

Statement of Principles
concerning

INTERVERTEBRAL DISC PROLAPSE

No. 40 of 2007

for the purposes of the

Veterans' Entitlements Act 1986
and

Military Rehabilitation and Compensation Act 2004

Title

1. This Instrument may be cited as Statement of Principles concerning intervertebral disc prolapse No. 40 of 2007.

Determination

2. The Repatriation Medical Authority under subsection **196B(3)** and **(8)** of the *Veterans' Entitlements Act 1986* (the VEA):
 - (a) revokes Instrument No. 131 of 1996, as amended by Instrument No. 93 of 1997, concerning intervertebral disc prolapse; and
 - (b) determines in their place this Statement of Principles.

Kind of injury, disease or death

3.
 - (a) This Statement of Principles is about **intervertebral disc prolapse** and **death from intervertebral disc prolapse**.
 - (b) For the purposes of this Statement of Principles, "**intervertebral disc prolapse**" means protrusion, herniation or rupture of the nucleus pulposus or annulus fibrosis of an intervertebral disc into the vertebral canal of the cervical, thoracic or lumbar spine, causing:
 - (i) local pain or stiffness;
 - (ii) clinical evidence of nerve root compression; or
 - (iii) clinical evidence of spinal cord compression.

This definition excludes bulging of the intervertebral disc and Schmorl's nodes.

- (c) Intervertebral disc prolapse attracts ICD-10-AM code M50.0, M50.1, M50.2, M51.0, M51.1 or M51.2.
- (d) In the application of this Statement of Principles, the definition of "**intervertebral disc prolapse**" is that given at paragraph 3(b) above.

Basis for determining the factors

- 4. On the sound medical-scientific evidence available, the Repatriation Medical Authority is of the view that it is more probable than not that **intervertebral disc prolapse** and **death from intervertebral disc prolapse** can be related to relevant service rendered by veterans or members of the Forces under the VEA, or members under the *Military Rehabilitation and Compensation Act 2004* (the MRCA).

Factors that must be related to service

- 5. Subject to clause 7, at least one of the factors set out in clause 6 must be related to the relevant service rendered by the person.

Factors

- 6. The factor that must exist before it can be said that, on the balance of probabilities, **intervertebral disc prolapse** or **death from intervertebral disc prolapse** is connected with the circumstances of a person's relevant service is:
 - (a) having a trauma to the relevant disc within the 24 hours before the clinical onset of intervertebral disc prolapse; or
 - (b) having a penetrating injury to the relevant disc or adjacent vertebral body, within the 24 hours before the clinical onset of intervertebral disc prolapse; or
 - (c) physically carrying or lifting loads of at least ten kilograms, to a cumulative total Load-Factor of at least 300 000, within the five years before the clinical onset of intervertebral disc prolapse; or
 - (d) driving a motor vehicle or flying a motorised aircraft, for an average of at least 30 hours per week, for a period of at least two years within the ten years before the clinical onset of intervertebral disc prolapse; or

- (e) for intervertebral disc prolapse of the cervical spine only:
 - (i) using hand-held, vibrating, percussive, industrial tools for an average of at least 30 hours per week, for a period of at least two years within the ten years before the clinical onset of intervertebral disc prolapse; or
 - (ii) flying in high performance aircraft for a cumulative total of at least 1000 hours within any ten year period before the clinical onset of intervertebral disc prolapse, and where the clinical onset of intervertebral disc prolapse occurs within the twenty-five years following that period; or
- (f) smoking at least ten cigarettes per day, or the equivalent thereof in other tobacco products, for a continuous period of at least five years before the clinical onset of intervertebral disc prolapse, and where smoking has ceased or been reduced below that level, the clinical onset of intervertebral disc prolapse has occurred within one year of that cessation or reduction; or
- (g) having bacterial infection of the relevant disc at the time of the clinical onset of intervertebral disc prolapse; or
- (h) having a trauma to the relevant disc within the 24 hours before the clinical worsening of intervertebral disc prolapse; or
- (i) having a penetrating injury to the relevant disc or adjacent vertebral body, within the 24 hours before the clinical worsening of intervertebral disc prolapse; or
- (j) physically carrying or lifting loads of at least ten kilograms, to a cumulative total Load-Factor of at least 300 000, within the five years before the clinical worsening of intervertebral disc prolapse; or
- (k) driving a motor vehicle or flying a motorised aircraft for an average of at least 30 hours per week, for a period of at least two years within the ten years before the clinical worsening of intervertebral disc prolapse; or
- (l) for intervertebral disc prolapse of the cervical spine only:
 - (i) using hand-held, vibrating, percussive, industrial tools for an average of at least 30 hours per week, for a period of at least two years within the ten years before the clinical worsening of intervertebral disc prolapse; or

- (ii) flying in high performance aircraft for a cumulative total of at least 1000 hours within any ten year period before the clinical worsening of intervertebral disc prolapse, and where the clinical worsening of intervertebral disc prolapse occurs within the twenty-five years following that period; or
- (m) smoking at least ten cigarettes per day, or the equivalent thereof in other tobacco products, for a continuous period of at least five years before the clinical worsening of intervertebral disc prolapse, and where smoking has ceased or been reduced below that level, the clinical worsening of intervertebral disc prolapse has occurred within one year of that cessation or reduction; or
- (n) having bacterial infection of the relevant disc at the time of the clinical worsening of intervertebral disc prolapse; or
- (o) inability to obtain appropriate clinical management for intervertebral disc prolapse.

Factors that apply only to material contribution or aggravation

- 7. Paragraphs 6(h) to 6(o) apply only to material contribution to, or aggravation of, intervertebral disc prolapse where the person's intervertebral disc prolapse was suffered or contracted before or during (but not arising out of) the person's relevant service.

Inclusion of Statements of Principles

- 8. In this Statement of Principles if a relevant factor applies and that factor includes an injury or disease in respect of which there is a Statement of Principles then the factors in that last mentioned Statement of Principles apply in accordance with the terms of that Statement of Principles as in force from time to time.

Other definitions

- 9. For the purposes of this Statement of Principles:

"a motor vehicle" means a motorised vehicle which imparts vibration to the whole body, such as a car, truck, motor cycle, tractor, jeep, armoured personnel carrier, tank, or a construction vehicle, such as a forklift, bulldozer, crane, steam shovel, backhoe or steam roller;

"a trauma to the relevant disc" means an injury, including G force-induced injury, to the affected intervertebral disc that causes the development of symptoms and signs of pain, and tenderness, and either altered mobility or range of movement of that part of the spine. These symptoms and signs must last for a period of at least ten days following their onset; save for where medical intervention for the trauma to the relevant disc has occurred and that medical intervention involves either:

- (a) immobilisation of that part of the spine by splinting, or similar external agent;
- (b) injection of corticosteroids or local anaesthetics into that part of the spine; or
- (c) surgery to that part of the spine;

"cigarettes per day, or the equivalent thereof in other tobacco products" means either cigarettes, pipe tobacco or cigars, alone or in any combination where one tailor made cigarette approximates one gram of tobacco; or one gram of cigar, pipe or other smoking tobacco;

"death from intervertebral disc prolapse" in relation to a person includes death from a terminal event or condition that was contributed to by the person's intervertebral disc prolapse;

"G force" means the ratio of the applied acceleration of the aircraft to the acceleration due to gravity, for example, $2G = 2 \times 9.81\text{m/s}^2$;

"high performance aircraft" means an aircraft capable of routinely sustaining at least two positive G forces;

"ICD-10-AM code" means a number assigned to a particular kind of injury or disease in The International Statistical Classification of Diseases and Related Health Problems, 10th revision, Australian Modification (ICD-10-AM), Fifth Edition, effective date of 1 July 2006, copyrighted by the National Centre for Classification in Health, Sydney, NSW, and having ISBN 1 86487 772 3;

"Load-Factor" means $W^2 \times T$, where:

- (a) W is the weight of the load lifted or carried in kilograms; and
- (b) T is the time the load was lifted or carried in hours;

"penetrating injury to the relevant disc or adjacent vertebral body" means piercing of the relevant disc or adjacent vertebral body by objects such as a bullet, knife or needle;

"relevant service" means:

- (a) eligible war service (other than operational service) under the VEA; or
- (b) defence service (other than hazardous service) under the VEA; or
- (c) peacetime service under the MRCA;

"terminal event" means the proximate or ultimate cause of death and includes:

- (a) pneumonia;
- (b) respiratory failure;
- (c) cardiac arrest;
- (d) circulatory failure; or
- (e) cessation of brain function.

Application

- 10.** This Instrument applies to all matters to which section 120B of the VEA or section 339 of the MRCA applies.

Date of effect

- 11.** This Instrument takes effect from 9 May 2007.

Dated this **twenty-fourth** day of
April 2007

The Common Seal of the)
Repatriation Medical Authority)
was affixed to this instrument)
in the presence of:)

KEN DONALD
CHAIRPERSON