



Australian Government
Repatriation Medical Authority

REPATRIATION MEDICAL AUTHORITY

INSTRUMENT NO. 115 of 2015

VETERANS' ENTITLEMENTS ACT 1986
MILITARY REHABILITATION AND COMPENSATION ACT 2004

EXPLANATORY STATEMENT

1. The Repatriation Medical Authority (the Authority) has determined, under subsection 196B(3) of the *Veterans' Entitlements Act 1986* (the VEA) Amendment Statement of Principles concerning **lipoma** (Balance of Probabilities) (No. 115 of 2015).
2. This Instrument amends Statement of Principles concerning **lipoma** (Balance of Probabilities) (No. 101 of 2015) by:
 - removing the phrase 'in superficial subcutaneous tissues' from the definition of lipoma in subsection 7(2)(a).
3. The Authority has become aware that the principal instrument contained a clerical error in the definition of lipoma in that the limiting phrase, 'in superficial subcutaneous tissues' had not been removed. The Authority has therefore determined pursuant to subsection 196B(3) of the VEA to amend the registered Statement of Principles concerning lipoma (Balance of Probabilities) (No. 101 of 2015) to ensure that Statement of Principles accords with the decision taken by the Authority.

Day of Commencement

4. The amended Statement of Principles will now accurately reflect the decision of the Authority in determining the Statement of Principles concerning lipoma and will have the same day of commencement as the existing registered Statement of Principles concerning lipoma (Balance of Probabilities) (No. 101 of 2015).

Consultation

5. This Instrument results from an investigation notified by the Authority in the Government Notices Gazette of 31 October 2012 concerning lipoma, in accordance with section 196G of the VEA. The investigation involved an examination of the sound medical-scientific evidence available to the Authority, including the sound medical-scientific evidence it has previously considered. This investigation resulted in the determination of Statement of Principles concerning lipoma (Balance of Probabilities) (No. 101 of 2015).
6. As outlined in clause 3 above, this amendment corrects a clerical error identified after registration of Statement of Principles concerning lipoma (Balance of Probabilities) (No. 101 of 2015). The Authority considered that no further consultation, concerning this amendment, was necessary as the amendment was required to immediately correct the error. Consultation had already been undertaken as part of the

investigation process. This amendment ensures no adverse effect upon the rights of a person by correcting this clerical error.

Human Rights

7. 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

8. The determination of this Instrument finalises the investigation in relation to lipoma as advertised in the Government Notices Gazette of 31 October 2012 and ensures that the Statement of Principles concerning lipoma accords with the decision of the Authority.

References

9. 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. 115 of 2015

Kind of Injury, Disease or Death: Lipoma

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(3) 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:-
 - amends the previously registered Statement of Principles concerning lipoma (Balance of Probabilities) (No. 101 of 2015) to remove a clerical error in the definition of lipoma;
 - will have the same day of commencement as the existing registered Statement of Principles concerning lipoma (Balance of Probabilities) (No. 101 of 2015);
 - 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 lipoma;
 - facilitates the review of such decisions by the Veterans' Review Board and the Administrative Appeals Tribunal; and
 - ensures that the factors which the current sound medical-scientific evidence indicates must exist before it can be said that, on the balance of probabilities, lipoma is connected with the circumstances of eligible service rendered by a person, accord with that sound medical-scientific evidence.
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.