

EXPLANATORY STATEMENT

STATEMENT OF PRINCIPLES CONCERNING IMMUNE THROMBOCYTOPAENIA (REASONABLE HYPOTHESIS) (NO. 63 OF 2017)

**VETERANS' ENTITLEMENTS ACT 1986
MILITARY REHABILITATION AND COMPENSATION ACT 2004**

1. This is the Explanatory Statement to the *Statement of Principles concerning immune thrombocytopenia (Reasonable Hypothesis)* (No. 63 of 2017).

Background

2. The Repatriation Medical Authority (the Authority), under subsection 196B(8) of the *Veterans' Entitlements Act 1986* (the VEA), revokes Instrument No. 72 of 2008, determined under subsection 196B(2) of the VEA concerning **immune thrombocytopenic purpura**.
3. The Authority is of the view that there is sound medical-scientific evidence that indicates that **immune thrombocytopenia** and **death from immune thrombocytopenia** 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 concerning **immune thrombocytopenia** (Reasonable Hypothesis) (No. 63 of 2017). This Instrument will in effect replace the revoked Statement of Principles.

Purpose and Operation

4. The Statement of Principles will be applied in determining claims under the VEA and the *Military Rehabilitation and Compensation Act 2004* (the MRCA).
5. 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 immune thrombocytopenia or death from immune thrombocytopenia, with the circumstances of that service. The Statement of Principles has been determined for the purposes of both the VEA and the MRCA.

6. This Instrument results from an investigation notified by the Authority in the Government Notices Gazette of 3 May 2016 concerning immune thrombocytopaenic purpura 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.
7. The contents of this Instrument are in similar terms as the revoked Instrument. Comparing this Instrument and the revoked Instrument, the differences include:
 - adopting the latest revised Instrument format, which commenced in 2015;
 - specifying a day of commencement for the Instrument in section 2;
 - changing the title of the Instrument to 'immune thrombocytopaenia';
 - new definition of 'immune thrombocytopaenia' in subsection 7(2);
 - revising the factors in subsections 9(1) & 9(14) concerning 'a viral infection';
 - revising the factors in subsections 9(2) & 9(15) concerning 'a bacterial or fungal infection';
 - revising the factors in subsections 9(3) & 9(16) concerning 'a drug or a drug from a class of drugs';
 - revising the factors in subsections 9(4) & 9(17) concerning 'receiving a vaccine';
 - new factors in subsections 9(5) & 9(18) concerning 'being treated with a drug or receiving a dose of vaccine';
 - new factors in subsections 9(6) & 9(19) concerning 'being pregnant';
 - revising the factors in subsections 9(7) & 9(20) concerning 'having a lymphoproliferative disorder';
 - revising the factors in subsections 9(8) & 9(21) concerning 'an autoimmune or inflammatory disorder';
 - new factors in subsections 9(9) & 9(22) concerning 'consuming a food or beverage from the specified list of food and beverages';
 - new factors in subsections 9(10) & 9(23) concerning 'consuming a food or beverage';
 - new factors in subsections 9(11) & 9(24) concerning 'solid organ or stem cell transplant';
 - new factors in subsections 9(12) & 9(25) concerning 'solid organ cancer';
 - new factor in subsection 9(13) concerning 'being treated with alemtuzumab', for clinical onset only;
 - deleting the factors concerning 'graft-versus-host disease complicating allogeneic stem cell transplantation' as they are subsumed by the factors in subsections 9(11) & 9(24) concerning 'solid organ or stem cell transplant';
 - new definitions of 'MRCA', 'specified list of autoimmune and inflammatory disorders', 'specified list of bacterial and fungal infections', 'specified list of drugs', 'specified list of food and beverages', 'specified list of lymphoproliferative disorders', 'specified list of vaccines', 'specified list of viral infections' and 'VEA' in Schedule 1 - Dictionary;
 - revising the definition of 'relevant service' in Schedule 1 - Dictionary; and
 - deleting the definitions of 'a drug or a drug from a class of drugs, from the specified list', 'a haematological malignancy or lymphoproliferative disorder', 'a specified bacterial infection', 'a specified viral infection', 'an autoimmune or inflammatory disease from the specified list' and 'graft-versus-host disease'.

Consultation

8. Prior to determining this Instrument, the Authority advertised its intention to undertake an investigation in relation to immune thrombocytopaenic purpura in the Government Notices Gazette of 3 May 2016, 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.

Human Rights

9. 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

10. The determining of this Instrument finalises the investigation in relation to immune thrombocytopaenic purpura as advertised in the Government Notices Gazette of 3 May 2016.

References

11. 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

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. 63 of 2017

Kind of Injury, Disease or Death: Immune thrombocytopenia

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). Part XIA of the VEA requires the determination of these instruments outlining the factors linking particular kinds of injury, disease or death with service such being determined solely on the available sound medical-scientific evidence.
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 immune thrombocytopenia;
 - 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 immune thrombocytopenia with the circumstances of eligible service rendered by a person, as set out in clause 5 of the Explanatory Statement;
 - replaces Instrument No. 72 of 2008; and
 - reflects developments in the available sound medical-scientific evidence concerning immune thrombocytopenia 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'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;
 - the rights of persons with disabilities by facilitating the determination of claims relating to treatment and rehabilitation (Art 26, CRPD); and
 - ensuring that those rights "will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status" (Art 2, ICESCR).

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.