Statement of Principles concerning mesothelioma (Balance of Probabilities) (No. 105 of 2015)

made under subsection 196B(3) of the

Veterans' Entitlements Act 1986

Compilation No. 1

Compilation date: 18 September 2017

Includes amendments up to: Veterans' Entitlements (Statements of Principles—Cumulative Equivalent Dose) Amendment Determination 2017 (No. 58 of 2017) (F2017L01067)

The day of commencement of this Amendment Determination is 18 September 2017.

Prepared by the Repatriation Medical Authority Secretariat, Brisbane
About this compilation

This compilation

This is a compilation of the Statement of Principles concerning mesothelioma (Balance of Probabilities) (No. 105 of 2015) that shows the text of the law as amended and in force on 18 September 2017.

The notes at the end of this compilation (the endnotes) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.
Statement of Principles concerning MESOTHELIOMA (Balance of Probabilities) (No. 105 of 2015)

The Repatriation Medical Authority determines the following Statement of Principles under subsection 196B(3) of the Veterans’ Entitlements Act 1986.

Dated 21 August 2015
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Statement of Principles concerning
Mesothelioma (Balance of Probabilities) (No. 105 of 2015)
Veterans’ Entitlements Act 1986

Compilation No. 1                          Compilation date: 18/09/2017

Authorised Version F2017C00860 registered 18/09/2017
1 **Name**

This is the Statement of Principles concerning *mesothelioma (Balance of Probabilities)* (No. 105 of 2015).

2 **Commencement**

This instrument commences on **21 September 2015**.

3 **Authority**

This instrument is made under subsection 196B(3) of the *Veterans' Entitlements Act 1986*.

4 **Revocation**

The Statement of Principles concerning mesothelioma No. 84 of 2007 made under subsection 196B(3) of the VEA is revoked.

5 **Application**

This instrument applies to a claim to which section 120B of the VEA or section 339 of the *Military Rehabilitation and Compensation Act 2004* applies.

6 **Definitions**

The terms defined in the Schedule 1 - Dictionary have the meaning given when used in this instrument.

7 **Kind of injury, disease or death to which this Statement of Principles relates**

(1) This Statement of Principles is about mesothelioma and death from mesothelioma.

**Meaning of *mesothelioma***

(2) For the purposes of this Statement of Principles, mesothelioma:

(a) means a primary malignant neoplasm arising from the cells of the mesothelial lining of serous cavities of the body including the pleura, peritoneum, pericardium or tunica vaginalis testis; and

(b) excludes soft tissue sarcoma, carcinoid tumour, non-Hodgkin's lymphoma and Hodgkin's lymphoma.
(3) While mesothelioma attracts ICD-10-AM code C45, in applying this Statement of Principles the meaning of mesothelioma is that given in subsection (2).


Death from mesothelioma

(5) For the purposes of this Statement of Principles, mesothelioma, in relation to a person, includes death from a terminal event or condition that was contributed to by the person’s mesothelioma.

Note: terminal event is defined in the Schedule 1 – Dictionary.

8 Basis for determining the factors

On the sound medical-scientific evidence available, the Repatriation Medical Authority is of the view that it is more probable than not that mesothelioma and death from mesothelioma can be related to relevant service rendered by veterans or members of the Forces under the VEA, or members under the MRCA.

Note: relevant service is defined in the Schedule 1 – Dictionary.

9 Factors that must exist

At least one of the following factors must exist before it can be said that, on the balance of probabilities, mesothelioma or death from mesothelioma is connected with the circumstances of a person’s relevant service:

(1) inhaling asbestos fibres in an enclosed space:
   (a) at the time material containing asbestos fibres was being applied, removed, dislodged, cut or drilled; and
   (b) the first inhalation of asbestos fibres occurred at least 15 years, before the clinical onset of mesothelioma;

(2) inhaling asbestos fibres in an open environment for a cumulative period of at least 1 000 hours before the clinical onset of mesothelioma:
   (a) at the time material containing asbestos fibres was being applied, removed, dislodged, cut or drilled; and
(b) the first inhalation of asbestos fibres occurred at least 15 years, before the clinical onset of mesothelioma;

(3) having asbestosis at the time of the clinical onset of mesothelioma;

(4) having received a cumulative equivalent dose of at least 0.5 sievert of ionising radiation to the affected region at least ten years before the clinical onset of mesothelioma;

Note: cumulative equivalent dose is defined in the Schedule 1 - Dictionary.

(5) inhaling erionite fibres on more days than not for at least ten years before the clinical onset of mesothelioma, where the first inhalation of erionite fibres occurred at least 15 years before the clinical onset of mesothelioma;

Note: erionite is defined in the Schedule 1 - Dictionary.

(6) firefighting for a cumulative period of at least 1 000 hours before the clinical onset of mesothelioma, where the first exposure occurred at least 15 years before the clinical onset of mesothelioma;

Note: firefighting is defined in the Schedule 1 - Dictionary.

(7) inability to obtain appropriate clinical management for mesothelioma.

10 Relationship to service

(1) The existence in a person of any factor referred to in section 9 must be related to the relevant service rendered by the person.

(2) The factor set out in subsection 9(7) applies only to material contribution to, or aggravation of, mesothelioma where the person’s mesothelioma was suffered or contracted before or during (but did not arise out of) the person’s relevant service.

11 Factors referring to an injury or disease covered by another Statement of Principles

In this Statement of Principles:

(1) if a factor referred to in section 9 applies in relation to a person; and

(2) that factor refers to an injury or disease in respect of which a Statement of Principles has been determined under subsection 196B(3) of the VEA;

then the factors in that Statement of Principles apply in accordance with the terms of that Statement of Principles as in force from time to time.
Schedule 1 - Dictionary

Note: See Section 6

1 Definitions

In this instrument:

cumulative equivalent dose means the total dose of ionising radiation received by the particular organ or tissue from external exposure, internal exposure or both, apart from normal background radiation exposure in Australia, calculated in accordance with the methodology set out in Guide to calculation of 'cumulative equivalent dose' for the purpose of applying ionising radiation factors contained in Statements of Principles determined under Part XIA of the Veterans’ Entitlements Act 1986 (Cth), Australian Radiation Protection and Nuclear Safety Agency, as in force on 2 August 2017.

Note 1: Examples of circumstances that might lead to exposure to ionising radiation include being present during or subsequent to the testing or use of nuclear weapons, undergoing diagnostic or therapeutic medical procedures involving ionising radiation, and being a member of an aircrew, leading to increased levels of exposure to cosmic radiation.

Note 2: For the purpose of dose reconstruction, dose is calculated as an average over the mass of a specific tissue or organ. If a tissue is exposed to multiple sources of ionising radiation, the various dose estimates for each type of radiation must be combined.

erionite means a naturally occurring fibrous mineral that belongs to a group of minerals called zeolites.

firefighting means being involved in the direct combat of fires, including activities to control, extinguish, mop-up or prevent fires, or participating in training activities involving fires.

mesothelioma—see subsection 7(2).


relevant service means:

(a) eligible war service (other than operational service) under the VEA;
(b) defence service (other than hazardous service and British nuclear test defence service) under the VEA; or
(c) peacetime service under the MRCA.

terminal event means the proximate or ultimate cause of death and includes the following:

(a) pneumonia;
(b) respiratory failure;
(c) cardiac arrest;
(d) circulatory failure; or
(e) cessation of brain function.

*VEA* means the *Veterans’ Entitlements Act 1986*. 
Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

- Endnote 1—About the endnotes
- Endnote 2—Abbreviation key
- Endnote 3—Legislation history
- Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.
### Endnote 2—Abbreviation key

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**Statement of Principles concerning Mesothelioma (Balance of Probabilities) (No. 105 of 2015) Veterans’ Entitlements Act 1986**

Compilation No. 1

Compilation date: 18/09/2017

Authorised Version F2017C00860 registered 18/09/2017
## Endnote 3—Legislation history

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