



Statement of Principles concerning non-melanotic malignant neoplasm of the skin (Balance of Probabilities) (No. 8 of 2016)

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 non-melanotic malignant neoplasm of the skin (Balance of Probabilities) (No. 8 of 2016)* 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If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.



Australian Government
Repatriation Medical Authority

Statement of Principles
concerning
NON-MELANOTIC MALIGNANT
NEOPLASM OF THE SKIN
(Balance of Probabilities)
(No. 8 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 1
Non-Melanotic Malignant Neoplasm Of The Skin (Balance of Probabilities) (No. 8 of 2016)
Veterans' Entitlements Act 1986

Contents

1	Name	3
2	Commencement	3
3	Authority	3
4	Revocation	3
5	Application.....	3
6	Definitions.....	3
7	Kind of injury, disease or death to which this Statement of Principles relates	3
8	Basis for determining the factors	4
9	Factors that must exist.....	4
10	Relationship to service	8
11	Factors referring to an injury or disease covered by another Statement of Principles.....	8
Schedule 1 - Dictionary		9
1	Definitions.....	9

1 Name

This is the Statement of Principles concerning *non-melanotic malignant neoplasm of the skin (Balance of Probabilities)* (No. 8 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 non-melanotic malignant neoplasm of the skin No. 82 of 2007, 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 non-melanotic malignant neoplasm of the skin and death from non-melanotic malignant neoplasm of the skin.

Meaning of non-melanotic malignant neoplasm of the skin

- (2) For the purposes of this Statement of Principles, non-melanotic malignant neoplasm of the skin means:
- (a) a primary malignant neoplasm arising from the cells of the skin; and
 - (b) includes non-melanotic malignant neoplasm of the lips and the skin of the external genitalia, squamous cell carcinoma, squamous cell carcinoma in situ (Bowen's disease), basal cell carcinoma and Merkel cell carcinoma; and

-
- (c) excludes non-melanotic malignant neoplasm of the mucosa lining the oral (inner) aspects of the lips and the anogenital mucosa, malignant melanoma of the skin, keratoacanthoma, solar keratosis, Paget's disease of the skin, Kaposi's sarcoma, soft tissue sarcoma, carcinoid tumour, non-Hodgkin's lymphoma and Hodgkin's lymphoma.

Death from non-melanotic malignant neoplasm of the skin

- (3) For the purposes of this Statement of Principles, non-melanotic malignant neoplasm of the skin, in relation to a person, includes death from a terminal event or condition that was contributed to by the person's non-melanotic malignant neoplasm of the skin.

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 non-melanotic malignant neoplasm of the skin and death from non-melanotic malignant neoplasm of the skin 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, non-melanotic malignant neoplasm of the skin or death from non-melanotic malignant neoplasm of the skin is connected with the circumstances of a person's relevant service:

- (1) having sunlight exposure to unprotected skin at the affected site for a cumulative period of at least 4 500 hours while in a tropical area, or having equivalent sunlight exposure in other latitude zones, before the clinical onset of non-melanotic malignant neoplasm of the skin;

Note: *equivalent sunlight exposure in other latitude zones*, *tropical area* and *unprotected skin* are defined in the Schedule 1 - Dictionary.

- (2) having ultraviolet radiation exposure to the affected site from an ultraviolet-emitting tanning device on more than 20 occasions before the clinical onset of non-melanotic malignant neoplasm of the skin, and where the first exposure occurred more than five years before the clinical onset of non-melanotic malignant neoplasm of the skin;

-
- (3) for basal cell carcinoma of the skin only:
- (a) having at least five episodes of sunburn as specified, at least five years before the clinical onset of non-melanotic malignant neoplasm of the skin;
- Note: *sunburn as specified* is defined in the Schedule 1 – Dictionary.
- (b) having received a cumulative equivalent dose of at least 0.5 sievert of ionising radiation to the affected site at least ten years before the clinical onset of non-melanotic malignant neoplasm of the skin; or
- Note: *cumulative equivalent dose* is defined in the Schedule 1 – Dictionary.
- (c) undergoing a course of therapeutic radiation for cancer, where the affected site was in the field of radiation, at least ten years before the clinical onset of non-melanotic malignant neoplasm of the skin;
- (4) for squamous cell carcinoma of the skin only:
- (a) smoking at least ten pack-years of cigarettes, or the equivalent thereof in other tobacco products, before the clinical onset of non-melanotic malignant neoplasm of the skin, and:
- (i) smoking commenced at least ten years before the clinical onset of non-melanotic malignant neoplasm of the skin; and
- (ii) where smoking has ceased, the clinical onset of non-melanotic malignant neoplasm of the skin 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.
- (b) having hidradenitis suppurativa involving the affected site, at least one year before the clinical onset of non-melanotic malignant neoplasm of the skin;
- Note: *hidradenitis suppurativa* is defined in the Schedule 1 - Dictionary.
- (c) being treated with a BRAF inhibitor at the time of the clinical onset of non-melanotic malignant neoplasm of the skin; or
- (d) being treated with voriconazole for a continuous period of at least the two months before the clinical onset of non-melanotic malignant neoplasm of the skin;

-
- (5) for squamous cell carcinoma of the lip only, smoking at least five pack-years of cigarettes, or the equivalent thereof in other tobacco products, before the clinical onset of non-melanotic malignant neoplasm of the skin, and:
- (a) smoking commenced at least ten years before the clinical onset of non-melanotic malignant neoplasm of the skin; and
 - (b) where smoking has ceased, the clinical onset of non-melanotic malignant neoplasm of the skin has occurred within ten years of cessation;

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

- (6) for non-melanotic malignant neoplasm of the scrotum only, having cutaneous contact of the affected site with shale oil, untreated or mildly treated mineral oils, or soot during the cleaning of chimneys or flues:
- (a) for a cumulative period of at least 1 500 hours, before the clinical onset of non-melanotic malignant neoplasm of the skin; and
 - (b) the first cutaneous contact occurred at least five years before the clinical onset of non-melanotic malignant neoplasm of the skin;

Note: *soot* and *untreated or mildly treated mineral oils* are defined in the Schedule 1 – Dictionary.

- (7) for non-melanotic malignant neoplasm of the skin of the anogenital region only, having lichen sclerosis involving the affected site at the time of the clinical onset of non-melanotic malignant neoplasm of the skin;

- (8) for squamous cell carcinoma of the anogenital skin only, acquiring persistent infection with an oncogenic human papilloma virus before the clinical onset of non-melanotic malignant neoplasm of the skin;

Note: *oncogenic human papilloma virus* is defined in the Schedule 1 - Dictionary.

- (9) for non-melanotic malignant neoplasm of the glans penis or prepuce of the penis only, having phimosis for a continuous period of at least two years before the clinical onset of non-melanotic malignant neoplasm of the skin;

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

- (10) for Merkel cell carcinoma only, being infected with Merkel cell polyomavirus before the clinical onset of non-melanotic malignant neoplasm of the skin;

-
- (11) being exposed to arsenic as specified before the clinical onset of non-melanotic malignant neoplasm of the skin, where the first exposure to arsenic occurred at least ten years before the clinical onset of non-melanotic malignant neoplasm of the skin;

Note: *being exposed to arsenic as specified* is defined in the Schedule 1 - Dictionary.

- (12) undergoing solid organ or bone marrow transplantation before the clinical onset of non-melanotic malignant neoplasm of the skin;
- (13) being treated with an immunosuppressive drug within the five years before the clinical onset of non-melanotic malignant neoplasm of the skin;

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

- (14) having non-Hodgkin's lymphoma or chronic lymphocytic leukaemia/small lymphocytic lymphoma before the clinical onset of non-melanotic malignant neoplasm of the skin;
- (15) being infected with human immunodeficiency virus before the clinical onset of non-melanotic malignant neoplasm of the skin;
- (16) undergoing PUVA therapy involving the affected site where:
- (a) the first PUVA treatment commenced at least five years before the clinical onset of non-melanotic malignant neoplasm of the skin; and
 - (b) at least 50 PUVA treatments were administered before the clinical onset of non-melanotic malignant neoplasm of the skin;

Note: *PUVA* is defined in the Schedule 1 – Dictionary.

- (17) having cutaneous contact of the affected site with concentrated coal tar distillates:
- (a) for a cumulative period of at least 3 000 hours, before the clinical onset of non-melanotic malignant neoplasm of the skin; and
 - (b) the first cutaneous contact occurred at least ten years before the clinical onset of non-melanotic malignant neoplasm of the skin;
- (18) having a scar involving the affected site at the time of the clinical onset of non-melanotic malignant neoplasm of the skin, where the scar is the result of an injury that occurred, or a disease process that commenced, at least ten years before the clinical onset of non-melanotic malignant neoplasm of the skin;

-
- (19) having ulceration involving the affected site, for a continuous period of at least one year, within the two years before the clinical onset of non-melanotic malignant neoplasm of the skin;
 - (20) having chronic osteomyelitis involving the affected site, with a cutaneous sinus tract draining to the affected site, within the two years before the clinical onset of non-melanotic malignant neoplasm of the skin;
 - (21) inability to obtain appropriate clinical management for non-melanotic malignant neoplasm of the skin.

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(21) applies only to material contribution to, or aggravation of, non-melanotic malignant neoplasm of the skin where the person's non-melanotic malignant neoplasm of the skin 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:

being exposed to arsenic as specified means:

- (a) consuming arsenic containing compounds (for example, Fowler's solution) for a cumulative period of at least three months; or
- (b) consuming drinking water with an average arsenic concentration of at least 50 micrograms per litre for a cumulative period of at least five years; or
- (c) inhaling, ingesting or having cutaneous contact with a pesticide containing arsenic, or arsenic in copper smelting operations, for a cumulative period of at least 1 000 hours; or
- (d) having clinical evidence of chronic arsenic toxicity.

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.

equivalent sunlight exposure in other latitude zones means the cumulative hours of sunlight exposure equivalent to that specified for a tropical area, calculated by multiplying the hours of exposure in each latitude zone by the latitude weighting factor for the zone as per the latitude weighting factor schedule and adding together the result for each zone:

Latitude weighting factor schedule

Latitude zone	Latitude weighting factor
a latitude between 23° 27' South and 23° 27' North	1.0
a latitude from > 23° 27' to 35°	0.75
a latitude from > 35° to 45°	0.5
a latitude from > 45° to 65°	0.25.

hidradenitis suppurativa means a chronic skin disease of the terminal follicular epithelium in the apocrine gland-bearing skin, characterised by comedo-like follicular occlusion, chronic relapsing inflammation, mucopurulent discharge, and progressive scarring.

immunosuppressive drug means a drug or an agent which results in substantial suppression of immune responses. This definition includes corticosteroids other than inhaled or topical corticosteroids, drugs used to prevent transplant rejection, tumour necrosis factor- α inhibitors and chemotherapeutic agents used for the treatment of cancer.

lip means the lipstick region of the lip and includes the vermilion borders and commissures of the lips.

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

non-melanotic malignant neoplasm of the skin—see subsection 7(2).

oncogenic human papilloma virus means human papilloma virus type 16, 18 or 33.

pack-years of cigarettes, or the equivalent thereof in other tobacco products means a calculation of consumption where one pack-year of cigarettes equals twenty 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.

phimosis means a circumferential fibrosis of preputial tissue that leads to narrowing and an inability to retract the penile foreskin over the glans penis.

PUVA means photochemotherapy with oral methoxsalen (psoralen) and ultraviolet A radiation.

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.

soot means a carbonaceous by-product material produced from the incomplete combustion of fossil fuel or other carbon-containing material, including airborne residual pyrolysed fuel particles such as coal, cenospheres, charred wood and petroleum coke.

sunburn as specified means painful erythema of the skin of at least 48 hours duration, or blistering of the skin, resulting from exposure to solar ultraviolet radiation.

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.

tropical area means any area between the Tropic of Capricorn (23° 27' South) and the Tropic of Cancer (23° 27' North).

unprotected skin means skin that is directly exposed to the sun and is not protected by sunscreen, clothing or other physical barrier.

untreated or mildly treated mineral oils means chemical substances prepared from naturally occurring crude petroleum oil, and which have not been highly or severely refined to remove polycyclic aromatic hydrocarbons by processes of solvent extraction or hydro treatment. This definition includes lubricant products such as engine oils, transmission fluids, gear oils, hydraulic fluids and metalworking fluids; and non-lubricant products such as agricultural spray oils, printing inks, and tyre oil, but excludes cosmetic, pharmaceutical and food products.

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

Endnote 3—Legislation history

Name	Registration	Commencement	Application, saving and transitional provisions
<i>Statement of Principles concerning non-melanotic malignant neoplasm of the skin (Balance of Probabilities) (No. 8 of 2016)</i>	7 March 2016 F2016L00241	4 April 2016	
<i>Veterans' Entitlements (Statements of Principles—Cumulative Equivalent Dose) Amendment Determination 2017 (No. 58 of 2017)</i>	22 August 2017 F2017L01067	18 September 2017	

*Statement of Principles concerning
Non-Melanotic Malignant Neoplasm Of The Skin (Balance of Probabilities) (No. 8 of 2016)
Veterans' Entitlements Act 1986*

14

Endnote 4—Amendment history

Provision affected	How affected
Schedule 1 – Dictionary – 'cumulative equivalent dose'.....'	rs. No. 58 of 2017
