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July - September 2002

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## Editor's notes

This edition of *VeRBosity* contains reports on three Federal Court decisions relating to veterans' matters handed down in the period from July to September 2002.

There are also reports on selected AAT decisions handed down in the period from July to September 2002. The cases raise a number of important issues relating to the application of Statements of Principles.

Information is also included about Statements of Principles issued recently by the Repatriation Medical Authority and matters currently under formal investigation.

Robert Kennedy  
Editor

# General Information

*Media Release by the Hon Danna Vale,  
Minister for Veterans' Affairs  
6 November 2002*

## **NOMINAL ROLL AN ENDURING TRIBUTE TO WORLD WAR II VETERANS**

An innovative website commemorating the service of Australians in World War II was launched today by the Minister for Veterans' Affairs and Minister Assisting the Minister for Defence, Danna Vale.

Minister Vale said the World War II Nominal Roll would make available to people all over the world information about almost one million men and women who served in Australia's armed forces and merchant navy from 1939-45.

"The nominal roll draws on the service records of Australians who enlisted during the war to provide a valuable snapshot of our country's wartime history during this period," Minister Vale said.

"The website includes a search engine capable of searching the massive database by name, service number, honours received, place of birth, place of enlistment or town/suburb on enlistment."

Minister Vale said the nominal roll would be an important tool for Australians searching for information on the wartime service of family members.

"Generations of Australians will now be able to easily access information on the wartime service of family

members during World War II," Minister Vale said.

"The nominal roll will also be a valuable resource for researchers here and all over the world who are looking for information on this period of our military history."

The World War II Nominal Roll is part of the Federal Government's Saluting Their Service program, which commemorates the service and sacrifice of Australian veterans from the turn of last century to the members of today's Australian Defence Force.

"Saluting Their Service aims to ensure that all Australians are aware of and appropriately acknowledge those who, with distinction and honour, dutifully stepped up to defend our homeland with their very lives," Minister Vale said.

"There are a range of initiatives under the program, including support for community commemorative events, resource materials for the education of young Australians, and measures to preserve wartime memorabilia.

"In the lead up to Remembrance Day on Monday 11 November, it is especially important that Australians take a moment to reflect on the courage and the sacrifices made by generations of their countrymen and women in wars and conflicts spanning more than a century.

"The Nominal Roll will assist the community to always remember the important service of Australians at war," she said.

The World War II Nominal Roll can be found at: [www.ww2roll.gov.au/](http://www.ww2roll.gov.au/)

# Administrative Appeals Tribunal

## Re N Falconer and Repatriation Commission

Bell

N2001/99  
9 July 2002

### *Ischaemic heart disease & sleep apnoea – whether obesity related to service*

Mr Falconer applied for review of decisions that his ischaemic heart disease and sleep apnoea were not war-caused. He served in the Australian Army from 1 October 1941 to 28 March 1946 and rendered operational service. He had a myocardial infarction in 1990.

Mr Falconer contended that his ischaemic heart disease and sleep apnoea were related to obesity. The issue before the Tribunal was whether his obesity was related to war service. The Statements of Principles for ischaemic heart disease (No 38 of 1999) and sleep apnoea (No 39 of 1997) both refer to the Repatriation Medical Authority's Statement About the Causes of "Being Obese" dated 16 August 1996.

The factor in the Obesity Statement relied on by Mr Falconer to establish a causal connection between his war service and obesity was factor (a):

"(a) exposure to an environment which encourages caloric intake, where this caloric intake is excessive

for energy needs and **cannot be compensated by adequate physical activity**, and which has resulted in a weight gain of at least 20% of the baseline weight." (emphasis added)

Mr Falconer told the Tribunal that after the War, he took occasional exercise in the Blue Mountains. He was more interested in sedentary activities such as stamp collecting. He worked in banking and also assisted in the running of a credit union. He built a house on the Central Coast of NSW in the 1960's and did most of the work himself on weekends. In the 1970's he became a tax agent. He said that he had done little exercise over the years for a combination of reasons, including a lack of will power, a lack of opportunity because he was working so hard and needed to relax on weekends and the fact that he was "not a physical person at all".

### Submissions

Mr Falconer's counsel submitted that there was an inconsistency between the relevant SoPs and the Obesity Statement in that whereas the SoPs, in the definition of "obesity", allow for an energy intake in excess of expenditure over a period of time, the Obesity Statement, in factor (a), appears to require an inability to compensate for excessive caloric intake by "**adequate physical activity**". It was submitted that this requirement is unnecessarily punitive, placing an onus on the applicant to undertake "adequate" physical activity. He urged an interpretation that took into account the circumstances of the applicant's life and the effects of his war-caused post-traumatic stress disorder which led him to consume alcohol and food to excess.

Counsel submitted that Mr Falconer did attempt to compensate for excessive caloric intake by undertaking adequate physical activity, given the circumstances of his life. In the alternative, it was

submitted that he was prevented from compensating with adequate physical activity because he threw himself into his work and this was as a direct result of his psychiatric condition.

The Repatriation Commission submitted that the Obesity Statement requires several elements to be satisfied in order for obesity to be war-caused. The first element is "exposure to an environment" and this environment refers to a service environment. In the alternative, it was submitted that the word "environment" in the Obesity Statement refers to external matters and not to internal matters such as a person's state of mind.

The Repatriation Commission submitted further that factor (a) of the Obesity Statement requires an inability to compensate for excessive caloric intake by adequate physical activity. It was submitted that, on the applicant's evidence, he was capable of undertaking strenuous physical activity and therefore his failure to do so to the extent required to compensate for increased caloric intake was a matter of choice or preference and was not as a result of his psychiatric condition.

#### **Tribunal's conclusions**

The Tribunal noted several difficulties in the interpretation of factor (a) of the Obesity Statement. The first was whether the environment referred to is limited to the "service environment" or whether it can be interpreted to encompass the environment the applicant was exposed to after he left the Army. Another issue was whether the "environment" referred to is an environment external to an applicant or one that includes his internal state of mind. A further difficulty was that the Obesity Statement appeared to require not only a particular environment, but also an inability to compensate for excessive caloric intake by adequate physical activity.

The Tribunal concluded that the material before it did not point to the applicant's post-traumatic stress disorder making him incapable of adequate physical activity but considered that he preferred physically inactive pursuits. It concluded that the hypothesis raised in relation to his obesity was not consistent with the second element of the cause of "being obese" as set out in paragraph (a) of the Obesity Statement concerning physical activity.

The Tribunal concluded that the hypothesis was not consistent with the templates contained in SoPs Nos 38 of 1999 and 39 of 1997, in so far as those templates incorporated factor (a) of the Obesity Statement. It followed that the hypothesis was not reasonable. Therefore, the applicant's ischaemic heart disease and sleep apnoea were not war-caused.

#### **Formal decision**

The Tribunal affirmed the decision that Mr Falconer's ischaemic heart disease and sleep apnoea were not war-caused.

**[Ed: Mr Falconer's appeal to the Federal Court against this decision was dismissed on 30 October 2002. The Court's decision will be reported in the next edition.]**

**The Repatriation Medical Authority notified in the *Gazette* on 28 February 2001 that it intended to investigate whether a Statement of Principles may be determined in respect of obesity. At the time of publication, the investigation is still in progress.]**

**Re R C Woodward and  
Repatriation Commission**

J Handley

V01/935 & 936

25 July 2002

***Statements of Principles – whether entitlement can be found without applying SoP***

Mr Woodward applied for review of decisions that his post traumatic stress disorder and alcohol dependence or alcohol abuse were not war-caused. He served in the Australian Army in Vietnam in 1969-1970. While his duties in Vietnam were mainly as a clerk, he claimed that he was engaged in and exposed to a number of stressful events. He took part in patrols around Nui Dat and was a passenger in helicopters.

**Occurrence provision**

Mr Woodward's counsel submitted that in the event that he was unable to satisfy any of the Statements of Principles, he was entitled to a finding of war-caused injury, pursuant to s 9(1)(a) of the *VE Act*, without reference to a Statement of Principles.

Subsection 9(1) of the *VE Act* provides, as relevant:

“(1) Subject to this section, for the purposes of this Act, an injury suffered by a veteran shall be taken to be a war-caused injury, or a disease contracted by a veteran shall be taken to be a war-caused disease, if:

(a) the injury suffered, or disease contracted, by the veteran resulted from an occurrence that happened while the veteran was rendering operational service;”

Mr Woodward's counsel submitted that there was no necessity to make a finding

that the injury “arose out of, or was attributable” to service and that the connection to service need be no more than temporal. Additionally, it was put that satisfaction of a Statement of Principles has no relevance to a finding under s 9(1)(a), and the determination of a Statement of Principles does not displace the operation of that section. This submission was based in part on certain comments of the majority of the Full Court in *Repatriation Commission v Keeley* (2000) (16 *VeRBosity* 40).

The Repatriation Commission submitted that s 9(1)(a) could not apply independently of the provisions of s 120A. It was submitted that the decision of the Tribunal in *Re Hampton and Repatriation Commission* (2000) (16 *VeRBosity* 104) specifically dealt with a submission that a Statement of Principles need not be applied in instances where an injury arose by an “occurrence” during service pursuant to s 9(1)(a). The Tribunal decided in *Re Hampton* that ss 8 and 9 did not displace the requirement to determine the reasonableness of a hypothesis, pursuant to a Statement of Principles.

The Repatriation Commission submitted further that s 13 is a section within Part II of the Act which provides that where a veteran becomes incapacitated, the Commonwealth is, subject to the Act, liable to pay pension by way of compensation in the case of incapacity of the veteran. It follows that the provisions of s 9 become embodied within s 13, that is to say, entitlement to pension under s 13 exists only if there has been an injury suffered by a veteran within the meaning of s 9. Part II is specifically referred to in s 120A, which says that that section applies with respect to operational service, and sub-section (3) provides that the hypothesis will only be reasonable if there is a Statement of Principles in force under s 196B.

**Tribunal's conclusions**

The Tribunal concluded from the material that there was nothing in Mr Woodward's Vietnam service which would satisfy the definition of "experiencing a severe stressor" in the relevant Statements of Principles. While he was in fear and had a sense of helplessness and horror and resorted to alcohol for comfort, there was no material raised or pointing to him experiencing, witnessing or being confronted with an event or events involving actual or threatened death or serious injury or threat to him or others.

In relation to the alternative submission concerning s 9(1)(a), the Tribunal accepted the Commission's submission that the applicant's entitlement to pension or benefits under the Act could not be determined under s 9(1)(a) in isolation from a Statement of Principles. The Tribunal said that the comments of the majority in *Keeley* were clearly *obiter* and not binding.

The Tribunal said on this point:

"The combined effect of ss 9, 13 and 120A dictate that claims made after 1 June 1994, with respect to operational service, can only be found to have a hypothesis which is reasonable if there is in force a Statement of Principles (determined under s196B). It is to be noted that the word 'only' appears in s 120A(3), as if to reinforce that claims under ss 8 or 9 cannot establish entitlement to a pension or other benefits independently of a Statement of Principles."

**Formal decision**

The Tribunal decided that Mr Woodward's post traumatic stress disorder and alcohol dependence or alcohol abuse were not war-caused.

**[Ed: Mr Woodward has lodged an appeal to the Federal Court.]**

**Re F D Thurlow and  
Repatriation Commission**

Cunningham

T2001/96

23 August 2002

***Special rate – whether loss of earnings – rental income***

Mr Thurlow sought review of a decision made by the Repatriation Commission increasing his pension to 100% of the General Rate. He claimed that he was eligible for the Special rate.

Mr Thurlow had operated a business as a scrap metal merchant for nearly 30 years until 1993 when he decided to lease it out due to his health problems. His son took over the business and ran it successfully paying rent to his father.

The main issue before the Tribunal was whether Mr Thurlow was "suffering a loss of salary or wages, or of earnings on his ... own account" in terms of s 24(1)(c) of the *VE Act*. Not only must a veteran be prevented from continuing to undertake remunerative work that he or she was undertaking, but such circumstances must have resulted in a loss of salary or wages, or of earnings on his or her own account.

**Submissions**

It was submitted for Mr Thurlow that the rental monies received from his son could not be classed as monies "earned by the applicant". It was argued that subsection 24(1)(c) did not mean that any monies earned by the veteran after he had given up remunerative work should be compared with earnings derived by him when he was operating the business. Although the veteran did receive an income from other sources, it was contended that the subsection refers to a loss of "earnings" as opposed to "income". In other words, the term

“earnings” refers to monies derived or earned by the veteran from remunerative work which he is prevented from continuing by reason of accepted disability.

The Repatriation Commission submitted that the rental monies received by Mr Thurlow from the lease of his premises were equal to, if not slightly in excess of the annual income that he was deriving from his business prior to ceasing to operate it.

The Commission argued that the Tribunal should distinguish the case of *Re Fahey and Repatriation Commission* (1986) as it related to a veteran who had sold his property and invested the proceeds from which he then derived an income, whereas Mr Thurlow had retained ownership of his asset from which he derived an income.

#### **Tribunal’s conclusions**

The Tribunal concluded that the lease monies received by Mr Thurlow from his son were not “earnings” within the meaning of s 24(1)(c). He was prevented from continuing to undertake remunerative work in his business by reason of his war-caused incapacities and was thereby suffering a loss of earnings.

Although he continued to derive an income from payments by his son for the use of the business premises which at times were in excess of the income he was previously deriving from operating the business, it was clear that it is not a loss of income that is intended by the legislation, but a loss of earnings from remunerative work.

#### **Formal decision**

The Tribunal set aside the decision under review and determined that Mr Thurlow was eligible for the Special rate.

## **Re J Greenough and Repatriation Commission**

Forgie

S2001/210 & 211

6 September 2002

### ***Statements of Principles revoked after claim lodged – whether accrued rights***

Mr Greenough applied for review of a decision that his generalised anxiety disorder was not war-caused.

When Mr Greenough lodged his claim on 1 November 1999, there was a Statement of Principles in force in relation to generalised anxiety disorder (No 48 of 1994 as amended). This was revoked and replaced by a new instrument gazetted on 9 February 2000, which was applied by the Repatriation Commission in its decision dated 24 August 2000.

At issue was whether the AAT should review his claim by reference to the SoP in force at the time he lodged his claim or to the subsequent SoP.

#### **Submissions**

Mr Greenough’s counsel submitted that the SoP to be applied is governed by the Full Court’s decision in *Repatriation Commission v Keeley* (2000) (16 *VeRBosity* 40). As the *VE Act* confers a benefit, a claimant for that benefit is entitled to have his or her entitlement determined by reference to the SoP in force at that time.

The Repatriation Commission submitted that lodgement of a claim does **not** give rise to a right to have a claim determined by reference to the law in force at the time. Section 120A(3) of the *VE Act* requires the Commission to have regard to the SoP applying at the date of its decision (*Repatriation Commission v Gorton* (2001) 17 *VeRBosity* 85). As the

## Administrative Appeals Tribunal

Tribunal must decide whether the Commission's decision as varied by the VRB was the correct or preferable decision, it must review the decision by reference to the law then in force (*Keeley*). The Tribunal is also required to consider a claim by reference to the SoP in force at the time of its review (*Gorton*). If the current SoP does not uphold the hypothesis, the Tribunal should consider it by reference to the SoP in force at the time the Commission made its decision (*Gorton*).

### Tribunal's conclusions

The Tribunal concluded that Mr Greenough did **not** accrue a right to have his claim determined under the SoP 48 which was in force when he lodged his claim. The Commission was obliged to consider his claim by reference to SoP 1 which was in force when it made its determination.

Mr Greenough had a right to have the Commission's decision reviewed first by the VRB and then by the AAT. In reviewing the Commission's decision, the AAT was obliged to apply the SoP now in force. It may not have regard to SoP 48 which was revoked before the Commission made its decision.

The Tribunal said that the following principles that could be drawn from the judgements in the cases of *Ogston*, *Keeley*, *Thompson* and *Gorton*:

1. upon lodgement of a claim:
  - an applicant does not accrue a right to have that claim determined according to the state of affairs prevailing at the time that he or she lodges his or her claim (*Ogston*); and
  - an applicant does accrue a right to have that claim decided by the Commission (*Keeley*);
2. the applicant's right to have a claim decided by the Commission is affected by (and effectively postponed by):

- a notice given by the RMA that it intends to carry out an investigation in respect of a particular kind of injury, disease or death (**s. 120A(2)** and *Keeley*);
3. in making its decision, the Commission must:
    - assess the claim by reference to any SoP that has been made at the time of its decision (*Keeley*);
  4. an applicant accrues a right to have the Commission's decision reviewed by the VRB and then by the Tribunal (*Keeley*);
  5. unless a contrary intention is clearly disclosed, the accrued right is determined under the law as it stood when the right accrued (i.e. when the Commission's decision was made) (*Keeley* and *Thompson*):
    - it is a *prima facie* rule that an accrued right or an accrued liability is not affected simply by virtue of the fact that there has been a legislative change (*Thompson*);
    - the fact that a later SoP is more beneficial to an applicant than the SoP made at the date of the Commission's decision does not justify a departure from that *prima facie* rule (*Thompson*);
  6. notwithstanding any accrued rights, an applicant is entitled to have his or her entitlement assessed by reference to the SoP in force at the date of the Tribunal's review of the Commission's decision (*Gorton*);
  7. the order in which the Tribunal is to approach the SoPs is:
    - first consider the claim by reference to the SoP in force at the date of the Tribunal's decision;
    - if the consideration is favourable to the applicant, that is an end of the matter; and

- if the consideration is not favourable to the applicant, consider the claim by reference to the SoP in force at the date of the Commission's determination (*Gorton*).

**Formal decision**

The Tribunal decided that in reviewing Mr Greenough's application, it was obliged to apply the Statement of Principles in force at the time of the review.

**[Ed: Mr Greenough has lodged an appeal to the Federal Court.]**

**Re J H Turner and Repatriation Commission**

Sassella & Thorpe

N2000/1331

12 September 2002

***Standard of proof – kind of death***

Mrs Turner applied for review of a decision that the death of her late husband was not war-caused. He rendered operational service in the Australian Army during World War 2 and died from abdominal cancer of unknown primary.

The hypothesis put forward was that Mr Turner developed a war-caused smoking habit that caused cancer in his lung (or possibly in his pancreas, bladder or kidney) which metastasised into cancer in his abdomen and that he died from complications associated with the secondary cancer.

**Diagnosis – kind of death**

The first issue for the Tribunal in assessing the hypothesis was to decide on a diagnosis. This was essential in order to identify the applicable Statement of Principles. The Tribunal said that it is well established that matters of diagnosis

are resolved according to the reasonable satisfaction standard.

Mrs Turner's counsel submitted that the issue of the **cause of death**, where death is said to have been war-caused, is a matter resolved by reasonable hypothesis.

The Tribunal commented that there was a "certain logic" in this approach. In a disease or injury case the analysis is in two steps. The first is to identify on the balance of probabilities the nature of the injury or disease. The cause is then, in an operational service case, a matter of reasonable hypothesis. By analogy, in a death case the injury, death, is self-evident. It can be established very simply on the balance of probabilities. What caused that death then becomes a matter of reasonable hypothesis.

The Repatriation Commission submitted that the **characterisation** of the disease, injury or death, for the purposes of determining whether or not a SoP is in force in respect of that kind of disease, injury or death is separate from the question of whether the claim relates to a veteran's operational service.

The Tribunal accepted the Commission's submission that the "kind of death" is to be determined to the reasonable satisfaction standard. This approach was sanctioned by the Federal Court in *Benjamin v Repatriation Commission* (2001) 17 *VeRBosity* 119 where the Full Court said:

"The first question for the Tribunal will be how to characterise the psychiatric problems exhibited by the veteran. If the Tribunal is satisfied that the symptoms constitute an injury or disease, the second question will be whether there is an SoP in force in respect of the disease. The diagnosis of that disease, and the determination of whether or not there is an SoP in force in respect of that kind of

disease, falls for determination according to the standard of proof laid down in s 120(4). The characterisation of a disease (or injury **or death** in an appropriate case), for the purposes of determining whether or not an SoP is in force in respect of that kind of disease (or injury **or death**), is separate from the question of whether a claim relates to the operational service rendered by a veteran within s 120(1). The standard of proof laid down by s 120(1) has no application to the former question.” (emphasis added)

#### **Tribunal’s conclusions**

Professor J Shepherd, surgeon was of the opinion that the most likely primary site of the veteran’s metastatic cancer was the lung. Other likely sites were the pancreas, kidney and bladder.

Professor A Langlands, oncologist was of the opinion that the most likely primary site was squamous cell carcinoma removed from the veteran’s legs some years previously.

The Tribunal was reasonably satisfied that the primary site of the veteran’s cancer was in the lung. The smoking history was consistent with the relevant factors in the SoPs. The Tribunal therefore concluded that the veteran’s death was war-caused.

#### **Formal decision**

The Tribunal set aside the decision under review and substituted its decision that the veteran’s death was war-caused.

**[Ed: In the case of *Re Gundry and Repatriation Commission* (26 July 2002), a differently constituted Tribunal also applied the reasonable satisfaction standard in determining the kind of death.**

**Mrs Gundry has lodged an appeal to the Federal Court.]**

## **Re K V Robins and Repatriation Commission**

J Handley

V01/1388

26 September 2002

### ***Death of veteran – whether hastened by fall due to war-caused knee condition***

Mrs Robins applied for review of a decision that the death of her late husband was not war-caused. The cause of his death was certified as broncho pneumonia, metastatic squamous cell carcinoma and metastatic carcinoma of prostate.

Mr Robins had a number of war-caused conditions including malignant melanoma of the skin, multiple fractures of the left and right arms, non-melanotic malignant neoplasm of the skin, fractured ribs and osteoarthritis of the left knee. His carcinoma of prostate was not accepted as war-caused.

In 2000, he was admitted to hospital in Melbourne where a pacemaker was inserted. He was due to have surgery to have a tumour removed from his neck later in the year. However he suffered a fall at home causing a fractured pelvis which resulted in his admission to hospital. He died 6 weeks later.

#### **Hypothesis**

There was medical opinion before the Tribunal that although Mr Robins suffered from prostate cancer which would have eventually caused his demise, that event would not have occurred “in the near future”.

It was submitted that having regard to a concession by the Commission that the deceased suffered from emphysema, his death from broncho pneumonia was accelerated. It was acknowledged that although he may have eventually

succumbed to prostate cancer, that would have occurred much later in time.

It was also submitted that he had fallen due to the osteoarthritis in his left knee which in turn led to his admission to hospital. His immobility and infirmity while in hospital caused his respiratory condition to deteriorate and because of the presence of emphysema, he developed broncho pneumonia which caused his death. Further, the extent and location of the squamous cell carcinoma on his neck contributed to death because it affected his ability to swallow, cough and breathe which also predisposed him to broncho pneumonia.

**Tribunal's conclusions**

The Tribunal agreed that the late veteran's death from broncho pneumonia was due to several causes – namely, immobility, the presence of emphysema and the squamous cell carcinoma which caused difficulties in breathing and swallowing.

The Tribunal was satisfied that the deceased had fallen at home because of osteoarthritis in his left knee. The presence of emphysema and the squamous cell carcinoma increased the risk of severe chest infection which ultimately contributed to his broncho pneumonia.

The Tribunal concluded finally that the veteran's death occurred at a point in time much earlier than the anticipated demise which in all probability would have been from the prostate cancer. As his death was hastened because of war-caused injury or disease, it was therefore attributable to his service. (see *Doolette v Repatriation Commission* (1990) 21 ALD 489.)

**Formal decision**

The Tribunal set aside the decision under review and substituted its decision that the veteran's death was war-caused.

# Federal Court of Australia

## Stafford v Repatriation Commission

Heerey J

FCA 989

30 July 2002

### ***Obesity – whether reasonable hypothesis existed***

Mr Stafford appealed to the Federal Court against the Tribunal's decision concerning his obesity. The Repatriation Medical Authority had not determined a Statement of Principles in respect of obesity.

Mr Stafford served in the Royal Australian Navy from 1954 to 1967. During his service he was engaged in periods of operational service in *HMAS Anzac* at the time of the Malayan Emergency. The periods were fragmented because *Anzac* was in and out of an operational area over that time. The total period of operational service was 79 days.

Mr Stafford stated that while serving in *Anzac* he was a victualling stores rating. He said that he ate very well and had very little exercise while at sea. His weight increased significantly and by 8 August 1957, he was overweight and in the next 2½ years he put on a further 3 stone.

The hypothesis was put in a written submission to the Tribunal that he increased his calorie intake while serving in *HMAS Anzac* due to his access to food by virtue of his position as a victualler

and being entertained in port whilst in the Far East and that his naval diet was different from his pre-service diet. The Tribunal found that obesity was a "disease" within the meaning of the *VE Act* but that it was not war-caused.

### **Submissions**

Mr Stafford's counsel submitted that the Tribunal had failed to apply the approach mandated by s 120(1) and (3) of the *VE Act*. The correct approach where there is no SoP in force was summarised in the joint judgment of Northrop, Sundberg, Marshall and Merkel JJ in *Repatriation Commission v Bey* (1997) 149 ALR 721. The Tribunal had also failed to address his written submission.

### **Error of law**

Heerey J agreed that the Tribunal had failed to follow the steps mandated by the *VE Act* and explained in authorities such as *Byrnes* and *Bey*. Following the two-step approach outlined in *Bey*, the Tribunal was required to ask:

- (i) what is the hypothesis? and
- (ii) is that hypothesis "reasonable"?

Within that second step there are the subsidiary issues as to:

- (A) whether the hypothesis points to "raised facts" which support it, and
- (B) whether the hypothesis, assuming those raised facts to be true, is "reasonable".

Heerey J said that the Tribunal's reasons left the impression that it was simply a matter for the Tribunal to be satisfied as a matter of fact that the applicant's condition arose out of or was attributable to his operational service.

Heerey J observed that in saying that it was "difficult to accept that the applicant's weight gain arose out of or was attributable to his period of operational service in *HMAS Anzac*, a total period of 79 days" the Tribunal had

misconceived its function. It had treated the issue as a simple fact-finding exercise, without regard to s 120(1) and (3). The reasonableness of the hypothesis put forward in this case was not addressed by the Tribunal.

**Formal decision**

The Court set aside the Tribunal's decision and remitted the matter to the Tribunal for rehearing.

**Meehan v Repatriation  
Commission**

Gyles J

FCA 996  
30 July 2002

***Generalised anxiety disorder –  
reasonableness of hypothesis  
assessed by reference to SoPs***

Mr Meehan had operational service within the meaning of s 6C of the *VE Act* from 8 to 15 February 1969 and from 8 to 30 May 1969 during two voyages to Vietnam in *HMAS Sydney*. He appealed to the Federal Court against the decision of the Tribunal that his generalised anxiety disorder was not war-caused. The matter had been returned to the Tribunal for rehearing following an earlier successful appeal to the Court. (See 17 *VeRBosity* 47).

Mr Meehan had lodged a claim for pension on the basis of various conditions. As the result of prior proceedings, it was accepted that he suffered from generalised anxiety disorder. The question for the Tribunal was whether that disease was war-caused.

**Clinical onset**

The Statement of Principles in respect of generalised anxiety disorder included as a factor related to service:

“(b) experiencing a stressful event not more than two years before the clinical onset of generalised anxiety disorder.”

The main issue before the Tribunal was the time of the onset of generalised anxiety disorder, and in particular, whether that was within two years of the stressful event. The Tribunal said:

“In this matter there is no evidence sufficient to satisfy me that the applicant's anxiety state developed within two years of the second of his voyages to South Vietnam.  
...

I find that the applicant does not meet the tests set out in the relevant Statement of Principles for generalised anxiety disorder as there is no sufficient material to raise as a fact, whether true or not, that the said condition had a clinical onset not more than two years after his final voyage to South Vietnam.”

**Error of law**

It was submitted on further appeal to the Court that the Tribunal had failed to apply s 120(3) of the *VE Act* as it had been construed in the authorities.

Gyles J agreed that the Tribunal had misunderstood the construction given to s 120 by the Full Court in *Repatriation Commission v Deledio* (1998) and had misconstrued that section in its application to this case.

Gyles J said:

“In the present case, the Tribunal did not consider whether facts appearing in the material before it would (if correct) point to an hypothesis that the disease was war-caused. In the present case ... the question to be explored was the time of clinical onset of the generalised anxiety disorder. Although formation of the opinion is a matter for the Tribunal,

there are plainly a number of facts which (if correct) could be seen as pointing in that direction. The circumstance that all (or any) of those facts might not be proved if the applicant bore an onus of proof, or that there is countervailing material which would point in the other direction, does not mean that the facts which would form the basis for the favourable hypothesis can be ignored or put to one side for the purposes of s 120(3).

The approach of the Tribunal is tantamount to treating the factors referred to in the Statement of Principles as being, in effect, jurisdictional facts which must be found by the Tribunal to actually exist before it can be said that a reasonable hypothesis has been raised. ... However, such an approach would seem to misunderstand the use of a Statement of Principles for the purposes of s 120A(3). It needs to be borne in mind that s 120A(3) is only relevant for the purposes of s 120(3) and the role of the Statement of Principles is to uphold **the hypothesis** referred to in that subsection rather than any proven version of the facts.”

#### **Formal decision**

The Court set aside the Tribunal's decision and remitted the matter to the Tribunal for rehearing.

## **Repatriation Commission v Mitchell**

Cooper J

FCA 1177

20 September 2002

### ***Service pension – whether veteran rendered qualifying service – travelling aboard troop ship***

The Repatriation Commission appealed to the Federal Court against the Tribunal's decision that Mr Mitchell was entitled to be paid service pension on the grounds that he had rendered qualifying service in terms of s 7A of the *VE Act*.

Subsection 7A(1) of the *VE Act* provides, as relevant:

“(1) For the purposes of Parts III and VA and sections 85 and 118V, a person has rendered qualifying service:

(a) if the person has, as a member of the Defence Force:

(i) rendered service, during a period of hostilities specified in paragraph (a) or (b) of the definition of ***period of hostilities*** in subsection 5B(1), at sea, in the field or in the air in naval, military or aerial operations against the enemy in an area, or on an aircraft or ship of war, at a time when the person incurred danger from hostile forces of the enemy in that area or on that aircraft or ship;”

Mr Mitchell served in the Australian Army during World War 2. He was trained as an Ack Ack gunner. On 7 September 1944, he embarked on the troop ship “Katoomba” at Townsville and travelled to Horn Island in the Torres Strait. From Horn Island he was transferred to Thursday Island and then by launch to Cape York Peninsula and by truck to an

anti-aircraft battery at Jacky Jacky where Higgins Field airfield was located.

Later in the same month, he and his unit embarked on the troop ship "Duntroon" to travel to Brisbane where he arrived on 28 September 1944. He claimed that while on board the "Duntroon", he saw a floating mine not far from the ship.

In 1942, Japanese submarines laid what was thought to be sixty-three mines in the vicinity of Bathurst Island and Dundas Strait and at two other locations, which were respectively 88 and 106 miles west of Thursday Island.

The Tribunal concluded that in 1944, there was real danger to ships sailing in the Torres Strait of striking a Japanese mine and "anyone who travelled on a vessel in the area incurred danger from the Japanese mines which had been laid in 1942". When the veteran was transported to the airfield at Higgins Field, "he was involved in an operation against the forces of Japan."

The Tribunal rejected submissions by the Commission that the veteran, because he was not involved in actual combat, was not undertaking naval or military operations against the Japanese. It also rejected a submission that he had not incurred danger from hostile forces of the enemy.

#### **Appeal grounds**

The Commission submitted on appeal that the veteran had not rendered service in "naval, military or aerial operations against the enemy" because he did not take part in a hostile offensive or defensive encounter or exchange with the enemy, or in operations in hostility or opposition to the enemy. It was submitted that at its highest, he engaged in activities **incidental** to military operations whilst travelling to and from Higgins Field.

The Commission also submitted that the veteran had not "incurred danger from

hostile forces of the enemy" within s 7A(1)(a)(i) of the *VE Act*.

#### **Court's conclusions**

Cooper J said that the correct question to be addressed for the purpose of s 7A(1)(a)(i), was whether the veteran rendered military service in an area where naval, military or aerial operations against the enemy occurred, and if so, whether in a practical way the service of the veteran was an **integral** part of those naval, military or aerial operations against the enemy in that area. The section does **not** require that the veteran be involved in actual personal combat against the enemy.

Cooper J concluded that there was no demonstrable error of law in the view taken by the AAT that there were military and aerial operations against the enemy in the area in which the veteran served in September 1944. Nor was there any error of law in the view taken that the military service of the veteran in that area, including his transportation within the area, was service rendered in the field in military and aerial operations against the enemy in an area sufficient for the purposes of s 7A(1)(a)(i) of the *VE Act*.

Cooper J said that the issue of whether the veteran had "incurred danger from hostile forces of the enemy" in the form of danger from Japanese mines, was a question of fact for the Tribunal. No error of law was shown in the approach adopted by the Tribunal in this case.

#### **Formal decision**

The Court dismissed the Repatriation Commission's appeal.

**[Ed: The Repatriation Commission has lodged a further appeal to the Full Court.]**

# Statements of Principles issued by the Repatriation Medical Authority

September - November 2002

Number of Instrument	Description of Instrument
65 of 2002	Revocation of Statement of Principles (Instrument No.87 of 1995 concerning <b>atherosclerotic peripheral vascular disease</b> and death from atherosclerotic peripheral vascular disease), and Determination of Statement of Principles under subsection 196B(2) concerning atherosclerotic peripheral vascular disease and death from atherosclerotic peripheral vascular disease.
66 of 2002	Revocation of Statement of Principles (Instrument No.88 of 1995 concerning <b>atherosclerotic peripheral vascular disease</b> and death from atherosclerotic peripheral vascular disease), and Determination of Statement of Principles under subsection 196B(3) concerning atherosclerotic peripheral vascular disease and death from atherosclerotic peripheral vascular disease.
67 of 2002	Revocation of Statement of Principles (Instrument No.61 of 1997 concerning <b>osteoporosis</b> and death from osteoporosis), and Determination of Statement of Principles under subsection 196B(2) concerning osteoporosis and death from osteoporosis.
68 of 2002	Revocation of Statement of Principles (Instrument No.62 of 1997 concerning <b>osteoporosis</b> and death from osteoporosis), and Determination of Statement of Principles under subsection 196B(3) concerning osteoporosis and death from osteoporosis.
69 of 2002	Amendment of Statement of Principles, Instrument No.84 of 1999, under subsection 196B(2) concerning <b>malignant neoplasm of the prostate</b> and death from malignant neoplasm of the prostate.
70 of 2002	Amendment of Statement of Principles, Instrument No.85 of 1999, under subsection 196B(3) concerning <b>malignant neoplasm of the prostate</b> and death from malignant neoplasm of the prostate.

Copies of these instruments can be obtained from:

- Repatriation Medical Authority, GPO Box 1014, Brisbane Qld 4001
- Repatriation Medical Authority, 4<sup>th</sup> Floor 127 Creek Street, Brisbane Qld 4000
- Department of Veterans' Affairs, PO Box 21, Woden ACT 2606
- Department of Veterans' Affairs, 13 Keltie Street, Phillip, ACT 2606
- RMA Website: <http://www.rma.gov.au/>

# Repatriation Medical Authority

CONDITIONS UNDER INVESTIGATION AS AT 27 NOVEMBER 2002

Description of disease or injury	Date gazetted
Allergic rhinitis [Instrument Nos 65/95 & 66/95 as amended by Nos 160/95 & 161/95]	01-08-01
Atrial fibrillation [Instrument Nos 9/96 & 10/96]	19-09-01
Carotid artery disease [Instrument Nos 346/97 & 347/97]	28-02-01
Chronic fatigue syndrome [Instrument Nos 90/97 & 91/97]	19-09-01
Chronic myeloid leukaemia [Instrument Nos 7/97 & 8/97]	16-01-02
Chronic sinusitis [Instrument Nos 211/95 & 212/95]	01-08-01
Dental pulp disease (including pulpal abscess) [Instrument Nos 370/95 & 371/95]	06-03-02
Diabetes mellitus [Instrument Nos 82/99 & 83/99 as amended by Nos 9, 10, 91 & 92/01]	28-11-01
Endometriosis	16-10-02
Gulf War syndrome	17-11-99
Haemorrhoids [Instrument Nos 13/00 & 14/00]	13-11-02
Hiatus hernia [Instrument Nos 42/99 & 43/99]	14-08-02

Description of disease or injury	Date gazetted
Hypertension <sup>1</sup> [Instrument Nos 31/01 & 32/01]	24-04-02
Ischaemic heart disease [Instrument Nos 38/99 & 39/99]	28-11-01
Loss of teeth [Instrument Nos 374/95 & 375/95]	06-03-02
Macular degeneration [Instrument Nos 29/97 & 30/97]	06-06-01
Malignant neoplasm of the brain [Instrument Nos 40/99 & 41/99]	10-01-01
Malignant neoplasm of the oral cavity or hypopharynx [Instrument Nos 113/96 & 114/96]	06-03-02
Malignant neoplasm of the salivary gland [Instrument Nos 25/97 & 26/97]	06-03-02
Malignant neoplasm of the stomach [Instrument Nos 67/97 & 68/97 as amended by Nos 9/98 & 10/98]	24-04-02
Malignant neoplasm of the testis and paratesticular tissues [Instrument Nos 3/97 & 4/97]	14-08-02
Melioidosis [Instrument Nos 344/95 & 345/95 as amended by Nos 14/02 & 15/02]	29-05-02
Mitral valve prolapse	16-01-02
Myeloma [Instrument Nos 72/99 & 73/99]	19-09-01

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<sup>1</sup> This investigation follows a declaration by the Specialist Medical Review Council under subsection 196W(4) that there is sound medical-scientific evidence to justify amendment of the SoPs for hypertension to include as a factor *“occupational or work related stress consequent upon working in a high demand, low decision latitude or control job”*.

Description of disease or injury	Date gazetted
Neoplasm of the pituitary gland [Instrument Nos 37/97 & 38/97]	13-11-02
Non melanotic malignant neoplasm of the skin [Instrument Nos 43/01 & 44/01 as amended by Nos 51/01 & 52/01]	08-05-02
Non-Hodgkin's lymphoma [Instrument Nos 80/99 & 81/99]	03-07-02
Obesity	28-02-01
Restless legs syndrome	27-11-02
Rheumatoid arthritis [Instrument Nos 126/96 & 127/96]	13-11-02
Subarachnoid haemorrhage [Instrument Nos 48/99 & 49/99]	29-05-02
Tinea [Instrument Nos 27/94 & 28/94 as amended by Nos 184/95, 185/95, 7/02 & 8/02]	29-05-02

# Administrative Appeals Tribunal decisions – July to September 2002

## Carcinoma

colon

- alcohol & smoking not war-caused

**Simpson, R M** 09 Jul 2002

- colorectal adenomatous polyp

**Bassett, D A** 01 Jul 2002

rectum

- smoking

**Dalling, D R** 02 Sep 2002

## Cardiovascular disease

aortic aneurysm & hypertension

- smoking & salt ingestion

**Kellett, V A J** 02 Sep 2002

hypertension

- alcohol consumption

**Dunn, P** 12 Sep 2002

**Myler, D L** 22 Aug 2002

hypertension & atrial fibrillation

- salt ingestion

**Fraser, M M** 31 May 2002

hypertension & ischaemic heart disease

- alcohol abuse

**Slattery, B T** 26 Aug 2002

ischaemic heart disease

- obesity

**Falconer, N** 09 Jul 2002

- smoking

**Mills, G T** 18 Sep 2002

- smoking cessation

**Pountney, N A** 30 Aug 2002

- smoking & dyslipidaemia

**Soul, S C** 30 Sep 2002

- smoking & hypertension

**Dalling, D R** 02 Sep 2002

- whether smoking war-caused

**Daley, B K** 23 Sep 2002

peripheral vascular disease, ischaemic heart disease & hypertension

- smoking

**Lynch, W L** 14 Aug 2002

rheumatic heart disease

- streptococcal A infection

**Donlan, B** 05 Jul 2002

## Cerebrovascular disease

cerebrovascular accident

- alcohol abuse

**Slattery, B T** 26 Aug 2002

## Death

acute renal failure & prostate cancer

- alcohol abuse & animal fat consumption

**Ward, N J** 14 Aug 2002

asthma

- service conditions

**Gundry, M** 26 Jul 2002

bronchopneumonia & carcinoma of prostate

- whether death hastened by fall

**Robins, K V** 26 Sep 2002

carcinoma of lung

- smoking

**Turner, J H** 12 Sep 2002

carcinoma of pancreas

- alcohol consumption & chronic pancreatitis

**Godfrey, I M** 18 Jul 2002

carcinoma of prostate

- animal fat consumption

**Mullins, P** 02 Aug 2002

cirrhosis of liver & cardiomyopathy

- alcohol consumption

**Lynch, E** 23 Sep 2002

glioblastoma multiforme

- whether chest infection accelerated death

**Kilpatrick, D J** 30 Jul 2002

ischaemic heart disease  
 - smoking  
**Ford, K M** 12 Jul 2002

leiomyosarcoma  
 - smoking  
**Roscoe, M M** 09 Aug 2002

metastatic carcinoma  
 - Helicobacter pylori infection  
**Fuss, D E** 05 Sep 2002

multiple myeloma  
 - atomic radiation in Hiroshima  
**Sweeting, A** 26 Jul 2002

pancytopenia & multiple myeloma  
 - benzene exposure  
**Whitworth, A** 26 Sep 2002

reinstatement of pension  
 - remarriage before 1984  
**Quinn, L** 21 Aug 2002

suicide  
 - whether due to solar keratoses  
**George, N E** 13 Aug 2002

#### Dependant

remarried after veteran's death  
 - ceased to be a dependant  
**Hoskins, D** 03 Sep 2002

#### Dermatological disorder

psoriasis  
 - alcohol dependence or alcohol abuse  
**SRUUU** 11 Sep 2002

#### Entitlement

Statement of Principles  
 - whether accrued rights & liabilities  
**Greenough, J** 06 Sep 2002  
 - whether entitlement can be determined without applying SoP  
**Woodward, R C** 25 Jul 2002

#### Gastrointestinal disorder

colorectal adenomatous polyp & gastro-oesophageal reflux disease  
 - smoking  
**Bassett, D A** 01 Jul 2002

irritable bowel syndrome  
 - psychiatric condition  
**O'Leary, N** 15 Jul 2002  
**Burgers, A M** 19 Jul 2002

#### General rate pension

1998 GARP assessment  
**Smith, G J** 23 Sep 2002

#### Hepatic disorder

alcoholic liver damage  
 - alcohol dependence or abuse  
**Stoddart, L J** 11 Sep 2002  
 - psychoactive substance abuse or dependence  
**Mackay, M** 30 Jul 2002

#### Japanese internment

civilian interned in New Guinea during WW2  
 - whether domiciled in Australia  
**Chan, P** 30 Aug 2002

#### Musculoskeletal disorder

osteochondritis of ribs  
 - trauma – rugby injury  
**Leary, K J** 27 Sep 2002

pes planus  
 - aggravation by marching  
**Ramsey, H A** 12 Jul 2002

rotator cuff syndrome & lateral epicondylitis  
 - heavy lifting  
**Rodgers, J A** 10 Sep 2002

#### Osteoarthritis

hip  
 - trauma – fall on ship  
**Drew, K E** 24 Sep 2002

knee  
 - trauma – boxing injury  
**Offord, G E** 26 Jun 2002  
 - trauma – fall from aircraft  
**Brown, M T** 26 Jul 2002  
 - trauma – rugby injury  
**Leary, K J** 27 Sep 2002

shoulder, wrists & hands  
- New Guinea service  
**Picker, R H** 19 Sep 2002

wrist  
- trauma – crank handle injury  
**Ramsey, H A** 12 Jul 2002

### Practice & Procedure

jurisdiction  
- whether PTSD properly before AAT  
**Grosvenor, J B** 11 Jul 2002

### Psychiatric disorder

alcohol dependence or alcohol abuse  
- experiencing a severe stressor –  
accidental death in Vietnam  
**Bates, T J** 12 Sep 2002  
- experiencing a severe stressor – motor  
vehicle accident  
**Slattery, B T** 26 Aug 2002

alcohol dependence or abuse & generalised  
anxiety disorder  
- experiencing a severe stressor – scare  
charges & leakage in boiler room  
**Rudd, R W** 14 Aug 2002

anxiety disorder & alcohol abuse  
- severe psychosocial stressor – attack by  
Malays  
**Kellett, V A J** 02 Sep 2002

bipolar disorder  
- severe psychosocial stressor –  
workplace stress  
**Sears, G E** 26 Jul 2002

depressive disorder  
- severe psychosocial stressor – posting  
to Canberra  
**Dunn, P** 12 Sep 2002

depressive disorder & alcohol abuse  
- severe psychosocial stressor –  
Vietnamese waters  
**Boron, E** 11 Sep 2002

post traumatic stress disorder  
- experiencing a severe stressor - aircraft  
decompression  
**Dunn, P** 12 Sep 2002

- experiencing a severe stressor –  
boarding bum boats  
**Stanley, E** 30 Aug 2002

- experiencing a severe stressor – FESR  
service  
**Stoddart, L J** 11 Sep 2002

- experiencing a severe stressor –  
Indonesian confrontation  
**Egan, B P** 30 Aug 2002

- experiencing a severe stressor – naval  
shore patrol  
**O'Leary, N** 15 Jul 2002

- experiencing a severe stressor – patrols  
in Vietnam  
**Ashby, G** 02 Aug 2002

- experiencing a severe stressor –  
Vietnamese cowboys  
**Kibble, S** 06 Sep 2002

post traumatic stress disorder & alcohol  
abuse  
- experiencing a severe stressor – rocket  
attacks at Phan Rang

**Burgers, A M** 19 Jul 2002  
- experiencing a severe stressor – Vung  
Tau harbour  
**Todd, G** 06 Aug 2002

post traumatic stress disorder & alcohol  
dependence  
- experiencing a stressor – scare charges  
at Vung Tau  
**Burgess, T E** 19 Aug 2002

post traumatic stress disorder & alcohol  
dependence or abuse  
- experiencing a severe stressor – patrols  
& helicopter flights in Vietnam  
**Woodward, R C** 25 Jul 2002

- experiencing a severe stressor –  
Vietnam service  
**Allan, G** 27 Sep 2002

post traumatic stress disorder & depressive  
disorder  
- experiencing a severe stressor –  
Namibia service  
**Kirkman, W** 23 Aug 2002

post traumatic stress disorder, anxiety disorder, alcohol dependence or alcohol abuse, drug dependence or drug abuse & personality disorder

- experiencing a severe stressor – fall from aircraft

**SRUUU** 11 Sep 2002

post traumatic stress disorder, depressive disorder, generalised anxiety disorder & psychoactive substance abuse or dependence

- experiencing a severe stressor – scare charges & collision with Indonesian kumpit

**Mackay, M** 30 Jul 2002

post traumatic stress disorder with alcohol abuse

- experiencing a severe stressor – Vung Tau harbour

**Crabbe, K H** 20 Sep 2002

post traumatic stress disorder with major depression

- experiencing a severe stressor – Ubon service

**Bastion, W L** 12 Aug 2002

#### Remunerative work

economic loss

- rental income

**Thurlow, F D** 23 Aug 2002

Intermediate rate

- whether incapable of more than part-time work

**Randall, M R** 20 Aug 2002

prevented from continuing

- waste management & cook

**Phillips, J M** 30 Aug 2002

whether genuinely seeking to engage in

- discharge at own request

**Hoffman, J** 27 Sep 2002

- truck driver - resignation

**Briggs, K W** 12 Aug 2002

whether prevented by war-caused disabilities alone

- accountant aged 77

**Tosswill, C D** 16 Sep 2002

- butcher & delivery driver

**Hetherington, R** 27 Sep 2002

- carpenter – back condition

**Baird, J** 10 Sep 2002

- club manager

**Bates, T J** 12 Sep 2002

- Comcar driver

**Bastion, W L** 12 Aug 2002

- drunken sailor

**Mackay, M** 30 Jul 2002

- earthmoving contractor

**Williams, R M** 04 Jul 2002

- general labourer

**Ashby, G** 02 Aug 2002

- jewellery business

**Lingard, S S** 16 Aug 2002

- labourer - dermatitis

**O'Neill, S** 16 Jul 2002

- news photographer/editor

**Ward, B T** 17 Sep 2002

- non war-caused disabilities

**Moorcroft, B K** 05 Jul 2002

- pilot aged 55

**Unicomb, G** 23 Jul 2002

- sales manager

**Green, G S** 22 Aug 2002

- video production

**Alexander, H J** 12 Jul 2002

- voluntary redundancy

**Rogers, J L** 05 Sep 2002

whether prevented from continuing last paid work (over 65)

- ceased work aged 54

**Picker, R H** 19 Sep 2002

- cycle business

**Cooper, L J** 26 Jul 2002

- real estate agent

**Haskard, H** 02 Jul 2002

whether unable to work 8 hours a week

- storeman

**Sanders, R N** 01 Aug 2002

## Respiratory disorder

asthma

- occupational antigen – straw-filled mattress

**Lamborn, H A R** 14 Aug 2002

sleep apnoea

- obesity

**Falconer, N** 09 Jul 2002

## Spinal disorder

diffuse idiopathic skeletal syndrome

- trauma

**Onger, G** 11 Sep 2002

intervertebral disc prolapse

- trauma – series of injuries

**Bramich, R E** 12 Jul 2002

lumbar spondylosis

- trauma – fall from aircraft

**Rogers, J L** 05 Sep 2002

- trauma – fall from APC in Vietnam

**Dillon, T J** 01 Aug 2002

- trauma – fall on ice

**Ramsey, H A** 12 Jul 2002

- trauma – injury in swimming pool

**Graham, P** 12 Jul 2002

- trauma – manually lifting or carrying loads

**Slattery, B T** 26 Aug 2002

lumbar & cervical spondylosis

- trauma – Japan service

**Kolantgis, J** 03 Jul 2002

## Words and phrases

immediately

**Drew, K E** 24 Sep 2002