Date Introduced: 29 May 1984
House: Senate
Presented by: Senator the Honourable A.T. Gietzelt, Minister for Veterans' Affairs

Short Digest of Bill

Purpose

To amend the Repatriation Act 1920 and establish a revised structure and procedures within the Repatriation system for initial consideration of claims for disability and service pensions, and for subsequent appeals to an intermediate tribunal and the Administrative Appeals Tribunal.

Background

The current system for dealing with claims for repatriation pensions has been subject to a great deal of criticism because of long delays, and the fact that a significant number of cases are rejected initially, but allowed subsequently on appeals to the Repatriation Commission or the Repatriation Review Tribunal. These criticisms are highlighted in the Administrative Review Council's report to the Attorney-General entitled Review of Pension Decisions Under Repatriation Legislation of 17 November 1983. The Report describes the existing system and points out the differing procedures according to whether the veteran is seeking a disability pension or service pension. The latter is the broad equivalent of an age or invalid pension and is available to returned ex-service personnel at age 60 for men, 55 for women, and any age for people who cannot work. The Council's Report says "There is an array of means by which repatriation decisions may be reviewed or reconsidered".

Under the current system an application for a disability pension is dealt with initially by a Repatriation Board. If unsuccessful the applicant may appeal to the Repatriation Commission, and subsequently to the Repatriation Review Tribunal. There are procedures for
reference to the Administrative Appeals Tribunal, for appeal to the Federal Court and to the High Court. The Ombudsman may investigate matters of administration.

The Administrative Review Council came to the conclusion that the Repatriation Review Tribunal is not able to fulfil its role adequately because of the number of cases it is called upon to determine, i.e. some 15 per cent of all applications lodged with Repatriation Boards.

The Bill proposes to implement the principal recommendations of the Council. It will set up a streamlined system in which all entitlement claims and assessments will be dealt with in the first instance by single delegates of the Repatriation Commission, with provision for appeal to an intermediate tribunal in the case of disability claims to be known as the Veterans' Review Board (VRB) and subsequent appeal to the Administrative Appeals Tribunal. Service pension applicants will not have access to the VRB, instead, provision is made for review within the Repatriation Commission.

Apart from providing for these changes in the system the Bill proposes a number of other amendments which are necessary to facilitate the decision making process, and to apply the new structure, where appropriate, to related legislation such as The Seaman's War Pensions and Allowances Act 1940.

Main Clauses

Clause 5 substitutes a new section 12 in the Repatriation Act which makes it quite clear that the Repatriation Commission may delegate all or any of its powers to a Commissioner, or to an officer or employee of the Department of Veterans' Affairs.

Clause 6 repeals Sections 14 to 15D which cover the establishment and operation of Repatriation Boards.

Clause 12 repeals those sections in the Act which deal with the investigation and determination of claims by Repatriation Boards. It substitutes new sections 25 to 29D which will establish procedures for dealing with pension applications, their investigation, and determination by the Repatriation Commission.

Clause 15 adds new sections 88 to 90D which clarify procedures to be followed by the Repatriation Commission in the investigation of applications for service pensions. In particular, section 90C will provide for a review of initial
decisions either by the Commission or a person to whom the Commission has delegated its powers. It also enables the Commission or its delegate to exercise similar powers to those of the Veterans' Review Board.

Clause 19 repeals Parts IIIA, IIIB and IIIC of the Act, thus abolishing the Repatriation Review Tribunal. These are replaced by new Parts IIIA - Veterans' Review Board and IIIB - Review of Decisions by Administrative Appeals Tribunal.

Part IIIA establishes the Veterans' Review Board and provides for its function, organisation and procedures. In conducting a review the Board will consist of the Principal Member or a Senior Member, a Services member and one other member. Medical practitioners are to be included as members of the Board. Provision is made for the Board to consist of one Senior Member subject to the approval of the Minister. Services members are selected for appointment from lists of names provided by organisations representing returned soldiers.

Part IIIB provides for appeals from decisions of the Veterans' Review Board to the Administrative Appeals Tribunal.

For further information, if required, contact:

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