



Australian Government
Repatriation Medical Authority

Statement of Principles
concerning
CHRONIC OBSTRUCTIVE PULMONARY
DISEASE
(Balance of Probabilities)
(No. 18 of 2023)

The Repatriation Medical Authority determines the following Statement of Principles under subsection 196B(3) of the *Veterans' Entitlements Act 1986*.

Dated 27 February 2023

The Common Seal of the
Repatriation Medical Authority
was affixed to this instrument
at the direction of:

Professor Terence Campbell AM
Chairperson

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1 Name

This is the Statement of Principles concerning *chronic obstructive pulmonary disease (Balance of Probabilities)* (No. 18 of 2023).

2 Commencement

This instrument commences on 27 March 2023.

3 Authority

This instrument is made under subsection 196B(3) of the *Veterans' Entitlements Act 1986*.

4 Repeal

The Statement of Principles concerning chronic obstructive pulmonary disease No. 38 of 2014 (Federal Register of Legislation No. F2014L00475) made under subsections 196B(3) and (8) of the VEA is repealed.

5 Application

This instrument applies to a claim to which section 120B of the VEA or section 339 of the *Military Rehabilitation and Compensation Act 2004* applies.

6 Definitions

The terms defined in the Schedule 1 - Dictionary have the meaning given when used in this instrument.

7 Kind of injury, disease or death to which this Statement of Principles relates

- (1) This Statement of Principles is about chronic obstructive pulmonary disease and death from chronic obstructive pulmonary disease.

Meaning of chronic obstructive pulmonary disease

- (2) For the purposes of this Statement of Principles, chronic obstructive pulmonary disease:
 - (a) means a chronic progressive inflammatory pathology occurring with different proportions of involvement of the airways, lung parenchyma and vasculature; and
 - (b) includes:
 - (i) chronic bronchitis;
 - (ii) emphysema; and
 - (iii) persistent airflow limitation; and
 - (c) excludes:

- (i) asbestosis;
- (ii) asthma;
- (iii) bronchiectasis;
- (iv) bronchiolitis obliterans;
- (v) fibrosing interstitial lung disease and other fibrosing lung disease;
- (vi) hypersensitivity pneumonitis (extrinsic allergic alveolitis);
and
- (vii) surgical, traumatic or localised emphysema.

Note 1: Symptoms of chronic obstructive pulmonary disease include dyspnoea, cough and the production of phlegm. Chronic bronchitis typically occurs with the presence of a productive cough for at least three months of the year for at least two consecutive years. Emphysema is characterized by the destruction of alveolar septa with the enlargement of alveolar airspaces.

Note 2: *persistent airflow limitation* is defined in the Schedule 1 – Dictionary.

- (3) While chronic obstructive pulmonary disease attracts ICD-10-AM code J41, J42, J43 and J44, in applying this Statement of Principles the meaning of chronic obstructive pulmonary disease is that given in subsection (2).
- (4) For subsection (3), a reference to an ICD-10-AM code is a reference to the code assigned to a particular kind of injury or disease in *The International Statistical Classification of Diseases and Related Health Problems, Tenth Revision, Australian Modification (ICD-10-AM)*, Tenth Edition, effective date of 1 July 2017, copyrighted by the Independent Hospital Pricing Authority, ISBN 978-1-76007-296-4.

Death from chronic obstructive pulmonary disease

- (5) For the purposes of this Statement of Principles, chronic obstructive pulmonary disease, in relation to a person, includes death from a terminal event or condition that was contributed to by the person's chronic obstructive pulmonary disease.

Note: *terminal event* is defined in the Schedule 1 – Dictionary.

8 Basis for determining the factors

On the sound medical-scientific evidence available, the Repatriation Medical Authority is of the view that it is more probable than not that chronic obstructive pulmonary disease and death from chronic obstructive pulmonary disease can be related to relevant service rendered by veterans or members of the Forces under the VEA, or members under the MRCA.

Note: *MRCA*, *relevant service* and *VEA* are defined in the Schedule 1 – Dictionary.

9 Factors that must exist

At least one of the following factors must exist before it can be said that, on the balance of probabilities, chronic obstructive pulmonary disease or death

from chronic obstructive pulmonary disease is connected with the circumstances of a person's relevant service:

- (1) having smoked tobacco products:
 - (a) in an amount of at least 5 pack-years before the clinical onset of chronic obstructive pulmonary disease; and
 - (b) if smoking has ceased before the clinical onset of chronic obstructive pulmonary disease, then that onset occurred within 20 years of cessation;

Note: *one pack-year* is defined in the Schedule 1 – Dictionary.

- (2) having been exposed to second-hand smoke:
 - (a) for at least 20,000 hours before the clinical onset of chronic obstructive pulmonary disease; and
 - (b) if exposure to second-hand smoke has ceased before the clinical onset of chronic obstructive pulmonary disease, then that onset occurred within 20 years of cessation;

Note: *being exposed to second-hand smoke* is defined in the Schedule 1 – Dictionary.

- (3) having smoked cannabis:
 - (a) in an amount of at least 20 joint-years before the clinical onset of chronic obstructive pulmonary disease; and
 - (b) if smoking has ceased before the clinical onset of chronic obstructive pulmonary disease, then that onset occurred within 20 years of cessation;

Note: *joint-years of cannabis* is defined in the Schedule 1 – Dictionary.

- (4) inhaling smoke from the combustion of polluting fuels in an enclosed space:
 - (a) for a cumulative period of at least 10,000 hours before the clinical onset of chronic obstructive pulmonary disease; and
 - (b) if that exposure has ceased, the clinical onset of chronic obstructive pulmonary disease has occurred within 20 years of cessation;

Note: *polluting fuels* is defined in the Schedule 1 – Dictionary.

- (5) inhaling a respiratory tract irritant from the specified list of respiratory tract irritants resulting in:
 - (a) signs and symptoms of severe acute lower respiratory damage requiring medical attention within 48 hours after exposure; and
 - (b) the persistence of respiratory symptoms and signs for at least one week after exposure, within the 5 years before the clinical onset of chronic obstructive pulmonary disease;

Note: *specified list of respiratory tract irritants* is defined in the Schedule 1 – Dictionary.

- (6) inhaling vapour, gas, or fumes of a substance from the specified list of substances in an enclosed space:
- (a) for a cumulative period of at least 20,000 hours before the clinical onset of chronic obstructive pulmonary disease; and
 - (b) if that exposure has ceased, the clinical onset of chronic obstructive pulmonary disease has occurred within 10 years of cessation;

Note: *specified list of substances* is defined in the Schedule 1 – Dictionary.

- (7) inhaling vapour, gas, or fumes of a substance from the specified list of substances, in an open environment:
- (a) for a cumulative period of at least 40 000 hours before the clinical onset of chronic obstructive pulmonary disease; and
 - (b) if that exposure has ceased, the clinical onset of chronic obstructive pulmonary disease has occurred within 10 years of cessation;

Note: *specified list of substances* is defined in the Schedule 1 – Dictionary.

- (8) inhaling organic or inorganic dust at a concentration of greater than 5 milligrams per cubic metre:
- (a) for a cumulative period of at least 20,000 hours before the clinical onset of chronic obstructive pulmonary disease; and
 - (b) if that exposure has ceased, the clinical onset of chronic obstructive pulmonary disease has occurred within 10 years of cessation;

Note: *dust* is defined in the Schedule 1 – Dictionary.

- (9) having infection with human immunodeficiency virus before the clinical onset of chronic obstructive pulmonary disease;
- (10) having pulmonary tuberculosis at least 1 year before the clinical onset of chronic obstructive pulmonary disease;

Note: *pulmonary tuberculosis* is defined in the Schedule 1 – Dictionary.

- (11) having alpha-1 antitrypsin deficiency at the time of the clinical onset of chronic obstructive pulmonary disease;
- (12) having asthma before the clinical onset of chronic obstructive pulmonary disease;
- (13) having bronchiectasis before the clinical onset of chronic obstructive pulmonary disease;
- (14) having smoked tobacco products:
- (a) in an amount of at least 1 pack-year before the clinical worsening of chronic obstructive pulmonary disease; and

- (b) if smoking has ceased before the clinical worsening of chronic obstructive pulmonary disease, then that worsening occurred within 10 years of cessation;

Note: *one pack-year* is defined in the Schedule 1 – Dictionary.

(15) being exposed to second-hand smoke:

- (a) for at least 20,000 hours before the clinical worsening of chronic obstructive pulmonary disease; and
- (b) if exposure to second-hand smoke has ceased before the clinical worsening of chronic obstructive pulmonary disease, then that worsening occurred within 20 years of cessation;

Note: *being exposed to second-hand smoke* is defined in the Schedule 1 – Dictionary.

(16) having smoked cannabis:

- (a) in an amount of at least 20 joint-years before the clinical worsening of chronic obstructive pulmonary disease; and
- (b) if smoking has ceased before the clinical worsening of chronic obstructive pulmonary disease, then that worsening occurred within 20 years of cessation;

Note: *joint-years of cannabis* is defined in the Schedule 1 – Dictionary.

(17) inhaling smoke from the combustion of polluting fuels in an enclosed space:

- (a) for a cumulative period of at least 10,000 hours before the clinical worsening of chronic obstructive pulmonary disease; and
- (b) if that exposure has ceased, the clinical worsening of chronic obstructive pulmonary disease has occurred within 20 years of cessation;

Note: *polluting fuels* is defined in the Schedule 1 – Dictionary.

(18) inhaling a respiratory tract irritant from the specified list of respiratory tract irritants resulting in:

- (a) signs and symptoms of severe acute lower respiratory damage requiring medical attention within 48 hours after exposure; and
- (b) the persistence of respiratory symptoms and signs for at least one week after exposure, within the 5 years before the clinical worsening of chronic obstructive pulmonary disease;

Note: *specified list of respiratory tract irritants* is defined in the Schedule 1 – Dictionary.

(19) inhaling vapour, gas, or fumes of a substance from the specified list of substances in an enclosed space:

- (a) for a cumulative period of at least 20,000 hours before the clinical worsening of chronic obstructive pulmonary disease; and

- (b) if that exposure has ceased, the clinical worsening of chronic obstructive pulmonary disease has occurred within 10 years of cessation;

Note: *specified list of substances* is defined in the Schedule 1 – Dictionary.

- (20) inhaling vapour, gas, or fumes of a substance from the specified list of substances, in an open environment:

- (a) for a cumulative period of at least 40,000 hours before the clinical worsening of chronic obstructive pulmonary disease; and
- (b) if that exposure has ceased, the clinical worsening of chronic obstructive pulmonary disease has occurred within 10 years of cessation;

Note: *specified list of substances* is defined in the Schedule 1 – Dictionary.

- (21) inhaling organic or inorganic dust at a concentration of greater than 5 milligrams per cubic metre:

- (a) for a cumulative period of at least 20,000 hours before the clinical worsening of chronic obstructive pulmonary disease; and
- (b) if that exposure has ceased, the clinical worsening of chronic obstructive pulmonary disease has occurred within 10 years of cessation;

Note: *dust* is defined in the Schedule 1 – Dictionary.

- (22) having infection with human immunodeficiency virus before the clinical worsening of chronic obstructive pulmonary disease;

- (23) having at least 4 episodes of acute viral or bacterial lower respiratory tract infection requiring medical treatment within the 1 year before the clinical worsening of chronic obstructive pulmonary disease;

Note: *lower respiratory tract* is defined in the Schedule 1 – Dictionary.

- (24) having pulmonary tuberculosis at least 1 year before the clinical worsening of chronic obstructive pulmonary disease;

Note: *pulmonary tuberculosis* is defined in the Schedule 1 – Dictionary.

- (25) having alpha-1 antitrypsin deficiency at the time of the clinical worsening of chronic obstructive pulmonary disease;

- (26) having asthma before the clinical worsening of chronic obstructive pulmonary disease;

- (27) having bronchiectasis before the clinical worsening of chronic obstructive pulmonary disease;

- (28) having gastro-oesophageal reflux disease, with erosive oesophagitis or oesophageal stricture at the time of the clinical worsening of chronic obstructive pulmonary disease;

- (29) inability to obtain appropriate clinical management for chronic obstructive pulmonary disease.

10 Relationship to service

- (1) The existence in a person of any factor referred to in section 9, must be related to the relevant service rendered by the person.
- (2) The factors set out in subsections 9(14) to 9(29) apply only to material contribution to, or aggravation of, chronic obstructive pulmonary disease where the person's chronic obstructive pulmonary disease was suffered or contracted before or during (but did not arise out of) the person's relevant service.

11 Factors referring to an injury or disease covered by another Statement of Principles

In this Statement of Principles:

- (1) if a factor referred to in section 9 applies in relation to a person; and
- (2) that factor refers to an injury or disease in respect of which a Statement of Principles has been determined under subsection 196B(3) of the VEA;

then the factors in that Statement of Principles apply in accordance with the terms of that Statement of Principles as in force from time to time.

Schedule 1 - Dictionary

Note: See Section 6

1 Definitions

In this instrument:

being exposed to second-hand smoke means being in an enclosed space and inhaling smoke from burning tobacco products or smoke that has been exhaled by another person who is smoking.

chronic obstructive pulmonary disease—see subsection 7(2).

dust means airborne particulate matter consisting of solid particles of organic or inorganic matter, of aerodynamic diameter between 0.5 and 30 micrometres, excluding wood dust.

joint-years of cannabis means a calculation of consumption where 1 joint-year of cannabis equals 1 joint per day for a period of 1 year.

lower respiratory tract means the trachea, bronchi, and lungs.

MRCA means the *Military Rehabilitation and Compensation Act 2004*.

one pack-year means the amount of tobacco consumed in smoking 20 cigarettes per day for a period of 1 year, or an equivalent amount of tobacco products.

Note 1: An equivalent amount of tobacco products is 7,300 grams of smoking tobacco by weight, either in cigarettes, pipe tobacco or cigars, or a combination of same. For pipe tobacco, cigars or combinations of multiple tobacco types, 1 gram of tobacco is considered to be equal to one cigarette.

Note 2: Pack-years are calculated by dividing the number of cigarettes smoked per day by 20 and multiplying this number by the number of years the person has smoked. For example, smoking 10 cigarettes per day for 10 years is equal to 5 pack-years, and smoking 40 cigarettes per day for 10 years is equal to 20 pack-years.

persistent airflow limitation is a post-bronchodilator spirometric ratio of forced expiratory volume in one second divided by forced vital capacity (FEV₁/FVC) less than 0.7, which is not attributable to other pathology.

polluting fuels means animal dung, wood, charcoal, coal, coke, crop residues, and kerosene.

pulmonary tuberculosis means an active tuberculosis infection that occurs in the lung or respiratory tract in which the tuberculosis bacteria are multiplying and inducing an inflammatory response.

relevant service means:

- (a) eligible war service (other than operational service) under the VEA;
- (b) defence service (other than hazardous service and British nuclear test defence service) under the VEA; or
- (c) peacetime service under the MRCA.

Note: *MRCA* and *VEA* are also defined in the Schedule 1 - Dictionary.

specified list of respiratory tract irritants means:

- (a) ammonia;

Schedule 1 - Dictionary

- (b) chlorine;
- (c) dust at a concentration of greater than five milligrams per cubic metre;
- (d) Lewisite;
- (e) oxides of nitrogen;
- (f) oxides of sulphur;
- (g) phosgene;
- (h) phthalic anhydride;
- (i) smoke from fires;
- (j) sulphur mustard (mustard gas); or
- (k) another respirable agent which causes comparable tissue damage.

Note: *Dust* is also defined in the Schedule 1 – Dictionary.

specified list of substances means:

- (a) cadmium fumes at a concentration >0.00001 mg/m³;
- (b) sulphur dioxide gas at a concentration >0.1 ppm; or
- (c) sulphur mustard (mustard gas).

terminal event means the proximate or ultimate cause of death and includes the following:

- (a) pneumonia;
- (b) respiratory failure;
- (c) cardiac arrest;
- (d) circulatory failure; or
- (e) cessation of brain function.

VEA means the *Veterans' Entitlements Act 1986*.