



Australian Government
Repatriation Medical Authority

Statement of Principles
concerning
MODERATE TO SEVERE TRAUMATIC
BRAIN INJURY
(Balance of Probabilities)
(No. 95 of 2018)

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

Dated 26 October 2018

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

A handwritten signature in black ink, appearing to read 'Nicholas Saunders'.

Professor Nicholas Saunders AO
Chairperson

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1 Name

This is the Statement of Principles concerning *moderate to severe traumatic brain injury (Balance of Probabilities)* (No. 95 of 2018).

2 Commencement

This instrument commences on 26 November 2018.

3 Authority

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

4 Repeal

The Statement of Principles concerning moderate to severe traumatic brain injury No. 63 of 2012 (Federal Register of Legislation No. F2012L01805) made under subsection 196B(3) of the VEA is repealed.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 moderate to severe traumatic brain injury and death from moderate to severe traumatic brain injury.

Meaning of moderate to severe traumatic brain injury

- (2) For the purposes of this Statement of Principles, moderate to severe traumatic brain injury:
- (a) means damage to the brain resulting from the transfer of kinetic energy to the brain from external physical forces, as manifested by at least one of the following:
 - (i) loss of consciousness for more than 30 minutes;
 - (ii) anterograde amnesia for more than 24 hours;
 - (iii) an intracranial lesion, including an abnormality attributable to the injury seen on structural imaging (conventional magnetic resonance imaging or computed tomography scanning);

- (iv) penetration of the dura mater; or
 - (v) a Glasgow Coma Scale score of less than 13; and
- (b) excludes injury from radiation, electricity, heat and surgery.

Note: This Statement of Principles applies to moderate to severe traumatic brain injury only. Trauma to the brain can cause other diseases or injuries, and these are covered by a range of other Statements of Principles in which trauma to the brain (variously worded) is listed as a risk factor. The relevant Statements of Principles include but are not limited to: accommodation disorder, Alzheimer disease, anosmia, arachnoid cyst, bruxism, cerebrovascular accident, deep vein thrombosis, dementia pugilistica, epilepsy, epileptic seizure, female sexual dysfunction, hypopituitarism, Meniere's disease, narcolepsy, optochiasmatic arachnoiditis, Parkinson's disease and parkinsonism, periodic limb movement disorder, pulmonary thromboembolism, schizophrenia, subarachnoid haemorrhage, subdural haematoma, suicide and attempted suicide, and trigeminal neuropathy.

Death from moderate to severe traumatic brain injury

- (3) For the purposes of this Statement of Principles, moderate to severe traumatic brain injury, in relation to a person, includes death from a terminal event or condition that was contributed to by the person's moderate to severe traumatic brain injury.

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 moderate to severe traumatic brain injury and death from moderate to severe traumatic brain injury 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, moderate to severe traumatic brain injury or death from moderate to severe traumatic brain injury is connected with the circumstances of a person's relevant service:

- (1) experiencing a specified event at the time of the clinical onset of moderate to severe traumatic brain injury;

Note: *specified event* is defined in the Schedule 1 - Dictionary.

- (2) inability to obtain appropriate clinical management for moderate to severe traumatic brain injury.

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 factor set out in subsection 9(2) applies only to material contribution to, or aggravation of, moderate to severe traumatic brain injury where the person's moderate to severe traumatic brain injury 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:

moderate to severe traumatic brain injury—see subsection 7(2).

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

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 event means:

- (a) the head being struck by an object;
- (b) the head striking an object;
- (c) the brain undergoing an acceleration or deceleration movement without direct external trauma to the head;
- (d) a foreign body penetrating the brain; or
- (e) an explosion or explosive blast.

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*.