



Australian Government
Repatriation Medical Authority

REPATRIATION MEDICAL AUTHORITY

INSTRUMENT NO. 86 OF 2014

VETERANS' ENTITLEMENTS ACT 1986
MILITARY REHABILITATION AND COMPENSATION ACT 2004

EXPLANATORY NOTES FOR TABLING

1. The Repatriation Medical Authority (the Authority) has determined, under subsection 196B(2) & (8) of the *Veterans' Entitlements Act 1986* (the VEA) Amendment Statement of Principles Instrument No. 86 of 2014 concerning **non-Hodgkin's lymphoma**.
2. This Instrument amends Statement of Principles Instrument No. 28 of 2010, as amended by Instrument No. 57 of 2014, concerning **non-Hodgkin's lymphoma** by:
 - replacing the definition of 'non-Hodgkin's lymphoma' in clause 3(b);
 - deleting clauses 3(c) and 3(d);
 - replacing factor 6(e) concerning 'chronic lymphocytic leukaemia/small lymphocytic lymphoma', for Richter's syndrome only;
 - replacing the definitions of 'relevant service' and 'Richter's syndrome' in clause 9; and
 - deleting the definition of 'ICD-10-AM code' in clause 9.
3. This Instrument also specifies a date of effect for the amendment in accordance with subsection 12(1)(a) of the *Legislative Instruments Act 2003*.
4. Prior to determining this Instrument, the Authority advertised its intention to undertake an investigation in relation to non-Hodgkin's lymphoma in the Government Notices Gazette of 18 December 2013. The investigation was undertaken in accordance with the Specialist Medical Review Council Declaration No. 22, dated 26 November 2013, in respect of chronic lymphoid leukaemia. A copy of the notice of intention to investigate was circulated 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. No submissions were received for consideration by the Authority during the investigation.
5. On 15 April 2014, 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 inclusion of a factor relating to *chronic lymphocytic leukaemia/small lymphocytic lymphoma, for Richter's syndrome only*. 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. Minor typographical changes were made to the proposed Instrument following this consultation process.

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.
7. The determining of this Instrument finalises the investigation in relation to non-Hodgkin's lymphoma as advertised in the Government Notices Gazette of 18 December 2013.
8. A list of references relating to the above condition is available to any person or organisation referred to in subsection 196E(1)(a) to (c) of the VEA. Any such request must be made in writing to the Repatriation Medical Authority at the following address:

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. 86 of 2014**

Kind of Injury, Disease or Death: **Non-Hodgkin's lymphoma**

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 subsection 196B(8) of the *Veterans' Entitlements Act 1986* (the VEA) for the purposes of the VEA and the *Military Rehabilitation and Compensation Act 2004* (the MRCA).
2. This Legislative Instrument:-
 - facilitates claimants in making, and the Repatriation Commission in assessing, claims under the VEA and the MRCA respectively, by specifying the circumstances in which medical treatment and compensation can be extended to eligible persons who have non-Hodgkin's lymphoma;
 - facilitates the review of such decisions by the Veterans' Review Board and the Administrative Appeals Tribunal;
 - includes a revised factor 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 non-Hodgkin's lymphoma with the circumstances of eligible service rendered by a person;
 - amends Instrument No. 28 of 2010, as amended by Instrument No. 57 of 2014; and
 - reflects developments in the available sound medical-scientific evidence concerning non-Hodgkin's lymphoma which have occurred since those earlier instruments were determined.
3. The Instrument is assessed as being a technical instrument which improves the medico-scientific quality of outcomes under the VEA and 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, ICSECR; 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, ICSECR 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; and
 - the rights of persons with disabilities by facilitating the determination of claims relating to treatment and rehabilitation (Art 26, CRPD).

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.