

USER GUIDE TO THE RMA

STATEMENTS OF PRINCIPLES

The main role of the Repatriation Medical Authority (RMA) is to determine 'Statements of Principles' (SOPs), in accordance with subsections 196B(2) and 196B(3) of the *Veterans' Entitlements Act 1986* (VEA). SOPs are used to determine claims for pension made under the VEA. They are also used to determine claims made under the *Military Rehabilitation and Compensation Act 2004* (MRCA).

The SOPs are legislative instruments, as defined by the *Legislative Instruments Act 2003* (LIA) and in order to be valid, must be compliant with the LIA.

The first SOPs were determined in 1994, and despite minor stylistic changes since that time followed essentially the same format until 2015. From mid-2015 the RMA introduced a number of changes to the format of the SOPs.

The RMA introduced the changes to ensure that the content of the SOP is fully consistent with the legislative framework that authorises it, and to improve readability for users of the SOP.

The following commentary explains the purpose and use of each section of a SOP, and should be read in conjunction with a SOP drafted using the revised (August 2015) format. Section numbering may vary from SOP to SOP. The commentary is illustrated using as an example one of the first SOP issued by the RMA using the changed format, the Statement of Principles concerning Achilles tendinopathy and bursitis No. 96 of 2015. Each section of this SOP is reproduced below (in full or part), followed by corresponding explanatory comments.

Statement of Principles
concerning
ACHILLES TENDINOPATHY AND BURSITIS
(Reasonable Hypothesis)
(No. 96 of 2015)

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

Dated 21 August 2015

The title page (page 1) starts with the name of the injury or disease that is covered by the SOP. Note that the SOP also covers death from the specified injury or disease. A detailed definition of the injury or disease can be found in Section 7.

The name of the injury or disease is followed by the type of SOP in brackets (Reasonable Hypothesis or Balance of Probabilities) and the number and year of the SOP in brackets. The section of the VEA under which the SOP is made is also specified.

If the SOP is an amendment, this will be stated on the title page. The Amendment SOP is drafted in the format of the instrument it is amending.

The title page also records the date of signing of the instrument and the signature of the RMA Chairperson.

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The contents page (page 2) lists the sections of the SOP and the page number of each section.

1 Name

This is the Statement of Principles concerning *Achilles tendinopathy and bursitis (Reasonable Hypothesis)* (No. 96 of 2015).

This section states the name of the particular kind of injury or disease covered by the SOP, exactly as on the title page.

2 Commencement

This instrument commences on **21 September 2015**.

The RMA specifies the date of commencement of the SOP. This date must be after the registration date of the SOP, and is selected so that factors can be applied as soon as possible in the assessment of claims.

3 Authority

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

This section informs the reader of the section of the VEA under which the RMA has determined, amended or revoked the SOP. The RMA determines new SOPs under either subsection 196B(2)

(reasonable hypothesis) or 196B(3) (balance of probabilities) of the VEA. An amendment to a SOP also relies upon subsection 196B(8) of the VEA.

4 Revocation

The Statement of Principles concerning Achilles tendinopathy and bursitis No. 37 of 2007 made under subsection 196B(2) of the VEA is revoked.

If a SOP concerning this kind of injury or disease has previously been determined, this section specifies that the older version is being revoked (in order to be replaced by the current one).

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.

This section informs the reader of the Act, and section of the Act, that specify the kind of claim that can be assessed utilising the factors in the SOP.

6 Definitions

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

This statement lets the reader know that some words or phrases in the SOP are used with a specific meaning, and that these words, along with their definitions for the purpose of the SOP, can be found in Schedule 1.

Wherever a defined word or phrase is used in the SOP, a note referring the reader to Schedule 1 is included immediately under the section or subsection containing the word or phrase.

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

- (1) This Statement of Principles is about Achilles tendinopathy and bursitis and death from Achilles tendinopathy and bursitis.

Meaning of Achilles tendinopathy and bursitis

- (2) For the purposes of this Statement of Principles,
- (a) Achilles tendinopathy means a condition characterised by painful inflammation associated with degeneration in the Achilles tendon, including degenerative tears of the Achilles tendon, or inflammation of the paratendinous tissues; and
 - (b) bursitis means inflammation and thickening of the deep retrocalcaneal bursa about the Achilles tendon; and
 - (c) excludes posterior adventitial heel bursitis.
- (3) While Achilles tendinopathy and bursitis attracts ICD-10-AM code M76.6, in applying this Statement of Principles the meaning of Achilles tendinopathy and bursitis is that given in subsection (2).

This section defines the injury or disease covered by the SOP. Subsection (1) restates the name of the injury or disease, and explicitly mentions that the SOP covers death from the injury or disease.

Subsection (2) provides a detailed definition, in medical terminology, intended to inform people with medical or other relevant training what types of injury or disease the RMA intends to be covered by the SOP. This more detailed definition is necessary because the names of injuries or diseases do not always have universally agreed meanings. The definition of the injury or disease may be broadened or narrowed in various ways in order to assist claimants and decision-makers using the SOP.

A subsection (3) is often (but not always) included in a SOP, which refers the reader to *The International Statistical Classification of Diseases and Related Health Problems* (ICD), which specifies a code (or multiple codes) for injuries or diseases that are most comparable to those covered by the SOP. The ICD codes are included as a general guide for readers. The subsection also emphasises that, regardless of the ICD code specified, the legally binding meaning of the injury or disease covered by the SOP remains that defined 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), Ninth Edition, effective date of 1 July 2015, copyrighted by the Independent Hospital Pricing Authority, ISBN 978-1-76007-020-5.

Subsection (4) provides the full reference for the ICD manual (if relevant).

Death from Achilles tendinopathy and bursitis

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

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

The final subsection informs the reader that the SOP may be relevant to claims regarding a person who has died, provided the injury or disease covered by the SOP contributed to the person's death.

8 Basis for determining the factors

The Repatriation Medical Authority is of the view that there is sound medical-scientific evidence that indicates that Achilles tendinopathy or bursitis and death from Achilles tendinopathy or bursitis 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: *relevant service* is defined in the Schedule 1 – Dictionary.

The wording of this section depends on whether the SOP is being determined under subsection 196B(2) (as above) or 196B(3) of the VEA (i.e. whether it is using the reasonable hypothesis or balance of probabilities standard of proof). The section follows the statutory language of the VEA, in stating a causal link can be made as a result of the factor or factors listed in the subsequent section, between relevant service and the particular kind of injury or disease covered by the SOP. The RMA must be satisfied that this link exists before it can determine a SOP.

There are a range of types of service that are recognised as being “relevant” to each of the two SOP types, as defined in Schedule 1.

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 Achilles tendinopathy or bursitis or death from Achilles tendinopathy or bursitis with the circumstances of a person's relevant service:

- (1) running or jogging an average of at least 30 kilometres per week for the four weeks before the clinical onset of Achilles tendinopathy or bursitis;
- (2) undertaking weight bearing exercise involving repeated activity of the ankle joint of the affected leg, at a minimum intensity of five METs, for at least four hours per week for the four weeks before the clinical onset of Achilles tendinopathy or bursitis;

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

- (3) increasing the frequency, duration or intensity of weight bearing activity involving the ankle joint of the affected leg by at least 100 percent, to a minimum intensity of five METs for at least two hours per day, within the seven days before the clinical onset of Achilles tendinopathy or bursitis;

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

This section is made up of a list of the SOP's 'factors'. A SOP may contain "onset" factors, each of which describes a way in which injury or disease covered by the SOP can be caused. It may also contain "worsening" factors, each of which describes a way in which the disease can be made worse.

(24) inability to obtain appropriate clinical management for Achilles tendinopathy or bursitis.

A SOP may contain an "inability" factor, which states that the injury or disease may be worsened if a person is unable to get appropriate clinical management.

For a factor to be included in a SOP, the RMA will have concluded that the factor could potentially arise in the context of service.

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(12) to 9(24) apply only to material contribution to, or aggravation of, Achilles tendinopathy or bursitis where the person's Achilles tendinopathy or bursitis was suffered or contracted before or during (but did not arise out of) the person's relevant service.

Subsection 10(1) states that if a SOP factor is used to support a person's claim, at least one of the factors in Section 9 must apply to the person, and must be related to that person's 'relevant service'. The definition of 'relevant service' can be found in Schedule 1.

Subsection 10(2) is about 'worsening factors' (see Section 9). It notes that a worsening factor can only be applied if the injury or disease already existed before or during 'relevant' service (i.e. prior to discharge or the last day of 'relevant' service, whichever is the earlier).

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.

This section relates to the situation where a person wishes to make a claim for an injury or disease covered by a particular SOP, and in that SOP one of the factors is an injury or disease which itself is covered by a second SOP. If so, the claim for the injury or disease covered by the first SOP can succeed if it meets one or more factors in the current version of the second SOP. In order to do so, the factor in the second SOP must be related to relevant service.

It is not sufficient for the injury or disease covered by the second SOP to have previously been accepted as related to service. The only exception occurs in claims to have death accepted as related to service, where the death results directly from an accepted injury or disease (ss 8(1)(f) and 70(5)(e) of the VEA).

Schedule 1 - Dictionary

Note: See Section 6

1 Definitions

In this instrument:

Achilles tendinopathy and bursitis—see subsection 7(2).

being obese means having a Body Mass Index (BMI) of 30 or greater.

BMI = W/H^2 and where:

W is the person's weight in kilograms; and

H is the person's height in metres.

crystal-induced arthropathy means arthropathy resulting from the deposition of monosodium urate, calcium pyrophosphate dihydrate, calcium hydroxyapatite or calcium oxalate.

glucocorticoid drug as specified means any of the corticosteroid drugs listed in the following table, in the specified combinations of administration, dose level and duration of treatment:

Drug or Class of Drugs	Mode*	Dose	Minimum Duration of Treatment	Duration
prednisolone or pharmacologically equivalent glucocorticoid	IV, IM, O	≥ 0.5 grams over 6 months	6 months	within the 3 years
		≥ 3 grams	NS	within the 5 years
		≥ 10 grams	NS	NS

Abbreviations: IV = intravenous; IM = intramuscular; O = oral; NS = not specified.

MET means a unit of measurement of the level of physical exertion. 1 MET = 3.5 ml of oxygen/kg of body weight per minute, or 1.0 kcal/kg of body weight per hour, or resting metabolic rate.

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.

The Schedule includes all words and phrases that have specific definitions in the SOP, in alphabetical order.

If a word or phrase is not defined in a SOP, then the ordinary meaning found in a relevant technical (usually medical) dictionary may be used, or a general dictionary. As SOPs are legislative instruments made under the LIA, the courts and Tribunals may have provided guidance

on how to interpret the meaning of a word or expression, which is then binding on decision-makers.

The interpretation of a term used in a SOP is a matter for the decision-maker, where no definition is included and where no judicial guidance is available. The RMA does not determine claims or make a final determination on the meaning of words or phrases in SOPs.