



Australian Government
Repatriation Medical Authority

Statement of Principles concerning

PHYSICAL INJURY DUE TO MUNITIONS DISCHARGE

No. 49 of 2012

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 physical injury due to munitions discharge No. 49 of 2012.

Determination

2. The Repatriation Medical Authority under subsection **196B(3)** and **(8)** of the *Veterans' Entitlements Act 1986* (the VEA):
 - (a) revokes Instrument No. 10 of 2000 concerning physical injury due to munitions discharge; and
 - (b) determines in its place this Statement of Principles.

Kind of injury, disease or death

3.
 - (a) This Statement of Principles is about **physical injury due to munitions discharge** and **death from physical injury due to munitions discharge**.
 - (b) For the purposes of this Statement of Principles, "**physical injury due to munitions discharge**" means damage to body tissue, organs or bone as a direct result of munitions explosion, weapon discharge or shrapnel fragments.

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 **physical injury due to munitions discharge** and **death from physical injury due to munitions discharge** 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, **physical injury due to munitions discharge** or **death from physical injury due to munitions discharge** is connected with the circumstances of a person's relevant service is:
 - (a) sustaining physical injury due to munitions discharge; or
 - (b) inability to obtain appropriate clinical management for physical injury due to munitions discharge.

Factors that apply only to material contribution or aggravation

7. Paragraph **6(b)** applies only to material contribution to, or aggravation of, physical injury due to munitions discharge where the person's physical injury due to munitions discharge 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:

"death from physical injury due to munitions discharge" in relation to a person includes death from a terminal event or condition that was contributed to by the person's physical injury due to munitions discharge;

"relevant service" means:

 - (a) eligible war service (other than operational service) under the VEA; or
 - (b) defence service (other than hazardous service and British nuclear test defence 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 5 September 2012.

Dated this *twenty-seventh* day of *August* 2012

The Common Seal of the
Repatriation Medical Authority
was affixed to this instrument
at the direction of:

)
)
) 
)

PROFESSOR NICHOLAS SAUNDERS AO
CHAIRPERSON