

REPATRIATION MEDICAL AUTHORITY

INSTRUMENT NO. 41 of 2007

VETERANS' ENTITLEMENTS ACT 1986
MILITARY REHABILITATION AND COMPENSATION ACT 2004

EXPLANATORY NOTES FOR TABLING

1. The Repatriation Medical Authority ('the Authority'), under subsection 196B(8) of the *Veterans' Entitlements Act 1986* ('the VEA') revokes Instrument No. 115 of 1996, as amended by Instrument No. 11 of 1998, determined under subsection 196B(2) of the VEA concerning **malignant neoplasm of the oesophagus** and **death from malignant neoplasm of the oesophagus**.
2. The Authority is of the view that there is sound medical-scientific evidence that indicates that **malignant neoplasm of the oesophagus** and **death from malignant neoplasm of the oesophagus** can be related to particular kinds of service. The Authority has therefore determined pursuant to subsection 196B(2) of the VEA a Statement of Principles, Instrument No. 41 of 2007 concerning **malignant neoplasm of the oesophagus**. This Instrument will in effect replace the revoked Statements of Principles.
3. The provisions of the *Military Rehabilitation and Compensation Act 2004* ('the MRCA') relating to claims for compensation commenced on 1 July 2004. Claims under section 319 of the MRCA for acceptance of liability for a service injury sustained, a service disease contracted or service death on or after 1 July 2004 are determined by the Military Rehabilitation and Compensation Commission by reference to Statements of Principles issued by the Authority pursuant to the VEA.
4. The Statement of Principles sets out the factors that must as a minimum exist, and which of those factors must be related to the following kinds of service rendered by a person:
 - operational service under the VEA;
 - peacekeeping service under the VEA;
 - hazardous service under the VEA;
 - warlike service under the MRCA;
 - non-warlike service under the MRCA,

before it can be said that a reasonable hypothesis has been raised connecting **malignant neoplasm of the oesophagus** or **death from malignant neoplasm of the oesophagus**, with the circumstances of that service.

5. This new instrument results from an investigation notified by the Authority in the Government Notices Gazette of 1 September 2004 concerning **malignant neoplasm of the oesophagus** in accordance with section 196G of the Act. The investigation involved an examination of the sound medical-scientific evidence now available to the Authority, including the sound medical-scientific evidence it has previously considered.
6. The contents of the new Instrument are in similar terms as the revoked Instruments. Comparing the new and the revoked Instruments, the differences include:
 - adopting the latest revised Instrument format, which commenced in 2005;
 - deleting the ICD code from the Instrument header;
 - revising the definition of 'malignant neoplasm of the oesophagus' in clause 3;
 - revising factor 6(a) concerning 'squamous cell or undifferentiated carcinoma of the oesophagus';
 - revising factor 6(b) concerning 'adenocarcinoma or undifferentiated carcinoma of the oesophagus';
 - new factor 6(c) concerning 'smoking';
 - new factor 6(d) concerning 'therapeutic radiation';
 - new factor 6(e) concerning 'achalasia';
 - new factor 6(f) concerning 'pernicious anaemia';
 - new factor 6(g) concerning 'fruit and vegetables';
 - deleting factor 6(b)(iii) concerning 'alcohol consumption';
 - deleting factor 6(b)(iv) concerning 'Barrett's oesophagus';
 - revising the definition of 'relevant service' in clause 9;
 - new definitions of 'a course of therapeutic radiation'; 'achalasia'; 'alcohol'; 'being obese'; 'death from malignant neoplasm of the oesophagus'; 'ICD-10-AM code'; 'pack years of cigarettes, or the equivalent thereof in other tobacco products'; 'pernicious anaemia'; 'Plummer-Vinson syndrome' and 'terminal event' in clause 9;
 - deleting the definitions of 'adenocarcinoma of the oesophagus'; 'Barrett's oesophagus'; 'ICD code'; 'ingestion of lye'; 'squamous cell carcinoma of the oesophagus' and 'undifferentiated carcinoma of the oesophagus'; in clause 9; and
 - specifying a date of effect for the Instrument in clause 11.
7. Further changes to the format of the Instrument reflect the commencement of the MRCA and clarify that pursuant to subsection 196B(3A) of the VEA, the Statement of Principles has been determined for the purposes of both the VEA and the MRCA.
8. Prior to determining this instrument, the Authority advertised its intention to undertake an investigation in relation to malignant neoplasm of the oesophagus in the Government Notices Gazette of 1 September 2004, and circulated a copy of the notice of intention to investigate 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 196E of the VEA, and any person having expertise in the field. Two submissions were received for consideration by the Authority during the investigation process.

9. On 20 December 2006, the Authority wrote to organisations representing veterans, service personnel and their dependants regarding the proposed Instrument and the medical-scientific material considered by the Authority. This letter emphasised the deletion of factors relating to *alcohol and Barrett's oesophagus*. The Authority provided an opportunity to the organisations to make representations in relation to the proposed instrument prior to its determination. No submissions were received for consideration by the Authority in response to this letter.
10. The determining of this new instrument finalises the investigation in relation to **malignant neoplasm of the oesophagus** as advertised in the Government Notices Gazette of 1 September 2004.
11. A list of references relating to the above condition is available, on written request, from the Repatriation Medical Authority Secretariat.