

Repatriation Acts Amendment Act 1979

No. 18 of 1979

An Act relating to repatriation and related matters.

BE IT ENACTED by the Queen, and the Senate and House of Representatives of the Commonwealth of Australia, as follows:

PART I—PRELIMINARY

Short title 1. This Act may be cited as the *Repatriation Acts Amendment Act* 1979.¹

Commence- 2. (1) Sections 1, 2 and 3, paragraph 4 (a) and section 26 shall
ment come into operation on the day on which this Act receives the Royal
Assent.¹

(2) The remaining provisions of this Act shall come into operation on 1 July 1979.

PART II—AMENDMENTS OF THE REPATRIATION ACT 1920

Principal Act 3. The *Repatriation Act* 1920² is in this Part referred to as the Principal Act.

Interpret- 4. Section 6 of the Principal Act is amended—
ation
(a) by adding at the end of sub-section (1) the following definition:
“ ‘Tribunal’ means the Repatriation Review Tribunal established by section 107VB.”; and
(b) by adding at the end thereof the following sub-section:
“(3) In this Act—
(a) a reference to a period of 3 months after the service on a person, in accordance with section 47A, of a copy of a decision of the Commission or a Board;
(b) a reference to a period of 3 months after the service on a person, in accordance with section 107VK, of a copy of a decision of the Tribunal; or
(c) a reference to a period of 3 months after the service on a person, in accordance with sub-section (3) of section 43 of the *Administrative Appeals Tribunal Act* 1975, of a copy of a decision of the Administrative Appeals Tribunal,

shall, in relation to a person who was at any time during that period of 3 months a resident of the Torres Strait Islands, be read as including a further period of 3 months commencing on the expiration of that first period of 3 months.”.

5. Section 15 of the Principal Act is amended by omitting paragraph (b) of sub-section (2) and substituting the following paragraph:

“(b) statements of principles governing decisions of the Repatriation Review Tribunal, being principles deduced by the Commission from—

- (i) statements of reasons for decisions of that Tribunal prepared in accordance with sub-section (1) of section 107VK; or
- (ii) statements of reasons for decisions of the Administrative Appeals Tribunal on reviews in accordance with directions under sub-section (8) of section 107VZZB of this Act prepared in accordance with sub-section (2) of section 43 of the *Administrative Appeals Tribunal Act 1975*; and”.

Boards to consult and co-operate with Commission

6. After section 17 of the Principal Act the following section is inserted:

“17A. (1) The Minister may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him, delegate to a person any of his powers under this Act other than this power of delegation.

Delegation by Minister

“(2) A power so delegated, when 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.”.

7. Section 23 of the Principal Act is amended by omitting the definition of “Appeal Tribunal”.

Interpretation

8. Section 24A of the Principal Act is repealed and the following section substituted:

“24A. (1) On the death of a claimant, the legal personal representative of the claimant or, if there is no legal personal representative of the claimant, a person approved by the Commission as a representative of the claimant may, for any purpose in connection with the claim of the claimant, in respect of any period before the death of the claimant, take such action as the claimant could have taken if he had not died and, for that purpose, the legal personal representative, or the person so approved as the representative, of the claimant shall be treated as if he were the claimant.

Death or mental affliction of claimant

“(2) A person approved by the Commission as the representative of a member of the Forces, or a dependant of a member of the Forces, who is mentally afflicted may—

- (a) lodge a claim on behalf of the afflicted person and, for any purpose in connection with that claim, take such action as the afflicted person could have taken if he were not mentally afflicted; or
- (b) for any purpose in connection with a claim lodged by the afflicted person, take such action as the afflicted person could have taken if he had not become mentally afflicted,

and, for that purpose, the representative shall be treated as if he were the afflicted person.

“(3) In this section, ‘claim’ means a claim for a pension, and includes an application under Part IIIA for a review of a decision of the Commission or a Board, and ‘claimant’ has a corresponding meaning.”

Date of
operation of
determina-
tion of
Commission
on appeal

9. Section 29 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “making” and substituting “service on the claimant, in accordance with section 47A, of a copy”; and
- (b) by omitting sub-section (2).

Review by
Commission

10. Section 31 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “under this Division” and substituting “(other than a service pension)”; and
- (b) by adding at the end thereof the following sub-section:

“(3) This section—

(a) does not apply in relation to—

- (i) a decision of the Repatriation Review Tribunal referred to in section 107VZB;
- (ii) a decision of the Administrative Appeals Tribunal referred to in section 107VZB in its application by virtue of section 107VZZE;
- (iii) a decision of the Repatriation Review Tribunal referred to in sub-section (1) of section 107VZC that is binding on the Commission by reason that the appropriate period specified in that sub-section has not expired; or
- (iv) a decision of the Administrative Appeals Tribunal referred to in sub-section (1) of section 107VZC, in its application by virtue of section 107VZZE, that is binding on the Commission by reason that the appropriate period specified in that sub-section has not expired; and

(b) subject to section 107VJ and sub-section (2) of section 107VZC, does not apply in relation to an assessment

made by a decision to which sub-paragraph (iii) or (iv) of paragraph (a) applies.”.

11. Section 47 of the Principal Act is amended—

(a) by omitting from sub-section (1)—

“, a Board, an Appeal Tribunal or an Assessment Appeal Tribunal, in hearing, considering, determining or deciding a claim, application or appeal”

and substituting—

“or a Board, in hearing, considering, determining or deciding a claim or application, and the Commission, in hearing, considering or deciding an appeal”; and

(b) by omitting sub-section (2) and substituting the following sub-section:

“(2) The Commission or a Board shall grant a claim or application, and the Commission shall allow an appeal, unless it is satisfied, beyond reasonable doubt, that there are insufficient grounds for granting the claim or application or allowing the appeal, as the case may be.”.

Hearing and determination of claims, &c.

12. Section 47A of the Principal Act is repealed and the following section substituted:

“47A. (1) Where, in a proceeding before the Commission or a Board, the Commission or the Board makes a decision relating, in whole or in part, to a prescribed matter, the Commission or the Board shall cause to be prepared a written record of the decision containing a statement of the reasons for the decision, so far as the decision relates to the prescribed matter, including any findings of fact in relation to the prescribed matter.

Reasons for decision of Commission or Board to be included in decision, &c.

“(2) Where the Commission or a Board makes a decision referred to in sub-section (1), the Commission or the Board—

(a) shall file the decision with the records of the case; and

(b) shall serve, or cause to be served, either personally or by post, a copy of the decision on the claimant or a person authorized by the claimant.

“(3) In this section—

‘claimant’ includes an applicant and a person affected by a decision under review by the Commission under section 31;

‘decision’ includes a determination and an assessment;

‘prescribed matter’ means a matter referred to in paragraph (a), (d) or (j) of sub-section (1) of section 27.”.

13. Section 47B of the Principal Act is amended by omitting paragraph (b) and substituting the following paragraph:

No action for making statements in proceedings, &c.

“(b) the service on a person, in accordance with section 47A, of a copy of a determination, decision or assessment.”.

Medical reports

14. Section 48 of the Principal Act is amended by omitting from sub-section (3) “, an Appeal Tribunal or an Assessment Appeal Tribunal” and substituting “or the Tribunal”.

Repeal of Divisions 2, 3 and 4 of Part III

15. Divisions 2, 3 and 4 of Part III of the Principal Act are repealed.

Heading to Division 6 of Part III

16. The heading to Division 6 of Part III of the Principal Act is amended by omitting “1 to 5” and substituting “1 and 5”.

Extension of application of Act to certain male members of the Forces

17. Section 99 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “Divisions 1 to 4 (inclusive)” and substituting “Division 1”; and
- (b) by omitting from sub-section (2) “1 to 5 (inclusive)” and substituting “1 and 5”.

Heading to Division 7 of Part III

18. The heading to Division 7 of Part III of the Principal Act is amended by omitting “1 to 5” and substituting “1 and 5”.

Extension of application of Act to members of Women’s Services

19. Section 104 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “Divisions 1 to 4 (inclusive)” and substituting “Division 1”; and
- (b) by omitting from sub-section (2) “1 to 5 (inclusive)” and substituting “1 and 5”.

Heading to Division 8 of Part III

20. The heading to Division 8 of Part III of the Principal Act is amended by omitting “1 to 5” and substituting “1 and 5”.

Extension of application of Act to certain male members of the Forces

21. Section 107A of the Principal Act is amended—

- (a) by omitting from sub-section (1) “Divisions 1 to 4 (inclusive)” and substituting “Division 1”; and
- (b) by omitting from sub-section (2) “1 to 5 (inclusive)” and substituting “1 and 5”.

Heading to Division 9 of Part III

22. The heading to Division 9 of Part III of the Principal Act is amended by omitting “1 to 5” and substituting “1 and 5”.

Extension of application of Act to members of Women’s Services

23. Section 107E of the Principal Act is amended—

- (a) by omitting from sub-section (1) “Divisions 1 to 4 (inclusive)” and substituting “Division 1”; and
- (b) by omitting from sub-section (2) “1 to 5 (inclusive)” and substituting “1 and 5”.

24. The heading to Division 10 of Part III of the Principal Act is amended by omitting “Divisions 1 to 4” and substituting “Division 1”. Heading to Division 10 of Part III

25. Section 107H of the Principal Act is amended by omitting “Divisions 1 to 4 (inclusive)” and substituting “Division 1”. Extension of application of Act to certain members of the Forces

26. After Part III of the Principal Act the following Parts are inserted:

“PART IIIA—REPATRIATION REVIEW TRIBUNAL

“Division 1—Preliminary

- “107VA. In this Part, unless the contrary intention appears— Interpretation
- ‘applicant’ means a person who makes an application;
- ‘application’ means an application under this Part to the Tribunal for a review of a decision of the Commission or a Board;
- ‘decision’, in relation to the Commission or a Board, includes a determination of the Commission or the Board, as the case may be;
- ‘Deputy President’ means a Deputy President of the Tribunal;
- ‘direction’ means a direction in writing;
- ‘medical member’ means a member who is a legally qualified medical practitioner;
- ‘member’ means a member of the Repatriation Review Tribunal;
- ‘member of the Forces’ means—
- (a) a person who is a member of the Forces within the meaning of section 23, 100, 105, 107B, 107F or 107J; or
 - (b) a person to whom certain provisions of this Act extend by virtue of section 102, 107, 107D or 107G,
- whichever is appropriate;
- ‘pension’ means a pension under this Act, and includes a service pension and the amounts and allowances specified in the Schedules;
- ‘President’ means the President of the Tribunal;
- ‘presidential member’ means the President or a Deputy President;
- ‘presiding member’, in relation to a proceeding, means the presidential member who is to preside, or is presiding, at any hearing of the proceeding;
- ‘proceeding’, in relation to the Tribunal, means a proceeding before the Tribunal in pursuance of an application, and includes a proceeding before the Tribunal under section 107VZB or 107VZD;
- ‘Services member’ means a member who is a person selected from a list submitted in accordance with a request made under subsection (3) of section 107VZH;

‘war service’ means—

- (a) service that is war service within the meaning of section 23, 100 or 107B; or
- (b) service that is defence service within the meaning of section 107J,

whichever is appropriate.

“*Division 2—Establishment of the Repatriation Review Tribunal*

Establishment of Repatriation Review Tribunal

“107VB. There is hereby established a Repatriation Review Tribunal, which shall consist of a President and such number of Deputy Presidents, and such number of other members, as the Governor-General may from time to time determine.

“*Division 3—Review by the Tribunal of Decisions*

Review of decisions refusing entitlement to pension, other than service pension

“107VC. (1) Where the Commission has made a decision refusing a claim by a person for a pension (other than a service pension) or other benefit under this Act arising out of the incapacity or death of a member of the Forces on the ground that—

- (a) the member is not suffering from any incapacity;
- (b) the incapacity or death of the member has not resulted from any occurrence that happened during the period of his war service, or from his employment in connection with naval or military preparations or operations, or did not arise out of or is not attributable to his war service, as the case may be; or
- (c) the incapacity from which the member is suffering or from which he has died has not been contributed to in any material degree, or has not been aggravated, by the conditions of his war service,

that person may, on or after 1 July 1979, make application to the Tribunal for a review of the decision of the Commission.

“(2) Where—

- (a) the Tribunal, pursuant to an application under sub-section (1) for a review of a decision of the Commission, has made a decision (in this sub-section referred to as ‘the relevant decision’) affirming that decision of the Commission; and
- (b) at any time after the making of the relevant decision, the President, under sub-section (2) of section 107VM, notifies the applicant that, in his opinion, further evidence submitted by the applicant under that sub-section would have been relevant to the making of a decision in the proceeding before the Commission the decision in which was affirmed by the relevant decision,

the applicant may again make application to the Tribunal for a review of that decision of the Commission.

“107VD. (1) Where the Commission or a Board—

- (a) has made a decision assessing the rate of pension of a member of the Forces;
- (b) has made a decision refusing to alter the existing assessment of the rate of pension of a member of the Forces; or
- (c) has made a decision that—

Review of pension assessments other than service pension assessments

- (i) a member of the Forces has an incapacity that—
 - (A) is the result of any occurrence that happened during his war service;
 - (B) is the result of his employment in connection with naval or military preparations or operations;
 - (C) is directly attributable to his war service;
 - (D) arose out of or is attributable to his war service; or
 - (E) has been contributed to in any material degree or has been aggravated by the conditions of his war service; and
- (ii) the incapacity is so slight that it does not warrant a pension assessment,

the member may, on or after 1 July 1979 and within 3 months after the service on the member, in accordance with section 47A, of a copy of the decision of the Commission or the Board, make application to the Tribunal for a review of that decision.

“(2) In this section, ‘pension’ does not include a service pension.

“107VE. (1) Where the Commission has made a decision refusing an application by a member of the Forces, or a member of the Forces of a Commonwealth country, for a service pension under section 85 solely on the ground that the member is not permanently unemployable, the member may, on or after 1 July 1979 and within 3 months after the service on the member, in accordance with section 47A, of a copy of the decision of the Commission, make application to the Tribunal for a review of that decision.

Review of certain decisions refusing application for service pension under section 85

“(2) In this section, ‘member of the Forces of a Commonwealth country’ means a person who is a member of the Forces of a Commonwealth country within the meaning of section 98D.

“107VF. (1) An application to the Tribunal for a review—

- (a) shall be in writing;
- (b) shall set out a statement of the reasons for the application; and
- (c) shall be forwarded to the Secretary at the appropriate address prescribed by or under section 123AC.

Application for review

“(2) Where an application is lodged in accordance with sub-section (1), the Secretary shall—

- (a) within 21 days after the lodgement, notify the President of the lodgement; and
- (b) as soon as practicable thereafter, forward to the President the application and all records and other documents under the control of the Department relating to the decision to which the application relates.

Tribunal not bound by technicalities, &c.

“107VG. The Tribunal, in conducting a proceeding, or the hearing of a proceeding, or in making a decision in a proceeding, on a review—

- (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) an 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 member of the Forces was not reported to the appropriate authorities.

Decision of Tribunal

“107VH. (1) In a proceeding on a review, the Tribunal shall have regard to the evidence that was before the Commission or a Board when the decision the subject of the review was made and to any further evidence before the Tribunal in the proceeding that was not before the Commission or the Board but would have been relevant to the making of a decision in the proceeding before the Commission or the Board.

“(2) On the completion of its consideration in a proceeding on a review—

- (a) where the decision the subject of the review was a decision refusing a claim or application for pension—the Tribunal shall set aside the decision unless it is satisfied, beyond reasonable doubt, that there were insufficient grounds for granting the claim or application; or
- (b) in any other case—the Tribunal shall set aside the decision the subject of the review unless it is satisfied, beyond reasonable doubt, that the decision is the decision that the Tribunal would have made if it had conducted the proceeding in which the decision was made.

“(3) Where the Tribunal sets aside a decision the subject of a review, it shall substitute for that decision such decision as the Tribunal considers to be in accordance with this Act.

“(4) Where the Tribunal does not set aside a decision the subject of a review, it shall affirm that decision.

“107VJ. Where—

(a) in the proceeding on a review pursuant to an application under section 107VD there is before the Tribunal further evidence that was not before the Commission or a Board; and

Further
evidence
relating to
incapacity

(b) by reason of that further evidence, the Tribunal has reason to believe that there has been a change in the incapacity of the applicant since the date of the decision the subject of the review,

the Tribunal shall, for the purpose of the proceeding, disregard that further evidence to the extent that it relates to the incapacity of the applicant at any time after the date of the decision that is the subject of the review but may, after the decision in the proceeding has been made, refer the applicant's case back to the Commission for consideration of that further evidence.

“107VK. (1) Where, in a proceeding before the Tribunal, the Tribunal makes a decision relating, in whole or in part, to a prescribed matter, the Tribunal shall cause to be prepared a written record of the decision, containing a statement of the reasons for the decision, so far as the decision relates to the prescribed matter, including any findings of fact in relation to the prescribed matter.

Reasons for
decision of
Tribunal to
be included
in decision,
&c.

“(2) Where the Tribunal makes a decision referred to in sub-section (1), the Tribunal—

(a) shall file the decision with the records of the case; and

(b) shall serve, or cause to be served, either personally or by post, a copy of the decision both on the applicant or a person authorized by the applicant and on the Commission.

“(3) In this section, ‘prescribed matter’ means a matter referred to in paragraph (a), (d) or (j) of sub-section (1) of section 27.

“*Division 4—Review or Reconsideration by the Commission*

“107VL. (1) Where—

(a) an application for a review of a decision of the Commission has been made to the Tribunal; and

(b) the Commission considers that, because of the lapse of time since that decision of the Commission was made or any other special circumstances, the Commission should review that decision before the review by the Tribunal in pursuance of the application is proceeded with,

Review by
Commission
of decision
the subject of
application
for review by
Tribunal

the Commission shall notify the Tribunal of its intention to conduct a review of that decision and, thereupon, the Tribunal shall postpone the hearing of the proceeding on the review by the Tribunal pending the completion of the review by the Commission.

“(2) Where—

- (a) an application for a review of a decision of the Commission or a Board has been made to the Tribunal; and
- (b) in the proceeding on the review there is before the Tribunal further evidence that was not before the Commission or the Board and the Tribunal is satisfied that that further evidence would have been relevant to the making of a decision in the proceeding before the Commission or the Board,

the Tribunal shall adjourn the hearing and request the Commission to review that decision having regard to that further evidence.

“(3) Where the Tribunal requests the Commission under sub-section (2) to review a decision, the Tribunal may, if the decision is a decision with respect to a pension assessment, vary that assessment pending the completion of the review of the decision by the Commission, having regard to the records and evidence on which the Commission or a Board reached that decision.

“(4) Where—

- (a) the decision of the Commission on a review by the Commission referred to in sub-section (1) or (2) is to affirm the decision the subject of the review, and the Commission notifies the Tribunal accordingly; or
- (b) within 3 months after the service on the applicant, in accordance with section 47A, of a copy of the decision of the Commission on a review by the Commission referred to in sub-section (1) or (2), the applicant notifies the Tribunal that he is not satisfied with the decision,

the Tribunal shall proceed with the hearing of the proceeding that was postponed or adjourned, but, in that proceeding, the decision for review by the Tribunal shall be the decision of the Commission on the review referred to in sub-section (1) or (2) instead of the decision to which the application relates.

“(5) Where the Commission gives to the Tribunal a notification in accordance with paragraph (a) of sub-section (4), the Secretary shall forward to the Tribunal all records and other documents under the control of the Department relating to the review by the Commission to which the notification relates.

“(6) Where the Tribunal receives a notification in accordance with paragraph (b) of sub-section (4), the Tribunal may, before proceeding with a hearing in accordance with that sub-section, request the Secretary to forward to it all records and other documents under the control of the Department relating to the review by the Commission to which the notification relates.

“(7) If no notification under sub-section (4) is received by the Tribunal, the Tribunal shall treat the application relating to the hearing that

was postponed or adjourned in accordance with sub-section (1) or (2) as having lapsed.

“107VM. (1) Where—

- (a) at any time after the making of a decision of the Tribunal on a review pursuant to an application under section 107VC, being a decision affirming the decision of the Commission the subject of the review, the applicant submits to the Commission, in writing, further evidence with respect to the claim the subject of that decision of the Commission; and
- (b) the Commission is satisfied that the further evidence is evidence that would have been relevant to the making of a decision in the proceeding before the Commission the decision in which was affirmed by the Tribunal,

Further evidence after adverse decision of Tribunal on application under section 107vc

the Commission shall reconsider that claim.

“(2) If the Commission is not satisfied that further evidence submitted under sub-section (1) would have been relevant to the making of a decision in the relevant proceeding before the Commission, the Commission shall notify the applicant accordingly, and, thereupon, the applicant may submit that further evidence, in writing, to the President and request the President to notify the applicant whether, in his opinion, the further evidence would have been relevant to the making of a decision in the relevant proceeding before the Commission.

“*Division 5—Organization of the Tribunal*

“107VN. (1) Subject to this section, the Tribunal shall, for the purposes of a proceeding, be constituted by—

Constitution of Tribunal for exercise of powers

- (a) the President or a Deputy President;
- (b) a Services member; and
- (c) one other member.

“(2) The President may, if he considers that a matter to be dealt with by the Tribunal in a proceeding on a review in pursuance of an application under section 107VC is of such importance as to justify him in so doing, determine that the Tribunal, for the purpose of dealing with that matter, shall be constituted by—

- (a) the President;
- (b) a Deputy President; and
- (c) a Services member.

“(3) Where a proceeding is a proceeding on a review in pursuance of an application under section 107VD or 107VE, the member referred to in paragraph (c) of sub-section (1) shall be a medical member.

President
responsible
for arrange-
ment of
business

“107VP. (1) The President is responsible for the efficient operation of the Tribunal.

“(2) The President may give directions—

- (a) for the purpose of increasing the efficiency of the operations of the Tribunal; and
- (b) as to the arrangement of the business of the Tribunal.

Members to
constitute
Tribunal

“107VQ. (1) The President may give directions, from time to time, as to the persons who are to constitute the Tribunal for the purpose of a particular proceeding or particular proceedings.

“(2) A direction under this section—

- (a) may specify the particular proceeding or particular proceedings to which it relates; or
- (b) may be expressed to relate to such proceedings as the President may allocate from time to time to the Tribunal as constituted by the direction.

Member
ceasing to be
member, &c.

“107VR. (1) Where one of the members constituting the Tribunal by virtue of a direction under section 107VQ ceases to be a member or ceases to be available for the purpose of a proceeding, the President may—

- (a) revoke the direction;
- (b) whether or not he revokes the direction, re-allocate any proceedings that have been allocated to the Tribunal as constituted in accordance with the direction; or
- (c) direct that the 2 remaining members shall be deemed to constitute the Tribunal in accordance with that direction,

as he considers appropriate in the circumstances of the case.

“(2) A proceeding shall not be commenced or continued before the Tribunal constituted by 2 members only unless the applicant concerned consents.

“(3) Where a direction is given under paragraph (c) of sub-section (1) by reason of a presiding member ceasing to be a member or ceasing to be available for the purpose of a proceeding, the President shall specify in the direction which of the 2 remaining members shall be the presiding member during the period that the direction is in force.

“(4) Where a proceeding re-allocated under sub-section (1) had been commenced, but had not been completed, before the re-allocation took place, the Tribunal as constituted for the purpose of that proceeding by virtue of that re-allocation may, in the proceeding before it, have regard to any record of the proceeding before the Tribunal as previously constituted, including a record of any evidence taken in the proceeding before the Tribunal as previously constituted.

“107VS. (1) Sittings of the Tribunal shall be held from time to time as required, and at such places in Australia or in an external Territory as may be convenient. Places of sitting

“(2) The President shall notify the Commission and the applicant concerned of the time and place fixed for any hearing of a proceeding.

“Division 6—Proceedings before the Tribunal

“107VT. (1) Where the President is included in the members constituting the Tribunal for the purpose of a proceeding, he shall preside at any hearing of the proceeding. Presidential member to preside at hearing

“(2) Where the President is not included in the members constituting the Tribunal for the purpose of a proceeding, the Deputy President who is included in those members shall preside at any hearing of the proceeding.

“107VU. (1) An applicant may—

- (a) appear in person, or be represented at his own expense by a person other than a legal practitioner, at any hearing of a proceeding on a review in pursuance of an application made by him; or
 - (b) if, for any reason, he wishes the review to proceed in his absence, make such submissions, in writing, to the Tribunal as he considers are relevant to the review.
- Parties to proceeding before Tribunal

“(2) The Commission may be represented at any hearing of a proceeding by a person other than a legal practitioner.

“107VV. (1) The President may give directions as to the procedure of the Tribunal with respect to proceedings before it. Procedure of Tribunal

“(2) The presiding member in relation to a particular proceeding may, in respect of a matter not dealt with by directions under sub-section (1), give directions (whether in writing or otherwise) as to the procedure to be followed at any hearing of that proceeding.

“(3) In giving a direction under this section, the President or a presiding member shall have regard to the need for the proceedings before the Tribunal 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 Tribunal permit.

“107VW. (1) A question before the Tribunal in a proceeding shall be decided according to the opinion of a majority of the members constituting the Tribunal. Questions to be decided by majority of Tribunal

“(2) Where a Tribunal is constituted for the purposes of a proceeding by 2 members only and the 2 members cannot agree on a question arising in the proceeding, the Tribunal shall adjourn the proceeding and

refer the matter to the President for the giving of any necessary directions, or the taking of any other action, under section 107VR.

Hearings to be in private except in special circumstances

“107VX. (1) Subject to this section, the hearing of a proceeding 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 proceeding.

“(3) If requested to do so by the applicant, the presiding member may permit a hearing, or a part of a hearing, of a proceeding to take place in public.

Powers of Tribunal

“107VY. (1) The Tribunal may—

- (a) take evidence on oath or affirmation for the purposes of a proceeding; and
- (b) adjourn a hearing of a proceeding from time to time.

“(2) The presiding member in relation to a proceeding may—

- (a) summon a person to appear at any hearing of the proceeding 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 proceeding 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 oath or affirmation to be taken or made by a person for the purposes of this section is an oath or affirmation that the answers he will give to questions asked him will be true.

“(4) The power of the Tribunal under paragraph (a) of sub-section (1) to take evidence on oath or affirmation for the purposes of a proceeding may be exercised on behalf of the Tribunal by the presiding member in relation to the proceeding or by another person (whether a member or not) authorized by that presiding member, and that power may be so exercised within or outside Australia, but the Tribunal may direct that the power is to be so exercised subject to limitations specified by the Tribunal.

“(5) Where a person other than the presiding member in relation to a proceeding is authorized, in accordance with sub-section (4), to take evidence for the purposes of the proceeding—

- (a) the first-mentioned person has, for the purpose of taking that evidence, all the powers of the Tribunal under sub-section (1) and all the powers of the presiding member under sub-section (2); and
- (b) for the purpose 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 Tribunal, or to the presiding member, in relation to the proceeding included a reference to the first-mentioned person.

“107VZ. (1) The presiding member in relation to a proceeding before the Tribunal may, at any time, request the Secretary—

Request to Secretary for documents, &c.

- (a) to forward to the Tribunal further documents in his custody relating to the proceeding;
- (b) to obtain, and forward to the Tribunal, further documents relating to the proceeding; or
- (c) to arrange for the making of any investigation, or any medical examination, that the presiding member thinks necessary with respect to the proceeding, and to forward to the Tribunal a report of that investigation or examination.

“(2) Where a request is made under sub-section (1), the Tribunal shall adjourn any hearing of the proceeding to which the request relates and may, if the proceeding is for the review of a decision with respect to a pension assessment, vary that assessment pending the completion of that proceeding, having regard to the records and evidence on which the Commission or a Board reached that decision.

“107VZA. (1) Subject to sub-section (2), the Tribunal shall, so far as is consistent with the interests of an applicant, make available to the applicant, or to a person representing the applicant, any information relating to the claim of the applicant under the control of the Tribunal.

Information may be made available to applicant

“(2) Where information referred to in sub-section (1) was provided on a confidential basis, the Tribunal shall not make the information available in accordance with sub-section (1) unless the person who provided the information gives his consent, in writing, to that course.

“107VZB. Where a decision of the Tribunal on a review pursuant to an application under section 107VC is favourable to the applicant, the Commission may, within 6 months after the service, in accordance with section 107VK, of a copy of that decision on the Commission—

Rehearing of proceeding of Tribunal on application under section 107vc

- (a) submit to the Tribunal further evidence that the Commission is satisfied is evidence that would have been relevant to the making of a decision in the proceeding before the Tribunal on that review; and
 - (b) request the Tribunal to rehear that proceeding,
- and the Tribunal may, if it thinks fit, rehear that proceeding accordingly.

“107VZC. (1) A decision of the Tribunal on a review pursuant to an application under section 107VD shall, subject to this section and section 107VZD, be binding upon the applicant, the Commission and a Board for a period, being—

Effect of decision of Tribunal on application under section 107vd

- (a) where the Tribunal specifies in the decision a period of not more than 3 years commencing on the day of the making of the decision—that period; or
- (b) in any other case—a period of 6 months commencing on the day of the making of the decision.

“(2) If, during a period referred to in sub-section (1), the applicant is of the opinion that his incapacity has increased, he is entitled to apply to the Commission or a Board for an increase in his pension assessment.

“(3) Where the Commission or a Board to whom an application is made under sub-section (2) makes a decision on the application, the applicant may, within 3 months after the service on the applicant, in accordance with section 47A, of a copy of that decision, make application under section 107VD for a review by the Tribunal of that decision.

Rehearing of
proceeding
by Tribunal

“107VZD. (1) Where, within 3 months after the service on an applicant, in accordance with section 107VK, of a copy of a decision of the Tribunal that is adverse to the applicant, the applicant—

- (a) satisfies the Tribunal that the applicant, or a person representing the applicant, was unable to make any submission, or present any evidence, to the Tribunal by reason that the applicant or the person representing the applicant was, due to circumstances outside his control, prevented from attending the hearing of the proceeding in which the decision was made; and
- (b) requests the Tribunal to rehear that proceeding,

the Tribunal shall rehear that proceeding.

“(2) Where, at any time after the service on the Commission, in accordance with section 107VK, of a copy of a decision of the Tribunal, the Commission forms the view that evidence in the proceeding in which the decision was given was false in a material particular, the Commission may refer the matter to the Tribunal, together with a statement of the ground for its opinion, and the Tribunal may, if it thinks fit, rehear that proceeding.

Dismissal of
application
by consent

“107VZE. Where both the applicant for a review of a decision by the Tribunal and the Commission consent, the Tribunal may dismiss the application without proceeding to review the decision or, if the Tribunal has commenced to review the decision, without completing the review.

“Division 7—Date of Operation of Decisions of the Tribunal and Certain Decisions of the Commission

Date of
operation
may be
specified

“107VZF. The Tribunal may specify in a decision on a review under this Part, and the Commission may specify in a decision on a review under section 107VL, or on a reconsideration under section 107VM, the date from which the decision is to operate, being a date fixed in accordance with this Division.

“107VZG. (1) Subject to sub-section (2)—

Limits of
retrospective
operation

- (a) a decision of the Tribunal on a review pursuant to an application under section 107VC;
- (b) a decision of the Commission on a review under section 107VL following on an application for a review by the Tribunal pursuant to an application under section 107VC; or
- (c) a decision of the Commission under section 107VM,

shall not be expressed to operate from—

- (d) a date earlier than 3 months before the day on which the relevant claim for pension was lodged;
- (e) a date earlier than 6 months before the day on which the application under sub-section (1) of section 107VC was lodged at the appropriate address referred to in section 107VF; or
- (f) where the abovementioned decision (in this paragraph referred to as ‘the relevant decision’) is—
 - (i) a decision of the Commission under section 107VM;
 - (ii) a decision of the Commission on a review under section 107VL following on, or a decision of the Tribunal on, an application for a review by the Tribunal of a decision of the Commission under section 107VM; or
 - (iii) a decision of the Commission on a review under section 107VL following on, or a decision of the Tribunal on, an application under sub-section (2) of section 107VC for a review by the Tribunal of a decision of the Commission,
 a date earlier than 4 years before the day on which the relevant decision is made,

whichever is the latest date.

“(2) Paragraph (e) of sub-section (1) does not apply in relation to a decision, if—

- (a) the application referred to in that paragraph was lodged at the appropriate address referred to in section 107VF within 3 months after the service on the applicant, in accordance with section 47A, of a copy of the decision of the Commission the review of which was the subject of the application; and
- (b) where the decision of the Commission referred to in paragraph (a) was a decision on appeal under section 28 from a decision of a Board—that appeal was lodged within 3 months after the service on the applicant, in accordance with section 47A, of a copy of that decision of the Board.

“(3) A decision of the Tribunal on a review pursuant to an application under section 107VD, or a decision of the Commission on a review under section 107VL following on an application for a review by the Tribunal under section 107VD, shall not be expressed to operate from—

- (a) where the application follows on a decision of the Tribunal or the Commission granting a claim for a pension—a date earlier than the date from which that decision of the Tribunal or the Commission, as the case may be, operates;
- (b) where the application is for a review of a decision—
 - (i) refusing to alter the existing assessment of the rate of a pension; or
 - (ii) refusing a claim for a pension on the ground that the incapacity of the member of the Forces is so slight that it does not warrant a pension assessment,

a date earlier than the earliest date from which the Commission or a Board, if it had not made that decision, could have approved of payment of the pension; or
- (c) where the application is for a review of a decision cancelling or reducing the rate of a pension—a date earlier than 6 months before the date on which the application was lodged at the appropriate address referred to in section 107VF.

“(4) A decision of the Tribunal on a review pursuant to an application under section 107VE, or a decision of the Commission on a review under section 107VL following on an application for a review by the Tribunal under section 107VE, being an application for the review of a decision of the Commission refusing an application for a service pension, shall not be expressed to operate from a date earlier than the earliest date from which the Commission, if it had not refused the application, could have approved of a payment of service pension pursuant to the application.

“(5) In this section, ‘date’ includes a date before the commencement of this Part.

“Division 8—Membership of the Tribunal

Appointment
of members
to Tribunal

“107VZH. (1) The members of the Tribunal shall be appointed by the Governor-General.

“(2) Of the members other than the President or a Deputy President—

- (a) such number as the Governor-General may from time to time determine shall be persons selected from lists submitted in accordance with a request made under sub-section (3); and
- (b) such number as the Governor-General may from time to time determine shall be persons who are legally qualified medical practitioners.

“(3) The Minister may, from time to time, request organizations representing returned soldiers throughout Australia to submit to him

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 Tribunal.

“(4) The President shall be appointed as a full-time member.

“(5) A member other than the President shall be appointed either as a full-time member or as a part-time member.

“107VZJ. (1) A person shall not be appointed as the President unless he is enrolled as a legal practitioner of the High Court, of another federal court or of the Supreme Court of a State or Territory and has been so enrolled for not less than 5 years.

Qualifications for appointment of President and Deputy Presidents

“(2) A person shall not be appointed as the Deputy President unless—

- (a) he is enrolled as a legal practitioner of the High Court, of another federal court or of the Supreme Court of a State or Territory; or
- (b) he has obtained a degree in law of a university.

“107VZK. (1) Subject to this Part, a member holds office for such period, not exceeding 7 years, as is specified in the instrument of his appointment and on such terms and conditions as the Governor-General determines, but is eligible for re-appointment.

Term of appointment

“(2) A person who has attained the age of 65 years shall not be appointed or re-appointed as a full-time member, and a person shall not be appointed or re-appointed as a full-time member for a period that extends beyond the date on which he will attain—

- (a) in the case of an appointment or a re-appointment to the office of President—the age of 70 years; or
- (b) in any other case—the age of 65 years.

“107VZL. (1) A member shall be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration by that Tribunal is in operation, he shall be paid such remuneration as is prescribed.

Remuneration and allowances of members

“(2) A member shall be paid such allowances as are prescribed.

“(3) This section has effect subject to the *Remuneration Tribunals Act 1973*.

“107VZM. (1) Subject to sub-section (3), the Minister may appoint a person to act in the place of a member—

Acting members

- (a) during a vacancy in the office of the member; or
- (b) during any period, or during all periods, when—
 - (i) the member is acting in the place of another member in accordance with this section;

- (ii) the member, being a full-time member, is absent from duty or from Australia; or
- (iii) the member, being a part-time member, is unavailable to perform the duties of his office,

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

“(2) An appointment of a person under sub-section (1) may be expressed to have effect only in such circumstances as are specified in the instrument of appointment.

“(3) A person shall not be appointed to act in the place of the President or a Deputy President unless he is qualified, in accordance with section 107VZJ, to be appointed as the President or a Deputy President, as the case may be.

“(4) Where a person has been appointed under sub-section (1) to act in the place of a member (in this sub-section referred to as ‘the absent member’) who is absent or unavailable or acting in the place of another member, the Minister may, by reason of a pending proceeding or other special circumstances, direct, before the absent member ceases to be absent or unavailable or ceases to act in the place of another member, that the person so appointed shall continue to act in the appointment after the absent member ceases to be absent or unavailable or ceases to act in the place of another member 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 sub-section for more than 12 months after the absent member ceases to be absent or unavailable or ceases to act in the place of another member.

“(5) A person acting in the place of the President, a Deputy President or another member has all the powers, and shall perform all the functions and duties, conferred or imposed by this Part on the President, the Deputy President or the other member, as the case may be.

“(6) Where the Tribunal as constituted for the purpose of a proceeding includes a person acting or purporting to be appointed under this section, or a person so acting or purporting to be appointed has done any act, the validity of any decision of, or of any direction given or other act done by, the Tribunal as so constituted or of the act done by the person so acting or purporting to be appointed 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 had not arisen or that the occasion for his appointment had passed or his appointment had ceased to have effect.

“(7) A person who is appointed under this section may resign that appointment by writing signed by him delivered to the Minister.

“(8) The Minister may—

- (a) subject to this Part, determine the terms and conditions (including terms and conditions relating to remuneration and allowances) of appointment of a person appointed under this section; and
- (b) at any time terminate such an appointment.

“107VZN. The Minister may grant leave of absence to a full-time member upon such terms and conditions as to remuneration or otherwise as the Minister determines. Leave of absence

“107VZP. A member may resign his office by writing signed by him delivered to the Governor-General. Resignation

“107VZQ. (1) The Governor-General may remove a member from office on an address praying for his removal on the ground of proved misbehaviour or incapacity being presented to the Governor-General by each House of the Parliament in the same session of the Parliament. Removal from office

“(2) The Minister may suspend a member from office on the ground of misbehaviour or incapacity.

“(3) Where the Minister suspends a member from office, the Minister shall cause a statement of the ground of the suspension to be laid before each House of the Parliament within 7 sitting days of that House after the suspension.

“(4) Where such a statement has been laid before a House of the Parliament, that House may, within 15 sitting days of that House after the day on which the statement has been laid before it, by resolution, declare that the member should be removed from office and, if each House so passes such a resolution, the Governor-General shall remove the member from office.

“(5) If, at the expiration of 15 sitting days of a House of the Parliament after the day on which the statement has been laid before that House, that House has not passed such a resolution, the suspension terminates.

“(6) The suspension of a member from office under this section does not affect any entitlement of the member to be paid remuneration and allowances.

“(7) If—

- (a) a member becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or
- (b) a full-time member engages, without the consent of the Minister, in any paid employment outside the duties of his office,

the Governor-General shall remove that member from office.

“(8) The Governor-General may, with the consent of a member who is an eligible employee for the purposes of the *Superannuation Act* 1976, retire the member from office on the ground of incapacity.

“(9) A member shall not be suspended, removed or retired from office except as provided by this section.

Application
of Super-
annuation
Act and
Officers’
Rights
Declaration
Act

“107VZR. (1) For the purposes of the *Superannuation Act* 1976, the removal under sub-section (1) of section 107VZQ of this Act of a member from office on the ground of incapacity or the removal under sub-section (4) of that section of a member from office following his suspension from office on that ground, or the retirement under sub-section (8) of that section of a member from office, shall be deemed to be retirement on the ground of invalidity.

“(2) Where a full-time member was, immediately before his appointment, an officer of the Australian Public Service or a person to whom the *Officers’ Rights Declaration Act* 1928 applied—

- (a) he retains his existing and accruing rights;
- (b) for the purpose of determining those rights, his service under this Act shall be taken into account as if it were service in the Australian Public Service; and
- (c) the *Officers’ Rights Declaration Act* 1928 applies as if this Act and this section had been specified in the Schedule to that Act.

“Division 9—Miscellaneous

Delegation

“107VZS. (1) The President may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him, delegate to a Deputy President any of his powers under this Part other than this power of delegation.

“(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Part, be deemed to have been exercised by the President.

“(3) A delegation may be made to a Deputy President under this section notwithstanding a delegation to another Deputy President is, or delegations to other Deputy Presidents are, in force under this section.

“(4) A delegation under this section does not prevent the exercise of a power by the President.

Protection of
members
and
witnesses

“107VZT. (1) A member has, in the performance of his 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 proceeding before the Tribunal 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 Tribunal 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.

“107VZU. A person served, as prescribed, with a summons to appear as a witness before the Tribunal shall not, without reasonable excuse—

Failure of witness to attend

- (a) fail to attend as required by the summons; or
- (b) fail to appear and report himself from day to day unless excused, or released from further attendance, by a member.

Penalty: \$1,000 or imprisonment for 3 months.

“107VZV. A person appearing as a witness before the Tribunal shall not, without reasonable excuse—

Refusal to be sworn or to answer questions

- (a) when required in pursuance of section 107VY 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 he is required to answer by the presiding member; or
- (c) refuse or fail to produce a document that he is required to produce by a summons under this Part served on him as prescribed.

Penalty: \$1,000 or imprisonment for 3 months.

“107VZW. A person shall not—

Contempt of Tribunal

- (a) insult a member in or in relation to the exercise of his powers or functions as a member;
- (b) interrupt the proceedings of the Tribunal;
- (c) create a disturbance, or take part in creating or continuing a disturbance, in or near a place where the Tribunal is sitting; or
- (d) do any other act or thing that would, if the Tribunal were a court of record, constitute a contempt of that court.

Penalty: \$1,000 or imprisonment for 3 months.

“107VZX. (1) An applicant is entitled, if he attends at a hearing of a proceeding on a review pursuant to his application before the Tribunal, to receive—

Payments of expenses and allowances in respect of attendances

- (a) such expenses in connection with his attendance; and
- (b) such allowances in respect of any loss of salary or wages, or of earnings from work on his own account, suffered by him by reason of his attendance,

as are prescribed.

“(2) Subject to such conditions as the Commission determines, an attendant who accompanies an applicant referred to in sub-section (1) to a hearing of a proceeding is entitled to be paid—

- (a) such expenses in connection with his accompanying the applicant; and
 - (b) such allowances in respect of any loss of salary or wages, or of earnings from work on his own account, suffered by him by reason of his accompanying the applicant,
- as the Commission considers reasonable.

“(3) Where the Tribunal is of the opinion that an application made by an applicant is frivolous, it may declare that neither the applicant nor any attendant accompanying him is entitled to receive any payment under this section in connection with a hearing of the proceeding on a review pursuant to his application before the Tribunal.

Fees for witnesses

“107VZY. (1) A person summoned to appear as a witness at a hearing before the Tribunal is entitled to be paid fees, and allowances for expenses, fixed by or in accordance with the regulations in respect of his attendance.

“(2) Subject to sub-section (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 Tribunal may, in its discretion, order that the fees and allowances of a witness referred to in paragraph (a) of sub-section (2) shall be paid, in whole or in part, by the Commonwealth.

Staff to assist President

“107VZZ. Any staff required to assist the President shall be persons appointed or employed under the *Public Service Act 1922*.

Annual report

“107VZZA. (1) The President shall, as soon as practicable after 30 June in each year, prepare and furnish to the Minister a report of the operations of the Tribunal during that year.

“(2) The Minister shall cause the report of the Tribunal to be laid before each House of the Parliament within 15 sitting days of that House after the receipt of the report by the Minister.

“PART IIIB—REVIEW OF DECISIONS OF COMMISSION BY ADMINISTRATIVE APPEALS TRIBUNAL

Reference of decisions to Administrative Appeals Tribunal

“107VZZB. (1) At any time after the receipt by the President of the Repatriation Review Tribunal of an application for a review by that Tribunal under Part IIIA of a decision of the Commission, the President may, if he considers that the decision involves an important principle of general application with respect to entitlement to, or assessment of, pension under this Act, refer the decision to the President of the Administrative Appeals Tribunal, together with a statement of his reasons for so concluding, with a request for a review by that Tribunal of that decision.

“(2) Where the President of the Repatriation Review Tribunal makes a reference under sub-section (1), the Tribunal shall not commence any hearing of the proceeding before it with respect to the decision the subject of that reference, or, if it has commenced such a hearing, shall adjourn that hearing.

“(3) At any time during the hearing of a proceeding before the Repatriation Review Tribunal under Part IIIA, the applicant or the Commission may make an application to the Tribunal requesting that—

- (a) where the decision to which the proceeding relates is a decision of the Commission—the decision be referred for review by the Administrative Appeals Tribunal; or
- (b) in any other case—the decision to which the proceeding relates be referred to the Commission with a request that it review the decision,

and, if such an application is made, the person making the application shall furnish to the Tribunal, when making the application, a statement of the reasons for making the application.

“(4) Where an application is made under sub-section (3), the Repatriation Review Tribunal shall adjourn the hearing of the proceeding before it and shall—

- (a) where the application relates to a decision of the Commission—refer the application to the President of the Repatriation Review Tribunal; or
- (b) in any other case—request the Commission to review the decision the subject of the application.

“(5) Within 3 months after the service on the applicant, in accordance with section 47A, of a copy of the decision of the Commission on a review under sub-section (4) the applicant may notify the President of the Repatriation Review Tribunal requesting that the decision of the Commission be referred for review by the Administrative Appeals Tribunal.

“(6) If no notification by an applicant referred to in sub-section (5) is received by the President of the Repatriation Review Tribunal within the period referred to in that sub-section, the President shall treat the application concerned as having lapsed.

“(7) The President of the Repatriation Review Tribunal shall consider any application under sub-section (4), or any notification under sub-section (5), received by him and shall—

- (a) if he considers that the decision the subject of the application or notification involves an important principle of general application with respect to entitlement to, or assessment of, pension under this Act—refer that decision to the President of the Administrative Appeals Tribunal, together with a statement of his reasons for so concluding and particulars of any submissions

made in support of the application or the notification (including a copy of the statement of the reasons of the applicant furnished under sub-section (3)), with a request for a review by that Tribunal of that decision; and

- (b) in any other case—refuse the request for such a review, and notify the applicant accordingly, including in the notification a statement of his reasons for his refusal.

“(8) Where the President of the Administrative Appeals Tribunal receives a request under sub-section (1) or (7) for a review by that Tribunal of a decision, he shall—

- (a) direct the review by that Tribunal, in accordance with the *Administrative Appeals Tribunal Act 1975*, of that decision; and
- (b) notify the President of the Repatriation Review Tribunal accordingly.

“(9) In a direction under sub-section (8), the President of the Administrative Appeals Tribunal may indicate his intention to nominate the President of the Repatriation Review Tribunal as one of the persons to constitute the Administrative Appeals Tribunal for the purposes of the proceeding before the Administrative Appeals Tribunal on the review to which the direction relates and, if he does so, the President of the Repatriation Review Tribunal shall, with respect to that proceeding, be deemed to be a non-presidential member of the Administrative Appeals Tribunal for the purposes of the *Administrative Appeals Tribunal Act 1975*.

“(10) Where the President of the Repatriation Review Tribunal receives a notification under sub-section (8), he shall forward to the Administrative Appeals Tribunal all documents and other records relating to the proceeding before the Repatriation Review Tribunal with respect to the decision the subject of the notification.

“(11) In a proceeding before the Administrative Appeals Tribunal on a review of a decision in accordance with a direction under sub-section (8), the Tribunal may, for the purpose of that proceeding, have regard to any record of the proceeding before the Repatriation Review Tribunal with respect to that decision, including a record of any evidence taken in that last-mentioned proceeding.

Constitution
of Adminis-
trative
Appeals
Tribunal

“107VZZC. (1) For the purpose of the exercise of its powers in relation to a review under this Part, the Administrative Appeals Tribunal shall be constituted by—

- (a) a presidential member and 2 non-presidential members; or
- (b) a presidential member alone.

“(2) In this section, ‘non-presidential member’ and ‘presidential member’ have the same respective meanings as they have in the *Administrative Appeals Tribunal Act 1975*.

“107VZZD. (1) In addition to the powers conferred on it by section 43 of the *Administrative Appeals Tribunal Act 1975*, the Administrative Appeals Tribunal may, in a proceeding on a review in accordance with a direction under sub-section (8) of section 107VZZB, at any time remit the review the subject of the proceeding to the Repatriation Review Tribunal.

Additional powers of Administrative Appeals Tribunal

“(2) Where the Administrative Appeals Tribunal remits a review to the Repatriation Review Tribunal under sub-section (1), the Administrative Appeals Tribunal may give directions in relation to that review to the Repatriation Review Tribunal, and the Repatriation Review Tribunal shall, in conducting the review so remitted, comply with those directions.

“(3) Where, under sub-section (1), a review is remitted by the Administrative Appeals Tribunal to the Repatriation Review Tribunal, the Repatriation Review Tribunal may, for the purpose of the proceeding before it on that review, have regard to any record of the proceeding before the Administrative Appeals Tribunal in which the review was so remitted, including a record of any evidence taken in that last-mentioned proceeding.

“107VZZE. In Part IIIA (other than section 107VK)—

- (a) a reference to a decision of the Repatriation Review Tribunal shall be read as including a reference to a decision of the Administrative Appeals Tribunal on a review in accordance with a direction under sub-section (8) of section 107VZZB;
- (b) a reference to the Repatriation Review Tribunal shall, in relation to a decision of the Administrative Appeals Tribunal referred to in paragraph (a), be read as a reference to the Administrative Appeals Tribunal; and
- (c) a reference to the service, in accordance with section 107VK, of a copy of a decision shall, in relation to a decision of the Administrative Appeals Tribunal referred to in paragraph (a) of this sub-section, be read as a reference to the service, in accordance with sub-section (3) of section 43 of the *Administrative Appeals Tribunal Act 1975*, of a copy of that last-mentioned decision.

Reference to decisions of Repatriation Review Tribunal to be read as including reference to decisions of Administrative Appeals Tribunal, &c.

“107VZZF. Where the Administrative Appeals Tribunal decides a review under this Part without exercising the power conferred on it by section 107VZZD to remit the review to the Repatriation Review Tribunal, the proceeding before the Repatriation Review Tribunal with respect to the decision the subject of the review by the Administrative Appeals Tribunal shall be deemed to have been closed.

Effect of decision of Administrative Appeals Tribunal on proceeding before Repatriation Review Tribunal

**“PART IIIC—REFERENCES AND APPEALS FROM THE
REPATRIATION REVIEW TRIBUNAL TO THE FEDERAL
COURT**

Reference of
questions of
law to
Federal
Court of
Australia

“107VZZG. (1) The Tribunal may, of its own motion or at the request of the applicant or the Commission, refer a question of law arising in a proceeding before the Tribunal to the Federal Court of Australia for decision but a question shall not be so referred without the concurrence of the President of the Tribunal.

“(2) The Federal Court of Australia has jurisdiction to hear and determine a question of law referred to it under this section and that jurisdiction shall be exercised, subject to sub-section (3), by a single Judge.

“(3) The Chief Judge of the Federal Court of Australia may, if in his opinion a question of law referred to the Court under this section involves the determination of a matter of sufficient importance, direct that, for the purpose of the determination of that question, the Court shall be constituted by not less than 3 Judges.

“(4) Where a question of law arising in any proceeding has been referred to the Federal Court of Australia under this section, the Tribunal shall not, in that proceeding—

- (a) give a decision to which the question is relevant while the reference is pending; or
- (b) proceed in a manner, or make a decision, that is inconsistent with the opinion of the Federal Court of Australia on the question.

Appeal to
Federal
Court of
Australia
from
decisions of
the Tribunal

“107VZZH. (1) An applicant in a proceeding before the Tribunal or the Commission may appeal to the Federal Court of Australia, on a question of law, from any decision of the Tribunal in that proceeding.

“(2) An appeal by an applicant or the Commission under sub-section (1) shall be instituted—

- (a) not later than the twenty-eighth day after the day on which a copy of the decision of the Tribunal is served on the applicant, or a person authorized by the applicant, or on the Commission, as the case may be, or within such further time as the Federal Court of Australia (whether before or after the expiration of that day) allows; and
- (b) in such manner as is prescribed by Rules of Court made under the *Federal Court of Australia Act 1976*.

“(3) The Federal Court of Australia has jurisdiction to hear and determine appeals instituted in that Court in accordance with sub-section (1).

“(4) The Federal Court of Australia shall hear and determine the appeal and may make such order as it thinks appropriate by reason of its decision.

“(5) Without limiting by implication the generality of sub-section (4), the orders that may be made by the Federal Court of Australia on an appeal include an order affirming or setting aside the decision of the Tribunal and an order remitting the case to be heard and decided again, either with or without the hearing of further evidence, by the Tribunal in accordance with the directions of the Court.

“107VZZJ. Where a question of law is referred to the Federal Court of Australia in accordance with section 107VZZG or an appeal is instituted in that Court in accordance with section 107VZZH—

Documents
to be sent to
Federal
Court of
Australia

- (a) the Tribunal shall cause to be sent to that Court all documents and other records relating to the proceeding before the Tribunal to which the reference or appeal relates; and
- (b) at the conclusion of the proceeding before the Federal Court of Australia with respect to the reference or appeal, that Court shall cause the documents and other records to be returned to the Tribunal.

“107VZZK. (1) Where a question of law is referred to the Federal Court of Australia in accordance with section 107VZZG, the approved costs of the applicant in connection with that reference shall be borne by the Commonwealth.

Costs in
connection
with
references
and appeals
to the
Federal
Court of
Australia

“(2) Where an appeal is instituted in the Federal Court of Australia by the Commission in accordance with section 107VZZH, the approved costs of the applicant in connection with that appeal shall be borne by the Commonwealth.

“(3) Where an appeal is instituted in the Federal Court of Australia by an applicant in accordance with section 107VZZH, that Court may, in its discretion, make such orders as to the costs in the appeal as it considers just.

“(4) In this section, ‘approved costs’, in relation to an applicant in connection with a reference or an appeal, means—

- (a) where the amount of the costs of the applicant in connection with the reference or appeal is the subject of an agreement between the applicant and the Commission—the amount of costs so agreed; or
- (b) in any other case—the taxed costs of the applicant in connection with that reference or appeal.

“(5) An applicant referred to in sub-section (4) may, for the purposes of that sub-section, request the Federal Court of Australia to direct the taxation of his costs in connection with a reference or appeal.

“107VZZL. (1) Where an applicant has instituted, or proposes to institute, an appeal in the Federal Court of Australia in accordance with section 107VZZH, the applicant may apply to the Attorney-General for the provision of assistance under this section in respect of the proceeding.

Legal
assistance

“(2) Where an application is made by an applicant under sub-section (1), the Attorney-General may, if he is satisfied that it would involve hardship to the applicant to refuse the application and that, in all the circumstances, it is reasonable that the application should be granted, authorize the provision by the Commonwealth to the applicant, either unconditionally or subject to such conditions as the Attorney-General determines, of such legal or financial assistance in relation to the proceeding as the Attorney-General determines.”.

PART III—AMENDMENTS OF THE INTERIM FORCES BENEFITS ACT 1947

Principal Act **27.** The *Interim Forces Benefits Act 1947*³ is in this Part referred to as the Principal Act.

Interpretation **28.** Section 3 of the Principal Act is amended by adding at the end thereof the following definition:

“ ‘Repatriation Act’ means the *Repatriation Act 1920*. ”.

War pensions for male members of the Interim Forces

29. Section 6 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “Divisions 1 to 4 (inclusive)” and substituting “Division 1”;
- (b) by omitting from sub-section (2) “Divisions 1 to 4 (inclusive)” and substituting “Division 1”; and
- (c) by omitting from paragraph (b) of sub-section (2) “those Divisions,” (wherever occurring) and substituting “that Division or those”.

War pensions for female members of the Interim Forces

30. Section 7 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “Divisions 1 to 4 (inclusive)” and substituting “Division 1”;
- (b) by omitting from sub-section (2) “Divisions 1 to 4 (inclusive)” and substituting “Division 1”; and
- (c) by omitting from paragraph (b) of sub-section (2) “those Divisions,” (wherever occurring) and substituting “that Division or those”.

31. After section 7 of the Principal Act the following section is inserted:

Application of Parts IIIA, IIIB and IIIC of the Repatriation Act

“7AA. Subject to this Act, the provisions of Parts IIIA, IIIB and IIIC of the Repatriation Act extend to and in relation to—

- (a) members of the Interim Forces within the meaning of this Act; and

(b) the dependants of those members,

and, in the application by virtue of this section of those provisions—

- (c) a reference to a member of the Forces shall be read as a reference to a member of the Interim Forces within the meaning of this Act;
- (d) a reference to war service shall be read as a reference to service of a kind referred to in paragraph (a) of sub-section (1) of section 101 of the Repatriation Act in its application by virtue of paragraph (c) of sub-section (2) of section 6, or paragraph (c) of sub-section (2) of section 7, of this Act; and
- (e) a reference to the Repatriation Act shall be read as a reference to this Act and the Repatriation Act in its application by virtue of this Act.”.

32. The Principal Act is amended as set out in the Schedule.

Formal
amendments

PART IV—AMENDMENTS OF THE REPATRIATION (FAR EAST STRATEGIC RESERVE) ACT 1956

33. The *Repatriation (Far East Strategic Reserve) Act 1956*⁴ is in this Part referred to as the Principal Act.

34. Section 7 of the Principal Act is amended—

(a) by omitting from sub-section (1) “Divisions 1 to 4 (inclusive)” and substituting “Division 1”; and

(b) by inserting after sub-section (2) the following sub-section:

“(2A) Subject to this Act, the provisions of Parts IIIA, IIIB and IIIC of the Repatriation Act extend to and in relation to—

(a) members of the Forces within the meaning of this Act; and

(b) the dependants of those members,

and, in the application by virtue of this sub-section of those provisions—

(c) a reference to a member of the Forces shall be read as a reference to a member of the Force within the meaning of this Act;

(d) a reference to war service shall be read as a reference to Malayan service;

(e) a reference to a pension under the Repatriation Act shall be read as a reference to a pension under this Act; and

(f) a reference to the Repatriation Act shall be read as a reference to this Act and to the Repatriation Act in its application by virtue of this Act.”.

Extension of
certain
provisions of
Repatriation
Act

PART V—AMENDMENTS OF THE REPATRIATION (SPECIAL OVERSEAS SERVICE) ACT 1962

Principal Act **35.** The *Repatriation (Special Overseas Service) Act 1962*⁵ is in this Part referred to as the Principal Act.

Extension of certain provisions of Repatriation Act **36.** Section 7 of the Principal Act is amended—

(a) by omitting from sub-section (1) “Divisions 1 to 4 (inclusive)” and substituting “Division 1”; and

(b) by inserting after sub-section (3) the following sub-section:

“(3A) Subject to this Act, the provisions of Parts IIIA, IIIB and IIIC of the Repatriation Act extend to and in relation to—

(a) members of the Forces within the meaning of this Act; and

(b) the dependants of those members,

and, in the application by virtue of this sub-section of those provisions—

(c) a reference to a member of the Forces shall be read as a reference to a member of the Forces within the meaning of this Act;

(d) a reference to war service shall be read as a reference to special service;

(e) a reference to a pension under the Repatriation Act shall be read as a reference to a pension under this Act; and

(f) a reference to the Repatriation Act shall be read as a reference to this Act and to the Repatriation Act in its application by virtue of this Act.”.

PART VI—AMENDMENTS OF THE SEAMEN’S WAR PENSIONS AND ALLOWANCES ACT 1940

Principal Act **37.** The *Seamen’s War Pensions and Allowances Act 1940*⁶ is in this Part referred to as the Principal Act.

Interpretation **38.** Section 3 of the Principal Act is amended—

(a) by omitting from sub-section (1) the definitions of “Appeal Tribunal” and “Assessment Appeal Tribunal”; and

(b) by inserting in sub-section (1), after the definition of “the present war”, the following definition:

“ ‘Tribunal’ means the Repatriation Review Tribunal established under the *Repatriation Act 1920*;”.

39. Section 4A of the Principal Act is amended by omitting paragraph (b) of sub-section (2) and substituting the following paragraph:

- “(b) statements of principles governing the decisions of the Repatriation Review Tribunal, being principles deduced by the Commission from—
- Pensions
Committees
to consult
and
co-operate
with
Commission
- (i) statements of reasons for decisions of that Tribunal prepared in accordance with sub-section (1) of section 107VK of the *Repatriation Act* 1920 in its application by virtue of section 37 of this Act; or
- (ii) statements of reasons for decisions of the Administrative Appeals Tribunal on reviews in accordance with directions under sub-section (8) of section 107VZZB of the *Repatriation Act* 1920 in its application by virtue of section 37 of this Act, being statements prepared in accordance with sub-section (2) of section 43 of the *Administrative Appeals Tribunal Act* 1975; and”.

40. Sections 8AA, 8AB, 8AC and 8A of the Principal Act are repealed and the following section is substituted:

“8A. (1) Where, in a proceeding before the Commission or a Pensions Committee, the Commission or the Committee makes a decision relating, in whole or in part, to a prescribed matter, the Commission or the Committee shall cause to be prepared a written record of the decision containing a statement of the reasons for the decision, so far as the decision relates to the prescribed matter, including any findings of fact in relation to the prescribed matter.

Form of
decision of
Commission
or Pensions
Committee

“(2) Where the Commission or a Committee makes a decision referred to in sub-section (1), the Commission or the Committee—

- (a) shall file the decision with the records of the case; and
- (b) shall serve, or cause to be served, either personally or by post, a copy of the decision on the claimant or a person authorized by the claimant.

“(3) In this section—

‘claimant’ includes a person to whom a pension or allowance is payable by virtue of a grant under review by the Commission under section 55;

‘decision’ includes a determination and an assessment;

‘prescribed matter’ means a matter referred to in sub-paragraph (i) or (iv) of paragraph (a), or paragraph (d), of section 5.

No action for making statements under proceedings, &c.

41. Section 8B of the Principal Act is amended—

- (a) by inserting in paragraph (a) “8 or” after “section”; and
- (b) by omitting paragraph (b) and substituting the following paragraph:

“(b) the service on a person, in accordance with section 8A, of a copy of a determination, decision or assessment.”

Medical reports

42. Section 14 of the Principal Act is amended by omitting from sub-section (3) “an Appeal Tribunal” and substituting “the Tribunal”.

43. After Part III of the Principal Act the following Part is inserted:

“PART IV—REVIEW OF DECISIONS OF THE COMMISSION OR A PENSIONS COMMITTEE

Tribunal may review decisions refusing entitlement to pension

“34. (1) Where the Commission has made a determination refusing a claim by a person for a pension or other benefit under this Act arising out of the incapacity or death of an Australian mariner on the ground that—

- (a) the mariner is not suffering from any incapacity; or
- (b) the incapacity or death of the mariner is not directly attributable to a war injury sustained by the mariner,

the claimant may make application to the Tribunal for a review of the determination of the Commission.

“(2) A reference in sub-section (1) to a determination of the Commission shall be read as including a reference to a decision of the Commission affirming, varying or annulling a determination of a Pensions Committee that would, if it were a determination of the Commission, be a determination of the kind referred to in that sub-section.

“(3) Where—

- (a) the Tribunal, pursuant to an application under sub-section (1) for a review of a decision of the Commission, has made a decision (in this sub-section referred to as ‘the relevant decision’) affirming that decision of the Commission; and
- (b) at any time after the making of the relevant decision, the President of the Tribunal, under sub-section (2) of section 107VM of the *Repatriation Act* 1920 in its application by virtue of section 37 of this Act, notifies the applicant that, in his opinion, further evidence submitted by the applicant under that sub-section would have been relevant to the making of a decision in the proceeding before the Commission the decision in which was affirmed by the relevant decision,

the applicant may again make application for a review of that decision of the Commission.

- “35. (1) Where the Commission or a Pensions Committee—
- (a) has made a determination assessing the rate of pension of an Australian mariner;
 - (b) has made a determination refusing to alter the existing assessment of the rate of pension of an Australian mariner; or
 - (c) has made a determination that—
 - (i) an Australian mariner has an incapacity that is directly attributable to a war injury sustained by the mariner; and
 - (ii) the incapacity is so slight that it does not warrant a pension assessment,

Tribunal
may review
pension
assessments

the mariner may, within 3 months after the service on the mariner, in accordance with section 8A, of a copy of the determination of the Commission or the Pensions Committee or, if the mariner was at any time during that period of 3 months a resident of the Torres Strait Islands, within a further period of 3 months after the expiration of that first period of 3 months, make application to the Tribunal for a review of that determination.

“(2) A reference in a paragraph of sub-section (1) to a determination of a Pensions Committee shall be read as including a reference to a decision of the Commission affirming, varying or annulling a determination of a Pensions Committee that is a determination of the kind referred to in that paragraph.

“36. (1) In a proceeding on a review under this Part, the Tribunal shall have regard to the evidence that was before the Commission or the Pensions Committee when the decision the subject of the review was made and to any further evidence before the Tribunal in the proceeding that was not before the Commission or the Pensions Committee but would have been relevant to the making of a decision in the proceeding before the Commission or the Pensions Committee.

Decision of
Tribunal

“(2) On the completion of its consideration in a proceeding on a review under this Part, the Tribunal shall—

- (a) if it is satisfied that the decision the subject of the review is not the decision that the Tribunal would have made if it had conducted the proceeding in which the decision was made—set aside that decision and substitute for that decision such decision as the Tribunal considers to be in accordance with this Act; or
- (b) if it is not so satisfied—affirm the decision the subject of the review.

“37. (1) Part IIIA (other than sections 107VC, 107VD, 107VE, 107VG and 107VH), and Parts IIIB and IIIC, of the *Repatriation Act* 1920 apply to, and in relation to, an application under this Part as if the application were an application under Part IIIA of that Act.

Application
of certain
provisions of
the
Repatriation
Act

“(2) For the purposes of the application, by virtue of sub-section (1) of this section, of the provisions of the *Repatriation Act* 1920 referred to in that sub-section—

- (a) a reference in those provisions to a Repatriation Board shall be read as a reference to a Pensions Committee;
- (b) a reference in those provisions to a pension shall be read as a reference to a pension under this Act;
- (c) a reference in those provisions to section 28 of that Act shall be read as a reference to section 7 of this Act;
- (d) a reference in those provisions to sections 31 of that Act shall be read as a reference to section 8 or 55, whichever is appropriate, of this Act;
- (e) a reference in those provisions to section 47A of that Act shall be read as a reference to section 8A of this Act;
- (f) a reference in those provisions to section 107VC of that Act shall be read as a reference to section 34 of this Act;
- (g) a reference in those provisions to section 107VD of that Act shall be read as a reference to section 35 of this Act;
- (h) a reference in those provisions to section 123AC of that Act shall be read as a reference to section 55B of this Act; and
- (j) a reference in section 107VK of that Act to a prescribed matter shall be read as a reference to a prescribed matter as defined in sub-section (3) of section 8A of this Act.”.

Commission
may review
pensions, &c.

44. Section 55 of the Principal Act is amended by adding at the end thereof the following sub-sections:

“(4) This section—

(a) does not apply in relation to—

- (i) a decision of the Repatriation Review Tribunal referred to in section 107VZB of the Repatriation Act;
- (ii) a decision of the Administrative Appeals Tribunal referred to in section 107VZB of the Repatriation Act in its application by virtue of section 107VZZE of the Repatriation Act;
- (iii) a decision of the Repatriation Review Tribunal referred to in sub-section (1) of section 107VZC of the Repatriation Act that is binding on the Commission by reason that the appropriate period specified in that sub-section has not expired; or
- (iv) a decision of the Administrative Appeals Tribunal referred to in sub-section (1) of section 107VZC of the Repatriation Act, in its application by virtue of section 107VZZE of the Repatriation Act, that is binding on the Commission by reason that the appropriate period specified in that sub-section has not expired; and

- (b) subject to section 107VJ, and sub-section (2) of section 107VZC, of the Repatriation Act, does not apply in relation to an assessment made by a decision to which sub-paragraph (iii) or (iv) of paragraph (a) applies.

“(5) In this section, ‘Repatriation Act’ means the *Repatriation Act* 1920 in its application by virtue of section 37 of this Act.”.

PART VII—AMENDMENT OF THE REPATRIATION ACTS AMENDMENT ACT 1978

45. The *Repatriation Acts Amendment Act* 1978¹ is in this Part referred to as the Principal Act. Principal Act

46. Section 37 of the Principal Act is amended by omitting paragraph (c) of the definition of “determining Authority” and substituting the following paragraph: Interpretation

“(c) the Repatriation Review Tribunal;”.

PART VIII—TRANSITIONAL

47. In this Part, “Appeal Tribunal” means a War Pensions Entitlement Appeal Tribunal. Interpretation

48. (1) An appeal lodged under section 64 of the *Repatriation Act* 1920 or section 8AA of the *Seamen’s War Pensions and Allowances Act* 1940, but not determined by an Appeal Tribunal, before the commencement of this Part shall, after the commencement of this Part, be treated, for the purposes of the *Repatriation Act* 1920 or the *Seamen’s War Pensions and Allowances Act* 1940, whichever is the appropriate Act, as if it were an application under section 107VC of the *Repatriation Act* 1920 or section 34 of the *Seamen’s War Pensions and Allowances Act* 1940, whichever is the appropriate section, for a review by the Repatriation Review Tribunal of the determination the subject of the appeal, and, for the purposes of that review, that determination shall be deemed to be a decision. Appeals lodged, but not determined, before commencement of this Part

(2) An appeal lodged under section 67 of the *Repatriation Act* 1920 or section 8AB of the *Seamen’s War Pensions and Allowances Act* 1940, but not determined by an Assessment Appeal Tribunal, before the commencement of this Part shall, after the commencement of this Part, be treated, for the purposes of the *Repatriation Act* 1920 or the *Seamen’s War Pensions and Allowances Act* 1940, whichever is the appropriate Act, as if it were an application under section 107VD of the *Repatriation Act* 1920 or section 35 of the *Seamen’s War Pensions and Allowances Act* 1940, whichever is the appropriate section, for a review by the Repatriation Review Tribunal of the decision the subject of the appeal or, if

the subject of the appeal was the current assessment of the rate of a pension, of the decision making that assessment.

(3) An appeal lodged under section 70 of the *Repatriation Act 1920*, but not determined by an Assessment Appeal Tribunal, before the commencement of this Part shall, after the commencement of this Part, be treated, for the purposes of the *Repatriation Act 1920*, as if it were an application under section 107VE of that Act for a review by the Repatriation Review Tribunal of the determination the subject of the appeal, and, for the purposes of that review, that determination shall be deemed to be a decision.

Application
of Part IIIA
of the
Repatriation
Act to
decisions of
former
Tribunals

49. (1) Part IIIA of the *Repatriation Act 1920* applies to, and in relation to, a decision of an Appeal Tribunal or of an Assessment Appeal Tribunal made before the commencement of this Part as if—

- (a) where that decision was made on an appeal under section 64 of the *Repatriation Act 1920*, or section 8AA of the *Seamen's War Pensions and Allowances Act 1940*, as in force before the commencement of this Part—that decision were a decision of the Repatriation Review Tribunal on a review in pursuance of an application under section 107VC of the *Repatriation Act 1920* or section 34 of the *Seamen's War Pensions and Allowances Act 1940*, whichever is the appropriate section;
- (b) where that decision was made on an appeal under section 67 of the *Repatriation Act 1920*, or section 8AB of the *Seamen's War Pensions and Allowances Act 1940*, as in force before the commencement of this Part—that decision were a decision of the Repatriation Review Tribunal on a review in pursuance of an application under section 107VD of the *Repatriation Act 1920* or section 35 of the *Seamen's War Pensions and Allowances Act 1940*, whichever is the appropriate section; or
- (c) where that decision was made on an appeal under section 70 of the *Repatriation Act 1920* as in force before the commencement of this Part—that decision were a decision of the Repatriation Review Tribunal on a review in pursuance of section 107VE of the *Repatriation Act 1920*.

(2) For the purposes of the application, by virtue of sub-section (1) of this section, of section 107VZB of the *Repatriation Act 1920* to, and in relation to, a decision of an Appeal Tribunal or an Assessment Appeal Tribunal, the reference in that section to the service, in accordance with section 107VK of that Act, of a copy of a decision of the Repatriation Review Tribunal shall be read as a reference to the furnishing to the Repatriation Commission of a copy of that first-mentioned decision.

50. (1) The amendments made by section 15 do not affect decisions of an Appeal Tribunal or of an Assessment Appeal Tribunal made before the commencement of this Part.

Decisions of former Tribunals not affected by amendments made by section 14

(2) Section 31 of the *Repatriation Act* 1920 and section 55 of the *Seamen's War Pensions and Allowances Act* 1940—

(a) do not apply in relation to a decision referred to in sub-section (1) of this section that is—

- (i) a decision to which section 107VZB of the *Repatriation Act* 1920 applies by virtue of section 49 of this Act; or
- (ii) a decision to which section 107VZC of the *Repatriation Act* 1920 applies by virtue of section 49 of this Act that is binding on the Repatriation Commission by reason that the appropriate period specified in sub-section 107VZC (1) of that Act has not expired; and

(b) subject to sub-section 107VZC (2) of the *Repatriation Act* 1920 in its application by virtue of section 49 of this Act, do not apply in relation to an assessment made by a decision to which subparagraph (a) (ii) of this sub-section applies.

51. Where, before the commencement of this Part, a copy of a decision or determination was furnished to a person in accordance with section 47A of the *Repatriation Act* 1920 or section 8A of the *Seamen's War Pensions and Allowances Act* 1940, then—

Furnishing of copies of determinations, &c., before commencement of this Part

(a) where the decision or determination was a decision or determination of the Repatriation Commission or a Repatriation Board and the furnishing was in accordance with section 47A of the *Repatriation Act* 1920—that furnishing shall, after the commencement of this Part, be deemed, for the purposes of Part IIIA of the *Repatriation Act* 1920, to be a service, in accordance with section 47A of the *Repatriation Act* 1920 as in force after the commencement of this Part, of that copy;

(b) where the decision or determination was a decision or determination of the Repatriation Commission or a Seamen's Pensions and Allowances Committee and the furnishing was in accordance with section 8A of the *Seamen's War Pensions and Allowances Act* 1940—that furnishing shall, after the commencement of this Part, be deemed, for the purposes of Part IIIA of the *Repatriation Act* 1920, to be a service, in accordance with section 8A of the *Seamen's War Pensions and Allowances Act* 1940 as in force after the commencement of this Part, of that copy; and

(c) where the decision or determination was a decision or determination of an Appeal Tribunal or an Assessment Appeal Tribunal and the furnishing was in accordance with section 47A of the *Repatriation Act* 1920 or section 8A of the *Seamen's War Pensions and Allowances Act* 1940—that furnishing shall, after the commencement of this Part, be deemed, for the purposes of

Part IIIA of the *Repatriation Act* 1920, to be a service, in accordance with section 107VK of the *Repatriation Act* 1920, of that copy.

Approvals
under
Repatriation
Act to
continue in
force

52. (1) An approval of a person as a representative of a claimant under section 24A of the *Repatriation Act* 1920 that was in force immediately before the commencement of this Part continues in force, after the commencement of this Part, as if it had been given under section 24A of the *Repatriation Act* 1920 as in force after the commencement of this Part.

(2) An approval of a person as the proper representative of an appellant under section 79 of the *Repatriation Act* 1920 that was in force immediately before the commencement of this Part continues in force, after the commencement of this Part, as if it were an approval by the Repatriation Commission of the person as the representative, under section 24A of the *Repatriation Act* 1920, of the person who was the appellant.

SCHEDULE

Section 32

FORMAL AMENDMENTS OF THE INTERIM FORCES BENEFITS ACT 1947

The *Interim Forces Benefits Act* 1947 is amended as set out in the following table:

Provision	Amendment
Section 6	Omit " <i>Australian Soldiers' Repatriation Act</i> 1920-1947" (wherever occurring), substitute "Repatriation Act".
Section 7	Omit " <i>Australian Soldiers' Repatriation Act</i> 1920-1947" (wherever occurring), substitute "Repatriation Act".
Section 7A	Omit " <i>Repatriation Act</i> 1920-1973", substitute "Repatriation Act".
Sub-section 9 (4)	Omit " <i>Repatriation Act</i> 1920-1964", substitute "Repatriation Act".

NOTES

- Act No. 18, 1979; assented to 28 March 1979.
- Act No. 6, 1920, as amended. For previous amendments *see* Act No. 34, 1921; No. 23, 1922; No. 14, 1929; No. 74, 1930; Nos. 10 and 47, 1931; No. 32, 1934; No. 58, 1935; Nos. 29 and 67, 1936; Nos. 12, 24 and 42, 1937; No. 55, 1938; Nos. 37 and 96, 1940; No. 49, 1941; No. 22, 1943; No. 11, 1945; No. 49, 1946; Nos. 1, 29 and 74, 1947; No. 39, 1948; No. 38, 1949; Nos. 34 and 80, 1950; No. 31, 1951; No. 58, 1952; No. 69, 1953; No. 31, 1954; No. 39, 1955; Nos. 68 and 97, 1956; No. 44, 1957; No. 47, 1958; No. 58, 1959; No. 44, 1960; No. 46, 1961; Nos. 75 and 91, 1962; No. 47, 1963; Nos. 62 and 105, 1964; No. 64, 1965; No. 42, 1966; No. 64, 1967, Nos. 66 and 120, 1968; No. 95, 1969; Nos. 4 and 60, 1970; Nos. 17 and 68, 1971; Nos. 15, 82 and 139, 1972; Nos. 2, 27 and 104, 1973; No. 216, 1973 (as amended by No. 20, 1974); Nos. 3, 24 and 90, 1974; Nos. 35, 56 and 111, 1975; Nos. 27, 91 and 112, 1976; No. 56, 1977; and Nos. 129 and 170, 1978.

NOTES—continued

3. Act No. 46, 1947, as amended. For previous amendments *see* Act No. 79, 1950; No. 106, 1964; No. 93, 1966; No. 5, 1973.
4. Act No. 91, 1956, as amended. For previous amendments *see* Act No. 90, 1962; No. 107, 1964; No. 93, 1966; No. 81, 1972; No. 4, 1973; No. 216, 1973 (as amended by No. 20, 1974); No. 90, 1974; and No. 129, 1978.
5. Act No. 89, 1962, as amended. For previous amendments *see* Act No. 108, 1964; No. 110, 1965; No. 93, 1966; No. 78, 1968; No. 80, 1972; No. 3, 1973; No. 216, 1973 (as amended by No. 20, 1974); No. 90, 1974; and No. 129, 1978.
6. Act No. 60, 1940, as amended. For previous amendments *see* Act No. 77, 1946; No. 80, 1950; Nos. 17 and 75, 1952; No. 70, 1953; No. 32, 1954; No. 40, 1955; No. 45, 1957; No. 48, 1958; No. 59, 1959; No. 46, 1960; No. 47, 1961; Nos. 64 and 113, 1964; No. 65, 1965; No. 43, 1966; No. 102, 1967; No. 67, 1968; No. 96, 1969; No. 61, 1970; Nos. 18 and 69, 1971; Nos. 16 and 83, 1972; Nos. 6 and 106, 1973; Nos. 4, 25 and 90, 1974; Nos. 35 and 111, 1975; Nos. 27, 91 and 112, 1976; No. 56, 1977; and No. 129, 1978.
7. Act No. 129, 1978.