



# **Veterans' Review Board**

## **Section 137 Practice Direction**

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## 1.Introduction

This Direction sets out the procedures of the Veterans' Review Board (VRB) in relation to the documents that a decision-maker must lodge under section 137 of the Veterans' Entitlements Act 1986 (VEA). These documents are referred to in this Direction as the 'Section 137 documents'.

## 2.When and how does this practice direction apply?

This Direction applies from **31 May 2017** to any application for a review of a decision to which section 137 of the VEA Act applies and as applied by the Military Rehabilitation and Compensation Act 2004 (MRCA).

## 3.When and to who must section 137 documents be provided?

The decision-maker must provide a copy of the Section 137 documents to the applicant within 6 weeks after receiving his or her application for review. The decision maker must also forward a copy of the section 137 documents to the VRB.

## 4.How must the section 137 documents be provided?

### *To the applicant*

By delivering, posting or sending by electronic communication the section 137 document to a person's nominated contact address.

### *To the VRB*

Pursuant to section 148(5A) of the VEA, the Principal Member directs that one hard copy of the section 137 report be provided to:

For NSW, ACT, VIC & TAS appeals	Sydney Registry
For QLD, SA, NT & WA appeals	Brisbane Registry

Additionally, for all cases lodged on or after 31 May 2017, an electronic copy of the section 137 report is to be provided in addition to a hard copy. The electronic copy should be forwarded to the relevant registry email box.

## 5. What should the section 137 documents contain?

The section 137 report must contain the evidence under the decision-maker's control, which is relevant only to the review of the decision.

For example, this may include, but is not limited to:

### *Entitlement and liability cases*

- Documents establishing eligibility to claim (ie: showing service history)
- Service medical records relevant to the disabilities under review (or related SoP factors)
- Documents showing the diagnosis (Claim form, Diagnostic report, Specialist's report, Radiology/Pathology reports, DMO opinion)
- Documents showing status of SoP factors and/or aetiology
- UV Calculation, Spirometry, Audiogram etc where this is relevant to diagnosis
- Previous decisions relating to the disabilities under review
- MRCA Injury and Disease Details Sheet

### *Death Cases*

- Documents establishing dependent status
- Documents establishing veteran's eligibility (ie: showing service history)
- Service medical records relevant to the disabilities under review (or related SoP factors)
- Documents showing cause of death, and potentially contributing causes, of death
- Documents showing status of SoP factors and/or aetiology
- Previous decisions relating to the death or disabilities relevant to the death
- For MRCA death compensation claims – material relating to financial dependency and EYP.

### *Compensation and assessment cases*

- Current Medical Impairment Assessment (MIA) forms
- MIA forms used in the decision under review
- Audiograms, spirometry, visual fields, and associated reports
- Other medical reports relevant to assessment
- GARP Assessment (CIA + worksheets)
- Lifestyle rating forms and lifestyle Questionnaires
- Reports commenting on lifestyle (relevant to the assessment period)
- Previous decisions and MIAs relating to the assessment period
- Documents showing employment history
- All reports relating to incapacity for work
- Documents related to income (TFN's to be redacted)
- Needs Assessment/Incapacity claim form

## 6. How should the section 137 documents be presented?

Unless otherwise agreed with us, the section 137 documents must be arranged in the following order:

- (a) the application for review;
- (b) any section 31 or 347 reconsideration decision and reasons;
- (c) the relevant Commission's decision and reasons for its decision;
- (d) the applicant's formal claim and/or application for increase;
- (e) all other documents in chronological order from the earliest to latest date.

Items (a) and (d) must contain clearly visible record of the date the document was received by the decision maker.

Each document must be identified with a number commencing with the application for review as 'T1'. Subsequent documents will bear 'T' numbers in sequence. Each page must be numbered sequentially.

The Section 137 documents must be accompanied by a cover sheet, as set out in Attachment A and an index, which sets out the date of each document and a brief description of each document. The pagination must be set out in the index. All section 137 documents should be provided as double-sided and secured using a plastic binder.

## 7. Can supplementary section 137 documents be provided?

The applicant may within the 28 days, after he or she has been given the section 137 documents, provide the decision maker with comments on the report. This must be done in writing.

The decision maker may then conduct a further investigation as a consequence of the comments. Any evidence obtained as a consequence of that investigation must also be sent to the applicant and the VRB. These documents are referred to as 'Supplementary Section 137 documents'.

## 8. Requesting access to documents

Applicants should make any request for access to documents under the decision makers control using the *Freedom of Information Act 1982*. This should be done as soon as possible after the application for review is lodged.

Additionally, applicants may wish to consider making a request to the decision maker to view relevant files during an ADR conference, where appropriate.

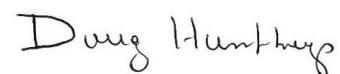
## **9.Requirement to comply with this practice direction**

In the case where the parties have not complied with this practice direction or with specific directions made by the VRB, the application may be referred for a direction hearing.

Additionally, either party can request a direction hearing if the need arises. The request should be in writing and set out the reasons for which the direction hearing is sought.

## **10.How is additional material added to the section 137 documents by the VRB?**

The VRB may add additional material that we have received from the parties, to the section 137 documents. For how this is done, please refer to the General Practice Direction.

A handwritten signature in black ink that reads "Doug Humphreys". The signature is written in a cursive, slightly slanted style.

Doug Humphreys  
Principal Member

VRB no:  
DVA file no:  
UIN:

## **SECTION 137 DOCUMENTS**

**Applicant's First Name, LAST NAME**

**and**

**Relevant Commission**

<b>Veterans' Details</b>	
Name	
Date of birth	
Arm of service	
Accepted conditions (and relevant Act)	
Non accepted conditions	

<b>Decision / determination under review</b>

<b>Key dates</b>	
Receipt of AFR by DVA	
Commission decision	
Receipt of claim by DVA	

Prepared by:		Date:	
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