



Statement of Principles concerning morbid obesity No. 5 of 2014

made under subsection 196B(2) of the

Veterans' Entitlements Act 1986

Compilation No. 1

Compilation date: 22 July 2019

Includes amendments up to: Amendment Statement of Principles concerning morbid obesity No. 75 of 2019 (F2019L00880)

The day of commencement of this Amendment Statement of Principles concerning morbid obesity is 22 July 2019.

Prepared by the Repatriation Medical Authority Secretariat, Brisbane

About this compilation

This compilation

This is a compilation of the *Statement of Principles concerning morbid obesity No. 5 of 2014* that shows the text of the law as amended and in force on 22 July 2019.

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.



Australian Government
Repatriation Medical Authority

Statement of Principles concerning

MORBID OBESITY

No. 5 of 2014

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 morbid obesity No. 5 of 2014.

Determination

2. The Repatriation Medical Authority under subsection **196B(2)** and **(8)** of the *Veterans' Entitlements Act 1986* (the VEA):
 - (a) revokes Instrument No. 31 of 2003 concerning morbid obesity; and
 - (b) determines in its place this Statement of Principles.

Kind of injury, disease or death

3.
 - (a) This Statement of Principles is about **morbid obesity** and **death from morbid obesity**.
 - (b) For the purposes of this Statement of Principles, "**morbid obesity**" means an excessive accumulation of fat in the body resulting in:
 - (i) a Body Mass Index (BMI) of at least 40; or

Statement of Principles concerning Morbid Obesity
No. 5 of 2014
Veterans' Entitlements Act 1986

1

-
- (ii) in those aged 18 years or younger, a BMI of at least 120 percent of the 97th percentile in the 2007 *World Health Organisation Body Mass Index Charts, for Age and Gender*.

Basis for determining the factors

4. The Repatriation Medical Authority is of the view that there is sound medical-scientific evidence that indicates that **morbid obesity** and **death from morbid obesity** can be related to relevant service rendered by veterans, members of Peacekeeping Forces, 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 as a minimum exist before it can be said that a reasonable hypothesis has been raised connecting **morbid obesity** or **death from morbid obesity** with the circumstances of a person's relevant service is:
- (a) having a caloric intake that is excessive for energy needs for at least the five years before the clinical onset of morbid obesity; or
 - (b) being treated with a drug or a drug from a class of drugs from the specified list, where that drug cannot be ceased or substituted, for at least the one month before the clinical onset of morbid obesity; or
 - (c) having the eating disorder, binge eating disorder, for at least the three months before the clinical onset of morbid obesity; or
 - (d) having Cushing's syndrome for at least the three months before the clinical onset of morbid obesity; or
 - (e) having hypothyroidism for at least the three months before the clinical onset of morbid obesity; or
 - (f) having a hypothalamic disorder causing excessive eating for at least the three months before the clinical onset of morbid obesity; or
 - (g) inability to sleep an average of more than five hours nightly for at least the five years before the clinical onset of morbid obesity; or
 - (h) having a clinically significant psychiatric disorder as specified for at least the five years before the clinical onset of morbid obesity; or
 - (i) having ceased tobacco smoking within the one year before the clinical onset of morbid obesity; or

-
- (j) having polycystic ovary syndrome for at least the one year before the clinical onset of morbid obesity; or
 - (k) inability to obtain appropriate clinical management for morbid obesity.

Factors that apply only to material contribution or aggravation

- 7. Paragraph **6(k)** applies only to material contribution to, or aggravation of, morbid obesity where the person's morbid obesity 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:

"a drug or a drug from a class of drugs from the specified list" means:

- (a) atypical antipsychotics, including clozapine, olanzapine, quetiapine, risperidone and sertindole;
- (b) carbamazepine;
- (c) clofibrate;
- (d) clonidine;
- (e) cyproheptadine;
- (f) gabapentin;
- (g) glucocorticosteroids;
- (h) guanabenz;
- (i) guanethidine;
- (j) insulin;
- (k) lithium;
- (l) maprotiline;
- (m) megestrol acetate;
- (n) methyl dopa;
- (o) mirtazapine;
- (p) nisoldipine;
- (q) paroxetine;
- (r) phenelzine;
- (s) pizotifen;
- (t) prazosin;
- (u) propranolol;

-
- (v) sulphonylureas;
 - (w) terazosin;
 - (x) tricyclic antidepressants, including amitriptyline, clomipramine, doxepin, imipramine and nortriptyline;
 - (y) typical antipsychotics, including chlorpromazine, fluphenazine, flupenthixol, perphenazine, pimozide, thioridazine and trifluoperazine;
or
 - (z) valproic acid;

"a clinically significant psychiatric condition as specified" means one of the following conditions, which is of sufficient severity to warrant ongoing management, which may involve regular visits (for example, at least monthly) to a psychiatrist, counsellor or general practitioner:

- (a) bipolar I or II disorder;
- (b) generalised anxiety disorder;
- (c) major depressive disorder;
- (d) panic disorder;
- (e) persistent depressive disorder;
- (f) personality disorder;
- (g) posttraumatic stress disorder;
- (h) schizophrenia;
- (i) social phobia; or
- (j) specific phobia;

"binge eating disorder" means a psychiatric condition meeting the following criteria:

- (a) recurrent episodes of binge eating. An episode of binge eating is characterised by both of the following:
 - (i) eating, in a discrete period of time (e.g., within any two hour period), an amount of food that is definitely larger than what most people would eat in a similar period of time under similar circumstances; and
 - (ii) a sense of lack of control over eating during the episode (e.g., a feeling that one cannot stop eating or control what or how much one is eating);
- (b) the binge eating episodes are associated with three (or more) of the following:
 - (i) eating much more rapidly than normal;
 - (ii) eating until feeling uncomfortably full;
 - (iii) eating large amounts of food when not feeling physically hungry;
 - (iv) eating alone because of feeling embarrassed by how much one is eating; or
 - (v) feeling disgusted with oneself, depressed, or very guilty afterward;

-
- (c) marked distress regarding binge eating is present;
 - (d) the binge eating occurs, on average, at least once a week for three months; and
 - (e) the binge eating is not associated with the recurrent use of inappropriate compensatory behaviour as in bulimia nervosa and does not occur exclusively during the course of bulimia nervosa or anorexia nervosa;

"BMI" means W/H^2 where:

W is the person's weight in kilograms; and

H is the person's height in metres;

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

"hypothalamic disorder" means a disease that causes structural damage to the hypothalamus. This can result from tumour, trauma, granulomatous infections, central nervous system infections, therapeutic radiation or surgery;

"relevant service" means:

- (a) operational service under the VEA;
- (b) peacekeeping service under the VEA;
- (c) hazardous service under the VEA;
- (d) British nuclear test defence service under the VEA;
- (e) warlike service under the MRCA; or
- (f) non-warlike 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 120A of the VEA or section 338 of the MRCA applies.

Date of effect

- 11.** This Instrument takes effect from 15 January 2014.

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	
exp = expires/expired or ceases/ceased to have effect	reloc = relocated
F = Federal Register of Legislation	renum = renumbered
gaz = gazette	rep = repealed
LA = <i>Legislation Act 2003</i>	rs = repealed and substituted
LIA = <i>Legislative Instruments Act 2003</i>	s = section(s)/subsection(s)
(md) = misdescribed amendment can be given effect	Sch = Schedule(s)
(md not incorp) = misdescribed amendment cannot be given effect	Sdiv = Subdivision(s)
mod = modified/modification	SLI = Select Legislative Instrument
No. = Number(s)	SR = Statutory Rules
	Sub-Ch = Sub-Chapter(s)
	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnote 3—Legislation history

Endnote 3—Legislation history

Name	Registration	Commencement	Application, saving and transitional provisions
<i>Statement of Principles concerning morbid obesity No. 5 of 2014</i>	2 January 2014 F2014L00010	15 January 2014	
<i>Amendment Statement of Principles concerning morbid obesity No. 75 of 2019</i>	26 June 2019 F2019L00880	22 July 2019	

Endnote 4—Amendment history

Provision affected	How affected
Clause 3(b).....	rs. No. 75 of 2019
Clause 9 – ' "BMI".....'	rs. No. 75 of 2019