

Australian War Memorial Act 1980

No. 104 of 1980

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Australian War Memorial Act 1980

No. 104 of 1980

An Act relating to the Australian War Memorial

[Assented to 6 June 1980]

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

PART I—PRELIMINARY

Short title

1. This Act may be cited as the *Australian War Memorial Act 1980*.

Commencement

2. This Act shall come into operation on a date to be fixed by Proclamation.

Interpretation

3. In this Act, unless the contrary intention appears—

“active service” means active service in war or in warlike operations by members of the Defence Force;

“appoint” includes re-appoint;

“appointed member” means a member of the Council appointed by the Governor-General;

“Australian military history” means the history of—

(a) wars and warlike operations in which Australians have been on active service, including the events leading up to, and the aftermath of, such wars and warlike operations; and

(b) the Defence Force;

“Chairman” means the Chairman of the Council;

“Council” means the Council of the Australian War Memorial;

“Defence Force” includes any naval or military force of the Crown raised in Australia before the establishment of the Commonwealth;

“Director” means the Director of the Australian War Memorial;

“Fund” means the Australian War Memorial Fund referred to in section 32;

“historical material” means material (whether in writing or in any other form) relating to Australian military history;

“member” means a member of the Council;

“Memorial” means the corporation established by sub-section 4 (1) under the name of the Australian War Memorial;

“memorial collection” means all historical material that is owned by the Memorial from time to time.

PART II—THE AUSTRALIAN WAR MEMORIAL

Incorporation of Memorial

4. (1) There is established by this section a corporation by the name of the Australian War Memorial.

(2) The Memorial—

(a) has perpetual succession;

(b) shall have a common seal;

(c) may acquire, hold and dispose of real and personal property; and

(d) may sue and be sued in its corporate name.

(3) The common seal of the Memorial shall be kept in such custody as the Council directs and shall not be used except as authorized by the Council.

(4) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Memorial affixed to a document and shall presume that it was duly affixed.

Functions of Memorial

5. (1) The functions of the Memorial are—

(a) to maintain and develop the national memorial referred to in sub-section 6 (1) of the *Australian War Memorial Act 1962* as a national memorial of Australians who have died—

(i) on or as a result of active service; or

(ii) as a result of any war or warlike operations in which Australians have been on active service;

(b) to develop and maintain, as an integral part of the national memorial referred to in paragraph (a), a national collection of historical material;

(c) to exhibit, or to make available for exhibition by others, historical material from the memorial collection or historical material that is otherwise in the possession of the Memorial;

(d) to conduct, arrange for and assist in research into matters pertaining to Australian military history; and

(e) to disseminate information relating to—

(i) Australian military history;

(ii) the national memorial referred to in paragraph (a);

- (iii) the memorial collection; and
- (iv) the Memorial and its functions.

(2) The Memorial shall use every endeavour to make the most advantageous use of the memorial collection in the national interest.

Powers of Memorial

6. (1) Subject to this Act, the Memorial has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.

(2) Without limiting the generality of sub-section (1), the powers of the Memorial include power—

- (a) to purchase or take on hire, or to accept as a gift or on deposit or loan, historical material;
- (b) to lend or hire out or otherwise deal with (otherwise than by way of disposal) historical material;
- (c) to accept gifts, devises, bequests or assignments made to the Memorial, whether on trust or otherwise, and whether unconditionally or subject to a condition and, if a gift, devise, bequest or assignment is accepted by the Memorial on trust or subject to a condition, to act as trustee or to comply with the condition, as the case may be;
- (d) to collect, and make available (whether in writing or in any other form and whether by sale or otherwise), information relating to Australian military history;
- (e) to make available (whether by sale or otherwise) reproductions, replicas or other representations (whether in writing or in any other form) of historical material;
- (f) to make available (whether in writing or in any other form and whether by sale or otherwise) information relating to the Memorial and its functions;
- (g) to provide facilities to stimulate interest in Australian military history;
- (h) to assist educational institutions in matters relating to Australian military history;
- (j) to train members of the staff of the Memorial, and such other persons as the Council approves, in developing, caring for and undertaking research in relation to the memorial collection;
- (k) to assist, on request, in the creation and maintenance of military museums in Defence Force establishments;
- (m) to occupy, use and control any land or building owned or held under lease by the Commonwealth and made available to the Memorial under section 7;
- (n) to erect buildings;
- (o) to purchase or take on hire, or to accept as a gift or on deposit or loan, and to dispose of or otherwise deal with, furnishings, equipment and other goods;

- (p) to act as trustee of moneys or other property vested in the Memorial on trust; and
- (q) to act on behalf of the Commonwealth or of an authority of the Commonwealth in the administration of a trust relating to historical material or related matters.

(3) The Memorial shall not dispose of historical material except in accordance with section 8.

(4) Notwithstanding anything contained in this Act, any money or other property held by the Memorial upon trust or accepted by the Memorial subject to a condition shall not be dealt with except in accordance with the obligations of the Memorial as trustee of the trust or as the person who has accepted the money or other property subject to the condition, as the case may be.

Land and historical material for Memorial

7. (1) The Minister may make available to the Memorial for the purposes of the Memorial such land owned or held under lease by the Commonwealth as is specified by the Minister by notice in the *Gazette* and any building, structure or other improvements on that land.

(2) Subject to this Act, the Minister may, on behalf of the Commonwealth, make arrangements, in writing, with the Memorial for—

- (a) the transfer of the ownership of historical material from the Commonwealth to the Memorial for the purpose of the inclusion of the material in the memorial collection;
- (b) the deposit in the custody of the Memorial of historical material owned by the Commonwealth; and
- (c) the transfer to the Memorial of the ownership of, or the deposit in the custody of the Memorial of, such other goods or equipment owned by the Commonwealth as he considers to be of use to the Memorial,

upon such terms and conditions as are specified in the arrangement.

Disposal of historical material in memorial collection

8. (1) Subject to sub-section (3), where the Council is satisfied that historical material in the memorial collection—

- (a) is unfit for the collection; or
- (b) is not required as part of the collection,

the Council may resolve that the historical material be disposed of by sale, gift or destruction.

(2) Where the Council is satisfied that the exchange of historical material in the memorial collection for other historical material would be advantageous to the collection, the Council may resolve that the first-mentioned historical material be disposed of in exchange for that other historical material.

(3) The Council shall not resolve that historical material be disposed of by destruction unless the Council is satisfied that the material has no saleable value.

- (4) Where—
- (a) the Council has resolved, in accordance with this section, that historical material be disposed of; and
 - (b) if the value of that historical material exceeds \$5,000, the Minister has approved of that disposal,
- the Memorial may dispose of that historical material accordingly.

PART III—THE COUNCIL OF THE MEMORIAL

Establishment of Council

9. (1) There is established by this section a Council by the name of the Council of the Australian War Memorial.

(2) The Council is responsible for the conduct and control of the affairs of the Memorial and the policy of the Memorial with respect to any matters shall be determined by the Council.

(3) All acts and things done in the name of, or on behalf of, the Memorial by the Council or with the authority of the Council shall be deemed to have been done by the Memorial.

Membership of Council

10. (1) The Council shall consist of—

- (a) the Chief of Naval Staff;
- (b) the Chief of the General Staff;
- (c) the Chief of the Air Staff; and
- (d) not less than 8 nor more than 10 other members.

(2) The members referred to in paragraph (1) (d) shall be appointed by the Governor-General having regard to their knowledge and experience with respect to matters relevant to the functions of the Memorial.

(3) An appointed member—

- (a) shall be appointed to be a part-time member; and
- (b) holds office for such term, not exceeding 3 years, as is fixed by the Governor-General in the instrument of his appointment.

(4) The performance of the functions, or the exercise of the powers, of the Council is not affected by reason only of their being a vacancy or vacancies in the membership of the Council.

(5) The appointment of a person as an appointed member is not invalidated, and shall not be called in question, by reason of a defect or irregularity in, or in connection with, his appointment.

Chairman

11. (1) There shall be a Chairman of the Council who shall be elected by the members from among their number.

(2) A member elected as the Chairman—

- (a) holds office as the Chairman for the period fixed by the Council at the time of his election, but that period shall not extend beyond the expiration of the term for which he is holding office as a member at that time; and
- (b) is eligible for re-election.

(3) The Chairman may resign his office by writing signed by him and delivered to the Minister.

(4) The election of a person as the Chairman is not invalidated, and shall not be called in question, by reason of a defect or irregularity in or in connection with his election.

(5) The validity of anything done by a person purporting to be the Chairman shall not be called in question on the ground that there is a defect or irregularity in or in connection with his election as the Chairman or that he has ceased to be the Chairman.

Deputies of members

12. (1) A member may, with the approval of the Minister, appoint a person, other than a member, to be his deputy.

(2) A member may revoke the appointment of a person as his deputy, but the revocation is not effective until the member has given notice of it, in writing, to the Minister.

(3) A deputy of a member may resign his office by writing signed by him and delivered to the Minister.

(4) A deputy of a member is entitled, in the event of the absence of the member of whom he is the deputy from a meeting of the Council, to attend that meeting and, when so attending, shall be deemed to be a member.

(5) The appointment of a person as a deputy of a member is not invalidated, and shall not be called in question, by reason of a defect or irregularity in or in connection with his appointment.

Remuneration, &c.

13. (1) This section applies to a person who is—

- (a) an appointed member;
- (b) a deputy of a member; or
- (c) a member of a committee constituted under section 18 other than a member of the Council.

(2) A person to whom this section applies shall be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration by the tribunal is in operation, he shall be paid such remuneration as is prescribed.

(3) A person to whom this section applies shall be paid such allowances as are prescribed.

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

Termination of appointment

14. (1) The Governor-General may terminate the appointment of an appointed member by reason of the misbehaviour or physical or mental incapacity of that member.

(2) If an appointed member—

- (a) 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;
- (b) is absent, except on leave granted by the Council, from 3 consecutive meetings of the Council otherwise than on business of the Council undertaken with the approval of the Council; or
- (c) fails to comply with his obligations under section 16,

the Governor-General shall terminate the appointment of that member.

Resignation

15. An appointed member may resign his office by writing signed by him and delivered to the Governor-General.

Disclosure of interests

16. (1) A member who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Council, otherwise than as a member of, and in common with the other members of, an incorporated company which consists of more than 25 persons and of which he is not a director, shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Council.

(2) A disclosure under sub-section (1) shall be recorded in the minutes of the Council, and the member making the disclosure—

- (a) shall not take part after the disclosure in any deliberation or decision of the Council with respect to the matter; and
- (b) shall be disregarded for the purpose of constituting a quorum of the Council for any such deliberation or decision.

(3) Where a disclosure under sub-section (1) is made by a member, the person presiding at the meeting of the Council at which the disclosure is made shall inform the Minister of the nature of the disclosure.

Meetings of Council

17. (1) The Chairman—

- (a) shall convene such meetings of the Council as he considers necessary for the efficient conduct of its business; and

(b) shall, on receipt of a written request signed by not less than 4 members, convene a meeting of the Council.

(2) The Minister may at any time convene a meeting of the Council.

(3) The Chairman shall preside at all meetings of the Council at which he is present.

(4) In the event of the absence of the Chairman from a meeting of the Council, the members present shall elect one of their number to preside at that meeting.

(5) At a meeting of the Council, 5 members constitute a quorum.

(6) Subject to sub-section (7), all questions arising at a meeting of the Council shall be decided by a majority of the votes of the members present and voting, including the member presiding.

(7) In the event of an equality of votes on a resolution proposed at a meeting of the Council, the resolution shall be taken not to be passed.

(8) The Council may regulate the conduct of proceedings at its meetings as it thinks fit and shall keep minutes of those proceedings.

Committees of Council

18. (1) Subject to this section, the Council may constitute such committees as it thinks necessary for the purposes of this Act.

(2) A committee may be constituted wholly by members of the Council or partly by members of the Council and partly by other persons.

Delegation by Council

19. (1) Subject to this section, the Council may, by resolution, either generally or as otherwise provided by the resolution, delegate all or any of its powers under this Act (except this power of delegation) to a member of the Council, to the Director or to a member of the staff of the Memorial.

(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 Council.

(3) A delegate is, in the exercise of a power so delegated, subject to the directions of the Council.

(4) A delegation of a power under this section—

(a) may be revoked by resolution of the Council (whether or not constituted by the persons constituting the Council at the time the power was delegated);

(b) does not prevent the exercise of the power by the Council; and

(c) continues in force notwithstanding a change in the membership of the Council.

(5) Section 34A of the *Acts Interpretation Act* 1901 applies in relation to a delegation under this section as if the Council were a person.

(6) A certificate signed by the Chairman stating any matter with respect to the delegation of a power under this section is *prima facie* evidence of that matter.

(7) A document purporting to be a certificate mentioned in sub-section (6) shall, unless the contrary is established, be deemed to be such a certificate and to have been duly given.

PART IV—THE DIRECTOR OF THE MEMORIAL

Office of Director

20. (1) There shall be a Director of the Australian War Memorial, who shall be appointed by the Governor-General.

(2) The Director is the chief executive officer of the Memorial and shall, subject to and in accordance with the general directions of the Council, manage the affairs of the Memorial.

Terms and conditions of appointment, &c.

21. (1) The Director holds office for such period, not exceeding 7 years, as is specified in the instrument of his appointment.

(2) A person who has attained the age of 65 years shall not be appointed as the Director and a person shall not be appointed as the Director for a period that extends beyond the day on which he will attain the age of 65 years.

(3) The Director holds office on such terms and conditions (if any) in respect of matters not provided for by this Act as are determined by the Governor-General.

Remuneration, &c.

22. (1) The Director shall be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration by the Tribunal is in operation, he shall be paid such remuneration as is prescribed.

(2) The Director shall be paid such allowances as are prescribed.

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

Leave of absence

23. The Minister may grant leave of absence to the Director on such terms and conditions as to remuneration or otherwise as the Minister determines.

Termination of appointment

24. (1) The Governor-General may terminate the appointment of the Director by reason of the misbehaviour or physical or mental incapacity of the Director.

(2) If the Director—

- (a) 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;
- (b) is absent from duty, except on leave of absence granted by the Minister, for 14 consecutive days or for 28 days in any 12 months; or
- (c) engages in paid employment outside the duties of his office without the approval of the Minister,

the Governor-General shall terminate the appointment of the Director.

Resignation

25. The Director may resign his office by writing signed by him and delivered to the Governor-General.

Acting Director

26. (1) The Minister may appoint a person to act in the place of the Director—

- (a) during a vacancy in the office of the Director, whether or not an appointment has previously been made to the office; or
- (b) during any period, or during all periods, when the Director is absent from duty or from Australia, or is, for any other reason, unable to perform the functions 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) The Minister may—

- (a) subject to this Act, determine the terms and conditions of appointment, including remuneration and allowances, of a person acting as Director; and
- (b) terminate such an appointment at any time.

(4) Where a person is acting as Director in accordance with paragraph (1) (b) and the office of Director becomes vacant while that person is so acting, that person may continue so to act until the Minister otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.

(5) The appointment of a person to act as Director ceases to have effect if he resigns his appointment by writing signed by him and delivered to the Minister.

(6) While a person is acting as Director, he has and may exercise all the powers, and shall perform all the functions, of the Director under this Act.

(7) The appointment of a person under sub-section (1) is not invalidated, and shall not be called in question, by reason of a defect or irregularity in or in connection with his appointment.

(8) The validity of anything done by a person purporting to act under sub-section (1) shall not be called in question on the ground that the occasion for his appointment had not arisen, that there is a defect or irregularity in or in connection with his appointment, that the appointment had ceased to have effect or that the occasion for him to act had not arisen or had ceased.

PART V—STAFF AND CONSULTANTS

Staff

27. (1) Subject to section 29, the staff of the Memorial shall be persons appointed or employed under the *Public Service Act 1922*.

(2) The Director has all the powers of, or exercisable by, a Permanent Head under the *Public Service Act 1922*, in so far as those powers relate to the branch of the Australian Public Service comprising the staff referred to in sub-section (1), as if that branch were a separate Department of the Australian Public Service.

(3) For the purposes of sub-sections 25 (5) and (6) of the *Public Service Act 1922*, the Director shall be deemed to be a Permanent Head.

(4) The members of the staff referred to in sub-section (1) shall perform their functions and duties in accordance with the directions of the Director.

Arrangements relating to staff

28. (1) The Council may arrange with the Permanent Head of a Department of the Australian Public Service or with a body (other than a company or association) established for a public purpose by or under a law of the Commonwealth for the services of officers or employees of the body to be made available to the Memorial.

(2) The Council may enter into an arrangement with the appropriate authority of a State or Territory for the services of officers or employees of the Public Service of the State or Territory, or of a body established for a public purpose by or under a law of the State or Territory, to be made available to the Memorial.

Engagement of consultants, &c.

29. (1) The Director may, on behalf of the Memorial, with the approval of the Public Service Board, engage persons having suitable qualifications and experience as consultants to the Memorial.

(2) The terms and conditions of the engagement of a person under sub-section (1) are such as are, subject to the approval of the Public Service Board, determined by the Council.

PART VI—FINANCE

Moneys payable to Memorial

30. (1) There are payable to the Memorial such moneys as are appropriated, from time to time, by the Parliament for the purposes of the Memorial.

(2) The Minister for Finance may give directions as to the amounts in which, and the times at which, moneys referred to in sub-section (1) are to be paid to the Memorial.

Estimates

31. (1) The Council shall prepare estimates, in such form as the Minister directs, of the receipts and expenditure of the Memorial (other than in relation to the Fund) for each financial year and, if the Minister so directs, for any other period specified by the Minister, and shall submit those estimates to the Minister not later than such date as the Minister directs.

(2) Moneys paid to the Memorial under section 30 shall not be expended by the Memorial otherwise than in accordance with estimates of expenditure approved by the Minister.

Australian War Memorial Fund

32. (1) The Australian War Memorial Fund that was established by the *Australian War Memorial Act* 1925 and continued in existence under that name by the *Australian War Memorial Act* 1962 is continued in existence under that name and vested in the Memorial.

(2) The moneys and investments constituting the Fund immediately before the commencement of this Act shall continue to form part of the Fund.

(3) There shall be paid into the Fund all moneys received by the Memorial other than—

- (a) moneys paid to the Memorial under section 30; and
- (b) moneys held by the Memorial upon trust.

(4) The payment of moneys into a bank account maintained by the Memorial in accordance with section 63J of the *Audit Act* 1901 under the name of the Australian War Memorial Fund shall be deemed, for the purposes of sub-section (3), to be a payment of those moneys into the Fund.

Application of moneys held by Memorial

33. Moneys (including moneys standing to the credit of the Fund) held by the Memorial otherwise than upon trust shall be applied only—

- (a) in payment or discharge of the costs, expenses and other obligations incurred by the Memorial in the performance of its functions or the exercise of its powers under this Act; and
- (b) in payment of any remuneration and allowances payable to any person under this Act.

Investment

34. (1) Moneys to which section 33 applies that are not immediately required to be expended may be invested—

- (a) on deposit with a bank that is an approved bank for the purposes of section 63J of the *Audit Act* 1901;
- (b) in securities of the Commonwealth; or
- (c) in any other manner approved by the Treasurer.

(2) Income derived from the investment of moneys standing to the credit of the Fund forms part of the Fund.

Limit on contracts

35. Subject to sub-section 8 (4), the Memorial shall not, without the approval of the Minister, enter into a contract under which the Memorial is to pay or receive—

- (a) in the case of a contract for the acquisition of any historical material—an amount exceeding \$100,000 or, if a higher amount is for the time being prescribed for the purposes of this paragraph, that higher amount; or
- (b) in any other case—an amount exceeding \$50,000 or, if a higher amount is for the time being prescribed for the purposes of this paragraph, that higher amount.

Application of Division 3 of Part XI of Audit Act

36. (1) It is hereby declared that the Memorial is a public authority to which Division 3 of Part XI of the *Audit Act* 1901 applies.

(2) Division 3 of Part XI of the *Audit Act* 1901 applies in relation to the Memorial subject to the modifications contained in this section.

(3) The first report to be prepared by the Memorial in pursuance of section 63M of the *Audit Act* 1901, shall be prepared as soon as practicable after 30 June 1981 and shall relate to the period commencing on the date of commencement of this Act and ending on 30 June 1981.

Exemption from taxation

37. The Memorial is not subject to taxation under a law of Australia or of a State or Territory.

PART VII—MISCELLANEOUS

Rights of public servants

38. If a person appointed to the office of Director was, immediately before his appointment or employment, as the case may be, 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.

Delegation by Minister

39. (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.

(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.

Operation of certain other laws not affected

40. Nothing in this Act affects the operation of any law (whether passed before or after the commencement of this Act) relating to copyright, to the preservation and use of archival resources or to the rights of members of the public to access to official documents of the Government of the Commonwealth and of its agencies.

Supply of liquor on premises of Memorial

41. (1) The regulations may make provision for and in relation to the sale, supply, disposal, possession or control of liquor on premises in the Australian Capital Territory owned by or under the control of the Memorial.

(2) The law of the Australian Capital Territory relating to the sale, supply and disposal of liquor does not apply with respect to premises in respect of which regulations are in force under sub-section (1).

(3) In this section, "liquor" means wine, spirits, ale, beer, porter, cider, perry or any liquid containing alcohol ordinarily used or fit for use as a beverage.

Regulations

42. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed, or are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and, in particular—

- (a) for regulating, restricting or prohibiting the entry of persons onto any land or building, or any part of any land or building, owned by or under the control of the Memorial, and for regulating the conduct of persons on any such land or building, or any part of any such land or building, including making provision for and in relation to the removal of persons from any such land or building, or any part of any such land or building;

- (b) for fixing charges for entry onto any land, or into any building, owned by, or under the control of, the Memorial;
- (c) for regulating, controlling, restricting or prohibiting the making, using, printing, publishing, exhibiting, selling or offering for sale of replicas, photographs, representations or copies of historical material forming part of the memorial collection; and
- (d) for prescribing penalties not exceeding a fine of \$500 for offences against the regulations.

PART VIII—REPEAL OF CERTAIN ACTS AND CONSEQUENT TRANSITIONAL PROVISIONS

Interpretation

43. In this Part—

“Board” means the Board of Trustees of the Australian War Memorial established by the repealed Act;

“commencing date” means the date of commencement of this Act;

“repealed Act” means the *Australian War Memorial Act 1962*.

Repeal of certain Acts

44. The following Acts are repealed:

Australian War Memorial Act 1962;

Australian War Memorial Act 1975.

Rights of Board to vest in Memorial, &c.

45. (1) Subject to this Act, upon the commencing date—

(a) any rights, property or assets that, immediately before that date were vested in the Board are, by force of this sub-section, vested in the Memorial;

(b) any historical material that, immediately before that date—

(i) was vested in the Commonwealth; and

(ii) formed part of the war relics of Australia within the meaning of the repealed Act,

is, by force of this sub-section, vested in the Memorial;

(c) the Memorial becomes, by force of this sub-section, entitled to the custody of material, being any other historical material or other goods or equipment held, immediately before that date, in the custody of the Board, upon the terms and conditions upon which that material was held by the Board; and

(d) the Memorial becomes, by force of this sub-section, liable to pay and discharge any debts, liabilities or obligations of the Board that existed immediately before that date.

(2) An arrangement or contract entered into by or on behalf of the Board as a party and in force immediately before the commencing date continues in

force notwithstanding the repeals effected by section 44, but that arrangement or contract has effect, on and after the commencing date, as if—

- (a) the Memorial were substituted for the Board as a party to the arrangement or contract; and
- (b) any reference in the arrangement or contract to the Board were (except in relation to a matter that occurred before that date) a reference to the Memorial.

(3) Where, immediately before the commencing date, proceedings to which the Board was a party were pending in any court, the Memorial is, by force of this sub-section, substituted for the Board as a party to the proceedings and has the same rights in the proceedings as the party for which it is substituted.

Instrument, &c., not liable to stamp duty or other tax

46. An instrument or document that the Secretary to the Department of Home Affairs or an officer of that Department authorized by him in writing for the purposes of this section certifies to have been made, executed or given by reason of, or for a purpose connected with or arising out of, the operation of this Part is not liable to stamp duty or other tax under a law of the Commonwealth or of a State or Territory.

Application of moneys of Memorial

47. The moneys of the Memorial may be applied in payment or discharge of the debts, liabilities or obligations referred to in paragraph 45 (1) (d).

Report of operations of Board

48. (1) The Memorial shall, not later than 6 months after the commencement of this Act, prepare and submit to the Minister a report of the operations of the Board during the period that commenced on 1 July 1979 and ended immediately before the commencing date (in this section referred to as “the final year”), together with financial statements in respect of the final year in such form as the Minister approves.

(2) Before submitting financial statements to the Minister under subsection (1), the Memorial shall submit them to the Auditor-General, who shall report to the Minister—

- (a) whether, in his opinion, the statements are based on proper accounts and records;
- (b) whether the statements are in agreement with the accounts and records and show fairly the financial operations of the Board and the state of the Fund and the affairs of the Board;
- (c) whether the receipt and expenditure of moneys by the Board during the year have been in accordance with this Act; and
- (d) as to such other matters arising out of the statements as the Auditor-General considers should be reported to the Minister.

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(3) The Minister shall cause copies of the report and financial statements together with a copy of the report of the Auditor-General to be laid before each House of the Parliament within 15 sitting days of that House after their receipt by the Minister.

(4) The persons who, immediately before the commencing date, were members of the Board shall furnish the Memorial with such information as is necessary to enable the Memorial to prepare the report and financial statements.