REPATRIATION MEDICAL AUTHORITY

STATEMENT OF PRINCIPLES NO. 42 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. 80 of 2001 of 12 September 2001 and Instrument No. 14 of 2003 of 7 April 2003, each of which were determined under subsection 196B(3) of the VEA concerning peripheral neuropathy.

2. The Authority is of the view that on the sound medical-scientific evidence available it is more probable than not that peripheral neuropathy and death from peripheral neuropathy can be related to particular kinds of service. The Authority has therefore determined, pursuant to subsection 196B(3) of the VEA, Statement of Principles concerning peripheral neuropathy No. 42 of 2005. This Instrument will in effect replace the revoked Statement of Principles.

3. Pursuant to the provisions of the VEA and the Military Rehabilitation and Compensation Act 2004 (‘the MRCA’), claims for pension under the VEA or compensation under the MRCA are determined by the Repatriation Commission or 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, peripheral neuropathy or death from peripheral neuropathy is connected with the circumstances of that service.

5. This new instrument results from the investigation concerning peripheral neuropathy, notified by the Authority in the Government Notices Gazettes of 20 August 2003 and 14 July 2004, in accordance with section 196G of the VEA. The investigation involved an examination of the sound medical-scientific evidence
available to the Authority, including the sound medical-scientific evidence it has previously considered.

6. The title and format of this new Instrument have been varied, including a new titling clause 1, headnote to clause 2 and the renumbering of subsequent clauses. These changes have been introduced in order to assist users in locating the appropriate Instrument when searching the Federal Register of Legislative Instruments.

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

- changing the definition of ‘peripheral neuropathy’ in clause 3;
- a new factor 6(b) relating to alcohol dependence or alcohol abuse;
- a new factor 6(g) relating to having an inflammatory connective tissue disease;
- rewording factor 6(h) relating to having an infection, stipulating that that infection can be viral, bacterial or protozoal;
- rewording factor 6(i) relating to electrical or thermal burns so that the factor applies to all types of peripheral neuropathy meeting the definition in clause 3;
- deleting the factors applying to brachial plexopathy and lumbosacral plexopathy (no longer coming within the definition in clause 3);
- deleting the factors applying to Guillain-Barre syndrome (no longer coming within the definition in clause 3);
- rewording factor 6(j) relating to a critical illness requiring mechanical ventilation support so that the factor applies to all types of peripheral neuropathy meeting the definition in clause 3;
- rewording factor 6(k) relating to inhaling, ingesting or having cutaneous contact with a chemical agent so that the factor applies to all types of peripheral neuropathy meeting the definition in clause 3;
- a new factor 6(l) relating to inhaling, ingesting or having cutaneous contact with a volatile substance;
- a new factor 6(m) relating to inhalant abuse or inhalant dependence;
- a new factor 6(n) relating to inhaling, ingesting or having cutaneous contact with a chemical agent contaminated by 2,3,7,8-tetrachlorodibenzo-dioxin (TCDD);
- a new factor 6(o) relating to having an episode of acute cholinergic poisoning from exposure to an organophosphorus ester;
- rewording factor 6(p) relating to being poisoned with an organic toxin;
- rewording factor 6(q) relating to being poisoned with a specified metal;
- rewording factors 6(s) and (t) relating to being treated with a drug so that the factors apply to all types of peripheral neuropathy meeting the definition in clause 3;
- rewording factors 6(u) relating to being treated with cisplatin so that the factor applies to all types of peripheral neuropathy meeting the definition in clause 3;
- deleting the factor relating to nonfreezing cold injury;
• deleting the definitions in clause 9 of ‘a course of therapeutic radiation’, ‘a haematological or lymphoproliferative disorder from the specified list’, ‘a systemic disease from the specified list’, ‘a systemic vasculitis from the specified list’, ‘alcohol (contained within alcoholic drinks)’, ‘an infection from the specified list’, ‘frostbite’, ‘heavy metal poisoning’, ‘ICD-10-AM code’, ‘mixed sensory motor polyneuropathy’, ‘mononeuritis multiplex’, ‘motor polyneuropathy’, ‘nonfreezing cold injury’, ‘one of the chemical agents in the specified list’, ‘one of the drugs from List1’, ‘one of the drugs from list 2’, ‘one of the metals specified in the list’, ‘one of the pesticides specified in the list’, ‘organophosphorus pesticide poisoning’, ‘plexopathy’, ‘polyneuropathy’, ‘sensory polyneuropathy’ and ‘suffering from a nutritional deficiency from the specified list’;
• revising the definition of ‘relevant service’ in clause 9;
• specifying a date of effect for the Instrument in clause 11.

8. 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.

9. Prior to determining this instrument, the Authority advertised its intention to undertake an investigation in relation to peripheral neuropathy in the Government Notices Gazette of 20 August 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.

10. 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.
11. Two submissions were received and considered by the Authority during the investigation.

12. On 15 August 2005, the Authority wrote to organisations representing veterans, service personnel and their dependants regarding the proposed instrument, the medical-scientific evidence considered by the Authority and drawing attention to the varied definition of peripheral neuropathy and the non-inclusion of factors relating to plexopathy or Guillain-Barre syndrome in the proposed new instrument. The Authority provided an opportunity to the organisations to make representations in relation to the proposed instrument prior to its determination. No representations were received.

13. The determining of this new instrument finalises the investigation in relation to peripheral neuropathy which was advertised in the Government Notices Gazettes of 20 August 2003 and 14 July 2004.

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