



Australian Government
Repatriation Medical Authority

EXPLANATORY STATEMENT

**VETERANS' ENTITLEMENTS (STATEMENTS OF PRINCIPLES—
CUMULATIVE EQUIVALENT DOSE) AMENDMENT DETERMINATION
2017 (NO. 58 OF 2017)**

VETERANS' ENTITLEMENTS ACT 1986
MILITARY REHABILITATION AND COMPENSATION ACT 2004

1. This is the Explanatory Statement to the *Veterans' Entitlements (Statements of Principles—Cumulative Equivalent Dose) Amendment Determination 2017* (No. 58 of 2017).

Background

2. The Repatriation Medical Authority (the Authority) has determined, under section 196B of the *Veterans' Entitlements Act 1986* (the VEA), the *Veterans' Entitlements (Statements of Principles—Cumulative Equivalent Dose) Amendment Determination 2017* (No. 58 of 2017) (the "Instrument").
3. This Instrument amends the various Statements of Principles referred to in Parts 1 and 2 of the Schedule 1-Amendments to the Instrument by:
 - omitting the existing definition of "cumulative equivalent dose" contained in each of those Statements of Principles; and
 - substituting the definition of "cumulative equivalent dose" contained in paragraph 1 of Parts 1 and 2 of the Schedule 1-Amendments to this Instrument.

Incorporated Document

4. The substituted definition of "cumulative equivalent dose" contained in paragraph 1 of Parts 1 and 2 of the Schedule 1-Amendments to this Instrument incorporates the writing in the *Guide to calculation of 'cumulative equivalent dose' for the purpose of applying ionising radiation factors contained in Statements of Principles determined under Part XIA of the Veterans' Entitlements Act 1986 (Cth)*, Australian Radiation Protection and Nuclear Safety Agency, as in force on 2 August 2017.
5. This writing is incorporated pursuant to subsection 14(b) of the *Legislation Act 2003*.
6. The incorporated writing is available to any person on the website of the Repatriation Medical Authority at <http://www.rma.gov.au> or from the Repatriation Medical Authority at the following address:

The Registrar
Repatriation Medical Authority
GPO Box 1014
BRISBANE QLD 4001

7. The substituted definition of "cumulative equivalent dose" contained in paragraph 1 of Parts 1 and 2 of the Schedule 1-Amendments to this Instrument includes Notes to the definition which are in all aspects consistent with the incorporated writing. The Notes have been included to ensure stakeholders are promptly alerted to the matters outlined therein and thereby to better facilitate the determination of claims relating to treatment, rehabilitation and compensation.

Day of Commencement

8. This Instrument also specifies a day of commencement for the amendment of the various Statements of Principles in accordance with subsection 12(3) of the *Legislation Act 2003*.

Consultation

9. Prior to determining this Instrument, the Authority received a request to undertake a review of all Statements of Principles with ionising radiation factors. The Authority published a notice of investigation in relation to the definition of the term "cumulative equivalent dose" referred to in the 122 Statements of Principles concerning 65 different conditions outlined in Schedule 1 to the notice, in the Government Notices Gazette of 10 February 2017. On that date, the Authority circulated a copy of the notice of investigation to the Repatriation Commission and the Military Rehabilitation and Compensation Commission (the Commissions) and a wide range of organisations representing veterans, service personnel and their dependants.
10. The Authority invited submissions from the Commissions, organisations and persons referred to in section 196E of the VEA, and any person having expertise in the field. One submission was received for consideration by the Authority during the course of these focussed reviews.
11. On 2 May 2017, the Authority wrote to the Commissions and 12 organisations representing veterans, service personnel and their dependants regarding the proposed changes to the definition of "cumulative equivalent dose" and provided the document to be incorporated into the Amendment Determination, referred to in Paragraph 4 above. The Authority provided an opportunity to the organisations to make representations in relation to the proposed changes prior to the determination of the Instrument. Feedback was received from eight persons or organisations for consideration by the Authority. As a result, the Authority decided that minor changes to the text of the incorporated document should be made, these amendments being made with the approval of the Australian Radiation Protection and Nuclear Safety Agency. Minor textual changes were also made to the proposed definition following this consultation process.
12. The various Statements of Principles outlined in Schedule 1 to the notice published in the Government Notices Gazette of 10 February 2017, and none other, are all referred to in Parts 1 and 2 of the Schedule 1-Amendments to this Instrument.

Human Rights

13. This instrument is compatible with the Human Rights and Freedoms recognised or declared in the International Instruments listed in Section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A Statement of Compatibility with Human Rights follows.

Finalisation of Investigation

14. The determining of this Instrument finalises the investigation in relation to the definition of the term "cumulative equivalent dose" referred to in the various Statements of Principles outlined in Schedule 1 of the notice published in the Government Notices Gazette of 10 February 2017.

References

15. A list of references relating to the above condition is available to any person or organisation referred to in subsection 196E(1)(a) to (c) of the VEA. Any such request must be made in writing to the Repatriation Medical Authority at the following address:

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Repatriation Medical Authority
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Repatriation Medical Authority

Statement of Compatibility with Human Rights

(Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011)

Instrument No.:	Veterans' Entitlements (Statements of Principles—Cumulative Equivalent Dose) Amendment Determination 2017 (No. 58 of 2017)
Kind of Injury, Disease or Death:	Each kind the subject of a Statement of Principles referred to in Parts 1 and 2 of the Schedule 1-Amendments to this Instrument.

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

1. This Legislative Instrument is determined pursuant to section 196B of the *Veterans' Entitlements Act 1986* (the VEA) for the purposes of the VEA and the *Military Rehabilitation and Compensation Act 2004* (the MRCA). Part XIA of the VEA requires the determination of these instruments outlining the factors linking particular kinds of injury, disease or death with service such being determined solely on the available sound medical-scientific evidence.
2. This Legislative Instrument:-
 - facilitates claimants in making, and the Repatriation Commission in assessing, claims under the VEA and the MRCA respectively, by specifying the circumstances in which medical treatment and compensation can be extended to eligible persons who have the particular kinds of injury, disease or death referred to in the various Statements of Principles referred to in Parts 1 and 2 of the Schedule 1-Amendments to this Instrument;
 - facilitates the review of such decisions by the Veterans' Review Board and the Administrative Appeals Tribunal;
 - includes a revised definition of the term "cumulative equivalent dose" referred to in the ionising radiation factor in the various Statements of Principles for particular kinds of injury, disease or death referred to in Parts 1 and 2 of the Schedule 1-Amendments to this Instrument, which factor is used to connect those particular kinds of injury, disease or death with the circumstances of eligible service rendered by a person;

- amends the various Statements of Principles referred to in paragraph 2 of Parts 1 and 2 of the Schedule 1-Amendments to this Instrument by omitting the existing definition of "cumulative equivalent dose" contained in each of those Statements of Principles, and substituting the definition of "cumulative equivalent dose" contained in paragraph 1 of Parts 1 and 2 of the Schedule 1-Amendments to this Instrument;
 - reflects the need for more detailed guidance concerning the term "cumulative equivalent dose" of ionising radiation as a factor in the various Statements of Principles referred to in paragraph 2 of Parts 1 and 2 of the Schedule 1-Amendments to this Instrument so that dose assessment accords with the available sound medical-scientific evidence.
3. The Instrument is assessed as being a technical instrument which improves the medico-scientific quality of outcomes under the VEA and the MRCA.

Human Rights Implications

4. This Legislative Instrument does not derogate from any human rights. It promotes the human rights of veterans, current and former Defence Force members as well as other persons such as their dependents, including:
- the right to social security (Art 9, *International Covenant on Economic, Social and Cultural Rights*; Art 26, *Convention on the Rights of the Child* and Art 28, *Convention on the Rights of Persons with Disabilities*) by helping to ensure that the qualifying conditions for the benefit are 'reasonable, proportionate and transparent'¹;
 - the right to an adequate standard of living (Art 11, ICSECR; Art 27, CRC and Art 28, CRPD) by facilitating the assessment and determination of social security benefits;
 - the right to the enjoyment of the highest attainable standard of physical and mental health (Art 12, ICSECR and Art 25, CRPD), by facilitating the assessment and determination of compensation and benefits in relation to the treatment and rehabilitation of veterans and Defence Force members;
 - the rights of persons with disabilities by facilitating the determination of claims relating to treatment and rehabilitation (Art 26, CRPD); and
 - ensuring that those rights "will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status" (Art 2, ICESCR).

Conclusion

This Legislative Instrument is compatible with human rights as it does not derogate from and promotes a number of human rights.

Repatriation Medical Authority

¹ In General Comment No. 19 (The right to social security), the Committee on Economic, Social and Cultural Rights said (at paragraph 24) this to be one of the elements of ensuring accessibility to social security.