1. The Repatriation Medical Authority (the Authority) has determined, under subsection 196B(10) of the Veterans’ Entitlements Act 1986 (the VEA) Statement of Principles Instrument No. 77 of 2012 concerning malignant neoplasm of the prostate.

2. This instrument amends Statement of Principles Instrument No. 28 of 2005 concerning malignant neoplasm of the prostate as follows:
   - inserting new factors 5(ca) & 5(cb) concerning 'smoking';
   - replacing wording in the existing clause 6 to reflect the changes to the factors;
   - inserting a new definition of 'pack-years of cigarettes, or the equivalent thereof in other tobacco products'; and
   - specifying the date of effect of this amendment.

3. The amendments are made at the direction of the Specialist Medical Review Council (SMRC) in accordance with its Declaration No. 17 dated 16 August 2012. The SMRC Declaration appeared in the Government Notices Gazette of 29 August 2012.

4. In accordance with subsection 196B(13) of the VEA, the amendments as made by Instrument No. 77 of 2012, take effect from 29 August 2012.

5. As this amendment provides an additional basis on which malignant neoplasm of the prostate can be related to relevant service the earlier date of effect does not affect the rights of claimants so as to disadvantage them nor would it impose additional liabilities on them.

6. This instrument is compatible with the Human Rights and Freedoms recognised or declared in the International Instruments listed in Section 3 of the Human Rights (Parliamentary Scrutiny) Act 2011. A Statement of Compatibility with Human Rights follows.
Statement of Compatibility with Human Rights

(Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011)

Instrument No.: Statement of Principles No. 77 of 2012
Kind of Injury, Disease or Death: Malignant neoplasm of the prostate

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the Human Rights (Parliamentary Scrutiny) Act 2011.

Overview of the Legislative Instrument

1. This Legislative Instrument is determined pursuant to subsection 196B(10) of the Veterans' Entitlements Act 1986 (the VEA) for the purposes of the VEA and the Military Rehabilitation and Compensation Act 2004 (the MRCA).

2. This Legislative Instrument:-

   ▪ facilitates claimants in making, and the Repatriation Commission and Military Rehabilitation and Compensation Commission in assessing, claims under the VEA and the MRCA respectively, by specifying the circumstances in which medical treatment and compensation can be extended to eligible persons who have malignant neoplasm of the prostate;

   ▪ facilitates the review of such decisions by the Veterans' Review Board and the Administrative Appeals Tribunal;

   ▪ includes a new factor which the current sound medical-scientific evidence indicates must as a minimum exist, before it can be said that a reasonable hypothesis has been raised, connecting malignant neoplasm of the prostate with the circumstances of eligible service rendered by a person;

   ▪ amends Instrument No. 28 of 2005; and

   ▪ reflects the Specialist Medical Review Council's review of the available sound medical-scientific evidence concerning malignant neoplasm of the prostate considered by the Repatriation Medical Authority when that earlier instrument was determined.
3. The Instrument is assessed as being a technical instrument which improves the medico-scientific quality of outcomes under the VEA and the MRCA.

**Human Rights Implications**

4. This Legislative Instrument does not derogate from any human rights. It promotes the human rights of veterans, current and former Defence Force members as well as other persons such as their dependents, including:

- the right to social security (Art 9, *International Covenant on Economic, Social and Cultural Rights*; Art 26, *Convention on the Rights of the Child* and Art 28, *Convention on the Rights of Persons with Disabilities*) by helping to ensure that the qualifying conditions for the benefit are "reasonable, proportionate and transparent";

- the right to an adequate standard of living (Art 11, ICSECR; Art 27, CRC and Art 28, CRPD) by facilitating the assessment and determination of social security benefits;

- the right to the enjoyment of the highest attainable standard of physical and mental health (Art 12, ICSECR and Art 25, CRPD), by facilitating the assessment and determination of compensation and benefits in relation to the treatment and rehabilitation of veterans and Defence Force members; and

- the rights of persons with disabilities by facilitating the determination of claims relating to treatment and rehabilitation (Art 26, CRPD).

**Conclusion**

This Legislative Instrument is compatible with human rights as it does not derogate from and promotes a number of human rights.

Repatriation Medical Authority

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1 In General Comment No. 19 (The right to social security), the Committee on Economic, Social and Cultural Rights said (at paragraph 24) this to be one of the elements of ensuring accessibility to social security.