

**Revocation**  
of  
Statement of Principles  
concerning  
**MALIGNANT NEOPLASM OF THE ORAL  
CAVITY OR HYPOPHARYNX**

and  
**Determination**  
of  
Statement of Principles  
concerning  
**MALIGNANT NEOPLASM OF THE ORAL  
CAVITY, OROPHARYNX AND  
HYPOPHARYNX**

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. 114 of 1996 concerning malignant neoplasm of the oral cavity or hypopharynx; 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 **malignant neoplasm of the oral cavity, oropharynx and hypopharynx** and **death from malignant neoplasm of the oral cavity, oropharynx and hypopharynx**.
- (b) For the purposes of this Statement of Principles, “**malignant neoplasm of the oral cavity, oropharynx and hypopharynx**” means a primary malignancy of the mucosa of the oral cavity, oropharynx, or hypopharynx, which is the region that extends posteriorly from the lips (excluding the vermilion border and the skin of the lips) to the upper borders of the larynx and oesophagus, and includes the gums, the floor of the mouth, the buccal mucosa, the alveolar ridge, the hard and soft palate, and the tongue. This definition excludes malignant neoplasms of the minor salivary glands, soft tissue sarcoma, carcinoid tumour, non-Hodgkin’s lymphoma and Hodgkin’s lymphoma.

### **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 **malignant neoplasm of the oral cavity, oropharynx and hypopharynx** and **death from malignant neoplasm of the oral cavity, oropharynx and hypopharynx** 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, **malignant neoplasm of the oral cavity, oropharynx and hypopharynx** or **death from malignant neoplasm of the oral cavity, oropharynx and hypopharynx** is connected with the circumstances of a person’s relevant service is:
  - (a) smoking at least five pack years of cigarettes, or the equivalent thereof in other tobacco products, before the clinical onset of malignant neoplasm of the oral cavity, oropharynx or hypopharynx and where smoking has ceased, the clinical onset has occurred within ten years of cessation; or

- (b) the oral use of smokeless tobacco on more days than not for at least ten years before the clinical onset of malignant neoplasm of the oral cavity, oropharynx or hypopharynx and where the oral use of smokeless tobacco has ceased, the clinical onset has occurred within ten years of cessation; or
- (c) chewing betel quid or areca nut on more days than not for at least ten years before the clinical onset of malignant neoplasm of the oral cavity, oropharynx or hypopharynx and where chewing of betel quid or areca nut has ceased, the clinical onset has occurred within ten years of cessation; or
- (d) drinking maté on more days than not for at least ten years before the clinical onset of malignant neoplasm of the oral cavity, oropharynx or hypopharynx and where drinking maté has ceased, the clinical onset has occurred within ten years of cessation; or
- (e) drinking at least 500 kilograms of alcohol before the clinical onset of malignant neoplasm of the oral cavity, oropharynx or hypopharynx; or
- (f) undergoing a bone marrow transplant before the clinical onset of malignant neoplasm of the oral cavity, oropharynx or hypopharynx; or
- (g) being exposed to mustard gas at least ten years before the clinical onset of malignant neoplasm of the oral cavity, oropharynx or hypopharynx; or
- (h) for malignant neoplasm of the oral cavity only, having oral leucoplakia at the affected site for at least one year immediately before the clinical onset of malignant neoplasm of the oral cavity, oropharynx or hypopharynx; or
- (i) inability to obtain appropriate clinical management for malignant neoplasm of the oral cavity, oropharynx or hypopharynx.

**Factors that apply only to material contribution or aggravation**

6. Paragraph 5(i) applies only to material contribution to, or aggravation of, malignant neoplasm of the oral cavity, oropharynx and hypopharynx where the person's malignant neoplasm of the oral cavity, oropharynx and hypopharynx 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:

**“alcohol”** is measured by the alcohol consumption calculations utilising the Australian Standard of ten grams of alcohol per standard alcoholic drink;

**“death from malignant neoplasm of the oral cavity, oropharynx and hypopharynx”** in relation to a person includes death from a terminal event or condition that was contributed to by the person’s malignant neoplasm of the oral cavity, oropharynx or hypopharynx;

**“pack years of cigarettes, or the equivalent thereof in other tobacco products”** means a calculation of consumption where one pack year of cigarettes equals twenty tailor made cigarettes per day for a period of one calendar year, or 7300 cigarettes. One tailor made cigarette approximates one gram of tobacco or one gram of cigar or pipe tobacco by weight. One pack year of tailor made cigarettes equates to 7300 cigarettes, or 7.3kg of smoking tobacco by weight. Tobacco products means either cigarettes, pipe tobacco or cigars smoked, alone or in any combination;

**“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;

**“smokeless tobacco”** means tobacco products without combustion or pyrolysis at the time of use, including chewing tobacco and tobacco snuff;

**“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 22 June 2005.

Dated this *eighth* day of *June* 2005

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

KEN DONALD  
CHAIRPERSON