

INSTRUMENT No.5 of 1997



# Veterans' Vocational Rehabilitation Scheme

Repatriation Commission

Veterans' Entitlements Act 1986

# Contents

<b>Chapter 1 — Preliminary.....</b>	<b>1</b>
<b>1.1 The Scheme .....</b>	<b>1</b>
Making the Scheme .....	1
Commencement .....	1
<b>1.2. Objectives and Principles of the Scheme.....</b>	<b>1</b>
Objectives .....	1
Principles .....	2
<b>1.3. Interpretation .....</b>	<b>2</b>
Definitions .....	2
Act.....	2
approved plan .....	2
approved program .....	3
Commission .....	3
Department .....	3
income safety net.....	3
Scheme .....	3
Secretary .....	3
semester .....	3
service provider.....	4
suitable paid employment outcome .....	4
Tribunal .....	4
veteran .....	5
Approved program .....	5
Content of an approved program.....	5
When an application is taken to be made.....	6
Chapter 2 vocational rehabilitation program.....	6
Chapter 3 rehabilitation program .....	6
<b>1.4 Information to be obtained by Secretary .....</b>	<b>7</b>
Assessment of a veteran for participation in the Scheme.....	7
Report from a service provider .....	7
Report and other material to be provided to the Commission .....	7
<b>1.5 Rehabilitation plan .....</b>	<b>7</b>
A rehabilitation plan must first be prepared and approved .....	7
Veteran to be involved in preparing the rehabilitation plan.....	7
Amending an approved plan .....	7
Services to be in accordance with an approved plan .....	8

<b>Chapter 2 — Programs for special rate and intermediate rate pensioners and invalidity service pensioners.....</b>	<b>9</b>
<b>2.1 Participation in the Scheme by veterans in receipt of certain pensions.....</b>	<b>9</b>
Application for approval to participate in the Scheme.....	9
<b>2.2 Vocational rehabilitation program .....</b>	<b>10</b>
Participation in the Scheme.....	10
Approval of a vocational rehabilitation program .....	10
Criteria for participation in the Scheme.....	11
Labour market .....	11
<b>2.3 Commencement and cessation of a vocational rehabilitation program.....</b>	<b>11</b>
Commencement of a vocational rehabilitation program.....	11
Failure to comply with an approved plan or approved program.....	11
Cessation of a vocational rehabilitation program.....	12
<b>Chapter 3 — Programs for other veterans.....</b>	<b>13</b>
<b>3.1 Participation in the Scheme by veterans other than those referred to in Chapter 2 .....</b>	<b>13</b>
Application for approval to participate in the Scheme.....	13
<b>3.2 Rehabilitation program .....</b>	<b>14</b>
Approval of a rehabilitation program .....	14
Criteria for participation in the Scheme.....	15
Elements not normally included in an approved program .....	15
Failure to comply with an approved plan or approved program.....	15
<b>Chapter 4 — Other assistance to veterans participating in the Scheme .....</b>	<b>16</b>
<b>4.1 Other assistance available under this Chapter .....</b>	<b>16</b>
Availability of other assistance .....	16
Application for a grant under this Chapter .....	16
<b>4.2 Transport and accommodation assistance .....</b>	<b>17</b>
Grant may be made in special circumstances.....	17
<b>4.3 Aids, appliances, and workplace modifications .....</b>	<b>17</b>
Grant to veteran or employer .....	17
Assessment report to be obtained.....	17
Regard must be had to assessment report .....	17
Grant not to be for tools of trade or establishing a business .....	17
<b>4.4 Education programs.....</b>	<b>18</b>
Education programs .....	18
Grants for text books and study materials .....	18
Application for excess expenses grant.....	18
Commission may make excess expenses grant.....	18
Payment of Higher Education Contribution Scheme fees .....	19

Payment of Higher Education Contribution Scheme fees after the first semester of a course of study .....	19
Payment of student union fees.....	19
<b>4.5 Grants must be applied to the relevant purpose.....</b>	<b>20</b>
Proof of payment may be required .....	20
Recovery of grant if not applied for the proper purpose.....	20
<b>Chapter 5 — Notification of decisions and review rights.....</b>	<b>21</b>
<b>5.1. Notification to veteran.....</b>	<b>21</b>
Notification of decision and review rights.....	21
<b>5.2. Review of decisions by the Repatriation Commission.....</b>	<b>21</b>
Who may seek a review .....	21
Making a request for review .....	21
Review by the Commission.....	22
Delegate cannot review own decision .....	22
The Commission's powers on review .....	22
Substituted decision.....	22
Notification of decisions upon review.....	22
<b>5.3 Review by the Administrative Appeals Tribunal .....</b>	<b>23</b>
Application to the Administrative Appeals Tribunal .....	23
Manner of applying for review.....	23
Application of the Administrative Appeals Tribunal Act .....	23

# Chapter 1 — Preliminary

## 1.1 The Scheme

### *Making the Scheme*

**1.1.1** The Repatriation Commission makes this Veterans' Vocational Rehabilitation Scheme under subsection 115B(1) of the *Veterans' Entitlements Act 1986*.

Dated: 17 November 1997

NEIL JOHNSTON  
PRESIDENT

PAUL STEVENS  
COMMISSIONER

### *Commencement*

**1.1.2** This Scheme commences on 1 December 1997.

## 1.2. Objectives and Principles of the Scheme

### *Objectives*

**1.2.1** The objectives of the Scheme are to assist veterans to find, or continue in, suitable paid employment, with particular emphasis on:

- (a) facilitating the transition from service in the Australian Defence Force to suitable paid employment;
- (b) assisting those veterans whose jobs are in jeopardy to retain suitable paid employment; and
- (c) in conjunction with Part VIA of the Act, providing an income safety net for certain veterans in receipt of pensions under sections 23 or 24 of the Act, or invalidity service pension, who wish to engage in suitable paid employment.

## ***Principles***

### **1.2.2** The principles of the Scheme are that:

- (a) participation in the Scheme is voluntary;
- (b) a rehabilitation plan is to be approved only if the veteran has undergone an assessment of rehabilitation capability by a suitably qualified person;
- (c) rehabilitation services are to be provided only in accordance with an approved plan that has been developed and agreed with the veteran;
- (d) rehabilitation services are to be provided only if the Commission is satisfied that these services will result in a suitable paid employment outcome;
- (e) rehabilitation services are to be approved according to principles of cost-effectiveness and will generally be the minimum necessary to achieve a suitable paid employment outcome;
- (f) there are no penalties for withdrawal from or failure to complete an approved program, although rehabilitation services may be discontinued in such circumstances;
- (g) rehabilitation services are not to be provided concurrently with another vocational rehabilitation program.

Note: "suitable paid employment outcome" is defined in paragraph 1.3.1.

## **1.3. Interpretation**

### ***Definitions***

**1.3.1** For the purposes of this Scheme, unless a contrary intention appears:

**“Act”** means the *Veterans' Entitlements Act 1986* as amended from time to time;

**“approved plan”** means the particular rehabilitation plan relating to a veteran that has been approved by the Commission under this Scheme;

**“approved program”** has the meaning given by paragraphs 1.3.2 and 1.3.3;

**“Commission”** means the Repatriation Commission, continued in existence by section 179 of the Act;

**“Department”** means the Commonwealth Department of Veterans' Affairs;

**“income safety net”** means the pension income protection provided by sections 115C, 115D and 115F of the Act whereby:

- (a) while a veteran is undertaking an approved program, the rate of pension payable to the veteran is not to be less than the rate the veteran would receive if the veteran were not undertaking an approved program; and

Note: section 115C of the Act provides this protection.

- (b) after a veteran has completed an approved program under Chapter 2, if the veteran is, for any reason, unemployed for a continuous period of at least two weeks, the pension reduction amount for each pension payday is reduced to nil so that pension is to be restored to the veteran's pension rate at the commencement of an approved program; and

Note: subsection 115D(4) of the Act provides this protection.

- (c) if the sum of the veteran's salary, wages or earnings per fortnight from remunerative work and the fortnightly rate of pension would be less than the rate of pension that the veteran would have received if the veteran had not undertaken the approved program, the pension reduction amount can, upon application to the Commission under Section 115E of the Act, be reduced;

Note: section 115F of the Act provides this protection.

**“Scheme”** means this Veterans' Vocational Rehabilitation Scheme;

**“Secretary”** means the Secretary to the Department;

**“semester”** has the meaning given by section 34 of the *Higher Education Funding Act 1988*;

**“service provider”** means a person or organisation with which the Commission or the Department has entered into an arrangement to provide services for the purposes of this Scheme;

**“suitable paid employment outcome”** means, as a minimum:

- (a) if the veteran is not undertaking any remunerative work — recommencing substantial remunerative work;
- (b) if the veteran is undertaking part-time remunerative work — increasing substantially the number of hours of remunerative work undertaken;
- (c) if the veteran is undertaking part-time remunerative work and the veteran is at risk of losing that work — maintaining the veteran in part-time remunerative work;
- (d) if the veteran is undertaking full-time remunerative work and the veteran is at risk of having to reduce that work substantially — maintaining the veteran in full-time remunerative work;
- (e) if the veteran is undertaking full-time remunerative work and the veteran is at risk of losing that work — maintaining the veteran in substantial remunerative work;
- (f) if a veteran is otherwise at risk of having to cease remunerative work in the short term — maintaining the veteran in long-term remunerative work;

being work that the veteran is likely to be able to sustain in the long term and which is not likely to worsen the veteran's health.

**“Tribunal”** means the Administrative Appeals Tribunal, established by section 5 of the *Administrative Appeals Tribunal Act 1975*;



**“veteran”** has the meaning given by section 115A of the Act.

Note: section 115A of the Act provides that for the purposes of Part VIA, “veteran” means:

- (a) a person:
  - (i) who is, because of section 7, taken to have rendered eligible war service; or
  - (ii) in respect of whom a pension is payable under subsection 13(6); or
  - (iii) who satisfies subsection 37(3); or
- (b) a member of the Forces; or
- (c) a member of a Peacekeeping Force.

### ***Approved program***

**1.3.2** For the purposes of this Scheme, **“approved program”** means the particular vocational rehabilitation program under Chapter 2 or the particular rehabilitation program under Chapter 3, relating to a veteran, that has been approved by the Commission under this Scheme.

Note: see paragraphs 2.2.2 and 3.2.1 in relation to the approval of a program.

### ***Content of an approved program***

**1.3.3** An **“approved program”** may include, but is not limited to, one or more of the following elements:

- (a) general advice and assistance on job seeking;
- (b) referral for vocational assessment;
- (c) vocational guidance and counselling;
- (d) case management;
- (e) assistance with updating skills and retraining;
- (f) assistance with entry to other vocational rehabilitation programs;
- (g) advice or assistance if the veteran’s job is in jeopardy;
- (h) assistance with job placement including selection interview skills training and involvement in job clubs;
- (j) provision of an advocacy service for the veteran with the veteran’s employer;
- (k) transport and accommodation assistance under Chapter 4;
- (m) grants for aids, appliances and workplace modifications under Chapter 4;

- (n) education programs and related assistance under Chapter 4;  
but only if an element is not reasonably available to the veteran without significant cost from another source.

***When an application is taken to be made***

**1.3.4** For the purposes of this Scheme, if an application under this Scheme (other than an application to the Administrative Appeals Tribunal) is required to be made in writing, the application will only be taken to have been made when it is received at an office of the Department in Australia.

***Chapter 2 vocational rehabilitation program***

**1.3.5** A vocational rehabilitation program under Chapter 2 of the Scheme is:

- (a) a “vocational rehabilitation program” for the purposes of Division 2 of Part VIA of the Act; and
- (b) a “rehabilitation program” for the purposes of subsection 24A(2) and subsection 37(2A) of the Act.

Note: Division 2 of Part VIA of the Act applies to veterans who have participated in a vocational rehabilitation program under Chapter 2.

***Chapter 3 rehabilitation program***

**1.3.6** A rehabilitation program under Chapter 3 of the Scheme is neither:

- (a) a “vocational rehabilitation program” for the purposes of Division 2 of Part VIA of the Act; nor
- (b) a “rehabilitation program” for the purposes of subsection 24A(2) and subsection 37(2A) of the Act.

Note: Division 2 of Part VIA of the Act applies to veterans who have participated in a vocational rehabilitation program under Chapter 2.

## **1.4 Information to be obtained by Secretary**

### ***Assessment of a veteran for participation in the Scheme***

**1.4.1** For the purposes of obtaining information about any matter relevant to a determination under this Scheme, the Secretary may require a veteran to be examined or assessed, or both, by a relevant service provider.

### ***Report from a service provider***

**1.4.2** Upon completing the examination or assessment, the service provider must provide a report to the Secretary concerning the examination or assessment.

### ***Report and other material to be provided to the Commission***

**1.4.3** The Secretary must cause the report from a service provider and any other material that is relevant to the determination of a matter to be provided to the Commission for its determination of that matter.

## **1.5 Rehabilitation plan**

### ***A rehabilitation plan must first be prepared and approved***

**1.5.1** Before a veteran can be approved to participate in the Scheme or undertake a rehabilitation program, a rehabilitation plan must:

- (a) be prepared for the veteran, either by a service provider or the Secretary; and
- (b) be approved by the Commission.

### ***Veteran to be involved in preparing the rehabilitation plan***

**1.5.2** If a service provider or the Secretary prepares a rehabilitation plan, that person must:

- (a) involve the veteran in its preparation; and
- (b) reach an agreement with the veteran as to its details.

### ***Amending an approved plan***

**1.5.3** An approved plan may be amended from time to time with:

- (a) the agreement of the veteran; and

- (b) the approval of the Commission.

***Services to be in accordance with an approved plan***

**1.5.4** Before any service can be provided to a veteran under this Scheme, that service must be in accordance with an approved plan.

## **Chapter 2 — Programs for special rate and intermediate rate pensioners and invalidity service pensioners**

**Purpose of this Chapter:** Certain veterans who are in receipt of:

- disability pension at the special rate or the intermediate rate; or
- the invalidity service pension;

may participate in a vocational rehabilitation program under this Scheme. This Chapter provides the rules for participation in the Scheme and the criteria by which applications and proposed vocational rehabilitation programs are to be assessed.

### **2.1 Participation in the Scheme by veterans in receipt of certain pensions**

#### ***Application for approval to participate in the Scheme***

**2.1.1** A veteran who is in receipt of a pension at the rate provided for in section 23 or 24 of the Act or invalidity service pension under Division 4 of Part III of the Act may apply to participate in the Scheme, as provided in this Chapter, by making an application:

- (a) in writing; and
- (b) in accordance with a form approved by the Commission for that purpose; and
- (c) accompanied by authorisation from the veteran for the Secretary to obtain information, relevant to the application, concerning the veteran from health care

providers, including the Vietnam Veterans' Counselling Service.

## **2.2 Vocational rehabilitation program**

### ***Participation in the Scheme***

**2.2.1** Participation in the Scheme involves undertaking an approved vocational rehabilitation program that is intended to assist the veteran to return to, or continue in, work, including work of a type that the veteran might not have previously undertaken.

### ***Approval of a vocational rehabilitation program***

**2.2.2** The Commission may approve a vocational rehabilitation program for a veteran having regard to:

- (a) the veteran's vocational, trade and professional skills, qualifications and experience; and
- (b) the kinds of remunerative work which a person with the skills, qualifications and experience referred to in subparagraph (a) might reasonably undertake; and
- (c) the veteran's capacity to be retrained to undertake different kinds of remunerative work; and
- (d) the type of remunerative work to which the program is likely to lead; and
- (e) the degree to which the veteran's physical or mental impairment has affected the veteran's capacity to undertake the program; and
- (f) if the veteran is not currently engaged in substantial remunerative work — the suitability of the proposed program in assisting the veteran to return to work (which may be a different type of work to that which the veteran previously undertook); and
- (g) the cost of the proposed program; and
- (h) the relative merits of any alternative appropriate programs; and
- (j) any other relevant matter.

***Criteria for participation in the Scheme***

**2.2.3** The Commission may approve a veteran's participation in the Scheme only if the Commission is satisfied that the veteran is likely:

- (a) to complete an approved program satisfactorily; and
- (b) to obtain a suitable paid employment outcome following completion of the approved program.

Note: "suitable paid employment outcome" is defined in paragraph 1.3.1.

***Labour market***

**2.2.4** Without limiting the matters that may be taken into account in considering whether a veteran is likely to recommence remunerative work, the Commission may have regard to the state of the labour market:

- (a) in the geographical area in which the veteran will probably seek to obtain work;
- (b) at the time when the veteran will probably seek to obtain work.

**2.3 Commencement and cessation of a vocational rehabilitation program**

***Commencement of a vocational rehabilitation program***

**2.3.1** For the purposes of this Scheme and section 115C of the Act, a veteran is taken to have commenced undertaking a vocational rehabilitation program on the date specified as the commencement date by the Commission in the determination approving the veteran's participation in an approved program, which must not be a date earlier than the date of the determination.

***Failure to comply with an approved plan or approved program***

**2.3.2** If the Commission is satisfied that a veteran:

- (a) has, without reasonable cause, failed to comply with, or participate in, an important element of an approved plan or vocational rehabilitation program; or
- (b) is not capable of completing an approved program;

the Commission may determine that the veteran is no longer participating in, or undertaking, a vocational rehabilitation program under this Chapter.

***Cessation of a vocational rehabilitation program***

**2.3.3** For the purposes of this Scheme and subsection 115C of the Act, the Commission may specify a date on which the veteran is taken to have ceased to be undertaking a vocational rehabilitation program, which may be a date earlier than the date of the determination.



## Chapter 3 — Programs for other veterans

**Purpose of this Chapter:** Certain veterans who are not in receipt of disability pension at the special rate or intermediate rate or invalidity service pension may participate in a rehabilitation program, whether they are in receipt of a pension or not. Rehabilitation programs under this Chapter may assist veterans:

- to obtain remunerative work if they are not currently employed; or
- to increase the number of hours of remunerative work if they are in part-time employment; or
- to maintain them in employment, if they are having difficulties in coping with their current work; or
- who have recently separated, or are soon to separate, from the Australian Defence Force in their transition to civilian employment.

This Chapter provides the rules for their participation and the criteria by which applications and programs are assessed.

### 3.1 Participation in the Scheme by veterans other than those referred to in Chapter 2

#### *Application for approval to participate in the Scheme*

**3.1.1** A veteran, other than a veteran who is in receipt of:

- (a) a pension at the rate provided for by section 23 or 24; or
- (b) an invalidity service pension;

may apply to participate in the Scheme, as provided in this Chapter, by making an application:

- (c) in writing; and

- (d) in accordance with a form approved by the Commission for that purpose.

## **3.2 Rehabilitation program**

### ***Approval of a rehabilitation program***

**3.2.1** The Commission may approve a rehabilitation program for a veteran having regard to:

- (a) the veteran's vocational, trade and professional skills, qualifications and experience; and
- (b) the kinds of remunerative work which a person with the skills, qualifications and experience referred to in subparagraph (a) might reasonably undertake; and
- (c) the veteran's capacity:
  - (i) to be retrained to undertake different kinds of remunerative work; or
  - (ii) following undertaking the program, to continue in the veteran's current employment on a long-term basis; and
- (d) if the veteran is not currently engaged in substantial remunerative work —
  - (i) the type of remunerative work to which the program is likely to lead; and
  - (ii) the suitability of the proposed program in assisting the veteran to return to work (which may be a different type of work to that which the veteran previously undertook); and
- (e) the degree to which the veterans' physical or mental impairment has affected the veteran's capacity to undertake the program; and
- (f) the cost of the proposed program; and
- (g) the relative merits of any alternative appropriate programs; and
- (h) any other relevant matter.

***Criteria for participation in the Scheme***

**3.2.2** The Commission may approve a veteran's participation in the Scheme only if the Commission is satisfied that the veteran is likely:

- (a) to complete an approved program satisfactorily; and
- (b) to obtain a suitable paid employment outcome following completion of the approved program.

Note: "suitable paid employment outcome" is defined in paragraph 1.3.1.

***Elements not normally included in an approved program***

**3.2.3** An approved program should not normally include an element to be provided at Commonwealth expense that a normally prudent person would be expected to provide for themselves in order to protect their employment.

***Failure to comply with an approved plan or approved program***

**3.2.4** If the Commission is satisfied that a veteran:

- (a) has, without reasonable cause, failed to comply with, or participate in, an important element of an approved plan or vocational rehabilitation program; or
  - (b) is not capable of completing an approved program;
- the Commission may determine that the veteran is no longer participating in, or undertaking, a rehabilitation program under this Chapter.

## Chapter 4 — Other assistance to veterans participating in the Scheme

**Purpose of this Chapter:** Veterans participating in an approved program may receive other assistance under this Scheme. This Chapter provides the rules for such other assistance and the criteria by which applications for assistance are assessed.

### 4.1 Other assistance available under this Chapter

#### *Availability of other assistance*

**4.1.1** A veteran who is participating in an approved program under Chapter 2 or Chapter 3 may receive one or more of the following kinds of assistance under this Chapter:

- (a) transport and accommodation assistance;
- (b) aids, appliances and workplace modifications; and
- (c) education expenses;

only if the relevant kind of assistance is not reasonably available to the veteran from another source.

#### *Application for a grant under this Chapter*

**4.1.2** A veteran who is participating in an approved program under Chapter 2 or Chapter 3 may apply for a grant under this Chapter by making an application:

- (a) in writing; and
- (b) in accordance with a form approved by the Commission for that purpose.

## **4.2 Transport and accommodation assistance**

### ***Grant may be made in special circumstances***

**4.2.1** The Commission may, in special circumstances, make a grant towards assisting a veteran to meet additional transport and accommodation costs involved in obtaining rehabilitation services or other assistance under this Scheme that are provided a substantial distance from the veteran's usual place of residence.

## **4.3 Aids, appliances, and workplace modifications**

### ***Grant to veteran or employer***

**4.3.1** The Commission may make a grant to a veteran or to a veteran's employer (for the veteran's benefit) for the provision of aids, appliances or modifications of the veteran's workplace that would enable the veteran to obtain or retain particular employment, and which the employer would not normally have to provide as an equal opportunity employer providing a safe working environment.

### ***Assessment report to be obtained***

**4.3.2** If a veteran has applied for a grant under paragraph 4.3.1, the Secretary must obtain a report from a relevantly qualified person (such as an occupational therapist or rehabilitation specialist) assessing the veteran's need for any aid, appliance or modifications of the veteran's workplace for which an application has been made.

### ***Regard must be had to assessment report***

**4.3.3** In considering an application for a grant under paragraph 4.3.1, the Commission must have regard to an assessment report obtained under paragraph 4.3.2.

### ***Grant not to be for tools of trade or establishing a business***

**4.3.4** A grant under paragraph 4.3.1 is not to be made for the purchase of tools of trade or to assist in establishing a business.

## **4.4 Education programs**

### ***Education programs***

**4.4.1** An education program may be part of an approved program and may include short course or other studies (not being a post-graduate degree or graduate diploma course) at an educational institution, if the veteran requires:

- (a) a refresher course; or
- (b) an upgrade of existing qualifications; or
- (c) short term study;

to obtain employment in the same field or a related field in which the veteran has expertise or experience, provided that:

- (d) the studies are essential for the veteran to retain or obtain employment in the relevant field; and
- (e) there is a reasonable expectation that the veteran will retain or obtain sustainable employment in that field during, or at the end of, the studies; and
- (f) the Commission is satisfied that the veteran has the capacity to complete the education program successfully.

### ***Grants for text books and study materials***

**4.4.2** Subject to paragraph 4.4.4, the Commission may approve grants totalling not more than \$500 per semester to a veteran participating in the Scheme towards the cost of purchasing text books, a computer, software and other study materials necessary for the veteran's approved program.

### ***Application for excess expenses grant***

**4.4.3** If a veteran considers that the necessary expenditure in a semester will be substantially greater than the amount specified in paragraph 4.4.2, the veteran may apply for an excess expenses grant.

### ***Commission may make excess expenses grant***

**4.4.4** The Commission may approve, in whole or in part, an application under paragraph 4.4.3 for an excess expenses grant, and in considering the application, must take into account:

- (a) the cost and availability of the required text books, a computer and other study materials from other reasonably accessible sources, such as educational institutions and libraries; and
- (b) the cost and availability of second-hand text books and other study materials.

***Payment of Higher Education Contribution Scheme fees***

**4.4.5** If the Commission has approved an education program as part of a veteran's approved program, the Commission may grant to the veteran an amount equal to the amount for which the veteran would be liable under the Higher Education Contribution Scheme for the current semester of study.

***Payment of Higher Education Contribution Scheme fees after the first semester of a course of study***

**4.4.6** After the first semester of an education program, the Commission may grant to the veteran an amount equal to the amount for which the veteran would be liable under the Higher Education Contribution Scheme for the current semester of study only if:

- (a) the veteran has achieved a satisfactory standard of academic performance in the previous semester; or
- (b) the Commission is satisfied that the veteran will gain a significant vocational benefit from pursuing the course of study.

***Payment of student union fees***

**4.4.7** If the Commission has approved an education program as part of a veteran's approved program, the Commission may grant to the veteran an amount equal to the amount for which the veteran is liable for student union fees.

## **4.5 Grants must be applied to the relevant purpose**

### ***Proof of payment may be required***

**4.5.1** If the Commission has made a grant under this Chapter, the Secretary may require the veteran to provide documentary evidence to show that the grant has been applied to the purpose for which it was granted.

### ***Recovery of grant if not applied for the proper purpose***

**4.5.2** If the Commission has made a grant under this Chapter, and the Secretary is satisfied that the grant (either in whole or in part) has not, within a reasonable time, been applied to the purpose for which it was granted, so much of that grant as the Secretary determines has not been applied to that purpose, is an unauthorised payment for the purposes of paragraph 205(1)(d) of the Act and may be recovered in accordance with section 205 of the Act.



## Chapter 5 — Notification of decisions and review rights

**Purpose of this Chapter:** Veterans are to be notified of decisions of the Commission under this Scheme and if they are dissatisfied with any such decisions they may have them reviewed. This Chapter sets out those notification and review rights.

### 5.1. Notification to veteran

#### *Notification of decision and review rights*

**5.1.1** As soon as practicable after the Commission makes a decision under this Scheme, the Commission must cause to be served on the veteran:

- (a) a copy of its decision; and
- (b) particulars of the veteran's right to have the decision reviewed.

### 5.2. Review of decisions by the Repatriation Commission

#### *Who may seek a review*

**5.2.1** A veteran who is dissatisfied with a decision of the Commission under:

- (a) section 115F of the Act; or
- (b) this Scheme;

may apply to the Commission to review the decision.

#### *Making a request for review*

**5.2.2** An application for review of a decision must:

- (a) be made within 3 months after the veteran was notified of the decision in accordance with paragraph 5.1.1; and
- (b) set out the grounds on which the request is made; and
- (c) be in writing.

***Review by the Commission***

**5.2.4** If an application for review of a decision is made in accordance with paragraph 5.2.1, the Commission must review the decision.

***Delegate cannot review own decision***

**5.2.5** If the Commission has delegated its powers under this Scheme to the person who made the decision under review, that person must not review the decision.

***The Commission's powers on review***

**5.2.6** If the Commission reviews a decision under this Scheme, the Commission must affirm the decision or set it aside.

***Substituted decision***

**5.2.7** If the Commission sets the decision aside it must substitute a new decision in accordance with this Scheme.

***Notification of decisions upon review***

**5.2.8** As soon as practicable after the Commission makes a decision under paragraph 5.2.6 or 5.2.7, the Commission must cause to be served on the veteran:

- (a) a copy of its decision; and
- (b) a statement of reasons for that decision; and
- (c) particulars of the veteran's right to have the decision reviewed.

### **5.3 Review by the Administrative Appeals Tribunal**

#### ***Application to the Administrative Appeals Tribunal***

**5.3.1** If the Commission has made a decision under paragraph 5.2.6 that affirms or sets aside and substitutes a decision, an application may be made to the Administrative Appeals Tribunal for a review of the decision of the Commission that was so affirmed or substituted.

#### ***Manner of applying for review***

**5.3.2** A veteran's right to apply to the Tribunal under paragraph 5.3.1 is subject to section 29 of the *Administrative Appeals Tribunal Act 1975*.

Note: section 29 of the *Administrative Appeals Tribunal Act 1975* deals with the manner of applying for review, and among other things, requires an application to be in writing, in accordance with the approved form, setting out a statement of reasons for the application, and lodged with the Tribunal within the prescribed time.

#### ***Application of the Administrative Appeals Tribunal Act***

**5.3.3** Section 29 of the *Administrative Appeals Tribunal Act 1975* applies to and in relation to an application to the Tribunal for a review of a decision of the Commission under this Scheme:

- (a) as if "ending 3 months" were substituted for "ending on the twenty-eighth day" in subsection (2) of that section; and
- (b) as if at the end of subsection (7) there were added "until such date, being a date not more than 12 months after the date on which the document setting out the terms of the decision was furnished to the applicant, as the Tribunal deems fit".

Note: The effect of this provision is that an application to the Tribunal must be made within 3 months of notification of the decision of the Commission, and the Tribunal may extend time to appeal up to 12 months after such notification, but not later.