

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
ADMINISTRATIVE APPEALS TRIBUNAL

Question No. 59

Senator Bartlett asked the following question at the hearing on 14 February 2006:

Appendix 3 of the AAT Annual Report Table 3.5 - Applications finalised in 2004-2005, by outcome, Veterans' Affairs:

- a) How does this compare to previous years?
- b) Have changes to legislation for veterans' compensation reduced the number of appeals, and the number of successful appeals?

The answer to the honourable senator's question is as follows:

- a) The following table provides information on outcomes for applications in the Veterans' Affairs area finalised in 2002-03, 2003-04 and 2004-05. The figures relate primarily to applications for review of decisions made by the Repatriation Commission and the Veterans' Review Board under the *Veterans' Entitlements Act 1986*. A small number of applications relate to decisions made under the *Compensation (Japanese Internment) Act 2001* and the *Defence Service Homes Act 1918*.

Outcome	2002-03		2003-04		2004-05	
	No.	%	No.	%	No.	%
<i>By Consent</i> ¹						
Affirmed	5	< 1	7	< 1	5	< 1
Set Aside	351	24	316	26	264	26
Varied	197	14	143	12	112	11
Remitted	2	< 1	4	< 1	4	< 1
Dismissed/Withdrawn ²	462	32	365	30	321	31
<i>By Decision</i>						
Affirmed	198	14	216	18	163	16
Set Aside	151	11	123	10	102	10
Varied	35	2	10	< 1	28	3
Remitted	8	< 1	5	< 1	7	< 1
No jurisdiction	4	< 1	2	< 1	2	< 1
Dismissed	20	1	10	< 1	14	1
Extension of time refused	0	0	0	0	5	< 1
<i>Other</i>						
No fee paid	0	0	0	0	0	0
Other	0	0	2	< 1	0	0
Total	1433	100	1203	100	1027	100

¹ Decisions affirmed, varied, set aside or remitted by consent are decisions made by the Tribunal in accordance with terms of agreement lodged by the parties under section 34D or 42C of the *Administrative Appeals Tribunal Act 1975*.

² These figures relate to applications dismissed by the Tribunal with the consent of the parties under subsection 42A(1) or withdrawn by the applicant under subsection 42A(1A) and taken to be dismissed.

While there has been a decrease in the total number of applications finalised in the Veterans' Affairs area over the last three reporting periods, the proportion of applications in which the decision under review was set aside or varied has not varied significantly.

- b) The *Military Rehabilitation and Compensation Act 2004* commenced on 1 July 2004. In general terms, it covers injuries and deaths that occur as a result of service rendered on or after 1 July 2004. The *Safety, Rehabilitation and Compensation Act 1988* and the *Veterans' Entitlements Act 1986* continue to apply in relation to injuries and deaths that occur as a result of service rendered before 1 July 2004.

The Tribunal is yet to receive an application for review of a decision made under the *Military Rehabilitation and Compensation Act 2004*. The Tribunal notes that in 2004-05 the Military Rehabilitation and Compensation Commission made only 346 primary decisions on liability under that Act. Of five requests for reconsideration made to the Commission and the Veterans' Review Board, only one had been determined as at 30 June 2005. The original decision was not affirmed.³

The Tribunal is not in a position at this stage to express a view on the impact of the new legislation in relation to applications to the Tribunal.

³ See Department of Veterans' Affairs, *Annual Report 2004-2005*, 79.