1. The Repatriation Medical Authority (‘the Authority’), under subsection 196B(8) of the Veterans’ Entitlements Act 1986 (‘the VEA’) revokes Instrument No. 114 of 16 August 1996, determined under subsection 196B(3) of the VEA concerning malignant neoplasm of the oral cavity or hypopharynx and death from malignant neoplasm of the oral cavity or hypopharynx.

2. The Authority is of the view that on the sound medical-scientific evidence available 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 particular kinds of service. The Authority has therefore determined pursuant to subsection 196B(3) of the VEA a Statement of Principles, Instrument No. 20 of 2005 concerning malignant neoplasm of the oral cavity, oropharynx and hypopharynx. This Instrument will in effect replace the revoked Statement of Principles.

3. The provisions of the Military Rehabilitation and Compensation Act 2004 (‘the MRCA’) relating to claims for compensation commenced on 1 July 2004. Claims under section 319 of the MRCA for acceptance of liability for a service injury sustained, a service disease contracted or service death on or after 1 July 2004 are determined by the Military Rehabilitation and Compensation Commission by reference to Statements of Principles issued by the Authority pursuant to the VEA.

4. 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) under the VEA;
- peacetime service under the MRCA,

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 that service.
5. This new instrument results from an investigation notified by the Authority in the Government Notices Gazette of 6 March 2002 concerning malignant neoplasm of the oral cavity or hypopharynx in accordance with section 196G of the Act. 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.

6. The contents of the new Instrument are in similar terms as the revoked Instruments. Comparing the new and the revoked Instruments, the differences include:

- renaming the Instrument;
- adopting the latest revised Instrument format, which commenced in 2003;
- deleting the ICD code from the Instrument header;
- changing the definition of ‘malignant neoplasm of the oral cavity, oropharynx and hypopharynx’ in clause 2;
- rewording factor 5(a) relating to smoking cigarettes or equivalent tobacco products, requiring the smoking of at least five pack years before clinical onset, and where smoking has ceased onset to occur within ten years of cessation;
- rewording factor 5(b) relating to oral use of smokeless tobacco, including malignant neoplasm of the oropharynx and hypopharynx;
- new factor 5(c) relating to chewing betel nut or areca nut;
- new factor 5(d) relating to drinking maté;
- new factor 5(f) relating to bone marrow transplant;
- new factor 5(g) relating to mustard gas;
- new factor 5(h) relating to oral leucoplakia;
- deleting the definition of ‘alcohol (contained within alcoholic drinks)’, ‘ICD code’, and ‘smokeless tobacco and similar products’ in clause 8;
- revising the definition of ‘relevant service’ in clause 8;
- including new definitions of ‘alcohol’, ‘death from malignant neoplasm of the oral cavity, oropharynx and hypopharynx’, ‘pack years of cigarettes, or the equivalent thereof in other tobacco products’, ‘smokeless tobacco’ and ‘terminal event’ in clause 8; and
- specifying a date of effect for the Instrument in clause 10.

7. Further changes to the format of the Instrument reflect the commencement of the MRCA and clarify that pursuant to subsection 196B(3A) of the VEA, the Statement of Principles has been determined for the purposes of both the VEA and the MRCA.

8. Prior to determining this instrument, the Authority advertised its intention to undertake an investigation in relation to malignant neoplasm of the oral cavity or hypopharynx in the Government Notices Gazettes of 6 March 2002, 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.

9. Following the commencement of the MRCA, the Authority published a “Further Notice of Investigations” in the Government Notices Gazette of 14 July 2004, extending the closing date for submissions in relation to the above mentioned investigation until 10 September 2004. The Authority again invited submissions from the Repatriation Commission, organisations and persons referred to in section 196E of the VEA (who include persons eligible to make a claim under the MRCA), as well as the Military Rehabilitation and Compensation Commission and any person having expertise in the field. No submissions were received for consideration by the Authority during the investigation.

10. The determining of this new instrument finalises the investigation in relation to malignant neoplasm of the oral cavity or hypopharynx as advertised in the Government Notices Gazettes of 6 March 2002.

11. A list of references relating to the above condition is available, on written request, from the Repatriation Medical Authority Secretariat.