



SECRETARY

DEPARTMENT OF VETERANS' AFFAIRS

Australian Participants in British Nuclear Tests (Treatment) Act 2006

Veterans' Affairs (Australian Participants in British Nuclear Tests (Treatment) – Claims, Applications and Lodgements Procedures) Determination 2006

Instrument No. S29/2006

I, Mark Sullivan, Secretary of the Department of Veterans' Affairs, pursuant to section 6 of the *Australian Participants in British Nuclear Tests (Treatment) Act 2006* (the Act), hereby determine the procedures for making claims or applications, or giving documents.

Dated this 13th day of December 2006

MARK SULLIVAN

1 Name of Determination

This Determination is the *Veterans' Affairs (Australian Participants in British Nuclear Tests (Treatment) – Claims, Applications and Lodgements Procedures) Determination 2006*.

2 Commencement

This Determination commences on the day after it is registered on the Federal Register of Legislative Instruments.

3 Definitions

In this Determination:

Act means the *Australian Participants in British Nuclear Tests (Treatment) Act 2006*.

Commission means the Repatriation Commission continued in existence by section 179 of the *Veterans' Entitlements Act 1986*.

4 Procedures for making claims or applications or giving documents

- (1) A claim, application, request or notice (hereinafter such matters are referred to as a claim) is to be in writing and is only taken to have been made or given, as the case requires, when it is lodged at an office of the Department of Veterans' Affairs in Australia.
- (2) Subject to subsection (3), subsection 5T(2) of the *Veterans' Entitlements Act 1986*, in force from time to time, including any matter approved by the *Commission* under subsection 5T(2) as at the commencement of this Determination, is taken to apply to a claim as if the claim could be made or given under that Act.

- (3) Additional procedures for, or in respect of, a person making a claim are:
- (a) For a person making a claim under section 8 of the *Act* that he or she is an eligible person under the *Act* (treatment claim), the claim is to be in the form approved by the Secretary of the Department of Veterans' Affairs;
 - (b) For a person withdrawing a treatment claim under section 9 of the *Act* by giving notice, the notice is to contain the details in Schedule 1;
 - (c) For a person making a claim under section 21 of the *Act* that he or she is entitled to be paid travelling expenses under the *Act* (travel claim), the claim is to be in the form approved by the Secretary of the Department of Veterans' Affairs;
 - (d) For a person withdrawing a travel claim under section 22 of the *Act* by giving notice, the notice is to contain the details in Schedule 2;
 - (e) For a person requesting a review under section 24 of the *Act* of a decision made by the *Commission* (review-request), the request is to contain the details in Part 1 of Schedule 3;
 - (f) For a person withdrawing a review-request under section 28 of the *Act* by giving notice, the notice is to contain the details in Part 2 of Schedule 3;
 - (g) the procedures in Schedule 4.

Schedule 1

(s.9)

Details Notice of Withdrawal of Treatment Claim is to Contain

- 1.** name and address of person withdrawing the claim including, if appropriate, the name and address of person on whose behalf the claim is being withdrawn.

Schedule 2

(s.22)

Details Notice of Withdrawal of Travel Claim is to Contain

- 1.** name and address of person withdrawing the claim including, if appropriate, the name and address of person on whose behalf the claim is being withdrawn.
- 2.** details of claim.

Schedule 3 (Part 1)

(s.24)

Request for Review of Decision under the Act

1. name and address of person requesting the review including, if appropriate, the name and address of person on whose behalf the request is made.
2. the decision to be reviewed.
3. the grounds for review.

Schedule 3 Part 2

(s.28)

Details Notice of Withdrawal of Request for Review is to Contain

1. name and address of person withdrawing the request-for-review including, if appropriate, the name and address of person on whose behalf the request is being withdrawn.
2. details of the decision originally sought to be reviewed.

Schedule 4

1. A claim, application, request or notice (hereinafter such matters are referred to as a claim) may be made or given, as the case requires:
 - (a) by the person eligible to be granted the benefit; or
 - (b) with the approval of that person or of the Commission, by another person on behalf of that person.
2. Where a person eligible to be granted a benefit under the *Act* is unable, by reason of physical or mental ailment, to approve a person to make a claim for that benefit on his or her behalf, the *Commission* may approve a person to make the claim on his or her behalf.
3. Where a claim for a benefit under the *Act* is made by a person on behalf of another person, the other person on whose behalf the claim is made, and not the person making the claim on behalf of that other person, shall be treated as the claimant.
4. Where:
 - (a) a person makes a claim for a benefit under the *Act* but otherwise than in accordance with the appropriate form required by this Determination; and
 - (b) the person subsequently makes a claim for the benefit in accordance with the appropriate form:
 - (i) at a time when the person had not been notified by the Department of Veterans' Affairs, in writing, that it would be necessary to make the claim in the appropriate form; or
 - (ii) within 3 months after the person had been so notified;

the *Commission* may treat the claim referred to in paragraph (b) as having been received at an office of the Department in Australia on the date on which the claim referred to in paragraph (a) was so received.