REPARTIATION MEDICAL AUTHORITY

INSTRUMENT NO. 28 of 2005

VETERANS’ ENTITLEMENTS ACT 1986
MILITARY REHABILITATION AND COMPENSATION ACT 2004

EXPLANATORY NOTES FOR TABLING

1. The Repatriation Medical Authority (‘the Authority’), under subsection 196B(8) of the Veterans’ Entitlements Act 1986 (‘the VEA’) revokes Instrument No. 84 of 1999 of 9 November 1999, and Instrument No. 69 of 2002 of 10 November 2002, each of which were determined under subsection determined under subsection 196B(2) of the VEA concerning malignant neoplasm of the prostate and death from malignant neoplasm of the prostate.

2. The Authority is of the view that there is sound medical-scientific evidence that indicates that malignant neoplasm of the prostate and death from malignant neoplasm of the prostate can be related to particular kinds of service. The Authority has therefore determined pursuant to subsection 196B(2) of the VEA a Statement of Principles, Instrument No. 28 of 2005 concerning malignant neoplasm of the prostate. This Instrument will in effect replace the revoked Statements 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 as a minimum exist, and which of those factors must be related to the following kinds of service rendered by a person:

   - operational service under the VEA;
   - peacekeeping service under the VEA;
   - hazardous service under the VEA;
   - warlike service under the MRCA;
   - non-warlike service under the MRCA,
before it can be said that a reasonable hypothesis has been raised connecting malignant neoplasm of the prostate or death from malignant neoplasm of prostate, with the circumstances of that service.

5. This new instrument results from an investigation notified by the Authority in the Government Notices Gazette of 16 July 2003 concerning malignant neoplasm of the prostate 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:

- adopting the latest revised Instrument format, which commenced in 2003;
- deleting the ICD code from the Instrument header;
- revising the definition of ‘malignant neoplasm of the prostate’ in clause 2;
- rewording factor 5(a) relating to herbicide exposure;
- rewording factor 5(b) relating to being on land in Vietnam or at sea in Vietnamese waters to reflect the latest wording for this factor;
- rewording factor 5(c) relating to animal fat consumption;
- revising the definition of ‘relevant service’ and ‘ICD-10-AM code’ in clause 8;
- including new definitions of ‘estuarine Vietnamese waters, ‘inhaling or absorbing a chemical agent contaminated by 2,3,7,8-tetrachlorodibenzo-paradioxin (TCDD)’, and ‘potable water’ 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 prostate in the Government Notices Gazettes of 16 July 2003, 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. Nine submissions were received and considered by the Authority during the investigation.


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