

REPATRIATION MEDICAL AUTHORITY

INSTRUMENT NO. 7 of 2011

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. 19 of 1996, determined under subsection 196B(2) of the VEA concerning **conductive hearing loss**.
2. The Authority is of the view that there is sound medical-scientific evidence that indicates that **conductive hearing loss** and **death from conductive hearing loss** 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 2011 concerning conductive hearing loss. 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 conductive hearing loss or death from conductive hearing loss, with the circumstances of that service.

5. This Instrument results from an investigation notified by the Authority in the Government Notices Gazette of 25 June 2008 concerning conductive hearing loss 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 this Instrument are in similar terms as the revoked Instrument. Comparing this Instrument and the revoked Instrument, the differences include:
 - adopting the latest revised Instrument format, which commenced in 2005;
 - deleting the ICD code from the Instrument header;
 - revising the definition of 'conductive hearing loss' in clause 3;
 - revising factors 6(a) & 6(i) concerning 'otosclerosis';
 - revising factors 6(b) & 6(j) concerning 'Paget's disease of bone';
 - revising factors 6(c) & 6(k) concerning 'otitic barotrauma or acoustic trauma';
 - revising factors 6(d) & 6(l) concerning 'structural injury or physiological disruption to the conductive hearing apparatus or surrounding bone';
 - revising factors 6(e) & 6(m) concerning 'permanent obstruction of the external auditory canal';
 - revising factors 6(f) & 6(n) concerning 'chronic otitis media';
 - new factors 6(g) & 6(o) concerning 'rheumatoid arthritis';
 - new factors 6(h) & 6(p) concerning 'a course of therapeutic radiation';
 - new definitions of 'a course of therapeutic radiation', 'air-bone gap', 'chronic otitis externa', 'conductive hearing apparatus', 'death from conductive hearing loss', 'exostosis', 'obstruction of the external auditory canal' and 'terminal event' in clause 9;
 - revising definitions of 'acoustic trauma', 'chronic otitis media', 'granuloma' and 'relevant service' in clause 9;
 - deleting definitions of 'ICD code', 'middle ear', 'obstruction of the auditory canal', 'otitic barotrauma', 'otosclerosis', 'Paget's disease of bone', 'penetrating injury to the middle ear' and 'significant head injury'; 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 conductive hearing loss in the Government Notices Gazette of 25 June 2008, 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.

9. The determining of this Instrument finalises the investigation in relation to conductive hearing loss as advertised in the Government Notices Gazette of 25 June 2008.
10. A list of references relating to the above condition is available to any person or organisation referred to in subsection 196E(1)(a) to (c) of the VEA. Any such request must be made in writing to the Repatriation Medical Authority at the following address:

The Registrar
Repatriation Medical Authority Secretariat
GPO Box 1014
BRISBANE QLD 4001