Australian Government

Repatriation Medical Authority

EXPLANATORY STATEMENT

AMENDMENT STATEMENT OF PRINCIPLES CONCERNING THORACOLUMBAR INTERVERTEBRAL DISC PROLAPSE (REASONABLE HYPOTHESIS) (NO. 74 OF 2026)

MILITARY REHABILITATION AND COMPENSATION ACT 2004

1. This is the Explanatory Statement to the *Amendment Statement of Principles concerning* ***thoracolumbar intervertebral disc prolapse*** *(Reasonable Hypothesis)* (No. 74 of 2026).

Background

2. The Repatriation Medical Authority (the Authority) has determined, under sections 370CB and 370CG of the *Military Rehabilitation and Compensation Act 2004* (the MRCA), Amendment Statement of Principles concerning thoracolumbar intervertebral disc prolapse (Reasonable Hypothesis) (No. 74 of 2026).

3. This Instrument amends Statement of Principles concerning thoracolumbar intervertebral disc prolapse (Reasonable Hypothesis) (No. 68 of 2023) (Federal Register of Legislation No. F2023L00917) by:

- adopting the latest revised Amendment Instrument format, which commenced in July 2026;
- inserting a new factor in subsection 9(20) concerning 'awkward posture of the trunk';
- inserting a definition of 'awkward posture of the trunk' in Schedule 1 – Dictionary.

Day of Commencement

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

Consultation

5. Prior to determining this Instrument, the Authority advertised its intention to undertake an investigation into “awkward posture involving the head or neck” and “non-pilot helicopter aircrew” as factors in thoracolumbar intervertebral disc prolapse in the Government Notices Gazette of 18 June 2026 and provided a copy of the notice to a wide range of organisations representing veterans, service personnel and their dependants. The Authority invited submissions from the Repatriation Commission, organisations and persons referred to in section 370CH of the MRCA, and other persons with relevant expertise. One submission was received for consideration by the Authority in relation to the investigation. The submission informed the Authority’s consideration of the medical-scientific evidence and the content of the Instrument.

Human Rights

6. 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

7. The determining of this Instrument finalises the investigation in relation to exposure as a factor in thoracolumbar intervertebral disc prolapse as advertised in the Government Notices Gazette of 18 June 2026.

References

8. A list of references relating to the above condition is available on the Authority's website at: www.rma.gov.au. Any other document referred to in this Statement of Principles is available on request to the Repatriation Medical Authority at the following address:

Email: info@rma.gov.au
Post: The Registrar
Repatriation Medical Authority
GPO Box 1014
BRISBANE QLD 4001

Australian Government

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.: **Amendment Statement of Principles No. 74 of 2026**

Kind of Injury, Disease or Death: **Thoracolumbar intervertebral disc prolapse**

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 370CB of the *Military Rehabilitation and Compensation Act 2004* (the MRCA) for the purposes of the MRCA. Chapter 9A of the MRCA requires the determination of these instruments outlining the factors connecting 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 MRCA, by specifying the circumstances in which medical treatment and compensation can be extended to eligible persons who have thoracolumbar intervertebral disc prolapse;
- facilitates the review of such decisions by the Veterans' Review Board and the Administrative Review Tribunal;
- includes a new factor and definition which the current sound medical-scientific evidence indicates must as a minimum exist, before it can be said that a reasonable hypothesis has been raised, connecting thoracolumbar intervertebral disc prolapse with the circumstances of eligible service rendered by a person;
- amends Instrument No. 68 of 2023; and
- reflects developments in the available sound medical-scientific evidence concerning thoracolumbar intervertebral disc prolapse which have occurred since that earlier instrument was determined.

3. The Instrument is assessed as being a technical instrument which improves the medico-scientific quality of outcomes under 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, ICESCR; 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, ICESCR 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.