

Revocation and Determination
of
Statement of Principles
concerning

ASBESTOSIS

for the purposes of the

Veterans' Entitlements Act 1986
and
Military Rehabilitation and Compensation Act 2004

1. The Repatriation Medical Authority under subsection **196B(3)** and **(8)** of the *Veterans' Entitlements Act 1986* (the VEA):
 - (a) revokes Instrument No. 139 of 1996; and
 - (b) determines in its place the following Statement of Principles.

Kind of injury, disease or death

2.
 - (a) This Statement of Principles is about **asbestosis** and **death from asbestosis**.
 - (b) For the purposes of this Statement of Principles, "**asbestosis**" means a form of lung disease caused by the deposition of asbestos fibres in the lung parenchyma, marked by bilateral interstitial fibrosis of the lung.
 - (c) Asbestosis attracts ICD-10-AM code J61.
 - (d) In the application of this Statement of Principles, the definition of "**asbestosis**" is that given at paragraph 2(b) above.

Basis for determining the factors

3. On the sound medical-scientific evidence available, the Repatriation Medical Authority is of the view that it is more probable than not that **asbestosis** and **death from asbestosis** can be related to relevant service rendered by veterans or members of the Forces under the VEA, or members under the *Military Rehabilitation and Compensation Act 2004* (the MRCA).

Factors that must be related to service

4. Subject to clause 6, at least one of the factors set out in clause 5 must be related to the relevant service rendered by the person.

Factors

5. The factor that must exist before it can be said that, on the balance of probabilities, **asbestosis** or **death from asbestosis** is connected with the circumstances of a person's relevant service is:
 - (a) inhaling respirable asbestos fibres in an enclosed space for a cumulative period of at least 1500 hours:
 - (i) at the time material containing asbestos fibres was being applied, removed, dislodged, disturbed, cut or drilled; and
 - (ii) the first inhalation of asbestos commenced at least ten years before the clinical onset of asbestosis; or
 - (b) inhaling respirable asbestos fibres in an open environment for a cumulative period of at least 5000 hours:
 - (i) at the time material containing asbestos fibres was being applied, removed, cut or drilled; and
 - (ii) the first inhalation of asbestos commenced at least ten years before the clinical onset of asbestosis; or
 - (c) inhaling respirable asbestos fibres at the time material containing asbestos fibres was being applied, removed, dislodged, disturbed, cut or drilled, for a cumulative period of at least 1500 hours within the two years immediately before the clinical worsening of asbestosis; or
 - (d) inability to obtain appropriate clinical management for asbestosis.

Factors that apply only to material contribution or aggravation

6. Paragraphs 5(c) and 5(d) apply only to material contribution to, or aggravation of, asbestosis where the person's asbestosis was suffered or contracted before or during (but not arising out of) the person's relevant service.

Inclusion of Statements of Principles

7. In this Statement of Principles if a relevant factor applies and that factor includes an injury or disease in respect of which there is a Statement of Principles then the factors in that last mentioned Statement of Principles apply in accordance with the terms of that Statement of Principles.

Other definitions

8. For the purposes of this Statement of Principles:

“an enclosed space” means a substantially enclosed area, for example the interior of a building, ship or aircraft, a covered workshop, or factory;

“death from asbestosis” in relation to a person includes death from a terminal event or condition that was contributed to by the person's asbestosis;

“ICD-10-AM code” means a number assigned to a particular kind of injury or disease in The International Statistical Classification of Diseases and Related Health Problems, 10th revision, Australian Modification (ICD-10-AM), Fourth Edition, effective date of 1 July 2004, copyrighted by the National Centre for Classification in Health, Sydney, NSW, and having ISBN 1 86487 594 1;

“relevant service” means:

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

“respirable asbestos fibres” means asbestos fibres less than five micrometres in diameter;

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

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

Application

9. This Instrument applies to all matters to which section 120B of the VEA or section 339 of the MRCA applies.

Date of effect

10. This Instrument takes effect from 20 July 2005.

Dated this *eighth* day of *July* 2005

The Common Seal of the)
Repatriation Medical Authority)
was affixed to this instrument)
in the presence of:)

KEN DONALD
CHAIRPERSON