

Statement of Principles
concerning

MESOTHELIOMA

No. 84 of 2007

for the purposes of the

Veterans' Entitlements Act 1986
and

Military Rehabilitation and Compensation Act 2004

Title

1. This Instrument may be cited as Statement of Principles concerning mesothelioma No. 84 of 2007.

Determination

2. The Repatriation Medical Authority under subsection **196B(3)** and **(8)** of the *Veterans' Entitlements Act 1986* (the VEA):
 - (a) revokes Instrument No. 53 of 1994, as amended by Instrument No. 200 of 1995 concerning mesothelioma; and
 - (b) determines in their place this Statement of Principles.

Kind of injury, disease or death

3.
 - (a) This Statement of Principles is about **mesothelioma** and **death from mesothelioma**.
 - (b) For the purposes of this Statement of Principles, "**mesothelioma**" means a primary malignant neoplasm arising from the cells of the mesothelial lining of serous cavities of the body including the pleura, pericardium or peritoneum. This definition excludes soft tissue sarcoma, carcinoid tumour, non-Hodgkin's lymphoma and Hodgkin's lymphoma.
 - (c) Mesothelioma attracts ICD-10-AM code C45.

- (d) In the application of this Statement of Principles, the definition of "**mesothelioma**" is that given at paragraph 3(b) above.

Basis for determining the factors

4. On the sound medical-scientific evidence available, the Repatriation Medical Authority is of the view that it is more probable than not that **mesothelioma** and **death from mesothelioma** can be related to relevant service rendered by veterans 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

5. Subject to clause 7, at least one of the factors set out in clause 6 must be related to the relevant service rendered by the person.

Factors

6. The factor that must exist before it can be said that, on the balance of probabilities, **mesothelioma** or **death from mesothelioma** is connected with the circumstances of a person's relevant service is:
- (a) inhaling asbestos fibres in an enclosed space:
 - (i) at the time material containing asbestos fibres was being applied, removed, dislodged, cut or drilled; and
 - (ii) the first inhalation of asbestos fibres occurred at least 15 years,
before the clinical onset of mesothelioma; or
 - (b) inhaling asbestos fibres in an open environment for a cumulative period of at least 1000 hours before the clinical onset of mesothelioma:
 - (i) at the time material containing asbestos fibres was being applied, removed, dislodged, cut or drilled; and
 - (ii) the first inhalation of asbestos fibres occurred at least 15 years,
before the clinical onset of mesothelioma; or
 - (c) having asbestosis at the time of the clinical onset of mesothelioma; or
 - (d) having had an intravascular injection of thorium dioxide (Thorotrast) at least 15 years before the clinical onset of mesothelioma; or

- (e) inhaling erionite fibres on more days than not for at least 10 years before the clinical onset of mesothelioma, where the first inhalation of erionite fibres occurred at least 15 years before the clinical onset of mesothelioma; or
- (f) inability to obtain appropriate clinical management for mesothelioma.

Factors that apply only to material contribution or aggravation

- 7. Paragraph 6(f) applies only to material contribution to, or aggravation of, mesothelioma where the person's mesothelioma was suffered or contracted before or during (but not arising out of) the person's relevant service.

Inclusion of Statements of Principles

- 8. 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 as in force from time to time.

Other definitions

- 9. 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;

"death from mesothelioma" in relation to a person includes death from a terminal event or condition that was contributed to by the person's mesothelioma;

"erionite" means a naturally occurring fibrous mineral that belongs to a group of minerals called zeolites;

"ICD-10-AM code" means a number assigned to a particular kind of injury or disease in The International Statistical Classification of Diseases and Related Health Problems, 10th revision, Australian Modification (ICD-10-AM), Fifth Edition, effective date of 1 July 2006, copyrighted by the National Centre for Classification in Health, Sydney, NSW, and having ISBN 1 86487 772 3;

"relevant service" means:

- (a) eligible war service (other than operational service) under the VEA; or
- (b) defence service (other than hazardous service) under the VEA; or
- (c) peacetime 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
- (e) cessation of brain function.

Application

- 10.** This Instrument applies to all matters to which section 120B of the VEA or section 339 of the MRCA applies.

Date of effect

- 11.** This Instrument takes effect from 4 July 2007.

Dated this *twentieth* day of *June* 2007

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

KEN DONALD
 CHAIRPERSON