



Australian War Memorial Act 1980

Act No. 104 of 1980 as amended

This compilation was prepared on 27 March 2000
taking into account amendments up to Act No. 156 of 1999

The text of any of those amendments not in force
on that date is appended in the Notes section

Prepared by the Office of Legislative Drafting,
Attorney-General's Department, Canberra

Contents

Part I—Preliminary	1
1 Short title [see Note 1].....	1
2 Commencement [see Note 1]	1
3 Interpretation	1
Part II—The Australian War Memorial	3
4 Incorporation of Memorial	3
5 Functions of Memorial	3
6 Powers of Memorial	4
7 Land and historical material for Memorial	5
8 Disposal of historical material in memorial collection	6
Part III—The Council of the Memorial	8
9 Establishment of Council	8
10 Membership of Council	8
11 Chair	9
12 Deputies of members	9
13 Remuneration etc.....	10
14 Termination of appointment	10
15 Resignation.....	11
17 Meetings of Council	11
18 Committees of Council.....	12
19 Delegation by Council.....	12
Part IV—The Director of the Memorial	13
20 Office of Director	13
21 Terms and conditions of appointment etc.....	13
22 Remuneration etc.....	13
23 Leave of absence	13
24 Termination of appointment	14
25 Resignation.....	14
26 Acting Director	14
Part V—Staff and consultants	16
27 Staff	16
28 Arrangements relating to staff	16
29 Engagement of consultants etc.	16
Part VI—Finance	17
30 Moneys payable to Memorial	17
32 Australian War Memorial Fund.....	17
33 Application of moneys held by Memorial	17

34	Investment	18
35	Contracts.....	18
37	Exemption from taxation.....	18
Part VII—Miscellaneous		19
39	Delegation by Minister	19
40	Operation of certain other laws not affected.....	19
41	Supply of liquor on premises of Memorial.....	19
42	Regulations.....	20
Part VIII—Repeal of certain Acts and consequent transitional provisions		21
43	Interpretation	21
44	Repeal of certain Acts	21
45	Rights of Board to vest in Memorial etc.....	21
46	Instrument etc. not liable to stamp duty or other tax	22
47	Application of moneys of Memorial.....	22
48	Report of operations of Board	22
Notes		25

An Act relating to the Australian War Memorial

Part I—Preliminary

1 Short title [see Note 1]

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

2 Commencement [see Note 1]

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

3 Interpretation

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.

Chair means the Chair 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.

Section 3

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 subsection 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

4 Incorporation of Memorial

- (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.

Note: The *Commonwealth Authorities and Companies Act 1997* applies to the Memorial. That Act deals with matters relating to Commonwealth authorities, including reporting and accountability, banking and investment, and conduct of officers.

- (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.

5 Functions of Memorial

- (1) The functions of the Memorial are:
 - (a) to maintain and develop the national memorial referred to in subsection 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;

Section 6

- (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.

6 Powers of Memorial

- (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 subsection (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.

7 Land and historical material for Memorial

- (1) The Minister may make available to the Memorial for the purposes of the Memorial such land owned or held under lease by the
-

Section 8

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 or she considers to be of use to the Memorial;
- upon such terms and conditions as are specified in the arrangement.

8 Disposal of historical material in memorial collection

- (1) Subject to subsection (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

9 Establishment of Council

- (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.

10 Membership of Council

- (1) The Council shall consist of:
 - (a) the Chief of Navy;
 - (b) the Chief of Army;
 - (c) the Chief of Air Force; 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 or her appointment.
- (4) The performance of the functions, or the exercise of the powers, of the Council is not affected by reason only of there 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 or her appointment.

11 Chair

- (1) There shall be a Chair of the Council who shall be elected by the members from among their number.
- (2) A member elected as the Chair:
 - (a) holds office as the Chair for the period fixed by the Council at the time of his or her election, but that period shall not extend beyond the expiration of the term for which he or she is holding office as a member at that time; and
 - (b) is eligible for re-election.
- (3) The Chair may resign his or her office by writing signed by him or her and delivered to the Minister.
- (4) The election of a person as the Chair is not invalidated, and shall not be called in question, by reason of a defect or irregularity in or in connection with his or her election.
- (5) The validity of anything done by a person purporting to be the Chair shall not be called in question on the ground that there is a defect or irregularity in or in connection with his or her election as the Chair or that he or she has ceased to be the Chair.

12 Deputies of members

- (1) A member may, with the approval of the Minister, appoint a person, other than a member, to be his or her deputy.
- (2) A member may revoke the appointment of a person as his or her 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 or her office by writing signed by him or her 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 or she is the deputy from a meeting of the Council, to attend that meeting and, when so attending, shall be deemed to be a member.

Section 13

- (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 or her appointment.

13 Remuneration etc.

- (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 or she 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 Tribunal Act 1973*.

14 Termination of appointment

- (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 or her creditors or makes an assignment of his or her 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 or her obligations under section 27F or 27J of the *Commonwealth Authorities and Companies Act 1997*;

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

15 Resignation

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

17 Meetings of Council

- (1) The Chair:
 - (a) shall convene such meetings of the Council as he or she 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 Chair shall preside at all meetings of the Council at which he or she is present.
- (4) In the event of the absence of the Chair 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 subsection (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.

Section 18

18 Committees of Council

- (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.

19 Delegation by Council

- (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 Chair 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 subsection (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

20 Office of Director

- (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.

21 Terms and conditions of appointment etc.

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

22 Remuneration etc.

- (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 or she 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 Tribunal Act 1973*.

23 Leave of absence

- (1) The Director has such recreation leave entitlements as are determined by the Remuneration Tribunal.

Section 24

- (2) The Minister may grant the Director leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.

24 Termination of appointment

- (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 or her creditors or makes an assignment of his or her remuneration for their benefit;
 - (b) is absent from duty, except on leave of absence, for 14 consecutive days or for 28 days in any 12 months; or
 - (c) engages in paid employment outside the duties of his or her office without the approval of the Minister;the Governor-General shall terminate the appointment of the Director.

25 Resignation

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

26 Acting Director

- (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 or her 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 subsection (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 or she resigns his or her appointment by writing signed by him or her and delivered to the Minister.
- (6) While a person is acting as Director, he or she 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 subsection (1) is not invalidated, and shall not be called in question, by reason of a defect or irregularity in or in connection with his or her appointment.
- (8) The validity of anything done by a person purporting to act under subsection (1) shall not be called in question on the ground that the occasion for his or her appointment had not arisen, that there is a defect or irregularity in or in connection with his or her appointment, that the appointment had ceased to have effect or that the occasion for him or her to act had not arisen or had ceased.

Part V—Staff and consultants

27 Staff

- (1) Subject to section 28, the staff of the Memorial shall be persons engaged under the *Public Service Act 1999*.
- (2) For the purposes of the *Public Service Act 1999*:
 - (a) the Director and the APS employees assisting the Director together constitute a Statutory Agency; and
 - (b) the Director is the Head of that Statutory Agency.

28 Arrangements relating to staff

- (1) The Council may arrange with an Agency Head (within the meaning of the *Public Service Act 1999*) 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.

29 Engagement of consultants etc.

- (1) The Director may, on behalf of the Memorial engage persons having suitable qualifications and experience as consultants to the Memorial.
- (2) The terms and conditions of the engagement of a person under subsection (1) are such as are determined by the Council.

Part VI—Finance

30 Moneys payable to Memorial

- (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 subsection (1) are to be paid to the Memorial.

32 Australian War Memorial Fund

- (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 subsection 18(2) of the *Commonwealth Authorities and Companies Act 1997* under the name of the Australian War Memorial Fund shall be deemed, for the purposes of subsection (3), to be a payment of those moneys into the Fund.

33 Application of moneys held by Memorial

- (1) Moneys (including moneys standing to the credit of the Fund) held by the Memorial otherwise than upon trust shall be applied only:

Section 34

- (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.
- (2) Subsection (1) does not prevent investment of surplus money of the Memorial under section 18 of the *Commonwealth Authorities and Companies Act 1997*.

34 Investment

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

35 Contracts

- (1) Subject to subsection 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 \$250,000 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 \$150,000 or, if a higher amount is for the time being prescribed for the purposes of this paragraph, that higher amount.
- (2) Subsection (1) does not apply to the investment of money by the Memorial in accordance with section 18 of the *Commonwealth Authorities and Companies Act 1997*.

37 Exemption from taxation

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

Part VII—Miscellaneous

39 Delegation by Minister

- (1) The Minister may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him or her, delegate to a person any of his or her 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.

40 Operation of certain other laws not affected

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.

41 Supply of liquor on premises of Memorial

- (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 subsection (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.

42 Regulations

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

43 Interpretation

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*.

44 Repeal of certain Acts

The following Acts are repealed:

Australian War Memorial Act 1962;

Australian War Memorial Act 1975.

45 Rights of Board to vest in Memorial etc.

- (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 subsection, 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 subsection, vested in the Memorial;
 - (c) the Memorial becomes, by force of this subsection, 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

Section 46

- (d) the Memorial becomes, by force of this subsection, 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 subsection, 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.

46 Instrument etc. not liable to stamp duty or other tax

An instrument or document that the Secretary to the Department of Home Affairs or an officer of that Department authorized by him or her 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.

47 Application of moneys of Memorial

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).

48 Report of operations of Board

- (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 or her 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.
- (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.

Table of Acts**Notes to the *Australian War Memorial Act 1980*****Note 1**

The *Australian War Memorial Act 1980* as shown in this compilation comprises Act No. 104, 1980 amended as indicated in the Tables below.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Australian War Memorial Act 1980</i>	104, 1980	6 June 1980	1 July 1980 (see <i>Gazette</i> 1980, No. S148)	
<i>Statute Law Revision Act 1981</i>	61, 1981	12 June 1981	S. 115: Royal Assent (a)	—
<i>Public Service Reform Act 1984</i>	63, 1984	25 June 1984	S. 151(1): 1 July 1984 (see <i>Gazette</i> 1984, No. S245) (b)	S. 151(9)
<i>Statute Law (Miscellaneous Provisions) Act (No. 1) 1985</i>	65, 1985	5 June 1985	S. 3: 3 July 1985 (c)	—
<i>Public Service and Statutory Authorities Amendment Act 1985</i>	166, 1985	11 Dec 1985	S. 45: 8 Jan 1986 (d)	S. 45(2)
<i>Veterans' Affairs Legislation Amendment Act 1989</i>	93, 1989	27 June 1989	Ss. 1, 2, 3(2), 4-6, 8, 10, 12 and 16: Royal Assent Ss. 3(1), 9, 14 and 17: 22 Dec 1988 Ss. 7, 11(a), (b) and 15: 18 Feb 1989 S. 11(c): 1 Jan 1990 Remainder: 22 May 1986	—
<i>Industrial Relations Legislation Amendment Act 1991</i>	122, 1991	27 June 1991	Ss. 4(1), 10(b) and 15-20: 1 Dec 1988 Ss. 28(b)-(e), 30 and 31: 10 Dec 1991 (see <i>Gazette</i> 1991, No. S332) Remainder: Royal Assent	S. 31(2)

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Statute Law Revision Act 1996</i>	43, 1996	25 Oct 1996	Schedule 4 (items 46, 47) and Schedule 5 (items 33-35): Royal Assent (e)	—
<i>Defence Legislation Amendment Act (No. 1) 1997</i>	1, 1997	19 Feb 1997	Schedule 2 (items 9, 51, 95): Royal Assent (f)	—
<i>Audit (Transitional and Miscellaneous) Amendment Act 1997</i>	152, 1997	24 Oct 1997	Schedule 2 (items 542-553): 1 Jan 1998 (see <i>Gazette</i> 1997, No. GN49) (g)	—
<i>Public Employment (Consequential and Transitional) Amendment Act 1999</i>	146, 1999	11 Nov 1999	Schedule 1 (items 273-276): 5 Dec 1999 (see <i>Gazette</i> 1999, No. S584) (h)	—
<i>Corporate Law Economic Reform Program Act 1999</i>	156, 1999	24 Nov 1999	Schedule 10 (item 62): 13 Mar 2000 (see <i>Gazette</i> 2000, No. S114) (i)	—

Act Notes

- (a) The *Australian War Memorial Act 1980* was amended by section 115 only of the *Statute Law Revision Act 1981*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.
- (b) The *Australian War Memorial Act 1980* was amended by section 151(1) only of the *Public Service Reform Act 1984*, subsection 2(4) of which provides as follows:
- (4) The remaining provisions of this Act shall come into operation on such day as is, or on such respective days as are, fixed by Proclamation.
- (c) The *Australian War Memorial Act 1980* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 1) 1985*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act shall come into operation on the twenty-eighth day after the day on which it receives the Royal Assent.
- (d) The *Australian War Memorial Act 1980* was amended by section 45 only of the *Public Service and Statutory Authorities Amendment Act 1985*, subsection 2(7) of which provides as follows:
- (7) The remaining provisions of this Act shall come into operation on the twenty-eighth day after the day on which this Act receives the Royal Assent.
- (e) The *Australian War Memorial Act 1980* was amended by Schedule 4 (items 46, 47) and Schedule 5 (items 33-35) only of the *Statute Law Revision Act 1996*, subsection 2(1) of which provides as follows:
- (1) Subject to subsections (2) and (3), this Act commences on the day on which it receives the Royal Assent.
- (f) The *Australian War Memorial Act 1980* was amended by Schedule 2 (items 9, 51 and 95) only of the *Defence Legislation Amendment Act (No. 1) 1997*, subsection 2(1) of which provides as follows:
- (1) Subject to subsections (2) and (3), this Act commences on the day on which it receives the Royal Assent.
- (g) The *Australian War Memorial Act 1980* was amended by Schedule 2 (items 542-553) only of the *Audit (Transitional and Miscellaneous) Amendment Act 1997*, subsection 2(1) of which provides as follows:
- (2) Schedules 1, 2 and 4 commence on the same day as the *Financial Management and Accountability Act 1997*.
- (h) The *Australian War Memorial Act 1980* was amended by Schedule 1 (items 273-276) only of the *Public Employment (Consequential and Transitional) Amendment Act 1999*, subsections 2(1) and (2) of which provide as follows:
- (1) In this Act, **commencing time** means the time when the *Public Service Act 1999* commences.
 - (2) Subject to this section, this Act commences at the commencing time.
- (i) The *Australian War Memorial Act 1980* was amended by Schedule 10 (item 62) only of the *Corporate Law Economic Reform Program Act 1999*, subsection 2(2)(c) of which provides as follows:
- (2) The following provisions commence on a day or days to be fixed by Proclamation:
 - (c) the items in Schedules 10, 11 and 12.

Table of Amendments**Table of Amendments**

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 3	am. No. 152, 1997
Note to s. 4(2)	ad. No. 152, 1997
S. 7	am. No. 43, 1996
S. 10	am. No. 43, 1996; No. 1, 1997
S. 11	am. No. 43, 1996; No. 152, 1997
Ss. 12-13	am. No. 43, 1996
S. 14	am. No. 43, 1996; No. 152, 1997; No. 156, 1999
S. 15	am. No. 43, 1996
S. 16	am. No. 43, 1996 rep. No. 152, 1997
S. 17	am. No. 43, 1996; No. 152, 1997
S. 19	am. No. 152, 1997
Ss. 21, 22	am. No. 43, 1996
S. 23	rs. No. 122, 1991 am. No. 146, 1999
S. 24	am. No. 122, 1991; No. 43, 1996
Ss. 25, 26	am. No. 43, 1996
S. 27	am. No. 61, 1981; No. 63, 1984; No. 146, 1999
S. 28	am. No. 63, 1984; No. 146, 1999
S. 29	am. No. 166, 1985
S. 31	rep. No. 152, 1997
S. 32	am. No. 152, 1997
S. 33	am. No. 152, 1997
S. 34	am. No. 152, 1997
Heading to s. 35	rs. No. 152, 1997
S. 35	am. No. 93, 1989; No. 152, 1997
S. 36	rep. No. 152, 1997
S. 38	rep. No. 65, 1985
S. 39	am. No. 43, 1996
S. 46	am. No. 43, 1996