

Revocation and Determination
of
Statement of Principles
concerning

CHRONIC BRONCHITIS AND EMPHYSEMA

for the purposes of the

Veterans' Entitlements Act 1986
and
Military Rehabilitation and Compensation Act 2004

1. The Repatriation Medical Authority under subsection **196B(2)** and **(8)** of the *Veterans' Entitlements Act 1986* (the VEA):
 - (a) revokes Instrument No. 73 of 1997; and
 - (b) determines in its place the following Statement of Principles.

Kind of injury, disease or death

2. (a) This Statement of Principles is about **chronic bronchitis and emphysema** and **death from chronic bronchitis and/or emphysema**, either alone or in combination.
- (b) For the purposes of this Statement of Principles,
 - (i) **“chronic bronchitis”** means a respiratory tract disorder characterised by excessive mucus production sufficient to cause cough and sputum for at least three months of each year for at least two consecutive years, where such mucus production is not attributable to another respiratory disease.

- (ii) “**emphysema**” means a bilateral and diffuse respiratory tract disorder which is characterised by distension of airspaces distal to the terminal bronchiole with destruction of alveolar septa, and without obvious fibrosis. This definition excludes isolated emphysematous bleb and surgical, traumatic, unilateral, focal or localised emphysema, and Swyer-James syndrome (also known as MacLeod’s syndrome or hyperlucent lung syndrome).

Basis for determining the factors

3. The Repatriation Medical Authority is of the view that there is sound medical-scientific evidence that indicates that **chronic bronchitis and emphysema** and **death from chronic bronchitis and/or emphysema** 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 *Military Rehabilitation and Compensation Act 2004* (the MRCA).

Factors that must be related to service

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

Factors

5. The factor that must as a minimum exist before it can be said that a reasonable hypothesis has been raised connecting **chronic bronchitis and emphysema** or **death from chronic bronchitis and/or emphysema** with the circumstances of a person’s relevant service is:
- (a) smoking at least five pack years of cigarettes, or the equivalent thereof in other tobacco products, before the clinical onset of chronic bronchitis and/or emphysema; or
 - (b) being exposed to a respiratory tract irritant, resulting in signs and symptoms of acute and serious insult to the lower respiratory tract, within the ten years immediately before the clinical onset of chronic bronchitis and/or emphysema; or

- (c) inhaling respirable crystalline silica dust, at the time material containing crystalline silica was being:
 - (i) produced, or
 - (ii) excavated, or
 - (iii) drilled, or
 - (iv) used in manufacturing, cleaning or blasting,for a period or periods of time totalling at least 370 days before the clinical onset of chronic bronchitis and/or emphysema; or
- (d) inhaling smoke from the combustion of biomass or fossil fuels whilst in an enclosed space, for a total of at least 2000 hours before the clinical onset of chronic bronchitis and/or emphysema; or
- (e) for a 'never'-smoker only, immersion in an atmosphere with a visible tobacco smoke haze in an enclosed space for at least 10000 hours before the clinical onset of chronic bronchitis and/or emphysema; or
- (f) smoking at least five pack years of cigarettes, or the equivalent thereof in other tobacco products, before the clinical worsening of chronic bronchitis and/or emphysema; or
- (g) being exposed to a respiratory tract irritant, resulting in signs and symptoms of acute and serious insult to the lower respiratory tract, within the ten years immediately before the clinical worsening of chronic bronchitis and/or emphysema; or
- (h) inhaling respirable crystalline silica dust, at the time material containing crystalline silica was being:
 - (i) produced; or
 - (ii) excavated; or
 - (iii) drilled; or
 - (iv) used in manufacturing, cleaning or blasting;for a period or periods of time totalling at least 370 days before the clinical worsening of chronic bronchitis and/or emphysema; or
- (i) inhaling smoke from the combustion of biomass or fossil fuels whilst in an enclosed space, for a total of at least 2000 hours before the clinical worsening of chronic bronchitis and/or emphysema; or

- (j) for a 'never'-smoker only, immersion in an atmosphere with a visible tobacco smoke haze in an enclosed space for at least 10000 hours before the clinical worsening of chronic bronchitis and/or emphysema; or
- (k) inability to obtain appropriate clinical management for chronic bronchitis and/or emphysema.

Factors that apply only to material contribution or aggravation

- 6. Paragraphs **5(f) to 5(k)** apply only to material contribution to, or aggravation of, chronic bronchitis and/or emphysema where the person's chronic bronchitis and/or emphysema was suffered or contracted before or during (but not arising out of) the person's relevant service.

Inclusion of Statements of Principles

- 7. 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.

Other definitions

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

“an enclosed space” means a substantially enclosed area, for example, the interior of a building, ship or aircraft, a covered workshop or factory;

“a respiratory tract irritant” means:

- (a) mustard gas; or
- (b) Lewisite; or
- (c) chlorine gas; or
- (d) phosgene; or
- (e) phthalic anhydride; or
- (f) anhydrous ammonia gas; or
- (g) another respirable agent which causes comparable tissue damage;

“death from chronic bronchitis and/or emphysema” in relation to a person includes death from a terminal event or condition that was contributed to by the person's chronic bronchitis and/or emphysema;

“‘never’-smoker” means a person who has smoked less than 100 cigarettes or the equivalent thereof in other tobacco products;

“pack years of cigarettes, or the equivalent thereof in other tobacco products” means a calculation of consumption where one pack year of

cigarettes equals twenty tailor made cigarettes per day for a period of one calendar year, or 7300 cigarettes. One tailor made cigarette approximates one gram of tobacco or one gram of cigar or pipe tobacco by weight. One pack year of tailor made cigarettes equates to 7300 cigarettes, or 7.3kg of smoking tobacco by weight. Tobacco products means either cigarettes, pipe tobacco or cigars smoked, alone or in any combination;

“relevant service” means:

- (a) operational service under the VEA; or
- (b) peacekeeping service under the VEA; or
- (c) hazardous service under the VEA; or
- (d) warlike service under the MRCA; or
- (e) non-warlike 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
- (f) cessation of brain function.

Application

- 9. This Instrument applies to all matters to which section 120A of the VEA or section 338 of the MRCA applies.

Dated this *seventh* day of *October* 2004

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

KEN DONALD
CHAIRMAN