



Australian Government
Repatriation Medical Authority

Statement of Principles
concerning
HUMAN IMMUNODEFICIENCY VIRUS
INFECTION
(Balance of Probabilities)
(No. 6 of 2019)

The Repatriation Medical Authority determines the following Statement of Principles under subsection 196B(3) of the *Veterans' Entitlements Act 1986*.

Dated 21 December 2018

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

A handwritten signature in black ink, appearing to read 'Nicholas Saunders'.

Professor Nicholas Saunders AO
Chairperson

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1 Name

This is the Statement of Principles concerning *human immunodeficiency virus infection (Balance of Probabilities)* (No. 6 of 2019).

2 Commencement

This instrument commences on 28 January 2019.

3 Authority

This instrument is made under subsection 196B(3) of the *Veterans' Entitlements Act 1986*.

4 Repeal

The Statement of Principles concerning human immunodeficiency virus No. 6 of 2010 (Federal Register of Legislation No. F2010L00013) made under subsection 196B(3) of the VEA is repealed.

5 Application

This instrument applies to a claim to which section 120B of the VEA or section 339 of the *Military Rehabilitation and Compensation Act 2004* applies.

6 Definitions

The terms defined in the Schedule 1 - Dictionary have the meaning given when used in this instrument.

7 Kind of injury, disease or death to which this Statement of Principles relates

- (1) This Statement of Principles is about human immunodeficiency virus infection and death from human immunodeficiency virus infection.

Meaning of human immunodeficiency virus infection

- (2) For the purposes of this Statement of Principles, human immunodeficiency virus infection means an infection that is caused by one of the human retroviruses, human immunodeficiency virus-1 (HIV-1) or human immunodeficiency virus-2 (HIV-2).
- (3) While human immunodeficiency virus infection attracts ICD-10-AM code B20, B21, B22, B23, B24 or Z21, in applying this Statement of Principles the meaning of human immunodeficiency virus infection is that given in subsection (2).
- (4) For subsection (3), a reference to an ICD-10-AM code is a reference to the code assigned to a particular kind of injury or disease in *The International Statistical Classification of Diseases and Related Health*

Problems, Tenth Revision, Australian Modification (ICD-10-AM), Tenth Edition, effective date of 1 July 2017, copyrighted by the Independent Hospital Pricing Authority, ISBN 978-1-76007-296-4.

Death from human immunodeficiency virus infection

- (5) For the purposes of this Statement of Principles, human immunodeficiency virus infection, in relation to a person, includes death from a terminal event or condition that was contributed to by the person's human immunodeficiency virus infection.

Note: *terminal event* is defined in the Schedule 1 – Dictionary.

8 Basis for determining the factors

On the sound medical-scientific evidence available, the Repatriation Medical Authority is of the view that it is more probable than not that human immunodeficiency virus infection and death from human immunodeficiency virus infection can be related to relevant service rendered by veterans or members of the Forces under the VEA, or members under the MRCA.

Note: *MRCA*, *relevant service* and *VEA* are defined in the Schedule 1 – Dictionary.

9 Factors that must exist

At least one of the following factors must exist before it can be said that, on the balance of probabilities, human immunodeficiency virus infection or death from human immunodeficiency virus infection is connected with the circumstances of a person's relevant service:

- (1) being exposed to HIV-1 or HIV-2 before the clinical onset of human immunodeficiency virus infection;

Note: *being exposed to HIV-1 or HIV-2* is defined in the Schedule 1 - Dictionary.

- (2) having:

- (a) a genital ulcerative disease; or
- (b) a non-ulcerative anogenital sexually transmitted infection with clinical symptoms or signs, excluding genital warts; or
- (c) herpes simplex virus type 2 anogenital infection;

within the 30 days before the clinical onset of human immunodeficiency virus infection;

- (3) using depot medroxyprogesterone acetate contraception at the time of the clinical onset of human immunodeficiency virus infection;
- (4) having tuberculosis at the time of the clinical worsening of human immunodeficiency virus infection;
- (5) inability to obtain appropriate clinical management for human immunodeficiency virus infection.

10 Relationship to service

- (1) The existence in a person of any factor referred to in section 9, must be related to the relevant service rendered by the person.
- (2) The factors set out in subsections 9(4) and 9(5) apply only to material contribution to, or aggravation of, human immunodeficiency virus infection where the person's human immunodeficiency virus infection was suffered or contracted before or during (but did not arise out of) the person's relevant service.

11 Factors referring to an injury or disease covered by another Statement of Principles

In this Statement of Principles:

- (1) if a factor referred to in section 9 applies in relation to a person; and
- (2) that factor refers to an injury or disease in respect of which a Statement of Principles has been determined under subsection 196B(3) of the VEA;

then the factors in that Statement of Principles apply in accordance with the terms of that Statement of Principles as in force from time to time.

Schedule 1 - Dictionary

Note: See Section 6

1 Definitions

In this instrument:

being exposed to HIV-1 or HIV-2 means:

- (a) having percutaneous exposure (intravenous, intramuscular, subcutaneous or intradermal) or permucosal exposure to a specified body substance which is derived from a person infected with HIV-1 or HIV-2; or
- (b) having a tissue or organ transplant, where the tissue or organ is derived from a person infected with HIV-1 or HIV-2.

Note: *specified body substance* is also defined in the Schedule 1 – Dictionary.

human immunodeficiency virus infection—see subsection 7(2).

MRCA means the *Military Rehabilitation and Compensation Act 2004*.

relevant service means:

- (a) eligible war service (other than operational service) under the VEA;
- (b) defence service (other than hazardous service and British nuclear test defence service) under the VEA; or
- (c) peacetime service under the MRCA.

Note: *MRCA* and *VEA* are also defined in the Schedule 1 - Dictionary.

specified body substance means:

- (a) blood, blood products or any body fluid containing blood; or
- (b) semen or vaginal secretions.

terminal event means the proximate or ultimate cause of death and includes the following:

- (a) pneumonia;
- (b) respiratory failure;
- (c) cardiac arrest;
- (d) circulatory failure; or
- (e) cessation of brain function.

VEA means the *Veterans' Entitlements Act 1986*.