# 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.



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.



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



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



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.



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.



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).



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.



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.



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),whichspecifies 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).



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



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.



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.



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.



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.



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).



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).



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.