



Australian Government
Repatriation Medical Authority

Statement of Principles
concerning
ASBESTOSIS
(Reasonable Hypothesis)
(No. 59 of 2021)

The Repatriation Medical Authority determines the following Statement of Principles under subsection 196B(2) of the *Veterans' Entitlements Act 1986*.

Dated 21 May 2021

The Common Seal of the
Repatriation Medical Authority
was affixed to this instrument
at the direction of:

Professor Nicholas Saunders AO
Chairperson

Contents

1	Name	3
2	Commencement	3
3	Authority	3
4	Repeal	3
5	Application.....	3
6	Definitions	3
7	Kind of injury, disease or death to which this Statement of Principles relates	3
8	Basis for determining the factors	4
9	Factors that must exist.....	4
10	Relationship to service.....	5
11	Factors referring to an injury or disease covered by another Statement of Principles	5
Schedule 1 - Dictionary		6
1	Definitions	6

1 Name

This is the Statement of Principles concerning *asbestosis (Reasonable Hypothesis)* (No. 59 of 2021).

2 Commencement

This instrument commences on 21 June 2021.

3 Authority

This instrument is made under subsection 196B(2) of the *Veterans' Entitlements Act 1986*.

4 Repeal

The Statement of Principles concerning asbestosis No. 55 of 2013 (Federal Register of Legislation No. F2013L01643) made under subsection 196B(2) of the VEA is repealed.

5 Application

This instrument applies to a claim to which section 120A of the VEA or section 338 of the *Military Rehabilitation and Compensation Act 2004* applies.

6 Definitions

The terms defined in the Schedule 1 - Dictionary have the meaning given when used in this instrument.

7 Kind of injury, disease or death to which this Statement of Principles relates

- (1) This Statement of Principles is about asbestosis and death from asbestosis.

Meaning of asbestosis

- (2) For the purposes of this Statement of Principles, asbestosis means interstitial fibrosis of the lung caused by the deposition of asbestos fibres in the lung parenchyma.

Note: Fibrosis of the lung can vary in extent from minor involvement of the basal areas to extensive scarring.

- (3) While asbestosis attracts ICD-10-AM code J61, in applying this Statement of Principles the meaning of asbestosis is that given in subsection (2).

- (4) For subsection (3), a reference to an ICD-10-AM code is a reference to the code assigned to a particular kind of injury or disease in *The International Statistical Classification of Diseases and Related Health Problems, Tenth Revision, Australian Modification (ICD-10-AM)*, Tenth Edition, effective date of 1 July 2017, copyrighted by the Independent Hospital Pricing Authority, ISBN 978-1-76007-296-4.

Death from asbestosis

- (5) For the purposes of this Statement of Principles, asbestosis, in relation to a person, includes death from a terminal event or condition that was contributed to by the person's asbestosis.

Note: *terminal event* is defined in the Schedule 1 - Dictionary.

8 Basis for determining the factors

The Repatriation Medical Authority is of the view that there is sound medical-scientific evidence that indicates that asbestosis and death from asbestosis can be related to relevant service rendered by veterans, members of Peacekeeping Forces, or members of the Forces under the VEA, or members under the MRCA.

Note: *MRCA*, *relevant service* and *VEA* are defined in the Schedule 1 - Dictionary.

9 Factors that must exist

At least one of the following factors must as a minimum exist before it can be said that a reasonable hypothesis has been raised connecting asbestosis or death from asbestosis with the circumstances of a person's relevant service:

- (1) inhaling respirable asbestos fibres in an enclosed space at the time material containing asbestos was being applied, removed, cut, drilled, dislodged or disturbed:
- (a) for a cumulative period of at least 1,000 hours before the clinical onset of asbestosis; and
 - (b) where the first inhalation of asbestos fibres commenced at least 5 years before the clinical onset of asbestosis;

Note: Disturbance of debris or dust contaminated with asbestos fibres already present in an enclosed space may result in exposure to respirable asbestos fibres.

- (2) inhaling respirable asbestos fibres in an open environment at the time material containing asbestos was being applied, removed, cut, drilled, dislodged or disturbed:
- (a) for a cumulative period of at least 3,000 hours before the clinical onset of asbestosis; and
 - (b) where the first inhalation of asbestos fibres commenced at least 5 years before the clinical onset of asbestosis;

Note: Disturbance of debris or dust contaminated with asbestos fibres already present in an open environment may result in exposure to respirable asbestos fibres.

- (3) inhaling respirable asbestos fibres at the time material containing respirable asbestos fibres was being applied, removed, cut, drilled, dislodged or disturbed:
 - (a) for a cumulative period of at least 1,000 hours before the clinical worsening of asbestosis; and
 - (b) within the 2 years before the clinical worsening of asbestosis;

Note: Disturbance of debris or dust contaminated with asbestos fibres already present in an enclosed space or an open environment may result in exposure to respirable asbestos fibres.

- (4) inability to obtain appropriate clinical management for asbestosis.

10 Relationship to service

- (1) The existence in a person of any factor referred to in section 9, must be related to the relevant service rendered by the person.
- (2) The factors set out in subsections 9(3) to 9(4) apply only to material contribution to, or aggravation of, asbestosis where the person's asbestosis was suffered or contracted before or during (but did not arise out of) the person's relevant service.

11 Factors referring to an injury or disease covered by another Statement of Principles

In this Statement of Principles:

- (1) if a factor referred to in section 9 applies in relation to a person; and
- (2) that factor refers to an injury or disease in respect of which a Statement of Principles has been determined under subsection 196B(2) of the VEA;

then the factors in that Statement of Principles apply in accordance with the terms of that Statement of Principles as in force from time to time.

Schedule 1 - Dictionary

Note: See Section 6

1 Definitions

In this instrument:

asbestosis—see subsection 7(2).

MRCA means the *Military Rehabilitation and Compensation Act 2004*.

relevant service means:

- (a) operational service under the VEA;
- (b) peacekeeping service under the VEA;
- (c) hazardous service under the VEA;
- (d) British nuclear test defence service under the VEA;
- (e) warlike service under the MRCA; or
- (f) non-warlike service under the MRCA.

Note: ***MRCA*** and ***VEA*** are also defined in the Schedule 1 - Dictionary.

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

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

VEA means the *Veterans' Entitlements Act 1986*.