REPATRIATION MEDICAL AUTHORITY

INSTRUMENT NO. 7 of 2009

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. 73 of 1995, determined under subsection 196B(2) of the VEA concerning Buerger's disease (thromboangiitis obliterans) and death from Buerger's disease (thromboangiitis obliterans).

2. The Authority is of the view that there is sound medical-scientific evidence that indicates that thromboangiitis obliterans and death from thromboangiitis obliterans 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. 7 of 2009 concerning thromboangiitis obliterans. 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 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 thromboangiitis obliterans or death from thromboangiitis obliterans, with the circumstances of that service.
5. This new instrument results from an investigation notified by the Authority in the Government Notices Gazette of 2 May 2007 concerning Buerger's disease in accordance with section 196G of the VEA. 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 Instrument. Comparing the new and the revoked Instruments, the differences include:

- adopting the latest revised Instrument format, which commenced in 2005;
- deleting the ICD code from the Instrument header;
- change of name from "Buerger's disease (thromboangiitis obliterans)" to "thromboangiitis obliterans";
- new definition for 'thromboangiitis obliterans' in clause 3 which replaces the previous definition of 'Buerger's disease (thromboangiitis obliterans)';
- revising factor 6(a) concerning 'smoking' and clinical onset;
- revising factor 6(b) concerning 'smoking' and clinical worsening;
- new definitions of 'death from thromboangiitis obliterans', 'ICD-10-AM code', 'pack years of cigarettes, or the equivalent thereof in other tobacco products', 'pack year of cigarettes, or the equivalent thereof in other tobacco products', 'relevant service', and 'terminal event' in clause 9;
- deleting definitions of 'ICD code', and 'pack years'; and
- specifying a date of effect for the Instrument in clause 11.

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 Buerger's disease in the Government Notices Gazette of 2 May 2007, 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. No submissions were received for consideration by the Authority during the investigation.


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