



Statement of Principles concerning diverticular disease of the colon (Balance of Probabilities) (No. 16 of 2016)

made under subsection 196B(3) of the

Veterans' Entitlements Act 1986

Compilation No. 1

Compilation date: 25 May 2020

Includes amendments up to: Amendment Statement of Principles concerning diverticular disease of the colon (Balance of Probabilities) (No. 36 of 2020) (F2020L00486)

The day of commencement of this Amendment Statement of Principles concerning diverticular disease of the colon 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 diverticular disease of the colon (Balance of Probabilities) (No. 16 of 2016)* 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If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.



Australian Government
Repatriation Medical Authority

Statement of Principles
concerning
DIVERTICULAR DISEASE OF THE COLON
(Balance of Probabilities)
(No. 16 of 2016)

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

Dated 4 March 2016

Statement of Principles concerning
Diverticular Disease Of The Colon (Balance of Probabilities) (No. 16 of 2016)
Veterans' Entitlements Act 1986

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1 Name

This is the Statement of Principles concerning *diverticular disease of the colon (Balance of Probabilities)* (No. 16 of 2016).

2 Commencement

This instrument commences on 4 April 2016.

3 Authority

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

4 Revocation

The Statement of Principles concerning diverticular disease of the colon No. 14 of 2008 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 diverticular disease of the colon and death from diverticular disease of the colon.

Meaning of diverticular disease of the colon

- (2) For the purposes of this Statement of Principles, diverticular disease of the colon means:
- (a) acquired herniations of the mucosa of the colon through the muscular layers of the bowel wall, which may manifest without inflammation, as diverticulosis, or with inflammation, as diverticulitis; and
 - (b) includes diverticular bleeding, perforation of a diverticulum, diverticular abscess and diverticulitis complicated by fistula.

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- (3) While diverticular disease of the colon attracts ICD-10-AM code K57.2 or K57.3, in applying this Statement of Principles the meaning of diverticular disease of the colon is that given in subsection (2).
 - (4) For subsection (3), a reference to an ICD-10-AM code is a reference to the code assigned to a particular kind of injury or disease in *The International Statistical Classification of Diseases and Related Health Problems, Tenth Revision, Australian Modification (ICD-10-AM)*, Ninth Edition, effective date of 1 July 2015, copyrighted by the Independent Hospital Pricing Authority, ISBN 978-1-76007-020-5.

Death from diverticular disease of the colon

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

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

- (1) having systemic sclerosis before the clinical onset of diverticular disease of the colon;
- (2) smoking at least ten pack-years of cigarettes, or the equivalent thereof in other tobacco products, before the clinical onset of diverticular disease of the colon, and where smoking has ceased, the clinical onset of diverticular disease of the colon has occurred within ten years of cessation;

Note: *pack-years of cigarettes, or the equivalent thereof in other tobacco products* is defined in the Schedule 1 - Dictionary.

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- (3) being obese for at least the five years before the clinical onset of diverticular disease of the colon;
Note: *being obese* is defined in the Schedule 1 - Dictionary.
- (4) an inability to undertake any physical activity greater than three METs for at least the five years before the clinical onset of diverticular disease of the colon;
Note: *MET* is defined in the Schedule 1 - Dictionary.
- (5) an inability to consume an average daily intake of at least 30 grams of fibre in food for a period of at least five consecutive years within the ten years before the clinical onset of diverticular disease of the colon;
Note: *fibre in food* is defined in the Schedule 1 - Dictionary.
- (6) for diverticular bleeding, perforation, abscess and fistula only, using a drug belonging to the nonsteroidal anti-inflammatory class of drugs, excluding aspirin and paracetamol, for a continuous period of at least four weeks before the clinical onset of diverticular disease of the colon, where the last dose of the drug within that period was taken within the seven days before the clinical onset of diverticular disease of the colon;
- (6a) for diverticular perforation, abscess and fistula only, being treated with an immunosuppressive drug within the 30 days before the clinical onset of diverticular disease of the colon;
Note: *immunosuppressive drug* is defined in the Schedule 1 – Dictionary.
- (7) for diverticular bleeding only, being treated with an antiplatelet agent before the clinical onset of diverticular disease of the colon, where the last dose of the antiplatelet agent was taken within the seven days before the clinical onset of diverticular disease of the colon;
Note: *antiplatelet agent* is defined in the Schedule 1 - Dictionary.
- (8) smoking at least ten pack-years of cigarettes, or the equivalent thereof in other tobacco products, before the clinical worsening of diverticular disease of the colon, and where smoking has ceased, the clinical worsening of diverticular disease of the colon has occurred within ten years of cessation;
Note: *pack-years of cigarettes, or the equivalent thereof in other tobacco products* is defined in the Schedule 1 - Dictionary.
- (9) being obese for at least the five years before the clinical worsening of diverticular disease of the colon;
Note: *being obese* is defined in the Schedule 1 - Dictionary.
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- (10) an inability to undertake any physical activity greater than three METs for at least the five years before the clinical worsening of diverticular disease of the colon;

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

- (11) using a drug belonging to the nonsteroidal anti-inflammatory class of drugs, excluding aspirin and paracetamol, for a continuous period of at least four weeks before the clinical worsening of diverticular disease of the colon, where the last dose of the drug within that period was taken within the seven days before the clinical worsening of diverticular disease of the colon;
- (12) being treated with an antiplatelet agent before the clinical worsening of diverticular disease of the colon, where the last dose of the antiplatelet agent was taken within the seven days before the clinical worsening of diverticular disease of the colon;

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

- (13) using a drug belonging to the opioid class of drugs for a continuous period of at least four weeks before the clinical worsening of diverticular disease of the colon, where the last dose of the opioid within that period was taken within the seven days before the clinical worsening of diverticular disease of the colon;

- (14) being treated with an immunosuppressive drug within the 30 days before the clinical worsening of diverticular disease of the colon;

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

- (15) undergoing solid organ or bone marrow transplantation before the clinical worsening of diverticular disease of the colon;

- (16) having chronic kidney disease at the time of the clinical worsening of diverticular disease of the colon;

Note: *chronic kidney disease* is defined in the Schedule 1 - Dictionary.

- (17) inability to obtain appropriate clinical management for diverticular disease of the colon.

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(8) to 9(17) apply only to material contribution to, or aggravation of, diverticular disease of the colon where the person's diverticular disease of the colon 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:

abnormality of kidney structure or function means:

- (a) having a glomerular filtration rate of less than 60 mL/min/1.73 m²; or
- (b) having kidney damage, as evidenced by renal biopsy, imaging studies, albuminuria, urinary sediment abnormalities or other markers of abnormal renal function; or
- (c) having had a kidney transplant.

antiplatelet agent means a pharmacological agent that blocks platelet adhesion or aggregation, including aspirin, clopidogrel, dipyridamole, monoclonal antibodies and peptides.

being obese means having a Body Mass Index (BMI) of 30 or greater.

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

BMI means W/H^2 and where:

W is the person's weight in kilograms; and
H is the person's height in metres.

chronic kidney disease means an abnormality of kidney structure or function that has been present for at least three months.

Note: ***abnormality of kidney structure or function*** is also defined in the Schedule 1 - Dictionary.

diverticular disease of the colon—see subsection 7(2).

fibre in food means complex carbohydrates of plant origin consumed as vegetables, fruits or cereals which resist digestion by gastrointestinal enzymes in the gastrointestinal tract, and include plant cell walls and non-starch polysaccharides from sources other than cell walls, including cellulose and pectins.

immunosuppressive drug means a drug or an agent which results in substantial suppression of immune responses.

Note: Examples of an immunosuppressive drug include:

- (a) chemotherapeutic agents used for the treatment of cancer;
- (b) corticosteroids, other than inhaled or topical corticosteroids;
- (c) drugs used to prevent transplant rejection;
- (d) tumour necrosis factor- α inhibitors; and
- (e) interleukin-6 inhibitors.

MET means a unit of measurement of the level of physical exertion. 1 MET = 3.5 ml of oxygen/kg of body weight per minute, 1.0 kcal/kg of body weight per hour or resting metabolic rate.

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

pack-years of cigarettes, or the equivalent thereof in other tobacco products means a calculation of consumption where one pack-year of cigarettes equals 20 tailor-made cigarettes per day for a period of one calendar year, or 7 300 cigarettes. One tailor-made cigarette approximates one gram of tobacco or one gram of cigar or pipe tobacco by weight. One pack-year of tailor-made cigarettes equates to 7.3 kilograms of smoking tobacco by weight. Tobacco products mean cigarettes, pipe tobacco or cigars, smoked alone or in any combination.

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

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

Endnote 3—Legislation history

| Name | Registration | Commencement | Application, saving and transitional provisions |
|---|------------------------------|---------------------|--|
| <i>Statement of Principles concerning diverticular disease of the colon (Balance of Probabilities) (No. 16 of 2016)</i> | 8 March 2016 F2016L00266 | 4 April 2016 | |
| <i>Amendment Statement of Principles concerning diverticular disease of the colon (Balance of Probabilities) (No. 36 of 2020)</i> | 28 April 2020 F2020L00486 | 25 May 2020 | |

Endnote 4—Amendment history

| Provision affected | How affected |
|--|---------------------|
| Clause 9(6a)..... | ad. No. 36 of 2020 |
| Clause 9(14)..... | rs. No. 36 of 2020 |
| Schedule 1 – Dictionary – immunosuppressive drug..... | ad. No. 36 of 2020 |
| Schedule 1 – Dictionary – being treated with an immunosuppressive drug..... | rep. No. 36 of 2020 |