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Statutory Rules 1986 No. /

## Veterans' Entitlements Regulations

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, and pursuant to section 4 of the Acts Interpretation Act 1901, hereby make the following Regulations under the Veterans' Entitlements Act 1986.

Governor-General

By His Excellency's Command,

GIETZELT

Minister of State for Veterans' Affairs

#### Citation

1. These Regulations may be cited as the Veterans' Entitlements Regulations.

#### Interpretation

2. In these Regulations, unless the contrary intention appears—

"approved form" means a form approved by the Commission under regulation 16;

"the Act" means the Veterans' Entitlements Act 1986;

"treatment" has the same meaning as in section 80 of the Act;

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## "veteran" means-

- (a) a veteran as defined in sub-section 5 (1) of the Act; or
- (b) a member of the Forces, or a member of a Peacekeeping Force, as defined in sub-section 68 (1) of the Act.

## Summons under sub-section 32 (1) of the Act

- 3. A summons under sub-section 32 (1) of the Act—
- (a) may be in accordance with Form 1; and
- (b) may be served on a person by-
  - (i) delivering a copy of the summons to the person personally;
  - (ii) showing the original of the summons to the person at the time at which the copy is delivered.

## Summons under sub-section 60 (2) or (3) of the Act

- 4. A summons under sub-section 60 (2) or (3) of the Act—
- (a) may be in accordance with Form 2; and
- (b) may be served on a person by—
  - (i) delivering a copy of the summons to the person personally; and
  - (ii) showing the original of the summons to the person at the time at which the copy is delivered.

## Exempt class of persons for purposes of sub-section 84 (7) of the Act

- 5. For the purposes of sub-section 84 (7) of the Act, persons included in a class of persons specified in one of the following paragraphs are declared to be exempt from paying charges under sub-section 84 (6) of the Act in respect of treatment received under section 87 or 88 of the Act:
  - (a) persons entitled to be treated without charge as inpatients in a recognised hospital as provided for under the *Health Insurance Act* 1973 other than persons eligible to receive compensation as defined in sub-section 93 (1) of the Act;
  - (b) members of the Defence Force rendering continuous full-time service in the Defence Force who are provided with treatment other than for a war-caused injury or a war-caused disease.

## Application of State laws

6. Each law of a State, being a law specified in Column 2 in a table in Schedule 2 in an item in that table, is declared to be a relevant law for the purposes of sub-section 89 (3) of the Act and the modifications (if any) specified in Column 3 in that table in that item are prescribed for the purposes of that sub-section.

## Information required for purposes of sub-section 107 (7) of the Act

7. For the purposes of sub-section 107 (7) of the Act, a veteran who

has applied for temporary incapacity allowance is required to furnish to the Commission where the Commission so requests a certificate, in an approved form, signed by a medical practitioner and certifying the following particulars in respect of the veteran:

- (a) the incapacity in respect of which the veteran required treatment as an inpatient in a hospital or other institution;
- (b) the name and address of any hospital or other institution to which the veteran was admitted for the purpose of receiving treatment in respect of the incapacity;
- (c) the period during which the veteran remained in a hospital or other institution as an inpatient for the purposes of the treatment;
- (d) whether, after the discharge of the veteran from a hospital or other institution, the veteran received treatment in respect of the incapacity referred to in paragraph (a) otherwise than as an inpatient of a hospital or other institution and, if the veteran so received treatment, the nature of that treatment and the period during which the veteran received that treatment;
- (e) whether, as a result of the veteran having received treatment in respect of the incapacity referred to in paragraph (a) (either as an inpatient in a hospital or other institution or otherwise), the veteran was in need of a period of rest or convalescence and, if the veteran needed a period of rest or convalescence, the period during which the veteran rested or was convalescent; and
- (f) whether, during the period, or any part of the period, referred to in paragraph (c), (d) or (e), the veteran was, by reason of the treatment, or the need for a period of rest or convalescence, referred to in that paragraph, as the case may be, precluded from continuing to undertake remunerative work for periods aggregating more than 8 hours per week.

#### Information required for purposes of sub-section 108 (11) of the Act

8. (1) In this regulation—

"applicant" means a person whose entitlement to a loss of earnings allowance in accordance with section 108 of the Act is being considered by the Commission;

"relevant absence" means-

- (a) in relation to an applicant referred to in sub-section 108 (2) of the Act, an absence for a reason referred to in paragraph 108 (2) (a), (b), (c) or (d) of the Act;
- (b) in relation to an applicant referred to in sub-section 108 (3) of the Act, an absence while attending a veteran, or a dependant of a veteran, travelling for a purpose referred to in sub-paragraph 108 (3) (a) (i), (ii), (iii), (iv) or (v) of the
- (c) in relation to an applicant referred to in sub-section 108 (4) of the Act, an absence while participating in an investigation under section 17 of the Act;

- (d) in relation to an applicant referred to in sub-section 108 (5) of the Act, an absence for a reason referred to in paragraph 108 (5) (b) of the Act.
- (2) Subject to sub-regulation (4), an applicant is required to furnish to the Commission the certificate or certificates, as the case may be, that, in accordance with sub-regulation (3), are relevant to his or her entitlement to a loss of earnings allowance in accordance with section 108 of the Act.
- (3) Where all or part of the period to which the entitlement of an applicant to a loss of earnings allowance in accordance with section 108 of the Act relates—
  - (a) is a period during which the applicant was employed by a person, a certificate in an approved form by that employer or by each such employer, as the case may be, certifying the following particulars in respect of that employment, is relevant to that entitlement:
    - (i) the period of that employment;
    - (ii) the number of hours during which, but for the relevant absence, the applicant would have been engaged, or could reasonably have been expected to have been engaged, in that employment;
    - (iii) the rate or rates at which, but for the relevant absence, the applicant would have been remunerated, or could reasonably have been expected to have been remunerated, during that period;
    - (iv) the amount of earnings that, but for that absence, the applicant would have received, or could reasonably have been expected to have received, during that period;
    - (v) where the applicant is an applicant referred to in sub-section 108 (5) of the Act—
      - (A) the date on which the applicant was credited or last credited, as the case may be, with an annual sick leave entitlement (if any) by the employer;
      - (B) the number of days in the annual sick leave entitlement (if any) with which the applicant was so credited;
      - (C) the number of days (if any), including any part of a day, during the period of that employment in respect of which the applicant has, since the date referred to in sub-sub-paragraph (A), been granted sick leave for a reason referred to in paragraph 108 (2) (a), (b), (c) or (d) of the Act; or
  - (b) is a period during which the applicant was engaged in an occupation or occupations otherwise than as an employee, a certificate in an approved form by the applicant certifying the following particulars in respect of that occupation or each of those occupations, as the case may be, is relevant to that entitlement:
    - (i) the period of that occupation;

- (ii) the number of hours during which, but for the relevant absence, the applicant would have been engaged, or could reasonably have been expected to have been engaged, in that occupation;
- (iii) the rate or rates at which, but for the relevant absence, the applicant would have derived earnings, or could reasonably have been expected to have derived earnings, during that period:
- (iv) the amount of earnings that, but for that absence, the applicant would have derived, or could reasonably have been expected to have derived, during that period.
- (4) Where—
- (a) an applicant was employed by a person during all or part of the period to which his or her entitlement to a loss of earnings allowance relates; and
- (b) the Commission is satisfied, on reasonable grounds, that it is impracticable for the applicant to furnish under sub-regulation (2) a certificate by that employer relating to the particulars referred to in paragraph (3) (a) that is relevant to that entitlement,

the Commission may require the applicant, instead of furnishing that certificate, to furnish such other evidence of those particulars as the applicant is reasonably capable of supplying.

## Travelling expenses under section 110 or 132 of the Act

- 9. (1) In this regulation—
- "entitled person" means a person who is entitled to be paid travelling expenses under section 110 or 132 of the Act;
- "residence", in relation to a person at a time, means the permanent or temporary place of residence of that person at that time;
- "travel", in relation to an entitled person, means travel referred to in section 110 or 132 of the Act from his or her residence to his or her destination and return.
- (2) Subject to this regulation, travelling expenses comprise the amount required to re-imburse in whole or part expenditure on—
  - (a) transport;
  - (b) accommodation; or
  - (c) meals.
- necessarily incurred by or on behalf of an entitled person in connection with travel referred to in section 110 or 132 of the Act.
- (3) Subject to sub-regulation (4), the amount of travelling expenses payable to an entitled person in respect of transport for travel shall not exceed an amount calculated by the Commission as the cost of travel by the most appropriate form of transport over the relevant distance.
- (4) Where the cost incurred by an entitled person in respect of transport for travel referred to in sub-regulation (3) is less than the amount calculated by the Commission under that sub-regulation, the cost so incurred shall be the amount of travelling expenses payable to that person in respect of transport.

- (5) For the purposes of sub-regulation (3), the most appropriate form of transport is the form determined by the Commission having regard to—
  - (a) the forms of transport that were reasonably available to the person for the purpose of that travel;
  - (b) the cost of each of those forms of transport including, where a form of transport was reasonably available in more than one class, differences in cost between those classes;
  - (c) the desirability of using the cheapest form of suitable transport for the purposes of that travel;
  - (d) the degree of any mental or physical disablement of the person;
  - (e) the distance travelled; and
  - (f) whether the route taken in that travel was the most direct, practical route,

as the most appropriate form of transport for that travel.

- (6) For the purposes of sub-regulation (3), the relevant distance is—
- (a) in the case of travel by a veteran as provided by sub-section 110 (1) of the Act for the purpose of obtaining treatment—the distance from the residence of the veteran to—
  - (i) the closest place at which, in accordance with an arrangement under sub-section 84 (1) of the Act that treatment is reasonably available; or
  - (ii) such other place as is further away from, but within reasonable proximity to, that residence as the Commission approves; and
- (b) in the case of any other travel under section 110 or 132 of the Act—the distance that in all the circumstances is reasonable.
- (7) For the purposes of this regulation, the cost of transport by private motor vehicle shall be deemed to be 11.16 cents per kilometre.
- (8) Subject to sub-regulation (9), the amount of travelling expenses payable to an entitled person in respect of accommodation during the course of travel is the cost incurred for commercial accommodation each night or \$40 each night, whichever is less.
- (9) A person is not entitled to payment of an amount in respect of accommodation unless he or she first produces proof of expenditure in respect of that accommodation.
- (10) Subject to sub-regulation (11), the amount of travelling expenses payable to an entitled person in respect of meals in connection with travel is as follows:
  - (a) breakfast, \$5;
  - (b) lunch, \$5;
  - (c) dinner, \$12,

or the cost incurred for that meal, whichever is less.

- (11) For the purposes of sub-regulation (10), a meal on a day is connected with the travel of an entitled person where—
  - (a) in the case of breakfast—

- (i) the person was away from his or her residence the immediately previous night during the course of that travel; or
- (ii) the person left his or her residence before 6 a.m. on that day to begin that travel;
- (b) in the case of lunch, the person is away from his or her residence during the whole of the period between 12 noon and 2 p.m. on that day during the course of that travel; or
- (c) in the case of dinner, the person is away from his or her residence during the whole of the period between 5.30 p.m. and 7.30 p.m. on that day during the course of that travel.
- (12) Where for a purpose referred to in sub-section 110 (1) or 132 (1) of the Act an entitled person is required to fast before a treatment, examination or investigation to be given during a morning, the travelling expenses to which the person is entitled in respect of travel for that purpose shall nevertheless comprise or include, as the case may be, the amount referred to in paragraph (10) (a).

## Summons under sub-section 151 (2) of the Act

- 10. A summons under sub-section 151 (2) of the Act—
- (a) may be in accordance with Form 3; and
- (b) may be served on a person by—
  - (i) delivering a copy of the summons to the person personally;
  - (ii) showing the original of the summons to the person at the time at which the copy is delivered.

## Allowances payable to members of the Veterans' Review Board

11. For the purposes of sub-section 160 (2) of the Act, the following allowances are prescribed, namely the allowances payable to an officer of the Australian Public Service.

## Fees for witnesses

12. For the purposes of sub-section 171 (1) of the Act, the fees, and allowances for expenses, a person, other than the applicant, summoned to appear as a witness at a hearing before the Board, is entitled to be paid in respect of his or her attendance are the fees, and allowances for expenses other than expenses in respect of travel undertaken outside Australia, in respect of the attendance, that are determined by the member of the Board presiding at the hearing in accordance with the scale in Schedule 2 to the Administrative Appeals Tribunal Regulations as in force from time to time.

## Allowances payable to members of the Repatriation Commission

13. For the purposes of sub-section 185 (2) of the Act, the following allowances are prescribed, namely the allowances payable to an officer of the Australian Public Service.

#### **Contributions**

14. For the purposes of sub-section 201 (4) of the Act, all moneys accepted by the Commission in accordance with sub-section 200 (1) of the Act shall be credited to a bank account nominated by the Commission.

## Investment of moneys held by Commission

- 15. All moneys vested in the Commission as trustee pending application in accordance with the trust, or for the purpose of deriving income for application in accordance with the trust, may be invested by the Commission—
  - (a) in securities of the Commonwealth;
  - (b) in securities of the States;
  - (c) in loans to local governing bodies in Australia;
  - (d) upon mortgage of land in Australia of an estate in fee simple or upon mortgage of leasehold interests in such land; or
  - (e) in any other manner for the time being allowed by any Act or State Act for the investment of trust funds in Australia.

## Approved forms

16. The Commission may approve forms for the purposes of these Regulations.

## SCHEDULE 1

## **FORMS**

FORM I

Regulation 3

# VETERANS' ENTITLEMENTS REGULATIONS SUMMONS

In the matter of the application by for a pension or increased pension

To: (name and address of witness)

YOU ARE HEREBY SUMMONED pursuant to sub-section 32 (1) of the *Veterans'* Entitlements Act 1986 to appear before the Repatriation Commission or a person to whom the Commission has delegated its powers under section 213 of the *Veterans'* Entitlements Act 1986 at (place, time and date of hearing) and on each subsequent day of the hearing conducted in relation to the above-mentioned application until you are excused or released from further attendance to give evidence (\*and to produce the following documents:)

(Signature of person issuing summons and capacity in which that person issues the summons)

Date

\*Omit if inapplicable

FORM 2

Regulation 4

# VETERANS' ENTITLEMENTS REGULATIONS SUMMONS

In the matter of the application by

for review of a decision of the Repatriation Commission

To: (name and address of witness)

YOU ARE HEREBY SUMMONED pursuant to \*sub-section 60 (2)/\*sub-section 60 (3) of the *Veterans' Entitlements Act 1986* to appear before the Repatriation Commission or a person to whom the Commission has delegated its powers under section 213 of the *Veterans' Entitlements Act 1986* at (place, time and date of hearing) and on each subsequent day of the hearing conducted in relation to the above-mentioned matter until you are excused or released from further attendance to give evidence (\*and to produce the following documents:)

(Signature of person issuing summons and capacity in which that person issues the summons)

Date

\*Omit if inapplicable

## FORM 3

Regulation 10

# VETERANS' ENTITLEMENTS REGULATIONS SUMMONS

In the matter of the application by

for review of a decision of the Repatriation Commission

To: (name and address of witness)

YOU ARE HEREBY SUMMONED pursuant to sub-section 151 (2) of the *Veterans'* Entitlements Act 1986 to appear before the Veterans' Review Board at (place, time and date of hearing) and on each subsequent day of the hearing of the above-mentioned proceeding until you are excused or released from further attendance to give evidence (\*and to produce the following documents:)

Presiding member Date

\*Omit if inapplicable

#### **SCHEDULE 2**

Regulation 6

# LAWS OF STATES DECLARED TO BE RELEVANT LAWS AND PRESCRIBED MODIFICATIONS OF THOSE LAWS

## TABLE 1—LAWS OF NEW SOUTH WALES

Column 1	Column 2	Column 3
Item	Laws	Modifications
1	Sub-sections 13 (1) (other than sub- paragraph (b) (iii), (3) (other than paragraph (h)) and (4), sub- sections 14 (1) (other than paragraph (b)), (2), (3), (4) and (5) (other than paragraph (b)) and sections 48, 49 and 50 of the Coroners Act, 1980	
2	Definition of "senior available next of kin" in sub-section 4 (1) of the Human Tissue Act, 1983	
3	Sub-section 5 (1) of the Human Tissue Act, 1983	<ul> <li>(a) Omit "governing body of a hospital" (wherever occurring), substitute "Repatriation Commission"</li> <li>(b) Omit "governing body" (wherever occurring), substitute "Repatriation</li> </ul>
4	Sections 28, 29, 30, 31, 33 and 35 of the Human Tissue Act, 1983	Commission"
5	Sub-regulation 6 (1) of the Human Tissue Regulation, 1984	

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## SCHEDULE 2—continued

Column 1 Item	Column 2 Laws	Column 3 Modifications
Item	Laws	Wodifications
6	Paragraph 6 (2) (other than paragraph (b)) of the Human Tissue Regulation, 1984	Omit "executive"
7	Sub-sections 4F (1), (2), (3), (4), (5), (8) and (11) and 4G (1), (2), (3), (7) and (14) of the Motor Traffic Act, 1909	
8	Regulations 137 and 138 of the Motor Traffic Regulations, 1935	
9	Sections 23 and 24 (other than paragraph (7C) (a)) of the Registration of Births, Deaths and Marriages Act, 1973	

## TABLE 2—LAWS OF VICTORIA

Column 1	Column 2	Column 3
Item	Laws	Modifications
1	Sub-section 6 (1) (other than paragraph (b)) of the Coroners Act 1958	Omit all the words from and including "or in prison" to and including "1968"
2	Sub-sections 6A (1), (2) and (3) of the Coroners Act 1958	ū
3	Sub-section 6A (4) of the Coroners Act 1958	Omit all the words from and including "or has died in prison" to and including "1968"
4	Sections 26, 27 and 28 of the Coroners Act 1958	
5	Definitions of "designated officer" and "senior available next of kin" in sub-section 3 (1), and sections 4, 28, 29, 30, 31, 41 and 43, of the Human Tissue Act 1982	
6	Section 80DA (other than subsections (5) and (6)) and subsection 80F (9) of the <i>Motor Car Act</i> 1958	
7	Regulations 1400, 1401, 1402, 1403, 1404, 1405, 1406, 1407, 1408, 1409, 1410, 1411, 1412, and 1413 of, and Schedules 84, 84A, 86 and 87 to, the Motor Car Regulations 1984	
8	Sections 18 and 19 of, and the Third Schedule to, the Registration of Births, Deaths and Marriages Act 1959	

## SCHEDULE 2—continued

## TABLE 3—LAWS OF QUEENSLAND

Column 1	Column 2	Column 3
Item	Laws	Modifications
1	Section 7 (other than paragraphs (1) (b) and (d)) of <i>The Coroners</i> Act of 1958	Omit from paragraph (1) (c) "inquiry; or", substitute "inquiry"
2	Sub-section 11 (1) of The Coroners Act of 1958	Omit "or in paragraph (b)"
3	Sub-section 11 (2) and sections 12 and 13 of <i>The Coroners Act of</i> 1958	
4	Sub-section 18 (1) of The Coroners Act of 1958	<ul> <li>(a) Omit all the words from and including "purpose of" to and including "born alive", substitute "purpose of an inquiry or inquest under this Act into the death of any person,"</li> <li>(b) Omit all the words from and including ", and if so directed" to and including "shall forthwith"</li> </ul>
5	Sub-section 18 (2) of <i>The Coroners</i> Act of 1958	Omit "section seventeen of this Act or of"
6	Sub-section 18 (3) of The Coroners Act of 1958	Omit "and by direction of the Minister shall forthwith,"
7	Sub-sections 18 (4) and (5) of The Coroners Act of 1958	
8	Sub-section 18 (6) of The Coroners Act of 1958	Omit all the words from and including "Every medical practitioner" to and including "may be prescribed"
9	Sub-sections 18 (7), (8) and (9) and sections 33 and 34 of <i>The Coroners Act of</i> 1958	
10	Sections 30 and 31 of The Registration of Births, Deaths and Marriages Act of 1962	
11	Definition of "senior available next of kin" in sub-section 4 (1), sections 6 (other than sub-section (1)), 26, 27, 28 (other than paragraph (1) (b)), 29 and sub-sections 30 (2) and (4), Part VIII and section 46 of the Transplantation and Anatomy Act 1979	

## TABLE 4-LAWS OF WESTERN AUSTRALIA

Column 1	Column 2	Column 3
Item	Laws	Modifications
1	Sub-section 6 (1) of the Coroners Act, 1920	Omit "in prison, or while detained in any hospital for the insane, or"
2	Sections 38 and 39 of the Coroners Act, 1920	•
3	Section 40 of the Coroners Act, 1920	Omit from sub-section (2) all the words from and including "made of" to and including "child —", substitute "made of a body of any person who has died a sudden death of which the cause is unknown"
4	Section 46 of the Coroners Act, 1920	
5	Definition of "senior available next of kin" in sub-section 3 (1), sub-sections 4 (1) and (3), 5 (1), (2), (3) and (6), and sections 25, 26, 27, 28 and 31 of the Human Tissue and Transplant Act 1982	
6	Sections 32, 41 and 44 of the Registration of Births, Deaths and Marriages Act, 1961	

## TABLE 5-LAWS OF SOUTH AUSTRALIA

Column 1	Column 2	Column 3	
Item	Laws	Modifications	
1	Sections 29, 32 and 39 of, and the Seventh, Thirteenth and Fifteenth Schedules to, the Births, Deaths and Marriages Registration Act, 1966		
2	Paragraph 12 (a), sub-section 13 (1) (other than paragraph (d)) and (2), section 15 (other than paragraph (a)) and sections 31 and 32 of the Coroners Act, 1975		
3	The Death (Definition) Act, 1983	•	
4	Section 47i (other than sub-sections (11), (12), (13), (14), (14a), (14b), (17) and (19)) of the Road Traffic Act, 1961		
5	Sub-section 47i (19) of the Road Traffic Act, 1961	Omit the definition of "hospital"	
6	Regulation 2 of, and Schedule 1 to, the Road Traffic (Blood Analysis) Regulations 1973		

## SCHEDULE 2—continued

Column 1	Column 2	Column 3
Item	Laws	Modifications
7	Definition of "senior available next of kin" in sub-section 5 (1) of the Transplantation and Anatomy Act, 1983	
8	Sub-section 25 (1) of the Transplantation and Anatomy Act, 1983	Omit "designated officer for a hospital", substitute "Deputy Medical Superintendent"
9	Sub-sections 25 (2), (3) and (4) of the Transplantation and Anatomy Act, 1983	Omit "designated officer" (wherever occurring), substitute "Deputy Medical Superintendent"
10	Sub-section 25 (5) and section 26 of the Transplantation and Anatomy Act, 1983	
11	Sub-section 27 (1) of the Transplantation and Anatomy Act, 1983	<ul> <li>(a) Omit "designated officer for a hospital", substitute "Deputy Medical Superintendent"</li> <li>(b) Omit "designated officer" (second occurring), substitute "Deputy Medical Superintendent"</li> </ul>
12	Sub-sections 27 (2), (3), (4) and (5) of the Transplantation and Anatomy Act, 1983	
13	Sub-section 28 (1) of the Transplantation and Anatomy Act, 1983	Omit "designated officer for the hospital", substitute "Deputy Medical Superintendent"
14	Sub-section 28 (2) and section 36 of the Transplantation and Anatomy Act, 1983	-

## TABLE 6-LAWS OF TASMANIA

Column 1	Column 2	Column 3
Item	Laws	Modifications
1	Section 9, sub-sections 10 (1), (2), (3) and (4), sub-sections 11 (1), (2), (3), (4) and (5) (other than paragraph (a)), sections 12, 15, 17 and 18 of the <i>Anatomy Act</i> 1964	
2	Sub-section 7 (1) (other than paragraphs (b) and (c)), sub-sections 14 (1) (other than paragraph (b)) and (2), sub-sections 30 (2), (3), (4) and (5), sections 31, 32 and 33 and sub-section 47 (1) of the Coroners Act 1957	
3	Sections 25 and 34 of the Registration of Births and Deaths Act 1895	

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NOTE

1. Notified in the Commonwealth of Australia Gazette on

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22 May

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