



Australian Government
Repatriation Medical Authority

EXPLANATORY STATEMENT

**STATEMENT OF PRINCIPLES CONCERNING
CEREBROVASCULAR ACCIDENT (STROKE)
(BALANCE OF PROBABILITIES) (NO. 46 OF 2024)**

VETERANS' ENTITLEMENTS ACT 1986
MILITARY REHABILITATION AND COMPENSATION ACT 2004

1. This is the Explanatory Statement to the *Statement of Principles concerning cerebrovascular accident (stroke) (Balance of Probabilities)* (No. 46 of 2024).

Background

2. The Repatriation Medical Authority (the Authority), under subsection 196B(8) of the *Veterans' Entitlements Act 1986* (the VEA), repeals Instrument No. 66 of 2015 (Federal Register of Legislation No. F2015L00653) determined under subsections 196B(3) and (8) of the VEA concerning **cerebrovascular accident**.
3. The Authority is of the view that on the sound medical-scientific evidence available it is more probable than not that **cerebrovascular accident (stroke)** and **death from cerebrovascular accident (stroke)** can be related to particular kinds of service. The Authority has therefore determined pursuant to subsection 196B(3) of the VEA a Statement of Principles concerning **cerebrovascular accident (stroke)** (Balance of Probabilities) (No. 46 of 2024). This Instrument will in effect replace the repealed Statement of Principles.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 exist, and which of those factors must be related to the following kinds of service rendered by a person:
 - eligible war service (other than operational service) under the VEA;
 - defence service (other than hazardous service and British nuclear test defence service) under the VEA;
 - peacetime service under the MRCA,

before it can be said that, on the balance of probabilities, cerebrovascular accident (stroke) or death from cerebrovascular accident (stroke) is connected 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 1 November 2022 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.

7. The contents of this Instrument are in similar terms as the repealed Instrument. Comparing this Instrument and the repealed 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;
- revising the definition of 'cerebrovascular accident (stroke)' in subsection 7(2);
- revising ICD-10-AM codes for 'cerebrovascular accident (stroke)' in subsection 7(3);
- revising the reference to 'ICD-10-AM code' in subsection 7(4);
- revising the factor in subsection 9(3) concerning inability to undertake any physical activity;
- revising the factor in subsection 9(5) concerning binge drinking, for brain ischaemia only;
- revising the factor in subsection 9(6) concerning binge drinking, for intra-cerebral haemorrhage only;
- revising the factor in subsection 9(7) concerning having one of the following brain infections;
- new factor in subsection 9(8) concerning having a Varicella-zoster virus infection;
- revising the factor in subsection 9(10) concerning having one of the following systemic inflammatory disorders causing cerebral vasculitis;
- revising the factor in subsection 9(11) concerning having one of the following vasculitides;
- revising the factor in subsection 9(12) concerning having one of the following vessel disorders;
- revising the factor in subsection 9(13) concerning having thrombotic thrombocytopenic purpura, sickle cell disorder, sickle cell trait or vaccine-induced thrombotic thrombocytopenia;
- revising the factor in subsection 9(15) concerning using one or more of the following drugs;
- revising the factor in subsection 9(16) concerning taking a non-topical, non-steroidal, anti-inflammatory drug, excluding aspirin;
- revising the factor in subsection 9(18) concerning being envenomated;
- revising the factor in subsection 9(19) concerning having an active migraine;
- revising the factor in subsection 9(21) concerning having one of the following cardiac conditions;
- revising the factor in subsection 9(22) concerning having one of the following non-cardiac causes or cerebral arterial embolism;
- revising the factor in subsection 9(23) concerning having a deep vein thrombosis or venous air embolism;
- revising the factor in subsection 9(24) concerning undergoing one of the following procedures;
- revising the factor in subsection 9(25) concerning having septicaemia or an infection requiring admission to hospital;
- revising the factor in subsection 9(26) concerning having an injury or illness requiring admission to an intensive care unit or artificial ventilation;

- revising the factor in subsection 9(27) concerning having a malignant neoplasm, excluding non-melanotic malignant neoplasm of the skin;
- revising the factor in subsection 9(29) concerning having chronic kidney disease;
- revising the factor in subsection 9(30) concerning experiencing a moderate to severe traumatic brain injury;
- revising the factor in subsection 9(31) concerning being obese;
- revising the factor in subsection 9(32) concerning having a waist to hip circumference ratio exceeding 1.0, for males;
- revising the factor in subsection 9(33) concerning having a waist to hip circumference ratio exceeding 0.9. for females;
- new factor in subsection 9(35) concerning having clinically significant posttraumatic stress disorder;
- new factor in subsection 9(36) concerning having periodontitis;
- new factor in subsection 9(37) concerning inability to consume vegetables and fruit;
- revising the factor in subsection 9(39) concerning where smoking has not ceased, for brain ischaemia only;
- revising the factor in subsection 9(40) concerning where smoking has not ceased, for intracerebral haemorrhage only;
- revising the factor in subsection 9(41) concerning where smoking has ceased, for brain ischaemia only;
- revising the factor in subsection 9(42) concerning where smoking has ceased, for intracerebral haemorrhage only;
- revising the factor in subsection 9(43) concerning having been exposed to second-hand smoke;
- revising the factor in subsection 9(44) concerning having dyslipidaemia, for brain ischaemia only;
- new factor in subsection 9(45) concerning having an upper respiratory tract infection, including sinusitis;
- revising the factor in subsection 9(46) concerning being treated with intravenous immunoglobulin, for brain ischaemia only;
- revising the factor in subsection 9(47) concerning taking a combined oral or non-oral estrogen-progestogen contraception, for brain ischaemia only;
- revising the factor in subsection 9(48) concerning taking hormone replacement therapy, for brain ischaemia only;
- revising the factor in subsection 9(49) concerning taking tamoxifen, for brain ischaemia only;
- revising the factor in subsection 9(50) concerning having carotid artery disease, for brain ischaemia only;
- revising the factor in subsection 9(51) concerning having a subarachnoid haemorrhage, for brain ischaemia only;
- revising the factor in subsection 9(52) concerning hypercoagulable states, for brain ischaemia only;
- revising the factor in subsection 9(53) concerning experiencing an acute hypotensive episode, for brain ischaemia only;
- revising the factor in subsection 9(54) concerning having sleep apnoea, for brain ischaemia only;

- revising the factor in subsection 9(55) concerning undergoing a course of therapeutic radiation;
- revising the factor in subsection 9(56) concerning ionising radiation;
- revising the factor in subsection 9(57) concerning having hyperhomocysteinaemia, for brain ischaemia only;
- revising the factor in subsection 9(58) concerning having one of the following traumatic injuries, for brain ischaemia only;
- new factor in subsection 9(59) concerning inhaling chronically polluted air;
- revising the factor in subsection 9(60) concerning undergoing anticoagulant therapy, for intracerebral haemorrhage only;
- revising the factor in subsection 9(61) concerning taking one of the following antiplatelet drugs;
- revising the factor in subsection 9(62) concerning undergoing thrombolytic (fibrinolytic) therapy, for intracerebral haemorrhage only;
- revising the factor in subsection 9(63) concerning having one of the following disorders, for intracerebral haemorrhage only;
- revising the factor in subsection 9(64) concerning bleeding of one of the following intracerebral space occupying lesions, for intracerebral haemorrhage only;
- new factor in subsection 9(65) concerning having compression of the carotid, vertebral, basilar or cerebral artery, for cerebral ischaemia only;
- new factor in subsection 9(67) concerning taking an antipsychotic drug;
- new factor in subsection 9(68) concerning taking tibolone;
- new factor in subsection 9(69) concerning taking a systemic vascular endothelial growth factor (VEGF) inhibitor or monthly intra-vitreous injections of a VEGF inhibitor;
- new factor in subsection 9(70) concerning taking alemtuzumab;
- new factor in subsection 9(71) concerning taking ponatinib
- new factor in subsection 9(72) concerning taking a thalidomide;
- deleting factor concerning having a lipid profile, for intracerebral haemorrhage;
- deleting factor concerning being treated with a selective serotonin reuptake inhibitor or another serotonergic drug;
- new definitions of 'BMI', 'brain ischaemia', 'chronic kidney disease', 'chronically polluted air', 'exposed to second-hand smoke', 'MRCA', 'non-steroidal, anti-inflammatory drug', 'one pack-year' and 'VEA' in Schedule 1 - Dictionary;
- revising the definitions of 'anticoagulant therapy', 'dyslipidaemia' and 'thrombolytic (fibrinolytic) therapy' in Schedule 1 - Dictionary; and
- deleting the definitions of 'a cardiac condition with potential to give rise to a cerebral embolus', 'a drug or a drug from a class of drugs from the specified list', 'a haematological disease from the specified list', 'a haematological disorder from the specified list of haematological disorders that are associated with an excessive bleeding tendency', 'a hypercoagulable state as specified', '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 non-inflammatory disease of the cerebral vessels', 'a systemic vasculitis from the specified list', 'alcohol', 'an acute hypotensive episode', 'an infection from the specified list', 'an inflammatory connective tissue disease from the specified list', 'an intracerebral space occupying lesion', 'binge drinking', 'cerebral ischaemia', 'chronic liver disease'

cigarettes per day, or the equivalent thereof in other tobacco products', 'DSM-5', 'hyperhomocysteinaemia', 'nephrotic syndrome', 'pack-year of cigarettes, or the equivalent thereof in other tobacco products', and 'trauma to the neck or the base of the skull'.

Incorporation

8. The definition of "cumulative equivalent dose" contained in the Schedule 1 – Dictionary incorporates the *Guide to calculation of 'cumulative equivalent dose' for the purpose of applying ionising radiation factors contained in Statements of Principles determined under Part XIA of the Veterans' Entitlements Act 1986 (Cth)*, Australian Radiation Protection and Nuclear Safety Agency, as in force on 2 August 2017. This writing is incorporated pursuant to subsection 14(b) of the *Legislation Act 2003*.
9. A copy of this document is available to any person on the website of the Repatriation Medical Authority at www.rma.gov.au or from the Repatriation Medical Authority, Level 8, 480 Queen St, Brisbane, Queensland 4000, by contacting the Registrar on telephone (07) 3815 9404.

Consultation

10. 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 1 November 2022, 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, the Military Rehabilitation and Compensation 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 in relation to the investigation.
11. On 16 April 2024, 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 deletion of factors relating to '*6(gg)(iii) lipid profile as specified-onset*' and '*6(n) selective serotonin reuptake inhibitor-onset*'. 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. No changes were made to the proposed Instrument following this consultation process.

Human Rights

12. 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

13. The determining of this Instrument finalises the investigation in relation to cerebrovascular accident as advertised in the Government Notices Gazette of 1 November 2022.

References

14. A list of references relating to the above condition is available on the Authority's website at: www.rma.gov.au. Any other document referred to in this Statement of

Principles is available on request to the Repatriation Medical Authority at the following address:

Email: info@rma.gov.au

Post: 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. 46 of 2024**

Kind of Injury, Disease or Death: **Cerebrovascular accident (stroke)**

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). Part XIA of the VEA requires the determination of these instruments outlining the factors connecting 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 and the Military Rehabilitation and Compensation 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 (stroke);
 - 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 exist before it can be said that, on the balance of probabilities, cerebrovascular accident (stroke) is connected with the circumstances of eligible service rendered by a person, as set out in clause 5 of the Explanatory Statement;
 - replaces Instrument No. 66 of 2015; and
 - reflects developments in the available sound medical-scientific evidence concerning cerebrovascular accident (stroke) 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, ICESCR; 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, ICESCR 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.