

**REPATRIATION MEDICAL AUTHORITY**

**INSTRUMENT NO. 49 of 2007 - Revocation**

***VETERANS’ ENTITLEMENTS ACT 1986***

***MILITARY REHABILITATION AND COMPENSATION ACT 2004***

# EXPLANATORY NOTES FOR TABLING

1. The Repatriation Medical Authority (the Authority) is of the view that congenital cataract does not have any factors which can be "related to service" as defined in the *Veterans’ Entitlements Act 1986* (the VEA). The Authority has therefore determined, under subsection 196B(14) of the VEA and subsection 33(3) of the *Acts Interpretation Act 1901*, a Statement of Principles, Instrument No. 49 of 2007 – Revocation, concerning congenital cataract. This Instrument revokes the existing Statement of Principles, Instrument No. 49 of 2007, determined under subsection 196B(2) of the VEA, concerning congenital cataract.
2. This Instrument also specifies a date of effect for the revocation in accordance with subsection 12(1)(a) of the *Legislative Instruments Act 2003*.
3. Prior to determining this Instrument, the Authority advertised its intention to undertake an investigation in relation to congenital cataract in the Government Notices Gazette of 31 October 2012, 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.
4. On 19 December 2014, the Authority wrote to organisations representing veterans, service personnel and their dependants regarding the proposed Instrument and the medical-scientific material considered by the Authority. This letter emphasised that the Authority is of the view that congenital cataract does not have factors which can be "related to service". The Authority provided an opportunity to the organisations to make representations in relation to the proposed Instrument prior to its determination. No submissions were received for consideration by the Authority.
5. The determining of this Instrument finalises the investigation in relation to congenital cataract as advertised in the Government Notices Gazette of 31 October 2012.
6. 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

GPO Box 1014

BRISBANE QLD 4001



**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. 49 of 2007 - Revocation**

**Kind of Injury, Disease or Death: Congenital cataract**

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(14) 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:-

* replaces Instrument No. 49 of 2007; and
* reflects developments in the available sound medical-scientific evidence concerning congenital cataract which have occurred since that earlier instrument was determined.

**Human Rights Implications**

3. 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'[[1]](#footnote-1);
* 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

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. [↑](#footnote-ref-1)