accommodation — \$50 each night;
  - (d) for private accommodation — \$25 each night.
- (13) If an entitled person, not being an attendant, and an attendant share commercial accommodation for a night, the amount of travelling expenses payable to the entitled person for the night's accommodation and meals for both the person and the attendant is \$130.
- (14) A person is not entitled to payment of an amount mentioned in paragraph (12) (a), (b) or (c) or subregulation (13) unless he or she first produces proof of expenditure for the relevant accommodation.
- (15) The amount of travelling expenses payable to an entitled person for meals during the course of travel on a day on which overnight accommodation is not required is:
  - (a) if the distance from the residence of the entitled person to the person's destination exceeds 50 km but does not exceed 200 km — \$8 each day; or
  - (b) if the distance from the residence of the entitled person to the person's destination exceeds 200 km — \$16 each day.
- (16) If an attendant accompanies a veteran or a dependant of a deceased veteran to a hospital or other institution to which the veteran or dependant is admitted, the attendant is entitled to payment of travelling expenses in accordance with subregulation (17), in addition to the expenses payable for the journeys to and from the hospital or other institution with the veteran or dependant:
  - (a) to return to his or her residence at the time of the admission; and
  - (b) to return to the hospital or other institution when the veteran or dependant is discharged.
- (17) The travelling expenses payable to an attendant under subregulation (16):
  - (a) are based on the same mode of transport as was used to accompany the veteran or dependant; and
  - (b) include any applicable amounts for accommodation and meals.
- (18) If an attendant accompanies a veteran or a dependant of a deceased veteran to a hospital or other institution to which the veteran or dependant is admitted, and the attendant stays in commercial accommodation while the veteran or dependant is in the hospital or other institution, the attendant is entitled to payment of travelling expenses, in addition to the expenses payable for the journeys to and from the hospital or other institution with the veteran or dependant, equal to the lesser of:
  - (a) the travelling expenses that would have been payable under subregulation (16), excluding any amounts for accommodation and meals, if the attendant had returned home and returned to the hospital or other institution using a private motor vehicle; and

- (b) the travelling expenses payable under subregulation (12) for the period from the admission of the veteran or dependant until his or her discharge.

*Examples*

1 A veteran and attendant drive by private motor vehicle to an appointment 100 km from home, and return on the same day. The travelling expenses are:

Veteran:	meals	\$8.00	(paragraph 9 (15) (a))
	transport	\$42.00	(subregulation 9 (11) — 200km @ 21c/km)
Attendant:	meals	\$8.00	
Total		\$58.00	

2 A veteran and attendant drive by private motor vehicle to an appointment in a capital city 300 km from home, stay overnight in non-shared commercial accommodation, and return the next day. The travelling expenses are:

Veteran:	accom. & meals (1st day)	\$95.00	(paragraph 9 (12) (b))
	meals (2nd day)	\$16.00	(paragraph 9 (15) (b))
	transport	\$126.00	(subregulation 9 (11) — 600km @ 21c/km)
Attendant:	accom. & meals (1st day)	\$95.00	
	meals (2nd day)	\$16.00	
Total:		\$348.00	

3 A veteran and attendant drive by private motor vehicle to an appointment in a capital city 300km from home, and stay overnight in non-shared commercial accommodation. The veteran is admitted to a hospital the next morning. The attendant returns home and comes back to collect the veteran, staying in commercial accommodation the night before the veteran is discharged. The travelling expenses are:

Amount set out in example 2:	\$348.00	
Attendant: transport	\$126.00	(subregulations 9 (11) and (16) — journey home and back to hospital—600km @ 21c/km)
	meals	\$16.00 (subregulation 9 (16) — journey home after delivering veteran)
	accom. & meals	\$95.00 (subregulation 9 (16) — journey back to hospital)
Total:	\$585.00	

4. The situation is the same as in example 3, except that the attendant stays in commercial accommodation while the veteran is in the hospital (2 nights). The travelling expenses payable are:

Amount set out in example 2:	\$348.00	
Attendant: The lesser of:		
(a) transport home and back to the hospital:	\$126.00	
(paragraph 9 (18) (a)); or		
(b) 2 nights commercial accommodation:	\$190.00	
(paragraph 9 (18) (b)).		
Total:	\$474.00	

## **9AA Annual increase in rates**

Despite any other provision of these regulations, a rate prescribed by subregulation 9 (11), (12), (13) or (15) is increased, as applicable, in accordance with regulation 9AB, on each anniversary of 1 July 1997.

## **9AB Calculation of increase**

- (1) In this regulation:

**CPI number** means the All Groups Consumer Price Index number (that is, the weighted average of the 8 Australian capital cities) published by the Australian Statistician.

**earlier CPI number**, for a financial year, means the CPI number for the last March quarter before the beginning of the financial year.

**latest CPI number**, for a financial year, means the CPI number for the last March quarter before the end of the financial year.

**rate** means a rate prescribed by subregulation 9 (11), (12), (13) or (15).

**relevant financial year** means a financial year beginning on or after 1 July 1997.

**relevant rate**, for a financial year, means the rate applying in the financial year.

- (2) If, for a relevant financial year, the latest CPI number is greater than the earlier CPI number, a rate is taken to increase, on 1 July of the next financial year, in accordance with the following formula:

$$\frac{\text{relevant rate} \times \text{latest CPI number}}{\text{earlier CPI number}}$$

- (3) If, apart from this subregulation, a rate prescribed by subregulation 9 (11) and increased under subregulation (2) is not a multiple of 0.1 cents, the rate is to be rounded to the nearest multiple of 0.1 cents and, if the amount to be rounded is 0.05 cents, rounded up.
- (4) If, apart from this subregulation, a rate prescribed by subregulation 9 (12), (13) or (15) and increased under subregulation (2) is not a multiple of 10 cents, the rate is to be rounded to the nearest multiple of 10 cents and, if the amount to be rounded is 5 cents, rounded up.
- (5) If, at any time, whether before or after the commencement of this regulation, the Australian Statistician publishes for a particular March quarter a CPI number in substitution for a CPI number previously published by the Australian Statistician for the quarter, the publication of the later CPI number is to be disregarded for this regulation.
- (6) However, if, at any time, whether before or after the commencement of this regulation, the Australian Statistician changes the reference base for the Consumer Price Index, then, in applying this regulation after the change is made, regard is to be had only to numbers published in terms of the new reference base.

#### **9AC Travelling expenses under section 170B of the Act — interpretation**

- (1) In this regulation and regulations 9AD, 9AE and 9AF:

**application**, in relation to an entitled person, means an application in accordance with subsection 170B (5) of the Act for the payment of travelling expenses.

- (2) In this regulation and regulations 9AD, 9AE, 9AF, 9AG and 9AH:

**entitled person** means an applicant or an attendant who is entitled to be paid travelling expenses under section 170B of the Act.

#### **9AD Travelling expenses under section 170B of the Act — up to \$500**

The total amount, not exceeding \$500, of an entitled person's travelling expenses is payable to the person if:

- (a) he or she applies to the Commission for payment of travelling expenses up to \$500 (whether the application is made before or after travel); and
- (b) the application is accompanied by written evidence of his or her travelling expenses.

### **9AE Travelling expenses under section 170B of the Act — over \$500**

- (1) Subregulation (2) applies if:
  - (a) an entitled person applies to the Commission for payment of travelling expenses over \$500 (whether the application is made before or after travel); and
  - (b) the person's application is accompanied by written evidence of his or her travelling expenses.
- (2) The amount payable to the person, as soon as practicable after receipt of the application by the Commission, is the lesser of:
  - (a) the amount of his or her travelling expenses; and
  - (b) the amount calculated by the Commission, in accordance with regulations 9, 9AM and 9AN, as the amount of travelling expenses payable to the person.
- (3) The Commission must notify an entitled person of a decision it makes under subregulation (2) as soon as practicable after the Commission receives that person's application.

### **9AF Travelling expenses under section 170B of the Act — request for written evidence**

- (1) Subregulation (2) applies if:
  - (a) not later than 6 months after an entitled person completes his or her travel, the Commission requests that person to give to the Commission written evidence of his or her travelling expenses; and
  - (b) the person does not give the Commission the written evidence within 3 months after the request was made.
- (2) The Commission may:
  - (a) if the person has not been paid travelling expenses in advance under section 170C of the Act — refuse to authorise the payment of travelling expenses; or
  - (b) if the person has been paid travelling expenses in advance under section 170C of the Act — request the person to repay to the Commonwealth the amount of the advance.

*Note* Subsection 170C (2) of the Act provides that a person in receipt of an advance for travelling expenses under subsection 170C (1) of the Act, is liable to repay to the Commonwealth all or any part of the advance that represents an amount for which travelling expenses were not incurred.

- (3) The Commission must notify an entitled person of a decision it makes under subregulation (2) as soon as practicable after the Commission receives that person's application.

### **9AG Reconsideration of decisions — initiated by the Commission**

If the Commission is satisfied that information given to the Commission when it made a decision under regulation 9, 9AD or 9AE is false or misleading in a relevant detail, the Commission may, in its discretion:

- (a) reconsider the decision; and
- (b) if it decides that an amount of travelling expenses has been paid that would not have been paid but for the false or misleading statement or representation—request the entitled person to repay to the Commonwealth an amount equal to that amount.

*Note 1* The effect of section 205 of the Act is that if a person is paid a pension, allowance or other pecuniary benefit under the Act because of a false statement or representation to the Commission by that person, procedures are prescribed enabling the Commission to recover from that person an amount equal to the amount of the pension, allowance or other pecuniary benefit paid.

*Note 2* The effect of section 208 of the Act is that if a person is paid a pension, allowance or other pecuniary benefit under the Act because of a false or misleading statement to the Commission by that person, the person is guilty of an offence that is punishable, on conviction, by a fine or imprisonment or both.

#### **9AH Reconsideration of decisions — initiated by entitled persons**

- (1) An entitled person who is dissatisfied with a decision of the Commission under regulation 9, 9AE or 9AF may request the Commission to reconsider the decision.
- (2) A request for reconsideration of a decision must:
  - (a) be in writing; and
  - (b) set out the grounds on which the request is made; and
  - (c) be made to the Commission within 3 months after the day on which the person seeking reconsideration was notified of the decision.
- (3) If the Commission has delegated its powers under this regulation to the person who made a decision under reconsideration, that person must not reconsider the decision.

#### **9AI Commission's duty if a request for reconsideration made**

- (1) If the Commission receives a request under regulation 9AH, the Commission must affirm the decision or set it aside:
  - (a) within 3 months after receipt of the request; or
  - (b) within such longer period as is agreed in writing by the person who made the request.
- (2) If the Commission sets aside a decision first made under regulation 9, 9AE or 9AF, it must make a decision in place of the decision set aside, taking into consideration only the evidence that was before the Commission when it made the first decision.

#### **9AJ Commission must make written record of reconsidered decision and reasons**

- (1) When the Commission reconsiders a decision referred to in regulation 9AG or 9AH, it must make a written record of the reconsidered decision.
- (2) The written record must include a statement that:
  - (a) sets out the Commission's findings on relevant questions of fact; and
  - (b) refers to the evidence or other material on which those findings are based; and
  - (c) provides reasons for the Commission's decision.

#### **9AK Written record to be given to person who requested reconsideration**

As soon as practicable after the Commission reconsiders a decision referred to in regulation 9AG or 9AH, it must give to the person who requested reconsideration of the decision a copy of the written record referred to in regulation 9AJ.

#### **9AL Review by Administrative Appeals Tribunal**

- (1) Application under the *Administrative Appeals Tribunal Act 1975* may be made to the Administrative Appeals Tribunal for a review of a decision of the Commission under regulation 9AG or 9AI.
- (2) An application under subregulation (1) must be made within 3 months after the day on which the person seeking review was notified of the Commission's decision.

### **9AM Travelling expenses under section 110, 132 or 170B of the Act to 1 destination for 2 or more purposes**

Despite regulations 9, 9AD and 9AE, if a person who is entitled to be paid travelling expenses under section 110, 132 or 170B of the Act travels to 1 destination for 2 or more purposes referred to in section 110, 132 or 170B of the Act, the amount of travelling expenses that that person is entitled to be paid is the greatest amount payable under section 110, 132 or 170B of the Act for 1 of those purposes.

*Note* For example, a person who travels to a medical practice to obtain relevant documentary medical evidence as well as for treatment will only be paid the greatest amount of travelling expenses payable under section 110, 132 or 170B of the Act for that travel.

### **9AN Travelling expenses under section 110, 132 or 170B of the Act to more than 1 location within the same town or city**

Despite regulations 9, 9AD and 9AE, if a person who is entitled to be paid travelling expenses under section 110, 132 or 170B of the Act travels to more than 1 location in the same city or town for a purpose or purposes referred to in section 110, 132 or 170B of the Act, the amount of travelling expenses that that person is entitled to be paid is:

- (a) the greatest amount payable under section 110, 132 or 170B of the Act for travel to the city or town; and
- (b) the greatest amount payable under section 110, 132 or 170B of the Act for travel between each location within that city or town.

*Note* For example, a person who travels to a medical practice in a city for treatment, and then goes to another location in the same city for a medical examination before returning home, will only be paid once for the return travel to the city, and once for the travel from the medical practice to the other location (being the greatest amount of travelling expenses payable under section 110, 132 or 170B of the Act for that travel).

### **9A Address of the Commission — subsection 140 (2A) of the Act**

For the purposes of subsection 140 (2A) of the Act, the prescribed address of the Commission is the office of the Assistant Secretary, Compensation and Review, 20th Floor, MLC Tower, Woden, Australian Capital Territory.

### **10 Summons under subsection 151 (2) of the Act**

A summons under subsection 151 (2) of the Act:

- (a) may be in accordance with [Form 3](#); and
- (b) may be served on a person by:
  - (i) delivering a copy of the summons to the person personally; and
  - (ii) showing the original of the summons to the person at the time at which the copy is delivered.

### **11 Allowances payable to members of the Veterans' Review Board**

For the purposes of subsection 160 (2) of the Act, the following allowances are prescribed, namely the allowances payable to an officer of the Australian Public Service.

### **12 Fees for witnesses**

For the purposes of subsection 171 (1) of the Act, the fees, and allowances for expenses, a person, other than the applicant, summoned to appear as a witness at a hearing before the Board, is entitled to be paid in respect of his or her attendance are the fees, and allowances for expenses other than expenses in respect of travel undertaken outside Australia, in respect of the attendance, that are determined by the member of the Board



presiding at the hearing in accordance with the scale in Schedule 2 to the Administrative Appeals Tribunal Regulations as in force from time to time.

## Form 3 Veterans' Entitlements Regulations

(regulation 10)

### Summons

In the matter of the application by

for review of a decision of the Repatriation Commission

To: *(name and address of witness)*

YOU ARE HEREBY SUMMONED pursuant to sub-section 151 (2) of the *Veterans' Entitlements Act 1986* to appear before the Veterans' Review Board at *(place, time and date of hearing)* and on each subsequent day of the hearing of the above-mentioned proceeding until you are excused or released from further attendance to give evidence ( \* and to produce the following documents:)

Presiding member

Date

\* *Omit if inapplicable*

## Extracts from the Acts Interpretation Act 1901

### 25 References to writing, documents and records

In any Act, unless the contrary intention appears:

**document** includes:

- (a) any paper or other material on which there is writing;
- (b) any paper or other material on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them; and
- (c) any article or material from which sounds, images or writings are capable of being reproduced with or without the aid of any other article or device.

**record** includes information stored or recorded by means of a computer.

**writing** includes any mode of representing or reproducing words, figures, drawings or symbols in a visible form.

### 25A Production of records kept in computers etc.

Where a person who keeps a record of information by means of a mechanical, electronic or other device is required by or under an Act to produce the information or a document containing the information to, or make a document containing the information available for inspection by, a court, tribunal or person, then, unless the court, tribunal or person otherwise directs, the requirement shall be deemed to oblige the person to produce or make available for inspection, as the case may be, a writing that reproduces the information in a form capable of being understood by the court, tribunal or person, and the production of such a writing to the court, tribunal or person constitutes compliance with the requirement.

### **25C Compliance with forms**

Where an Act prescribes a form, then, unless the contrary intention appears, strict compliance with the form is not required and substantial compliance is sufficient.

### **25D Content of statements of reasons for decisions**

Where an Act requires a tribunal, body or person making a decision to give written reasons for the decision, whether the expression “reasons”, “grounds” or any other expression is used, the instrument giving the reasons shall also set out the findings on material questions of fact and refer to the evidence or other material on which those findings were based.

### **28A Service of documents**

- (1) For the purposes of any Act that requires or permits a document to be served on a person, whether the expression “serve”, “give” or “send” or any other expression is used, then, unless the contrary intention appears, the document may be served:
  - (a) on a natural person:
    - (i) by delivering it to the person personally; or
    - (ii) by leaving it at, or by sending it by pre-paid post to, the address of the place of residence or business of the person last known to the person serving the document; or
  - (b) on a body corporate—by leaving it at, or sending it by pre-paid post to, the head office, a registered office or a principal office of the body corporate.
- (2) Nothing in subsection (1):
  - (a) affects the operation of any other law of the Commonwealth, or any law of a State or Territory, that authorizes the service of a document otherwise than as provided in that subsection; or
  - (b) affects the power of a court to authorize service of a document otherwise than as provided in that subsection.

### **29 Meaning of service by post**

- (1) Where an Act authorizes or requires any document to be served by post, whether the expression “serve” or the expression “give” or “send” or any other expression is used, then unless the contrary intention appears the service shall be deemed to be effected by properly addressing prepaying and posting the document as a letter, and unless the contrary is proved to have been effected at the time at which the letter would be delivered in the ordinary course of post.
- (2) This section does not affect the operation of section 160 of the *Evidence Act 1995*.

## **Extracts from the Administrative Appeals Tribunal Act 1975**

### **29 Manner of applying for review**

- (1) An application to the Tribunal for a review of a decision:
  - (a) shall be in writing; and
  - (b) may be made in accordance with the prescribed form; and
  - (c) except if paragraph (ca) or (cb) applies—must contain a statement of the reasons for the application; and

- (ca) in respect of an application made under subsection 54(1) of the *Australian Security Intelligence Organization Act 1979* for review of a security assessment—must be accompanied by:
    - (i) a copy of the assessment as given to the applicant; and
    - (ii) a statement indicating any part or parts of the assessment with which the applicant does not agree and setting out the grounds on which the application is made; and
  - (cb) in respect of an application under subsection 54(2) of the *Australian Security Intelligence Organization Act 1979*—must be accompanied by a statement setting out the grounds on which the application is made;
  - (d) if the terms of the decision were recorded in writing and set out in a document that was furnished to the applicant or the decision is deemed to be made by reason of the operation of subsection 25(5)—shall be lodged with the Tribunal within the prescribed time.
- (1A) If, in an application, a person does not furnish an address at which documents in relation to the proceeding may be served, any address of the person shown in the application, or later notified to the Tribunal as an address for service, is taken to be an address furnished by the person at which such documents may be served.
- (2) Subject to subsection (3), the prescribed time for the purposes of paragraph (1)(d) is the period commencing on the day on which the decision is made and ending on the twenty-eighth day after:
- (a) if the decision sets out the findings on material questions of fact and the reasons for the decision—the day on which a document setting out the terms of the decision is furnished to the applicant; or
  - (b) if the decision does not set out those findings and reasons:
    - (i) if a statement in writing setting out those findings and reasons is furnished to the applicant otherwise than in pursuance of a request under subsection 28(1) not later than the twenty-eighth day after the day on which a document setting out the terms of the decision is furnished to the applicant—the day on which the statement is so furnished;
    - (ii) if the applicant, in accordance with subsection 28(1), requests the person who made the decision to furnish a statement as mentioned in that subsection—the day on which the statement is furnished or the applicant is notified in accordance with subsection 28(3A) that the statement will not be furnished; or
    - (iii) in any other case—the day on which a document setting out the terms of the decision is furnished to the applicant.
- (3) In the case of a decision that is deemed to be made by reason of the operation of subsection 25(5), the prescribed time for the purposes of paragraph (1)(d) is the period commencing on the day on which the decision is deemed to be made and ending:
- (a) in a case to which paragraph (b) does not apply—on the twenty-eighth day after that day; or
  - (b) in the case where the person whose failure to do an act or thing within a particular period is deemed by subsection 25(5) to constitute the making of the decision makes or purports to make, after the expiration of that period, a decision either to do or not to do that act or thing, being a decision the terms of which were recorded in writing and set out in a document that was furnished to the applicant—on the twenty-eighth day after:
    - (i) if the decision sets out the findings on material questions of fact and the reasons for the decision—the day on which a document setting out the terms of the decision is furnished to the applicant; or

- (ii) if the decision does not set out those findings and reasons—the day that would be ascertained under paragraph (2)(b) if subsection (2) were applicable in relation to the decision.
- (4) Where:
  - (a) no time is prescribed for the lodging with the Tribunal of applications for review of a particular decision; or
  - (b) no time is prescribed for the lodging with the Tribunal by a particular person of an application for a review of a particular decision;
 and the Tribunal is of the opinion that the application was not lodged within a reasonable time after the decision was made, the Tribunal shall, subject to subsection (6):
  - (c) in a case to which paragraph (a) applies—refuse to entertain an application for a review of the decision referred to in that paragraph; or
  - (d) in a case to which paragraph (b) applies—refuse to entertain an application by the person referred to in that paragraph for a review of the decision so referred to.
- (5) In forming an opinion for the purposes of subsection (4), the Tribunal shall have regard to:
  - (a) the time when the applicant became aware of the making of the decision; and
  - (b) in a case to which paragraph (4)(b) applies—the period or periods prescribed for the lodging by another person or other persons of an application or applications for review of the decision;
 and may have regard to any other matters that it considers relevant.
- (6) Notwithstanding subsection (4), the Tribunal may entertain an application referred to in that subsection if it is of the opinion that there are special circumstances that justify it in doing so.
- (7) The Tribunal may, upon application in writing by a person, extend the time for the making by that person of an application to the Tribunal for a review of a decision (including a decision made before the commencement of this section).
- (8) The time for making an application to the Tribunal for a review of a decision may be extended under subsection (7) although that time has expired.
- (9) Before determining an application for an extension of time, the Tribunal may, if it thinks fit, require the applicant to serve notice of the application on a specified person or persons, being a person or persons whom the Tribunal considers to be affected by the application.
- (10) If a person on whom a notice is served under subsection (9), within the prescribed time after the notice is received by him or her, gives notice to the Tribunal, as prescribed, stating that he or she wishes to oppose the application, the Tribunal shall not determine the application except after a hearing at which the applicant and any person who so gave notice to the Tribunal are given a reasonable opportunity of presenting their respective cases.
- (11) The Registrar, a District Registrar or a Deputy Registrar shall cause notice in writing of an application for a review of a decision, in accordance with the prescribed form, to be served on the person who made the decision.

### **37 Lodging of material documents with Tribunal**

- (1AAA) This section does not apply to a proceeding in the Security Appeals Division to which section 39A applies.
- (1) Subject to this section, a person who has made a decision that is the subject of an application for a review by the Tribunal must, within 28 days after receiving notice of the

application (or within such further period as the Tribunal allows), lodge with the Tribunal 2 copies of:

- (a) a statement setting out the findings on material questions of fact, referring to the evidence or other material on which those findings were based and giving the reasons for the decision; and
- (b) every other document or part of a document that is in the person's possession or under the person's control and is considered by the person to be relevant to the review of the decision by the Tribunal.

(1AA) The Tribunal may direct a person who is required to lodge with the Tribunal 2 copies of a statement or other document or part of a document under subsection (1) to lodge with the Tribunal such number of additional copies, and within such period, as the Tribunal determines and, if the Tribunal gives such a direction, the person must comply with it.

(1AB) Subject to any other Act, the President may, in relation to a particular decision or class of decisions, direct that the person who is obliged to lodge with the Tribunal the statement referred to in paragraph (1)(a) may, in lieu of lodging the statement, lodge with the Tribunal, within the period applicable under subsection (1), 2 copies of the document setting out the reasons for the decision that is the subject of the application for review.

(1AC) If a person has, in accordance with a direction given under subsection (1AB), lodged with the Tribunal 2 copies of the document setting out the reasons for a decision, the Tribunal may at any later time direct the person to lodge with the Tribunal, within such period as the Tribunal determines, a statement in accordance with paragraph (1)(a).

(1AD) If a person who has made a decision that is the subject of an application for a review by the Tribunal has given to a party to the proceeding a statement in relation to the decision under subsection 28(1), the reference in paragraph (1)(a) to a statement is taken to be a reference to the statement given under subsection 28(1).

(1AE) A person who is required under subsection (1) or (1AB) to lodge 2 copies of a statement or other document or part of a document with the Tribunal under this section within a particular period must also give a copy of the statement or other document or part of a document within that period to each other party to the proceeding.

(1AF) If:

- (a) a person who has made a decision that is the subject of an application for a review by the Tribunal would, apart from this subsection, be required under paragraph (1)(b) to lodge 2 copies of a document or a part of a document with the Tribunal in respect of the application; and
- (b) within the period applicable under subsection (1) the person:
  - (i) applies to the Tribunal for a direction under subsection 35(2) in relation to the document or part of the document and lodges with the Tribunal, together with the application for the direction, 2 copies of the document or part of the document; and
  - (ii) serves a copy of the application for the direction on each party to the application for review;

the person is not required to comply with paragraph (1)(b) in relation to the document or part of the document unless and until the Tribunal, after hearing the application for the direction, directs the person to do so.

(1AG) Subsection (1AF) does not affect the obligation of a person referred to in that subsection to comply with paragraph (1)(b) in relation to any document or part of a document to which that subsection does not apply.

(1A) If it appears to the Tribunal that a party to a proceeding before the Tribunal for a review of a decision would or might suffer hardship if the period prescribed by subsection (1) for

lodging with the Tribunal for the purposes of the review the copies of the documents mentioned in that subsection is not shortened, the Tribunal may, upon request being made, as prescribed, by that party, make an order directing that those copies be lodged with the Tribunal within such period (being a period of less than 28 days) after the person who made the decision receives or received notice of the application as is specified in the order.

- (1B) Where an application that has been lodged with the Tribunal for a review of a decision was not lodged within the time within which it was required by section 29 to be lodged, the reference in subsection (1) to the period of 28 days after the person who made the decision receives notice of the application for a review shall be read as a reference to the period of 28 days after the day on which that person so receives notice or the day on which the Tribunal makes a determination extending the time for the making of the application for a review, whichever is the later.
- (1C) The Tribunal may, upon request being made, as prescribed, by a party to a proceeding before the Tribunal for a review of a decision, direct, by order, that subsection (1B) shall have effect in relation to an application for a review of the decision as if the last reference in that subsection to a period of 28 days were a reference to such shorter period as is specified in the order.
- (1D) Subsection (1B) does not apply in relation to an application for a review of a decision if the decision is the subject of another application to which subsection (1B) does not apply.
- (2) Where the Tribunal is of the opinion that particular other documents or that other documents included in a particular class of documents may be relevant to the review of the decision by the Tribunal, the Tribunal may cause to be served on the person a notice in writing stating that the Tribunal is of that opinion and requiring the person to lodge with the Tribunal, within a time specified in the notice, the prescribed number of copies of each of those other documents that is in his or her possession or under his or her control, and a person on whom such a notice is served shall comply with the notice.
- (3) This section has effect notwithstanding any rule of law relating to privilege or the public interest in relation to the production of documents.
- (4) Regulations prescribing the numbers of copies of statements or other documents that are to be lodged under subsection (1) may prescribe different numbers of copies in relation to different classes of statements or other documents or in relation to different classes of decisions.

### **38 Power of Tribunal to obtain additional statements**

- (1) Where the Tribunal considers that a statement referred to in paragraph 37(1)(a) that is lodged by a person with the Tribunal does not contain adequate particulars of findings on material questions of fact, an adequate reference to the evidence or other material on which those findings were based or adequate particulars of the reasons for a decision, the Tribunal may order that person to lodge with the Tribunal, within a time specified in the order, an additional statement or additional statements containing further and better particulars in relation to matters specified in the order with respect to those findings, that evidence or other material or those reasons.
- (2) This section does not apply to a proceeding in the Security Appeals Division to which section 39A applies.

## **Extracts from the Administrative Decisions (Judicial Review) Act 1977**

### **5 Applications for review of decisions**

- (1) A person who is aggrieved by a decision to which this Act applies that is made after the commencement of this Act may apply to the Court for an order of review in respect of the decision on any one or more of the following grounds:
  - (a) that a breach of the rules of natural justice occurred in connection with the making of the decision;
  - (b) that procedures that were required by law to be observed in connection with the making of the decision were not observed;
  - (c) that the person who purported to make the decision did not have jurisdiction to make the decision;
  - (d) that the decision was not authorized by the enactment in pursuance of which it was purported to be made;
  - (e) that the making of the decision was an improper exercise of the power conferred by the enactment in pursuance of which it was purported to be made;
  - (f) that the decision involved an error of law, whether or not the error appears on the record of the decision;
  - (g) that the decision was induced or affected by fraud;
  - (h) that there was no evidence or other material to justify the making of the decision;
  - (j) that the decision was otherwise contrary to law.
- (2) The reference in paragraph (1)(e) to an improper exercise of a power shall be construed as including a reference to:
  - (a) taking an irrelevant consideration into account in the exercise of a power;
  - (b) failing to take a relevant consideration into account in the exercise of a power;
  - (c) an exercise of a power for a purpose other than a purpose for which the power is conferred;
  - (d) an exercise of a discretionary power in bad faith;
  - (e) an exercise of a personal discretionary power at the direction or behest of another person;
  - (f) an exercise of a discretionary power in accordance with a rule or policy without regard to the merits of the particular case;
  - (g) an exercise of a power that is so unreasonable that no reasonable person could have so exercised the power;
  - (h) an exercise of a power in such a way that the result of the exercise of the power is uncertain; and
  - (j) any other exercise of a power in a way that constitutes abuse of the power.
- (3) The ground specified in paragraph (1)(h) shall not be taken to be made out unless:
  - (a) the person who made the decision was required by law to reach that decision only if a particular matter was established, and there was no evidence or other material (including facts of which he or she was entitled to take notice) from which he or she could reasonably be satisfied that the matter was established; or
  - (b) the person who made the decision based the decision on the existence of a particular fact, and that fact did not exist.



## **6 Applications for review of conduct related to making of decisions**

- (1) Where a person has engaged, is engaging, or proposes to engage, in conduct for the purpose of making a decision to which this Act applies, a person who is aggrieved by the conduct may apply to the Court for an order of review in respect of the conduct on any one or more of the following grounds:
  - (a) that a breach of the rules of natural justice has occurred, is occurring, or is likely to occur, in connection with the conduct;
  - (b) that procedures that are required by law to be observed in respect of the conduct have not been, are not being, or are likely not to be, observed;
  - (c) that the person who has engaged, is engaging, or proposes to engage, in the conduct does not have jurisdiction to make the proposed decision;
  - (d) that the enactment in pursuance of which the decision is proposed to be made does not authorize the making of the proposed decision;
  - (e) that the making of the proposed decision would be an improper exercise of the power conferred by the enactment in pursuance of which the decision is proposed to be made;
  - (f) that an error of law had been, is being, or is likely to be, committed in the course of the conduct or is likely to be committed in the making of the proposed decision;
  - (g) that fraud has taken place, is taking place, or is likely to take place, in the course of the conduct;
  - (h) that there is no evidence or other material to justify the making of the proposed decision;
  - (j) that the making of the proposed decision would be otherwise contrary to law.
- (2) The reference in paragraph (1)(e) to an improper exercise of a power shall be construed as including a reference to:
  - (a) taking an irrelevant consideration into account in the exercise of a power;
  - (b) failing to take a relevant consideration into account in the exercise of a power;
  - (c) an exercise of a power for a purpose other than a purpose for which the power is conferred;
  - (d) an exercise of a discretionary power in bad faith;
  - (e) an exercise of a personal discretionary power at the direction or behest of another person;
  - (f) an exercise of a discretionary power in accordance with a rule or policy without regard to the merits of the particular case;
  - (g) an exercise of a power that is so unreasonable that no reasonable person could have so exercised the power;
  - (h) an exercise of a power in such a way that the result of the exercise of the power is uncertain; and
  - (j) any other exercise of a power in a way that constitutes abuse of the power.
- (3) The ground specified in paragraph (1)(h) shall not be taken to be made out unless:
  - (a) the person who proposes to make the decision is required by law to reach that decision only if a particular matter is established, and there is no evidence or other material (including facts of which he or she is entitled to take notice) from which he or she can reasonably be satisfied that the matter is established; or
  - (b) the person proposes to make the decision on the basis of the existence of a particular fact, and that fact does not exist.

## **7 Applications in respect of failures to make decisions**

- (1) Where:

- (a) a person has a duty to make a decision to which this Act applies;
- (b) there is no law that prescribes a period within which the person is required to make that decision; and
- (c) the person has failed to make that decision;

a person who is aggrieved by the failure of the first-mentioned person to make the decision may apply to the Court for an order of review in respect of the failure to make the decision on the ground that there has been unreasonable delay in making the decision.

(2) Where:

- (a) a person has a duty to make a decision to which this Act applies;
- (b) a law prescribes a period within which the person is required to make that decision; and
- (c) the person failed to make that decision before the expiration of that period;

a person who is aggrieved by the failure of the first-mentioned person to make the decision within that period may apply to the Court for an order of review in respect of the failure to make the decision within that period on the ground that the first-mentioned person has a duty to make the decision notwithstanding the expiration of that period.

### **13 Reasons for decision may be obtained**

- (1) Where a person makes a decision to which this section applies, any person who is entitled to make an application to the Court under section 5 in relation to the decision may, by notice in writing given to the person who made the decision, request him or her to furnish a statement in writing setting out the findings on material questions of fact, referring to the evidence or other material on which those findings were based and giving the reasons for the decision.
- (2) Where such a request is made, the person who made the decision shall, subject to this section, as soon as practicable, and in any event within 28 days, after receiving the request, prepare the statement and furnish it to the person who made the request.
- (3) Where a person to whom a request is made under subsection (1) is of the opinion that the person who made the request was not entitled to make the request, the first-mentioned person may, within 28 days after receiving the request:
  - (a) give to the second-mentioned person notice in writing of his or her opinion; or
  - (b) apply to the Court under subsection (4A) for an order declaring that the person who made the request was not entitled to make the request.
- (4) Where a person gives a notice under subsection (3), or applies to the Court under subsection (4A), with respect to a request, the person is not required to comply with the request unless:
  - (a) the Court, on an application under subsection (4A), declares that the person who made the request was entitled to make the request; or
  - (b) the person who gave the notice under subsection (3) has applied to the Court under subsection (4A) for an order declaring that the person who made the request was not entitled to make the request and the Court refuses that application;

and, in either of those cases, the person who gave the notice shall prepare the statement to which the request relates and furnish it to the person who made the request within 28 days after the decision of the Court.

(4A) The Court may, on the application of:

- (a) a person to whom a request is made under subsection (1); or
- (b) a person who has received a notice under subsection (3);

make an order declaring that the person who made the request concerned was, or was not, entitled to make the request.

- (5) A person to whom a request for a statement in relation to a decision is made under subsection (1) may refuse to prepare and furnish the statement if:
- (a) in the case of a decision the terms of which were recorded in writing and set out in a document that was furnished to the person who made the request—the request was not made on or before the twenty-eighth day after the day on which that document was so furnished; or
  - (b) in any other case—the request was not made within a reasonable time after the decision was made;
- and in any such case the person to whom the request was made shall give to the person who made the request, within 14 days after receiving the request, notice in writing stating that the statement will not be furnished to him or her and giving the reason why the statement will not be so furnished.
- (6) For the purposes of paragraph (5)(b), a request for a statement in relation to a decision shall be deemed to have been made within a reasonable time after the decision was made if the Court, on application by the person who made the request, declares that the request was made within a reasonable time after the decision was made.
- (7) If the Court, upon application for an order under this subsection made to it by a person to whom a statement has been furnished in pursuance of a request under subsection (1), considers that the statement does not contain adequate particulars of findings on material questions of fact, an adequate reference to the evidence or other material on which those findings were based or adequate particulars of the reasons for the decision, the Court may order the person who furnished the statement to furnish to the person who made the request for the statement, within such time as is specified in the order, an additional statement or additional statements containing further and better particulars in relation to matters specified in the order with respect to those findings, that evidence or other material or those reasons.
- (8) The regulations may declare a class or classes of decisions to be decisions that are not decisions to which this section applies.
- (9) Regulations made under subsection (8) may specify a class of decisions in any way, whether by reference to the nature or subject matter of the decisions, by reference to the enactment or provision of an enactment under which they are made, by reference to the holder of the office by whom they are made, or otherwise.
- (10) A regulation made under subsection (8) applies only in relation to decisions made after the regulation takes effect.
- (11) In this section, ***decision to which this section applies*** means a decision that is a decision to which this Act applies, but does not include:
- (a) a decision in relation to which section 28 of the *Administrative Appeals Tribunal Act 1975* applies;
  - (b) a decision that includes, or is accompanied by a statement setting out, findings of facts, a reference to the evidence or other material on which those findings were based and the reasons for the decision; or
  - (c) a decision included in any of the classes of decision set out in Schedule 2.

## Extracts from the Archives Act 1983

### 5 Establishment and functions of Australian Archives

- (1) There shall be, within the Department, an organization by the name of the Australian Archives.
- (2) The functions of the Australian Archives are, subject to this Act:
  - (a) to ensure the conservation and preservation of the existing and future archival resources of the Commonwealth;
  - (b) to encourage and foster the preservation of all other archival resources relating to Australia;
  - (c) to promote, by providing advice and other assistance to Commonwealth institutions, the keeping of current Commonwealth records in an efficient and economical manner and in a manner that will facilitate their use as part of the archival resources of the Commonwealth;
  - (d) to ascertain the material that constitutes the archival resources of the Commonwealth;
  - (e) to have the custody and management of Commonwealth records, other than current Commonwealth records, that:
    - (i) are part of the archival resources of the Commonwealth;
    - (ii) ought to be examined to ascertain whether they are part of those archival resources; or
    - (iii) although they are not part of those archival resources, are required to be permanently or temporarily preserved;
  - (f) to seek to obtain, and to have the custody and management of, material (including Commonwealth records) not in the custody of a Commonwealth institution, that forms part of the archival resources of the Commonwealth and, in the opinion of the Director-General, ought to be in the custody of the Archives;
  - (g) with the approval of the Minister, to accept and have the custody and management of material that, though not part of the archival resources of the Commonwealth, forms part of archival resources relating to Australia and, in the opinion of the Minister, ought to be in the custody of the Archives in order to ensure its preservation or for any other reason;
  - (h) to encourage, facilitate, publicise and sponsor the use of archival material;
  - (j) to make Commonwealth records available for public access in accordance with this Act and to take part in arrangements for other access to Commonwealth records;
  - (k) to conduct research, and provide advice, in relation to the management and preservation of records and other archival material;
  - (l) to develop and foster the co-ordination of activities relating to the preservation and use of the archival resources of the Commonwealth and other archival resources relating to Australia; and
  - (m) with the approval of the Minister, and in accordance with arrangements made with a person responsible for exempt material, to perform any of the foregoing functions in relation to that material as if that material formed part of the archival resources of the Commonwealth.

- (3) Nothing in this Part derogates from the powers and functions of the Public Service Board or any other Commonwealth institution in relation to the keeping of current Commonwealth records.

The next page is – Appendix

# Appendix1

## Appendix 1A - Videoconference Hearing Guidelines

### Videoconference Guidelines for Members conducting videoconference hearings



## Veterans' Review Board

### GUIDELINES FOR MEMBERS CONDUCTING HEARINGS OF THE VETERANS' REVIEW BOARD VIA VIDEOCONFERENCE

October 2000

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## **1 Introduction:**

These guidelines have been prepared for the advice of Members involved in hearings of the Board conducted by way of Videoconference. They complement the instructions contained in the Board's Operations Manual (ref Section 13.7)

## **2 When to use Videoconferencing:**

Videoconferencing is but one means by which the Board can deliver its services to applicants residing in remote areas. It is not the intention of the Board to conduct all remote hearings via this medium, as there is no doubt that face to face hearings are a far superior and effective method and ensure a high quality, personalised service. videoconference hearings are to be used at the discretion of the Presiding Member, on advice from the Registrar. Generally, they would be based on a specific request from an applicant or advocate, or where the Board considers the circumstances warrant. Some examples of when a Videoconference may be appropriate are where:

- an applicant wishes to address the Board, but is medically unwell and cannot travel the distance to the Board's office;
- an applicant resides in a remote area where the Board does not usually conduct regional hearings;
- there is some imperative to have a hearing conducted quickly and this is the most expeditious method; and
- where the more efficient management of listings can be achieved.

## **3 What To Take Into Consideration:**

Videoconferencing will not suit all circumstances, and Presiding Members and Registrars will have to ensure the medium is appropriate, on a case by case basis, as each request is considered. Prior to a hearing commencing, it must be clear to all parties that the applicant/advocate is sure they will not be disadvantaged by the use of the Videoconferencing medium and that advocates are certain they will be able to put the strongest possible case on behalf of their applicant. The Board must also be satisfied that it can ensure a fair, unbiased & equitable hearing process.

## **4 Advice to Unrepresented Applicants:**

Applicants not being represented will require special advice as to what to expect at the time of their Videoconference hearing. In these circumstances, Registrars must ensure that sufficiently detailed advice is provided to the applicant. This is to ensure that adjournments are not required because an applicant has not been suitably briefed about the hearing process and Videoconferencing medium,

implications with evidence, or due to a lack of knowledge about the normal formal hearing protocols and procedures.

As a general rule, unrepresented applicants requesting a Videoconference hearing should be encouraged to seek representation to ensure the best presentation of their case. However, where an applicant decides representation is not required, the hearing should proceed as soon as the applicant is ready. In such circumstances, at the outset of the hearing, the Presiding Member should re-affirm the applicant's desire to proceed unrepresented.

## **5 Responsibilities of the Registrar and Representative:**

Registrars shall ensure that the hearing arrangements are made through an applicant's representative, or directly with the applicant where not represented. With remote hearings, the Board is reliant on the local representative to assist in ensuring the hearing runs smoothly at the remote end. As a part of the representative's responsibilities it must be assumed that the representative has confirmed that:

the applicant is happy to proceed under Videoconferencing conditions;

he has briefed the applicant about his/her case and what to expect at the hearing; and

all printed evidence has been provided to the Board and no new documentation will be tabled by the applicant at the hearing.

To this extent, Registrars must also ensure that advocates in remote locations utilising this technology are also appropriately versed in its use and protocols (refer to Advocates Guidelines).

More detailed information must be provided to unrepresented applicants about the technical aspects of the Videoconferencing equipment (ie the nature & location of cameras, microphones etc). It is also vital to ensure that there is a person available at the remote end to explain what is required of the applicant, to set up the equipment and provide any technical support the applicant may require.

A remote end technical support person would not normally remain during the hearing, but could do so if specifically requested by the applicant, and the person is happy to do so. If this is necessary, the Presiding Member shall formally confirm the applicant's agreement to this at the outset of the hearing.

## **6 Preparation for the Hearing:**

Once the essential agreements have been obtained from all parties, the "Notice of Hearing" letter should be prepared and dispatched (see attached). On the day prior to the hearing date, the Registrar shall arrange for:

the representative to be contacted to reaffirm the arrangements;

verification that the remote venue is still available at the time/s required;  
the equipment to be available and set up at the Board end;  
a suitably trained technical support person to be available to assist the Board with the Videoconferencing equipment during the hearing;  
a contingency plan in the event that the Videoconferencing link breaks down after the commencement of a hearing; and  
prior advice to representatives and unrepresented applicants as to arrangements in place should a breakdown occur during a hearing.

On the day of hearing, the Registrar shall ensure a preliminary test of the Videoconferencing link has been undertaken in advance of the hearing/s to ensure it is operating successfully. This is essential to avoid last minute confusion if there is difficulty in establishing a link.

## **7 Role Of The Presiding Member:**

The Presiding Member shall oversee proceedings in the same way as for a “face to face” hearing as outlined in Chapter 13 of the Board’s Operations Manual. In order to establish a clear control over the hearing process, in all cases, the Presiding Member shall ensure the Videoconferencing link is initiated from the Board end. When the link is made and the hearing commences, the Presiding Member should deal with the following matters:

Ensure the hearing commences at the appointed time. This is very important as the applicant and advocate are at a remote location and will be expecting to have contact at the time advised. Even if the Board is ready earlier than expected, the connection should not be made until the pre-agreed time to ensure the advocate has had sufficient time to brief the applicant.

Upon connection, greet the applicant and representative and introduce the panel;  
Allow the representative to introduce any additional attending parties at the remote end;

Where an applicant is unrepresented, re-affirm the applicant’s desire to proceed without an advocate;

Where an unrepresented applicant has sought the support of a local technical support person to assist at the remote end, the applicant shall be asked to confirm their agreement to this for the record by the Presiding Member at the outset of the hearing;

Verify that the applicant is happy to proceed with the Videoconference hearing;

Have a predetermined plan in the event that the applicant tables unexpected further evidence at the hearing (eg temporary suspension to allow facsimile transmission and consideration of how to deal with the new evidence)

Where technical support is being provided at the Board end by somebody other than a Member of the Board, verify the applicant's agreement to that person being present during the hearing;

Confirm that any attending technical support staff will take no part in proceedings & will have no involvement in, or influence over, the Board's decision making process;

Advise that proceedings will be **audio** taped only and that it is not a usual practice to video tape proceedings;

If, for some reason, proceedings are to be **video** taped, this must be agreed to by the applicant in advance of the hearing (eg in the Notice of Hearing letter). The Presiding Member must confirm the applicant's agreement to this. If the applicant initially agreed to a Video taping but subsequently decided against this, the Presiding Member should confirm VCR's are turned off and advise the applicant that any video tape recording to that point will be erased.

Hearing proceeds under normal arrangements;

At the conclusion of the hearing the Presiding Member shall:

Advise that the Board now intends to undertake its final discussion of case in private;

Confirm that the technical support person, where present, will leave the hearing room during this discussion;

Determine there are no further submissions;

If there is to be a following hearing with the same advocate, on the same day, confirm a reconnection time; and then

Terminate the Videoconferencing link.

## **8 What to do if the Link Fails during a Hearing:**

As Videoconferencing links are established on a telephone ISDN lines, there is always a risk that a connection could be disconnected or fail during the course of a hearing.

The Registrar must ensure a contingency plan exists to overcome such a potential risk. If a connection is disrupted, the technical support person shall:

Immediately attempt to re-establish the link;

If this is unsuccessful, contact the representative or unrepresented applicant and direct them to the location of a previously agreed telephone where the hearing can proceed as a telephone hearing;

Clearly, it will have been necessary for the Registrar to ensure that this “back-up” was available in advance of the hearing. It will therefore be necessary for the Registrar to have negotiated the contingency back-up plan with the management of the remote location ensuring that:

the advocate &/or unrepresented applicant are aware of the procedure to be put into place in the event of a Videoconferencing failure;

there is a local contact person who is aware of, and has confirmed they are prepared to support, the contingency plan and assist and direct the advocate &/or unrepresented applicant to the alternative location;

the advocate &/or unrepresented applicant are aware of the local contact person and know where to locate them;

the back-up telephone facility is able to be used “hands-free” (ie a speaker telephone), to allow for the applicant, representative and any other attending parties to continue to participate at the remote end;

the telephone is located in an appropriate location convenient to the remote parties (eg nature of the room, seating, tables etc); and

most importantly, the new location ensures privacy and confidentiality so that the applicant has the confidence to provide all of their necessary evidence.

The technical support person will arrange for the remote end contact person to advise him/her as soon as the remote end parties have been relocated and are ready to proceed with the hearing. The Board will then resume the hearing under the normal conditions applying to a telephone hearing and dial the remote end location. The technical support person will not be required to provide any further on-going support, will absent him/herself at this point and attempt to determine the cause of the fault.

## **9 Some “do’s & don’t’s” When Facing The Camera**

Remember to act naturally in front of the camera as it will project a real-time image at the far end. Small movements tend to be exaggerated at the receiving end, therefore body language is an important consideration.

Consider your clothing and avoid very intense or “hot” colours. For example, the colour red may “bleed”. Pastel colours are preferable over white, which may glare;

Ensure the entire Board is visible to the far end participants;

While the far end camera can be manipulated from the Hearing Room remote control, (ie zoomed in and out etc), avoid excessive camera variations as they could be distracting to the far end participants who will be able to see their camera moving;

Maintain eye contact with the people on the screen by looking into the camera, just as you would if the applicant and advocate were in the Hearing Room;

Try to avoid excessive dropping of the head whilst taking notes as this presents the far end with a view of the top of your head;

Remember that on the screen, the person to your left will appear on the right at the far end, and vice versa;

Try not to shuffle papers, tap the table, or carry on side conversations as your microphone has 360 degree sound pick up and is very sensitive;

Avoid excessive body movement as the camera has automatic focus and this causes a blurring at the far end as it adjusts the focal distance;

At the duration of the hearing press the “mute” button upon hanging up to ensure the far end can not hear any further conversation in the Hearing Room (audio transmission can continue for some seconds after the equipment seems to have been disconnected).

## **Appendix 1B - Videoconference Guidelines for Representatives**



### **Veterans' Review Board**

#### **GUIDELINES FOR ADVOCATES REPRESENTING APPLICANTS AT HEARINGS OF THE VETERANS' REVIEW BOARD VIA VIDEOCONFERENCE**

October 2000

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## **1 Introduction:**

These guidelines have been prepared for the advice of Advocates representing applicants attending hearings of the Board conducted by way of Videoconference. They supplement the Boards guidelines to Advocates detailed in the Board publication “Procedures for Advocates”, in particular the detail at chapter 5 of that publication dealing with the conduct of Hearings.

## **2 When to use Videoconferencing:**

Videoconferencing is but one means by which the Board can deliver its services to applicants residing in remote areas. It is not the intention of the Board to conduct all remote hearings via this medium, as there is no doubt that face to face hearings are a far superior and effective method and ensure a high quality, personalised service. videoconference hearings are to be used at the discretion of the Presiding Member, on advice from the State Registrar. Generally, they would be based on a specific request from an applicant or advocate, or where the Board considers the circumstances warrant. Some examples of when a Videoconference may be appropriate are where:

- an applicant wishes to address the Board, but is medically unwell and cannot travel the distance to the Board’s office;
- an applicant resides in a remote area where the Board does not usually conduct regional hearings;
- an advocate considers it is in the applicant’s interest and can provide a persuasive reason in support of a Videoconference Hearing;
- there is some imperative to have a hearing conducted quickly and this is the most expeditious method; and
- where the more efficient management of listings can be achieved.

## **3 What To Take Into Consideration:**

Videoconferencing will not suit all circumstances, and the Board will consider the merit of requests on a case by case basis. Prior to a hearing commencing, the Board must be satisfied that both the applicant and advocate are sure they will not be disadvantaged by the use of the Videoconferencing medium and that advocates are certain they will be able to put the strongest possible case on behalf of their applicant.

In all cases utilising Videoconferencing technology, the Board must be satisfied that it can ensure a fair, unbiased & equitable hearing process and that use of the medium will not compromise the integrity of the Hearing or its outcome.

## **4 Responsibilities of the Registrar and Advocate:**

Registrars shall ensure that the hearing arrangements are made through an applicant’s representative. With remote hearings, the Board is reliant on the local Advocate to assist in ensuring the hearing runs smoothly at the remote end. The Advocate will be asked to perform certain functions, the most important of which are to make sure that:

- the applicant is happy to proceed under Videoconferencing conditions;
- has been suitably briefed about his/her case and what they can expect at the hearing; and

- has provided all necessary printed evidence and that no new documentation will be tabled by the applicant at the hearing;

This latter point is particularly important, as the production of further evidence at a Videoconference hearing may require the Board to adjourn the hearing to a new date, in order to ensure a proper consideration of any new material. This would be inconvenient for all parties and potentially cause an unnecessary delay.

Registrars must also ensure that advocates in remote locations utilising this technology, are appropriately versed in its use and protocols. Accordingly where an advocate has not previously experienced use of Videoconferencing equipment, the Registrar will ensure an appropriate level of support is provided in advance of the Advocate's first Hearing using this medium. It is expected that as Ex-Service Organisations become more versed in the use of Videoconferencing equipment, they will undertake their own training.

A remote end technical support person would not normally remain during the hearing, but could do so if specifically requested by the applicant and Advocate, and if the person is happy to do so. If this eventuates, the Presiding Member will be required to formally confirm the applicants agreement to this at the outset of the hearing.

## **5 Preparation for the Hearing:**

Once the essential agreements have been obtained from all parties, the "Notice of Hearing" letter will be prepared and dispatched. On the day prior to the hearing date, the Registrar shall arrange for:

- the Advocate to be contacted to reaffirm the arrangements;
- confirm with the Advocate that the remote venue is still available at the time/s required;
- a suitably trained technical support person to be available to assist the Advocate & applicant with the far end Videoconferencing equipment;
- advice to the Advocate of the contingency plan in the event that the Videoconferencing link breaks down after the commencement of the hearing.

On the day of hearing, the Registrar shall ensure a preliminary test of the Videoconferencing link has been undertaken in advance of the hearing/s to ensure it is operating successfully. It is not essential that the Advocate be present for this. If technical problems are encountered, the Board will immediately notify the Advocate and attempt to resolve them. If the problem cannot be resolved the hearing will proceed as a telephone hearing and the Advocate must decide whether this is appropriate, or whether the applicant's best interests may be served by the seeking of an adjournment or temporary suspension of proceedings while the problem is fixed.

## **6 Role Of The Presiding Member:**

The Presiding Member shall oversee proceedings in the same way as for a conventional "face to face" hearing. In all circumstances, the Presiding Member shall ensure the Videoconferencing link is initiated from the Board-end. When the link is made and the hearing commences, the Presiding Member will initially cover the following matters:

- 1 Greet the applicant and representative and introduce the panel;
- 2 Allow the Advocate to introduce any additional attending parties at the remote end;
- 3 Verify that the applicant and Advocate are happy to proceed with the Videoconference hearing;
- 4 Have a predetermined plan in the event that the applicant tables unexpected further evidence at the hearing (eg temporary suspension to allow facsimile transmission and consideration of how to deal with the new evidence)
- 5 Where technical support is being provided at the Board-end by somebody other than a Member of the Board, verify the applicant's agreement to that person being present during the hearing;
- 6 Confirm that any attending technical support staff will take no part in proceedings & will have no involvement in or influence over, the Board's decision making process;
- 7 Advise that proceedings will be audio taped only and that it is not a usual practice to video tape proceedings;
- 8 If, for some reason, proceedings are to be video taped, this must be agreed to by the applicant in advance of the hearing through the Advocate. The Presiding Member must confirm the applicant's agreement to this. If the applicant initially agreed to a Video taping but subsequently decided against this, the Presiding Member must confirm VCR's are turned off and advise the applicant that any video tape recording to that point will be erased.
- 9 The Hearing will then proceed under normal arrangements;
- 10 At the conclusion of the hearing the Presiding Member shall.
  - Advise that the Board now intends to undertake its final discussion of case in private;
  - Confirm that the technical support person, where present, will leave the hearing room during this discussion;
  - Determine there are no further submissions from either the Advocate or applicant;
  - If there is to be a following hearing with the same Advocate, on the same day, agreement will be reached on a reconnection time; and then
  - The Presiding Member shall terminate the Videoconferencing link.

## 7 What to do if the Link Fails during a Hearing:

As Videoconferencing links are established on a telephone ISDN lines, there is always a risk that a connection could be disconnected or fail during the course of a hearing.

Registrars must ensure a contingency plan exists to overcome such a potential risk. If a connection is disrupted, the technical support person at the Board-end shall:

1. Immediately attempt to re-establish the link;
2. If this is unsuccessful, contact the Advocate on a pre-agreed number and direct the far end parties to the location of a previously agreed telephone where the hearing can proceed as a telephone hearing;

Clearly, it will have been necessary for the Registrar to ensure that this “back-up” was available in advance of the hearing. It will therefore be necessary for the Registrar to have negotiated the contingency back-up plan with the management of the remote location ensuring that:

1. the Advocate is aware of the procedure to be put into place in the event of a Videoconferencing failure;
2. there is a local contact person who is aware of, and has confirmed they are prepared to support the contingency plan and assist and direct the Advocate & applicant to the alternative location;
3. the Advocate is aware of the local contact person and knows where to locate them;
4. the back-up telephone facility is able to be used “hands-free” (ie a speaker telephone), to allow for the Advocate, applicant and any other attending parties to continue to participate at the remote end;
5. The Advocate is satisfied that the telephone is located in an appropriate location for the continuation of the hearing (eg nature of the room, seating, tables etc); and
6. most importantly, that the Advocate and applicant are satisfied that new location ensures privacy and confidentiality, so that the applicant has the confidence to provide all of their necessary evidence.

The Board-end technical support person will arrange for the remote end contact person to advise him/her as soon as the remote end parties have been relocated and are ready to proceed with the hearing. The Board will then resume the hearing under the normal conditions applying to a telephone hearing and dial the remote end location. The Board-end technical support person will not be required to provide any further on-going support, will absent him/herself at this point and attempt to determine the cause of the fault.

## **8 Some “do’s & don’t’s” When Facing The Camera**

Advocates are reminded of the following and are asked to brief their applicants accordingly:

- Remember to act naturally in front of the camera as it will project a real-time image at the Board end. Small movements tend to be exaggerated at the receiving end, therefore body language is an important consideration (ie limit movement and gestures).

- Consider your clothing and avoid very intense or “hot” colours. For example, the colour red may “bleed”. Pastel colours are preferable over white, which may glare;
- Ensure the entire Board is visible to the applicant. If this is not the case, the Advocate can either adjust the view on the available console, or ask the Board to do this from the Board end;
- Advocates should not be tempted to adjust the far end equipment unless this is to improve the image being received at their end. Excessive manipulation of the equipment (eg zoomed in and out etc), as this could be distracting to the Board who will be able to see their camera moving;
- Maintain eye contact with the people on the screen by looking into the camera, just as you would if you were in the Hearing Room;
- Try to avoid excessive dropping of the head whilst taking notes as this presents the far end with a view of the top of your head;
- Remember that on the screen, the person to your left will appear on the right at the far end, and vice versa;
- Try not to shuffle papers, tap the table, or carry on side conversations as your microphone has 360 degree sound pick up and is very sensitive;
- Avoid excessive body movement as the camera has automatic focus and this causes a blurring at the far end as it adjusts the focal distance each time there is an excessive movement;
- At the conclusion of the hearing the Board will terminate the connection but it will be necessary for the Advocate to also press the disconnect button at their end and arrange for the local support person to turn off the equipment.

## **Appendix 1C - Videoconference Guidelines for Unrepresented Applicants**



### **Veterans' Review Board**

#### **GUIDELINES FOR NON-REPRESENTED APPLICANTS AT HEARINGS OF THE VETERANS' REVIEW BOARD VIA VIDEOCONFERENCE**

October 2000

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## **1 Introduction:**

These guidelines have been prepared for the advice of Applicants who wish to have their Veterans' Review Board hearing conducted via Videoconference and have elected to not have an Advocate representing their case. Where applicants decide to represent themselves, the Board refers to such applicants as "unrepresented" applicants.

## **2 What is Videoconferencing?**

Videoconferencing is something like making a long distance telephone call, but where you can see the person you are speaking to on a Television screen. If you attend a Videoconference hearing, you will be asked to go to a Videoconferencing facility close to where you live, for example, it may be at your local hospital or Technical & Further Education institution (TAFE), or at some other location that has been assessed by the Board as suitable for the purpose.

The Videoconferencing equipment will be housed in a private room in that facility, which will have a camera and a Television screen. You will be asked to sit facing the camera and TV screen and when the Board connects with you, you will be able to see and hear each of the three panel members on the TV screen in front of you. They will also be able to see you, will introduce themselves and commence the hearing as if you were in the room with them.

## **3 When use of Videoconferencing is Appropriate:**

Videoconferencing is but one means by which the Board can deliver its services to unrepresented applicants residing in remote areas. It is not the intention of the Board to conduct all remote hearings via this medium, and requests will be considered on a case by case basis. Videoconference hearings are to be used at the discretion of the Presiding Member (the senior member on the three person VRB panel), on advice from the State Registrar. Where an unrepresented applicant requests a hearing via Videoconference, generally, the Board would have to be satisfied this is in the applicant's best interest. Some examples of when a Videoconference may be appropriate for unrepresented applicants would be where:

- an applicant wishes to address the Board, but is medically unwell and cannot travel the distance to the Board's office;
- an applicant resides in a remote area where the Board does not usually conduct regional hearings;
- there is some imperative to have a hearing conducted quickly and Videoconference is the most expeditious method; and
- where the more timely and efficient management of listings can be achieved.

## **4 What To Take Into Consideration:**

As mentioned earlier, each request for a Videoconference by an unrepresented applicant will be considered on a case by case basis, and on its particular merits and circumstances. Prior to a hearing commencing, the Board must be satisfied that an unrepresented applicant will not be disadvantaged by the use of the Videoconferencing medium and that you are confident you will be able to clearly put your case to the Board.



If you are certain you wish to proceed as an unrepresented applicant at a Videoconference hearing, the Board will arrange for your hearing as quickly as possible.

In all cases utilising Videoconferencing technology, one of the Board's over-riding concerns is to ensure a fair, and informal review of your claim and that use of the medium will not compromise the integrity of the hearing or its outcome. As an unrepresented applicant, your interest is of our utmost concern.

## **5 Advice to Unrepresented Applicants Regarding Representation:**

While the decision to proceed unrepresented is yours alone, the Board would encourage you to seriously consider this decision. While the Board attempts to conduct its hearings as informally as possible, most applicants appearing before the Board find it a demanding experience. You will be required to provide evidence, answer questions that will test your memory, and cope with the Board's hearing protocols. In addition, during a Videoconference hearing, you will also have to contend with the technical Videoconferencing equipment.

This is a lot to ask of any individual applicant. If you were represented your advocate would be responsible for:

- briefing you about the hearing process;
- representing you at the Videoconference Hearing;
- supporting you through the Board's hearing protocols and procedures; &
- managing the Videoconferencing technology.

For these reasons, the Board would recommend that you seriously consider seeking representation by an experienced advocate. The Board can advise you of advocates within your area, should you decide to seek assistance.

However, if you are sure you do not wish to be represented and the Board agrees to your hearing via Videoconference, your hearing will proceed as soon as you are ready. If this is your decision you should ensure that you are:

- happy to represent your own case at a Videoconferencing hearing;
- aware of the issues involved in preparing for a hearing;
- confident in coping with the Videoconferencing technology.

## **6 Responsibilities of the Registrar:**

Each VRB State Office is managed by a Registrar who is required to support the Board Members in the conduct of Board hearings. Registrars are also required to ensure applicants are appropriately supported in the lead-up to their hearing. Registrars shall ensure that the hearing arrangements are made directly with you and, as far as possible, provide you with sufficient support so that the hearing runs smoothly at your end. This includes confirming that you:

- are happy to proceed under Videoconferencing conditions;
- have been suitably briefed about your case and what you can expect at the hearing: and

- have provided all necessary printed evidence and that you will not be tabling new documentation at the hearing;

This latter point is particularly important, as the production of further evidence at a Videoconference hearing may require the Board to adjourn the hearing to a new date, in order to ensure a proper consideration of any new material. This would be inconvenient for all parties and potentially cause an unnecessary delay. You should therefore ensure that all of the evidence you wish to be considered is provided to the Board in advance of your hearing.

Registrars must also ensure that a local technical person supports unrepresented applicants in remote locations where Videoconferencing technology is being used. This will generally be a member of the staff of the institution hosting the Videoconference (eg hospital or TAFE), and arrangements will be made with you to be directed to that person on the day of your hearing.

The person assisting you would not normally remain during your hearing, but could do so if you requested this, and if that person is happy to do so. If this eventuates, the Presiding Member will be required to formally confirm your agreement to this at the outset of the hearing.

## **7 Preparing for a Hearing Where Unrepresented**

As soon as you have confirmed you wish to proceed with a Videoconference Hearing as an unrepresented applicant, the Board will send you a “Notice of Hearing” letter. This will confirm the hearing arrangements (date, time location etc), as well as some detail about what you can expect when you attend the Videoconferencing facility. You will also be provided with the name of a contact person at the Videoconferencing venue who will be able to take you into the Videoconference room, arrange your seating and remain with you until the Videoconferencing connection is made. It is not usual for this person to remain during your hearing, but if you feel you would like them to remain, their agreement would have to be sought in advance. You should note, however, that these people are not employees of the Board, but are employed by the institution housing the Videoconferencing equipment.

On the day prior to the hearing date, the Registrar shall arrange for you to be contacted to :

- reaffirm the hearing arrangements and confirm your attendance;
- instruct you about what to expect when you attend the Videoconferencing facility, including the time you should attend;
- confirm details of the support person you are to contact at the Videoconferencing location;
- advise you about what to do in the event that the Videoconferencing link breaks down during the course of your hearing (refer to section 9).

On the day of hearing, the Registrar shall ensure the Videoconferencing link is operating successfully. If technical problems are encountered, the Board will immediately notify you and attempt to resolve them. The support person will also be contacted and will be advised of the alternative arrangements that may need to be put into place. If the problem cannot be resolved the hearing may proceed as a telephone hearing. It is possible that the Presiding Member may consider your best interests would be served by agreeing to an adjournment or temporary suspension of proceedings while the Videoconferencing problem is fixed, rather

than immediately proceeding to a telephone hearing. These options would be discussed with you.

If technical problems are encountered on the day of hearing, the Board will attempt to resolve them with the staff of the Videoconferencing facility. If the problem cannot be resolved the hearing may proceed as a telephone hearing, subject to discussion of this question with the Presiding Member.

## **8 Role Of The Presiding Member:**

The Presiding Member is the Senior Member of the three-person panel considering your matter.

The Presiding Member shall oversee proceedings in the same way as for a conventional “face to face” hearing. In all circumstances, the Presiding Member shall ensure the Videoconferencing link is initiated from the Board-end. When the link is made and the hearing commences, the Presiding Member will initially cover the following matters:

- 11 Greet you and introduce the other two members of the panel;
- 12 Allow you to introduce any other person/s you have brought along for support;
- 13 Verify that you are happy to proceed with the Videoconference hearing;
- 14 Ask you whether the Board has all of the evidence you wish it to consider and if you have located further evidence, the Board will need to consider how it will deal with this;
- 15 Where technical support is being provided at the Board-end by somebody other than a Member of the Board, verify your agreement to that person being present during the hearing;
- 16 Confirm that any attending technical support staff will take no part in proceedings & will have no involvement in or influence over, the Board’s decision making process;
- 17 Advise that proceedings will be **audio** taped only and that it is not a usual practice to video tape proceedings;
- 18 If, for some reason, proceedings are to be **video** taped, your agreement will have to be sought. If you do not agree, the Presiding Member will confirm with you that VCR’s are turned off and that any video tape recording to that point will be erased.
- 19 The Hearing will then proceed;
- 20 At the conclusion of the hearing the Presiding Member shall:
  - advise that the Board now intends to undertake its final discussion of your case in private;
    - confirm that the technical support person, where present, will leave the hearing room during this discussion;
    - ask if you wish to make any final comments; and if not, then

- terminate the Videoconferencing link.

## **9 What to do if the Link Fails during a Hearing:**

As Videoconferencing links are established on a telephone ISDN lines, there is always a risk that a connection could be disconnected or fail during the course of a hearing.

If this occurs there is always a contingency plan to overcome such a potential risk. If a connection is disrupted, the technical support person at the Board-end shall:

3. Immediately attempt to re-establish the link;
4. If this is unsuccessful, contact the support person at your facility to arrange you to move to a room where your hearing can proceed as a telephone hearing;
5. The back-up telephone facility is able to be used “hands-free” (ie a speaker telephone), to allow for you and any other attending parties to continue to participate at your remote location;

## **10 Some “do’s & don’t’s” When Facing The Camera**

The following is some helpful advice to people who have never used Videoconferencing technology:

- Try to relax and act naturally, as if you were in the room with the Board Members;
- Ensure you can see the entire Board on your TV screen. If you cannot, ask the Presiding Member if the view can be adjusted to allow this;
- Look into the camera as this will create eye contact with the Board Members, again, just as you would if you were in the Hearing Room;
- Be aware that on the screen, the person to your left will appear on the right at the far end, and vice versa;
- Try not to shuffle papers, or tap the table, as the microphone in your room is very sensitive;
- Try to avoid excessive body movement as this causes a blurring on the Board’s TV screen.

## Appendix 1D - Instructions on the Videoconference for Applicants



### VETERANS' REVIEW BOARD

#### Instructions on the Videoconference

The videoconference is a live hearing and the conduct of the hearing will proceed as if you were sitting in front of the Panel members at their location.

An audiotape will be made of the hearing in the same way as they are made for face-to-face or telephone hearings. Videotapes of the hearing are not made by the Board and you are not permitted to make your own videotape.

You will be able to see the Panel members on a large television screen and they will be able to see you. As the link is usually established 5-10 minutes before the starting time of the hearing, the picture you see can be adjusted to your liking, before the hearing commences, by your local operator.

Once the link is established both sites activate the mute button on their own microphones. This allows you to discuss your case with your representative before the hearing commences without the members being able to hear you. The Panel members may also have a discussion.

When the Panel members are ready to start the hearing they will deactivate the mute button on their microphone and ask you (or your representative) to deactivate the mute on your microphone. The hearing then proceeds.

At the conclusion of the hearing the Panel members may close down the link or activate the mute button on their own microphones. You can then leave the videoconference location.

Remember to complete a travel claim for your attendance, if that is appropriate.

Executive Officer