

**EXPLANATORY STATEMENT**

**STATEMENT OF PRINCIPLES CONCERNING**

**PARKINSON'S DISEASE AND SECONDARY PARKINSONISM**

**(BALANCE OF PROBABILITIES) (NO. 56 OF 2016)**

***VETERANS’ ENTITLEMENTS ACT 1986***

***MILITARY REHABILITATION AND COMPENSATION ACT 2004***

1. This is the Explanatory Statement to the *Statement of Principles concerning* ***Parkinson's disease and secondary parkinsonism*** *(Balance of Probabilities)* (No. 56 of 2016).

**Background**

1. The Repatriation Medical Authority (the Authority), under subsection 196B(8) of the *Veterans' Entitlements Act 1986* (the VEA), revokes Instrument No. 66 of 2007, determined under subsection 196B(3) of the VEA concerning **Parkinson's disease and parkinsonism**.
2. The Authority is of the view that there is sound medical-scientific evidence that indicates that **Parkinson's disease or secondary parkinsonism** and **death from Parkinson's disease or secondary parkinsonism** 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 **Parkinson's disease and secondary parkinsonism** (Balance of Probabilities) (No. 56 of 2016). This Instrument will in effect replace the revoked Statement of Principles.

**Purpose and Operation**

1. The Statement of Principles will be applied in determining claims under the VEA and the *Military Rehabilitation and Compensation Act 2004* (the MRCA).
2. 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, Parkinson's disease or secondary parkinsonism or death from Parkinson's disease or secondary parkinsonism 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.

1. This Instrument results from an investigation notified by the Authority in the Government Notices Gazette of 31 October 2012 concerning Parkinson's disease and parkinsonism 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.
2. 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;
* changing the title of the Instrument to 'Parkinson's disease and secondary parkinsonism';
* specifying a day of commencement for the Instrument in section 2;
* revising the definition of 'Parkinson's disease' subsection 7(2) and new definition of 'secondary parkinsonism' in subsection 7(3);
* new factor in subsection 9(1) concerning 'having not smoked', for persons with a history of a regular smoking habit only, for Parkinson's disease only;
* revising the factor in subsection 9(2)(a) concerning 'acute cholinergic poisoning from exposure to an organophosphorus ester', for secondary parkinsonism only;
* revising the factor in subsection 9(2)(b) concerning 'moderate to severe traumatic brain injury', for secondary parkinsonism only;
* revising the factor in subsection 9(2)(c) concerning 'an intracranial space occupying lesion', for secondary parkinsonism only;
* revising the factor in subsection 9(2)(d) concerning 'hydrocephalus, or draining of hydrocephalus', for secondary parkinsonism only;
* revising the factor in subsection 9(2)(e) concerning 'cerebrovascular accident, excluding transient ischaemic attack', for secondary parkinsonism only;
* new factor in subsection 9(2)(f) concerning 'diseases of the cerebral vessels', for secondary parkinsonism only;
* new factor in subsection 9(2)(g) concerning 'subarachnoid haemorrhage', for secondary parkinsonism only;
* new factor in subsection 9(2)(h) concerning 'acquired cerebrovascular malformation or dural arteriovenous fistula', for secondary parkinsonism only;
* revising the factor in subsection 9(2)(i) concerning 'hypoxic cerebral insult', for secondary parkinsonism only;
* revising the factor in subsection 9(2)(j) concerning 'encephalitis', for secondary parkinsonism only;
* revising the factor in subsection 9(2)(k) concerning 'human immunodeficiency virus', for secondary parkinsonism only;
* revising the factor in subsection 9(2)(l) concerning 'neurosyphilis', for secondary parkinsonism only;
* new factor in subsection 9(2)(m) concerning 'neurocysticercosis', for secondary parkinsonism only;
* revising the factor in subsection 9(2)(n) concerning 'carbon disulphide', for secondary parkinsonism only;
* revising the factor in subsection 9(2)(o) concerning 'methanol or ethylene glycol', for secondary parkinsonism only;
* revising the factor in subsection 9(2)(p) concerning 'being exposed to manganese as specified', for secondary parkinsonism only;
* new factor in subsection 9(2)(q) concerning 'manganese intoxication while receiving total parenteral nutrition or maintenance haemodialysis', for secondary parkinsonism only;
* new factor in subsection 9(2)(r) concerning 'cyanide' and 'cyanide intoxication', for secondary parkinsonism only;
* revising the factor in subsection 9(2)(s) concerning 'an injection containing 1-methyl-4-phenyl-1,2,3,6-tetrahydropyridine (MPTP)', for secondary parkinsonism only;
* new factor in subsection 9(2)(t) concerning 'the drug methcathinone (ephedrone)', for secondary parkinsonism only;
* revising the factor in subsection 9(2)(u) concerning 'a drug or a drug from a class of drugs', for secondary parkinsonism only;
* revising the factor in subsection 9(2)(v) concerning 'a disorder of calcium metabolism', for secondary parkinsonism only;
* new factor in subsection 9(2)(w) concerning 'cirrhosis of the liver', for secondary parkinsonism only;
* new factor in subsection 9(2)(x) concerning 'chronic renal failure', for secondary parkinsonism only;
* new factor in subsection 9(2)(y) concerning 'a disease from the specified list of autoimmune diseases', for secondary parkinsonism only;
* new factor in subsection 9(2)(z) concerning 'paraneoplastic encephalomyelitis', for secondary parkinsonism only;
* revising the factor in subsection 9(3) concerning 'acute cholinergic poisoning from exposure to an organophosphorus ester';
* revising the factor in subsection 9(4) concerning 'moderate to severe traumatic brain injury';
* revising the factor in subsection 9(5) concerning 'an intracranial space occupying lesion';
* revising the factor in subsection 9(6) concerning 'hydrocephalus, or draining of hydrocephalus';
* revising the factor in subsection 9(7) concerning 'cerebrovascular accident, excluding transient ischaemic attack';
* new factor in subsection 9(8) concerning 'diseases of the cerebral vessels';
* new factor in subsection 9(9) concerning 'subarachnoid haemorrhage';
* new factor in subsection 9(10) concerning 'acquired cerebrovascular malformation or dural arteriovenous fistula';
* revising the factor in subsection 9(11) concerning 'hypoxic cerebral insult';
* revising the factor in subsection 9(12) concerning 'encephalitis';
* revising the factor in subsection 9(13) concerning 'human immunodeficiency virus';
* revising the factor in subsection 9(14) concerning 'neurosyphilis';
* new factor in subsection 9(15) concerning 'neurocysticercosis';
* revising the factor in subsection 9(16) concerning 'carbon disulphide';
* revising the factor in subsection 9(17) concerning 'methanol or ethylene glycol';
* revising the factor in subsection 9(18) concerning 'being exposed to manganese as specified';
* new factor in subsection 9(19) concerning 'manganese intoxication while receiving total parenteral nutrition or maintenance haemodialysis';
* new factor in subsection 9(20) concerning 'cyanide' and 'cyanide intoxication';
* revising the factor in subsection 9(21) concerning 'an injection containing 1-methyl-4-phenyl-1,2,3,6-tetrahydropyridine (MPTP)';
* new factor in subsection 9(22) concerning 'the drug methcathinone (ephedrone)';
* revising the factor in subsection 9(23) concerning 'a drug or a drug from a class of drugs';
* revising the factor in subsection 9(24) concerning 'a disorder of calcium metabolism';
* new factor in subsection 9(25) concerning 'cirrhosis of the liver';
* new factor in subsection 9(26) concerning 'chronic renal failure';
* new factor in subsection 9(27) concerning 'a disease from the specified list of autoimmune diseases';
* new factor in subsection 9(28) concerning 'paraneoplastic encephalomyelitis';
* new factor in subsection 9(29) concerning 'having not smoked', for persons with a history of a regular smoking habit only;
* deleting the factors concerning 'a direct penetrating injury to the brainstem' as they are now covered by factors in subsections 9(2)(b) & 9(4) concerning 'moderate to severe traumatic brain injury';
* deleting the factors concerning 'dementia pugilistica';
* deleting the factors concerning 'encephalitis lethargica' as they are now covered by factors in subsections 9(2)(j) & 9(12) concerning 'encephalitis';
* deleting the factors concerning 'a drug belonging to the phenothiazine class of drugs' as they are now covered by factors in subsections 9(2)(u) & 9(23) concerning 'a drug or a drug from a class of drugs';
* deleting the factors concerning 'hypoparathyroidism' as they are now covered by factors in subsections 9(2)(v) & 9(24) concerning 'a disorder of calcium metabolism';
* deleting the factors concerning 'multiple system atrophy';
* deleting the factors concerning 'a disorder associated with primary tau pathology';
* deleting the factors concerning 'dementia with Lewy bodies';
* deleting the factors concerning 'Alzheimer's disease';
* deleting the factors concerning 'a disease from the specified list';
* new definitions of 'chronic renal failure', 'encephalitis', 'hypoxic cerebral insult', 'MRCA', 'regular smoking habit as specified', 'specified list of autoimmune diseases', 'specified list of diseases of the cerebral vessels', 'specified list of disorders of calcium metabolism', 'specified list of drugs', 'total parenteral nutrition' and 'VEA' in Schedule 1 - Dictionary;
* revising the definitions of 'being exposed to manganese', 'hydrocephalus' and 'relevant service' in Schedule 1 - Dictionary; and
* deleting the definitions of 'a disease from the specified list', 'a disorder associated with primary tau pathology', 'a drug from the specified list', 'acute cerebral hypoxia', 'cerebral trauma', 'dementia with Lewy bodies', 'encephalitis lethargica', 'multiple system atrophy' and 'viral encephalitis'.

**Consultation**

1. Prior to determining this Instrument, the Authority advertised its intention to undertake an investigation in relation to Parkinson's disease and parkinsonism in the Government Notices Gazette of 31 October 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. Three submissions were received for consideration by the Authority during the investigation.
2. On 4 December 2015, 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 proposed deletion of factors relating to *pesticide exposure related to parkinsonism only* (Reasonable Hypothesis) and *various other factors relating to parkinsonism only.* The proposed removal of these factors was based on the following conclusions:
* There is insufficient sound medical-scientific evidence to support the retention of the factor concerning pesticide exposure and the onset of parkinsonism, other than that related to acute cholinergic poisoning from exposure to an organophosphorus ester, which is being retained. A factor for pesticide exposure is proposed in relation to the onset of Parkinson’s disease and in relation to the clinical worsening of Parkinson’s disease and secondary parkinsonism.
* Atypical forms of parkinsonism occur in a group of disorders known as Parkinson plus diseases. These diseases include corticobasal degeneration; frontotemporal dementia; progressive supranuclear palsy and multiple system atrophy. There are no known causes for these diseases, which are distinct from Parkinson’s disease and other forms of parkinsonism. Therefore, these diseases are to be removed from the Statements of Principles for Parkinson's disease and secondary parkinsonism.
* Parkinsonism may occur as a clinical feature of several diseases that are covered by other Statements of Principles, including dementia pugilistica, Alzheimer’s disease, dementia with Lewy bodies, Wilson’s disease, Huntington's chorea and Creutzfeldt-Jakob disease. A person who develops parkinsonism during the course of these diseases should access these Statements of Principles.
* A number of specific neurological diseases that may cause parkinsonism are proposed for removal from the Statements of Principles because they cannot be related to service. These are Chédiak-Higashi disease, Fragile X premutation associated ataxia-tremor-parkinsonism syndrome, Hallervorden-Spatz disease, SCA-3 spinocerebellar ataxia and X-linked dystonia-parkinsonism.
1. 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, however, a number of further changes were subsequently made to the proposed Instrument following this consultation process. These changes included:
* expanding the factors in subsections 9(1)(a) & 9(3) concerning 'a pesticide from the specified list' to include a list of pesticides in the Reasonable Hypothesis Statement of Principles;
* including new factors in subsections 9(1) & 9(29) concerning 'having not smoked', for persons with a history of a regular smoking habit only; and
* various typographical changes.

As these further changes provide additional means by which Parkinson's disease and secondary parkinsonism can be related to relevant service the additional factors do not affect the rights of claimants so as to disadvantage them nor would it impose additional liabilities on them.

**Human Rights**

1. 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**

1. The determining of this Instrument finalises the investigation in relation to Parkinson's disease and parkinsonism as advertised in the Government Notices Gazette of 31 October 2012.

**References**

1. 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. 56 of 2016**

**Kind of Injury, Disease or Death: Parkinson's disease and secondary parkinsonism**

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 Parkinson's disease or secondary parkinsonism;
* 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, Parkinson's disease or secondary parkinsonism 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 2007; and
* reflects developments in the available sound medical-scientific evidence concerning Parkinson's disease and secondary parkinsonism 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]](#footnote-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). A comprehensive description of how these rights have been reinforced is contained in clause 7 of the Explanatory Statement; 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. [↑](#footnote-ref-1)