Statement of Principles concerning osteoarthritis (Balance of Probabilities) (No. 62 of 2017)

made under subsection 196B(3) of the

Veterans' Entitlements Act 1986

Compilation No. 2

Compilation date: 25 May 2020

Includes amendments up to: Amendment Statement of Principles concerning osteoarthritis (Balance of Probabilities) (No. 41 of 2020) (F2020L00503)

The day of commencement of this Amendment Statement of Principles concerning osteoarthritis is 25 May 2020.

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

This compilation

This is a compilation of the Statement of Principles concerning osteoarthritis (Balance of Probabilities) (No. 62 of 2017) that shows the text of the law as amended and in force on 25 May 2020.

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If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.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
OSTEOARTHRITIS
(Balance of Probabilities)
(No. 62 of 2017)

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

Dated 3 November 2017
Statement of Principles concerning

Osteoarthritis (Balance of Probabilities) (No. 62 of 2017)

Veterans' Entitlements Act 1986

Compilation No. 2

Compilation date: 25/05/2020

Authorised Version F2020C00353 registered 25/05/2020
1 Name
This is the Statement of Principles concerning osteoarthritis *(Balance of Probabilities)* (No. 62 of 2017).

2 Commencement
This instrument commences on 4 December 2017.

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

4 Revocation
The Statement of Principles concerning osteoarthritis No. 14 of 2010, as amended, made under subsections 196B(3) and (8) 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 osteoarthritis and death from osteoarthritis.

*Meaning of osteoarthritis*

(2) For the purposes of this Statement of Principles, osteoarthritis:
   (a) means a degenerative joint disorder with:
      (i) clinical manifestations of pain, impaired function and stiffness; and
      (ii) osteophytes or loss of articular cartilage; and
   (b) excludes acute articular cartilage tear and osteochondritis dissecans.

Note 1: Other commonly associated features are sclerosis of the underlying bone, inflammation of the synovium and, for osteoarthritis in the knee, degenerative tears...
of the menisci and, for osteoarthritis in the hip or shoulder, degenerative tears of the labrum.

Note 2: The osteophytes or loss of articular cartilage may be assessed by radiological, other imaging or arthroscopic investigations.

(3) While osteoarthritis attracts ICD-10-AM code M15, M16, M17, M18 or M19, in applying this Statement of Principles the meaning of osteoarthritis is that given in subsection (2).


Death from osteoarthritis

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

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 osteoarthritis and death from osteoarthritis 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, osteoarthritis or death from osteoarthritis is connected with the circumstances of a person's relevant service:

(1) having inflammatory joint disease as specified, of the affected joint before the clinical onset of osteoarthritis in that joint;

Note: inflammatory joint disease as specified is defined in the Schedule 1 - Dictionary.

(2) having an infection of the affected joint as specified before the clinical onset of osteoarthritis in that joint;

Note: infection of the affected joint as specified is defined in the Schedule 1 - Dictionary.
(3) having an intra-articular fracture of the affected joint before the clinical onset of osteoarthritis in that joint;

Note: *intra-articular fracture* is defined in the Schedule 1 - Dictionary.

(4) having haemarthrosis of the affected joint before the clinical onset of osteoarthritis in that joint;

Note: *haemarthrosis* is defined in the Schedule 1 - Dictionary.

(5) having a depositional joint disease as specified, in the affected joint before the clinical onset of osteoarthritis in that joint;

Note: *depositional joint disease as specified* is defined in the Schedule 1 - Dictionary.

(6) having trauma to the affected joint within the 25 years before the clinical onset of osteoarthritis in that joint;

Note: *trauma to the affected joint* is defined in the Schedule 1 - Dictionary.

(7) having an acute articular cartilage tear of the affected joint within the 25 years before the clinical onset of osteoarthritis in that joint;

(8) having an acute meniscal tear of the affected knee within the 25 years before the clinical onset of osteoarthritis in that joint;

(9) having frostbite involving the affected joint before the clinical onset of osteoarthritis in that joint;

(10) having disordered joint mechanics of the affected joint for at least five years before the clinical onset of osteoarthritis in that joint;

Note: *disordered joint mechanics* is defined in the Schedule 1 - Dictionary.

(11) having necrosis of the subchondral bone near the affected joint, including that from dysbaric osteonecrosis, before the clinical onset of osteoarthritis in that joint;

(12) for osteoarthritis of a joint of the upper limb only, performing any combination of repetitive activities or tasks involving repeated or sustained pinch grip or hand/power grip, for an average of at least 30 hours per week, for a cumulative period of at least ten years within a continuous period of 15 years, before the clinical onset of osteoarthritis in that joint;

Note: *hand/power grip, pinch grip* and *repetitive activities* are defined in the Schedule 1 - Dictionary.

(13) for osteoarthritis of a joint of the hand, wrist or elbow joint only, using a hand-held, vibrating percussive tool or object on more days than not, for a cumulative period of at least ten years, within the 25 years before the clinical onset of osteoarthritis in that joint;
(14) for osteoarthritis of a joint of the lower limb only:

Note: *joint of the lower limb* is defined in the Schedule 1 - Dictionary.

(a) having:

(i) an amputation involving either leg; or
(ii) an asymmetric gait;

for at least five years before the clinical onset of osteoarthritis in that joint;

(b) lifting loads of at least 20 kilograms while bearing weight through the affected joint:

(i) to a cumulative total of at least 150 000 kilograms within any ten year period before the clinical onset of osteoarthritis in that joint; and
(ii) where the clinical onset of osteoarthritis in that joint occurs within the 25 years following that period;

Note: *lifting loads* is defined in the Schedule 1 - Dictionary.

(c) carrying loads of at least 20 kilograms while bearing weight through the affected joint:

(i) to a cumulative total of at least 3 800 hours within any ten year period before the clinical onset of osteoarthritis in that joint; and
(ii) where the clinical onset of osteoarthritis in that joint occurs within the 25 years following that period;

(d) ascending or descending at least 150 stairs or rungs of a ladder per day, on more days than not, for a continuous period of at least five years, within the 25 years before the clinical onset of osteoarthritis in that joint; or

(e) having increased bone mineral density before the clinical onset of osteoarthritis in that joint;

Note: *increased bone mineral density* is defined in the Schedule 1 - Dictionary.

(15) for osteoarthritis of a joint of the lower limb or hand joint only:

Note: *joint of the lower limb* and *hand joint* are defined in the Schedule 1 - Dictionary.

(a) being overweight for at least ten years before the clinical onset of osteoarthritis in that joint;

Note: *being overweight* is defined in the Schedule 1 - Dictionary.

(b) for males, having a waist circumference exceeding 102 centimetres for at least ten years before the clinical onset of osteoarthritis in that joint; or
(c) for females, having a waist circumference exceeding 88 centimetres for at least ten years before the clinical onset of osteoarthritis in that joint;

(16) for osteoarthritis of a hip or knee joint only:
   (a) kneeling or squatting for a cumulative period of at least one hour per day, on more days than not, for a continuous period of at least two years before the clinical onset of osteoarthritis in that joint; and
   (b) where the clinical onset of osteoarthritis in that joint occurs within the 25 years following that period;

(17) for osteoarthritis of a knee joint only, having internal derangement of the affected joint before the clinical onset of osteoarthritis in that joint;

(18) for osteoarthritis of the patello-femoral joint only, having chondromalacia patella before the clinical onset of osteoarthritis in that joint;

(19) having a disorder associated with loss of pain sensation or proprioception involving the affected joint before the clinical onset of osteoarthritis in that joint;

(20) having Paget's disease of bone of the affected joint before the clinical onset of osteoarthritis in that joint;

(21) having acromegaly before the clinical onset of osteoarthritis in that joint;
   Note: acromegaly is defined in the Schedule 1 - Dictionary.

(22) having joint instability or dislocation of the affected joint, at least one year before the clinical onset of osteoarthritis in that joint;

(23) for osteoarthritis of a hip joint only, having femoroacetabular impingement syndrome of the affected joint, before the clinical onset of osteoarthritis in that joint;

(24) having inflammatory joint disease as specified, of the affected joint before the clinical worsening of osteoarthritis in that joint;
   Note: inflammatory joint disease as specified is defined in the Schedule 1 - Dictionary.

(25) having an infection of the affected joint as specified before the clinical worsening of osteoarthritis in that joint;
   Note: infection of the affected joint as specified is defined in the Schedule 1 - Dictionary.
(26) having an intra-articular fracture of the affected joint before the clinical worsening of osteoarthritis in that joint;

Note: *intra-articular fracture* is defined in the Schedule 1 - Dictionary.

(27) having haemarthrosis of the affected joint before the clinical worsening of osteoarthritis in that joint;

Note: *haemarthrosis* is defined in the Schedule 1 - Dictionary.

(28) having a depositional joint disease as specified, in the affected joint before the clinical worsening of osteoarthritis in that joint;

Note: *depositional joint disease as specified* is defined in the Schedule 1 - Dictionary.

(29) having trauma to the affected joint within the 25 years before the clinical worsening of osteoarthritis in that joint;

Note: *trauma to the affected joint* is defined in the Schedule 1 - Dictionary.

(30) having an acute articular cartilage tear of the affected joint within the 25 years before the clinical worsening of osteoarthritis in that joint;

(31) having an acute meniscal tear of the affected knee within the 25 years before the clinical worsening of osteoarthritis in that joint;

(32) having frostbite involving the affected joint before the clinical worsening of osteoarthritis in that joint;

(33) having disordered joint mechanics of the affected joint for at least five years before the clinical worsening of osteoarthritis in that joint;

Note: *disordered joint mechanics* is defined in the Schedule 1 - Dictionary.

(34) having necrosis of the subchondral bone near the affected joint, including that from dysbaric osteonecrosis, before the clinical worsening of osteoarthritis in that joint;

(35) for osteoarthritis of a joint of the upper limb only, performing any combination of repetitive activities or tasks involving repeated or sustained pinch grip or hand/power grip, for an average of at least 30 hours per week, for a cumulative period of at least ten years within a continuous period of 15 years, before the clinical worsening of osteoarthritis in that joint;

Note: *hand/power grip*, *pinch grip* and *repetitive activities* are defined in the Schedule 1 - Dictionary.

(36) for osteoarthritis of a joint of the hand, wrist or elbow joint only, using a hand-held, vibrating percussive tool or object on more days than not, for a cumulative period of at least ten years, within the 25 years before the clinical worsening of osteoarthritis in that joint;
(37) for osteoarthritis of a joint of the lower limb only:

Note: *joint of the lower limb* is defined in the Schedule 1 - Dictionary.

(a) having:

(i) an amputation involving either leg; or
(ii) an asymmetric gait;

for at least five years before the clinical worsening of osteoarthritis in that joint;

(b) lifting loads of at least 20 kilograms while bearing weight through the affected joint:

(i) to a cumulative total of at least 150,000 kilograms within any ten year period before the clinical worsening of osteoarthritis in that joint; and
(ii) where the clinical worsening of osteoarthritis in that joint occurs within the 25 years following that period;

Note: *lifting loads* is defined in the Schedule 1 - Dictionary.

(c) carrying loads of at least 20 kilograms while bearing weight through the affected joint:

(i) to a cumulative total of at least 3,800 hours within any ten year period before the clinical worsening of osteoarthritis in that joint; and
(ii) where the clinical worsening of osteoarthritis in that joint occurs within the 25 years following that period; or

(d) ascending or descending at least 150 stairs or rungs of a ladder per day, on more days than not, for a continuous period of at least five years, within the 25 years before the clinical worsening of osteoarthritis in that joint;

(38) for osteoarthritis of a joint of the lower limb or hand joint only:

Note: *joint of the lower limb* and *hand joint* are defined in the Schedule 1 - Dictionary.

(a) being overweight for at least ten years before the clinical worsening of osteoarthritis in that joint;

Note: *being overweight* is defined in the Schedule 1 - Dictionary.

(b) for males, having a waist circumference exceeding 102 centimetres for at least ten years before the clinical worsening of osteoarthritis in that joint; or

(c) for females, having a waist circumference exceeding 88 centimetres for at least ten years before the clinical worsening of osteoarthritis in that joint;
(39) for osteoarthritis of a hip or knee joint only:
   (a) kneeling or squatting for a cumulative period of at least one hour per day, on more days than not, for a continuous period of at two years before the clinical worsening of osteoarthritis in that joint; and
   (b) where the clinical worsening of osteoarthritis in that joint occurs within the 25 years following that period;

(40) for osteoarthritis of a knee joint only, having internal derangement of the affected joint before the clinical worsening of osteoarthritis in that joint;

(41) for osteoarthritis of the patello-femoral joint only, having chondromalacia patella before the clinical worsening of osteoarthritis in that joint;

(42) having a disorder associated with loss of pain sensation or proprioception involving the affected joint before the clinical worsening of osteoarthritis in that joint;

(43) having Paget's disease of bone of the affected joint before the clinical worsening of osteoarthritis in that joint;

(44) having acromegaly before the clinical worsening of osteoarthritis in that joint;

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

(45) having joint instability or dislocation of the affected joint, at least one year before the clinical worsening of osteoarthritis in that joint;

(46) for osteoarthritis of a hip joint only, having femoroacetabular impingement syndrome of the affected joint, before the clinical worsening of osteoarthritis in that joint;

(47) inability to obtain appropriate clinical management for osteoarthritis.

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 factors set out in subsections 9(24) to 9(47) apply only to material contribution to, or aggravation of, osteoarthritis where the person's osteoarthritis 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:

**acromegaly** means a chronic disease of adults resulting from hypersecretion of growth hormone after closure of the epiphyses.

**being overweight** means having a Body Mass Index (BMI) of 25 or greater.

Note: BMI is also defined in the Schedule 1 - Dictionary.

**BMI** means \( W/H^2 \) where:

- \( W \) is the person's weight in kilograms; and
- \( H \) is the person's height in metres.

**depositional joint disease as specified** means one of the following:

- (a) alkaptonuria (also known as ochronosis);
- (b) calcium pyrophosphate dihydrate deposition disease (also known as pseudogout);
- (c) gout;
- (d) haemochromatosis; or
- (e) Wilson's disease.

**disordered joint mechanics** means maldistribution of loading forces on that joint resulting from:

- (a) a rotation or angulation deformity of the bones of the affected limb; or
- (b) a rotation or angulation deformity of the joint of the affected limb; or
- (c) a rotation or angulation deformity of the bones adjacent to the affected joint.

**haemarthrosis** means bleeding into the joint.

**hand joint** means the interphalangeal, metacarpophalangeal, carpometacarpal and intercarpal joints of the hand. This definition excludes the radiocarpal joint (wrist joint).

**hand/power grip** means activities mostly requiring forceful flexion of the fingers to hold an object.

Note: Examples of activities which require power grip include handling heavy tools, cutting with knives, carrying heavy objects and pushing a wheelchair.

**increased bone mineral density** means a bone mineral density at least one standard deviation above the mean bone mineral density of young adult sex-matched controls.

**infection of the affected joint as specified** means the bacterial infection of a joint resulting in inflammation within that joint or infection of a joint by a
virus, fungus or parasite resulting in inflammation and destruction of articular cartilage within that joint.

**inflammatory joint disease as specified** means one of the following:

- (a) ankylosing spondylitis;
- (b) arthritis associated with Crohn's disease or ulcerative colitis;
- (c) psoriatic arthropathy;
- (d) reactive arthritis; or
- (e) rheumatoid arthritis.

**intra-articular fracture** means a fracture involving the articular surface of a joint.

**joint of the lower limb** means the hip, knee, ankle, sacro-iliac joint or any joint of the foot.

**lifting loads** means manually raising an object.

**MRCA** means the *Military Rehabilitation and Compensation Act 2004*.

**osteoarthritis**—see subsection 7(2).

**pinch grip** means activities requiring repetitive or sustained grip with the fingers being pressed together at their tips to hold an object; most often pinch grip involves primarily the thumb, the index finger and the middle finger.

Note: Examples of activities which require pinch grip include writing, sewing, knitting, painting with small brushes and holding dentistry instruments.

**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.

Note: **MRCA** and **VEA** are also defined in the Schedule 1 - Dictionary.

**repetitive activities** means:

- (a) bending or twisting of the affected joint; or
- (b) carrying out the same or similar movements that involve the affected joint;

at least 50 times per hour.

**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.
trauma to the affected joint means a discrete event involving the application of significant physical force to or through the affected joint, that causes:

(a) damage to the joint; and
(b) the development, within 24 hours of the event occurring, of symptoms and signs of pain and tenderness, and either altered mobility or range of movement of the joint. In the case of sustained unconsciousness or the masking of pain by analgesic medication, these symptoms and signs must appear on return to consciousness or the withdrawal of the analgesic medication; and
(c) the persistence of these symptoms and signs for a period of at least seven days following their onset, save for where medical intervention for the trauma to that joint has occurred and that medical intervention involves one of the following:
   (i) immobilisation of the joint or limb by splinting or similar external agent;
   (ii) injection of a corticosteroid or local anaesthetic into that joint; or
   (iii) surgery to that joint.

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

- **ad** = added or inserted
- **am** = amended
- **amdt** = amendment
- **c** = clause(s)
- **C[x]** = Compilation No. x
- **Ch** = Chapter(s)
- **def** = definition(s)
- **Dict** = Dictionary
- **disallowed** = disallowed by Parliament
- **Div** = Division(s)
- **exp** = expires/expired or ceases/ceased to have effect
- **F** = Federal Register of Legislation
- **gaz** = gazette
- **LA** = Legislation Act 2003
- **LIA** = Legislative Instruments Act 2003
- **(md)** = misdescribed amendment can be given effect
- **(md not incorp)** = misdescribed amendment cannot be given effect
- **mod** = modified/modification
- **No.** = Number(s)
- **o** = order(s)
- **Ord** = Ordinance
- **orig** = original
- **par** = paragraph(s)/subparagraph(s)
- **pres** = present
- **prev** = previous
- **(prev…)** = previously
- **Pt** = Part(s)
- **r** = regulation(s)/rule(s)
- **reloc** = relocated
- **renum** = renumbered
- **rep** = repealed
- **rs** = repealed and substituted
- **s** = section(s)/subsection(s)
- **Sch** = Schedule(s)
- **Sdiv** = Subdivision(s)
- **SLI** = Select Legislative Instrument
- **SR** = Statutory Rules
- **Sub-Ch** = Sub-Chapter(s)
- **SubPt** = Subpart(s)
- **underlining** = whole or part not commenced or to be commenced

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**Statement of Principles concerning**

**Osteoarthritis (Balance of Probabilities) (No. 62 of 2017)***

**Veterans’ Entitlements Act 1986***

Compilation No. 2  
Compilation date: 25/05/2020

Authorised Version F2020C00353 registered 25/05/2020
### Endnote 3—Legislation history

<table>
<thead>
<tr>
<th>Name</th>
<th>Registration</th>
<th>Commencement</th>
<th>Application, saving and transitional provisions</th>
</tr>
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<td>Statement of Principles concerning osteoarthritis (Balance of Probabilities) (No. 62 of 2017)</td>
<td>6 November 2017 F2017L01442</td>
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<td>22 July 2019</td>
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<td>25 May 2020</td>
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### Endnote 4—Amendment history

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<tr>
<td>Subsection 7(2)</td>
<td>rs. No. 74 of 2019</td>
</tr>
<tr>
<td>Schedule 1 – Dictionary</td>
<td>rs. No. 41 of 2020</td>
</tr>
<tr>
<td>– trauma to the affected joint</td>
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