



**Australian Government**  
**Repatriation Medical Authority**

**REPATRIATION MEDICAL AUTHORITY**  
**INSTRUMENT NO. 65 of 2015**  
***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. 51 of 2006, as amended, determined under subsection 196B(2) of the VEA concerning **cerebrovascular accident**.
2. The Authority is of the view that there is sound medical-scientific evidence that indicates that **cerebrovascular accident** and **death from cerebrovascular accident** 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. 65 of 2015 concerning cerebrovascular accident. This Instrument will in effect replace the revoked Statement 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;
  - British nuclear test defence 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 cerebrovascular accident or death from cerebrovascular accident, with the circumstances of that service.
5. This Instrument results from an investigation notified by the Authority in the Government Notices Gazette of 2 May 2012 concerning cerebrovascular accident in accordance with section 196G of the VEA. 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 this Instrument are in similar terms as the revoked Instrument. Comparing this Instrument and the revoked Instrument, the differences include:

- revising the definition of 'cerebrovascular accident' in clause 3;
- revising factor 6(a) concerning 'hypertension';
- revising factor 6(b) concerning 'a hypertensive emergency or crisis';
- new factor 6(e) concerning 'binge drinking';
- revising factor 6(f) concerning 'an infection';
- new factor 6(g) concerning 'human immunodeficiency virus';
- new factor 6(h) concerning 'an inflammatory connective tissue disease';
- new factor 6(i) concerning 'primary angiitis of the central nervous system or a systemic vasculitis';
- new factor 6(j) concerning 'a specified non-inflammatory disease of the cerebral vessels';
- new factor 6(k) concerning 'a haematological disease';
- revising factor 6(l) concerning 'being pregnant';
- revising factor 6(m) concerning 'using a drug or a drug from a class of drugs';
- revising factor 6(n) concerning 'being treated with a selective serotonin reuptake inhibitor or another serotonergic drug, or taking an overdose of an individual serotonergic drug';
- new factor 6(o) concerning 'using a drug belonging to the non-steroidal anti-inflammatory class of drugs', for intracerebral haemorrhage;
- revising factor 6(p) concerning 'heat stroke';
- revising factor 6(q) concerning 'being envenomated';
- revising factor 6(s) concerning 'being in an atmosphere with a visible tobacco smoke haze' for cerebral ischaemia, and including the revised factor as a new factor for intracerebral haemorrhage;
- new factor 6(t) concerning 'diabetes mellitus' for intracerebral haemorrhage;
- new factor 6(u) concerning 'a cardiac condition with potential to give rise to a cerebral embolus';
- new factor 6(v) concerning 'a non-cardiac cause of cerebral arterial embolism';
- new factor 6(w) concerning 'deep vein thrombosis in the presence of a potential route of paradoxical embolism';
- new factor 6(x) concerning 'a procedure from the specified list';
- new factor 6(y) concerning 'septicaemia, or an injury or illness requiring admission to an intensive care unit or artificial ventilation';
- new factor 6(z) concerning 'a malignant neoplasm, excluding non-melanotic malignant neoplasm of the skin';
- new factor 6(aa) concerning 'cirrhosis of the liver or chronic liver disease';
- new factor 6(bb) concerning 'chronic renal disease requiring renal transplantation or dialysis';
- new factor 6(cc) concerning 'a moderate to severe traumatic brain injury';
- new factor 6(dd) concerning 'being obese';
- new factor 6(ee) concerning 'a waist to hip circumference ratio exceeding 1.0', for males only;

- new factor 6(ff) concerning 'a waist to hip circumference ratio exceeding 0.9', for females only;
- new factor 6(gg) concerning 'clinically active inflammatory bowel disease';
- revising factor 6(hh) concerning 'clinically significant depressive disorder';
- new factor 6(jj) concerning 'experiencing a category 1B stressor';
- new factor 6(ll) concerning 'phobic anxiety with panic attack';
- new factor 6(mm) concerning 'periodontitis';
- new factor 6(nn) concerning 'vegetables or fruits';
- new factor 6(oo) concerning 'salt';
- new factor 6(pp)(i) concerning 'an upper respiratory tract infection', for cerebral ischaemia only;
- revising factor 6(pp)(ii)(B) concerning 'smoking at least one half of a pack-year of cigarettes', for cerebral ischaemia only;
- new factor 6(pp)(iii)(A) concerning 'smoking at least one pack-year but less than five pack-years of cigarettes', for cerebral ischaemia only;
- new factor 6(pp)(iii)(B) concerning 'smoking at least five pack-years but less than ten pack-years of cigarettes', for cerebral ischaemia only;
- new factor 6(pp)(iii)(C) concerning 'smoking at least ten pack-years of cigarettes', for cerebral ischaemia only;
- revising factor 6(pp)(iv) concerning 'dyslipidaemia', for cerebral ischaemia only;
- revising factor 6(pp)(vii) concerning 'receiving hormone replacement therapy', for postmenopausal females only, for cerebral ischaemia only;
- new factor 6(pp)(ix) concerning 'having carotid arterial disease, or occlusion or stenosis of the vertebral artery, basilar artery, aortic arch or ascending aorta due to atherosclerosis, dissection or other pathological process involving that artery', for cerebral ischaemia only;
- new factor 6(pp)(x) concerning 'a subarachnoid haemorrhage', for cerebral ischaemia only;
- new factor 6(pp)(xi) concerning 'a hypercoagulable state', for cerebral ischaemia only;
- revising factor 6(pp)(xiv) concerning 'a course of therapeutic radiation for cancer', for cerebral ischaemia only;
- new factor 6(pp)(xv) concerning 'ionising radiation', for cerebral ischaemia only;
- revising factor 6(pp)(xvi) concerning 'hyperhomocysteinaemia', for cerebral ischaemia only;
- revising factor 6(pp)(xvii) concerning 'trauma to the neck or the base of the skull', for cerebral ischaemia only;
- new factor 6(pp)(xviii) concerning 'ambient polluted air', for cerebral ischaemia only;
- revising factor 6(qq)(i)(A) concerning 'smoking an average of at least ten cigarettes per day', for intracerebral haemorrhage only;
- new factor 6(qq)(i)(B) concerning 'smoking at least one pack-year of cigarettes', for intracerebral haemorrhage only;
- new factor 6(qq)(ii)(A) concerning 'smoking at least one pack-year but less than ten pack-years of cigarettes', for intracerebral haemorrhage only;

- new factor 6(qq)(ii)(B) concerning 'smoking at least ten pack-years of cigarettes', for intracerebral haemorrhage only;
  - new factor 6(qq)(iii) concerning 'a lipid profile as specified', for intracerebral haemorrhage only;
  - new factor 6(qq)(v) concerning 'a specified drug', for intracerebral haemorrhage only;
  - new factor 6(qq)(x) concerning 'being underweight', for intracerebral haemorrhage only;
  - deleting a factor concerning 'cerebral vasospasm' as the factor relates to an intermediate mechanism that is covered by other causal factors, including migraine, subarachnoid haemorrhage, trauma and using cocaine;
  - new definitions of 'a cardiac condition with potential to give rise to a cerebral embolus', 'a category 1B stressor', 'a drug or a drug from a class of drugs from the specified list', 'a haematological disease from the specified list', 'a hypercoagulable state as specified', 'a hypertensive emergency or crisis', 'a lipid profile as specified', 'a non-cardiac cause of cerebral arterial embolism', 'a potential route of paradoxical embolism from the specified list', 'a procedure from the specified list', 'a specified drug', 'a specified non-inflammatory disease of the cerebral vessels', 'a systemic vasculitis from the specified list', 'ambient polluted air as specified', 'an eyewitness', 'an infection from the specified list', 'an inflammatory connective tissue disease from the specified list', 'an intracerebral space occupying lesion', 'being obese', 'being underweight', 'binge drinking', 'chronic liver disease', 'clinically significant', 'cumulative equivalent dose', 'DSM-5', 'heat stroke' and 'phobic anxiety' in clause 9;
  - revising the definitions of 'a haematological disorder from the specified list of haematological disorders that are associated with an excessive bleeding tendency', 'anticoagulant therapy', 'cerebral ischaemia', 'dyslipidaemia', 'ICD-10-AM code', 'intracerebral haemorrhage', 'pack-year of cigarettes, or the equivalent thereof in other tobacco products', 'relevant service' and 'trauma to the neck or the base of the skull' in clause 9;
  - deleting the definitions of 'a course of therapeutic radiation', 'a disease of the cerebral vessels from the specified list', 'a drug from the specified list', 'a haematological disorder from the specified list of haematological disorders that are associated with a hypercoagulable state', 'a potential source of cerebral embolus', 'an acute hypertensive episode', 'cerebral infection', 'exertional heat stroke', 'head injury', 'intracerebral space occupying lesion', 'intravascular lymphomatosis', 'precerebral artery' and 'puerperal period'; and
  - specifying a date of effect for the Instrument in clause 11.
7. This Instrument incorporates by reference the *Diagnostic and Statistical Manual of Mental Disorders*, Fifth Edition (DSM-5), Arlington, VA, American Psychiatric Association, 2013. A copy of this document is available from the offices of the Repatriation Medical Authority, Level 8, Bank of Queensland Building, 259 Queen St, Brisbane, Queensland 4000, by contacting the Registrar on telephone (07) 3815 9404.
8. 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.

9. Prior to determining this Instrument, the Authority advertised its intention to undertake an investigation in relation to cerebrovascular accident in the Government Notices Gazette of 2 May 2012, 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. No submissions were received for consideration by the Authority during the investigation.
10. 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.
11. The determining of this Instrument finalises the investigation in relation to cerebrovascular accident as advertised in the Government Notices Gazette of 2 May 2012.
12. 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.:** **Statement of Principles No. 65 of 2015**

**Kind of Injury, Disease or Death:** **Cerebrovascular accident**

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 cerebrovascular accident;
  - facilitates the review of such decisions by the Veterans' Review Board and the Administrative Appeals Tribunal;
  - outlines the factors 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 cerebrovascular accident with the circumstances of eligible service rendered by a person, as set out in clause 4 of the Explanatory Notes;
  - replaces Instrument No. 51 of 2006, as amended; and
  - reflects developments in the available sound medical-scientific evidence concerning cerebrovascular accident 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 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'<sup>1</sup>;
  - 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

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<sup>1</sup> 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.