



Statement of Principles concerning ulnar neuropathy at the elbow (Balance of Probabilities) (No. 66 of 2017)

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 ulnar neuropathy at the elbow (Balance of Probabilities) (No. 66 of 2017) (F2020L00508)

The day of commencement of this Amendment Statement of Principles concerning ulnar neuropathy at the elbow 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 ulnar neuropathy at the elbow (Balance of Probabilities)* (No. 66 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If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.



Australian Government
Repatriation Medical Authority

**Statement of Principles
concerning
ULNAR NEUROPATHY AT THE ELBOW
(Balance of Probabilities)
(No. 66 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
Ulnar Neuropathy At The Elbow (Balance of Probabilities) (No. 66 of 2017)
Veterans' Entitlements Act 1986*

1

Contents

1	Name.....	3
2	Commencement	3
3	Authority	3
4	Application.....	3
5	Definitions.....	3
6	Kind of injury, disease or death to which this Statement of Principles relates	3
7	Basis for determining the factors	4
8	Factors that must exist.....	4
9	Relationship to service	8
10	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 *ulnar neuropathy at the elbow (Balance of Probabilities)* (No. 66 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 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.

5 Definitions

The terms defined in the Schedule 1 - Dictionary have the meaning given when used in this instrument.

6 Kind of injury, disease or death to which this Statement of Principles relates

- (1) This Statement of Principles is about ulnar neuropathy at the elbow and death from ulnar neuropathy at the elbow.

*Meaning of **ulnar neuropathy at the elbow***

- (2) For the purposes of this Statement of Principles, ulnar neuropathy at the elbow means an acquired persistent disturbance of function of the ulnar nerve in the region of the elbow, in the presence of:

- (a) altered sensation, pain or weakness in the distribution of the ulnar nerve; and
- (b) electrodiagnostic evidence that confirms impaired ulnar nerve conduction across the elbow.

Note 1: Ulnar nerve dysfunction may be localised to the arcade of Struthers, the medial intermuscular septum of the arm, the retroepicondylar groove of the medial epicondyle, humeroulnar aponeurotic arcade (cubital tunnel), or the outlet from flexor carpi ulnaris muscle (deep flexor pronator aponeurosis).

Note 2: Ulnar neuropathy at the elbow may coexist with carpal tunnel syndrome.

*Death from **ulnar neuropathy at the elbow***

- (3) For the purposes of this Statement of Principles, ulnar neuropathy at the elbow, in relation to a person, includes death from a terminal event or condition that was contributed to by the person's ulnar neuropathy at the elbow.

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

7 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 ulnar neuropathy at the elbow and death from ulnar neuropathy at the elbow 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.

8 Factors that must exist

At least one of the following factors must exist before it can be said that, on the balance of probabilities, ulnar neuropathy at the elbow or death from ulnar neuropathy at the elbow is connected with the circumstances of a person's relevant service:

- (1) having a fracture of the bones of the affected elbow, including fracture of the medial epicondyle of the humerus, before the clinical onset of ulnar neuropathy at the elbow;
- (2) having trauma to the affected elbow within the one year before the clinical onset of ulnar neuropathy at the elbow;

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

- (3) performing repetitive and forceful activities involving flexion and extension of the affected elbow:
- (a) for a cumulative period of at least 90 hours, within a continuous period of three months before the clinical onset of ulnar neuropathy at the elbow; and
- (b) where the repetitive and forceful activities have not ceased more than 30 days before the clinical onset of ulnar neuropathy at the elbow;

Note: Examples of repetitive and forceful activities include lifting, moving or carrying a load greater than ten kilograms, using hand saws or using large, hand-held power machinery, climbing vertical ladders, ammunitioning, using a hand-held piece of equipment such as a jackhammer or shovel, and overhead throwing.

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- (4) having a surgical procedure under general anaesthesia, within the one month before the clinical onset of ulnar neuropathy at the elbow;
 - (5) having a surgical procedure to the affected elbow, including elbow arthroscopy, within the six months before the clinical onset of ulnar neuropathy at the elbow;
 - (6) being hospitalised, or confined to bed in a supine position, for at least two days within the two weeks before the clinical onset of ulnar neuropathy at the elbow;
 - (7) daily self-propulsion of a manual wheelchair:
 - (a) for a cumulative period of at least 60 hours within a continuous period of three months before the clinical onset of ulnar neuropathy at the elbow; and
 - (b) where this activity has not ceased more than 30 days before the clinical onset of ulnar neuropathy at the elbow;
 - (8) having paraplegia at the time of the clinical onset of ulnar neuropathy at the elbow;
 - (9) using elbow or forearm crutches:
 - (a) for a cumulative period of at least 60 hours within a continuous period of three months before the clinical onset of ulnar neuropathy at the elbow; and
 - (b) where this activity has not ceased more than 30 days before the clinical onset of ulnar neuropathy at the elbow;
 - (10) having an inflammatory or degenerative joint disease from the specified list of specified list of inflammatory and degenerative joint diseases, involving the affected elbow, at the time of the clinical onset of ulnar neuropathy at the elbow;

Note: *specified list of inflammatory and degenerative joint diseases* is defined in the Schedule 1 - Dictionary.

- (11) having amyloidosis at the time of the clinical onset of ulnar neuropathy at the elbow;
Note: *amyloidosis* is defined in the Schedule 1 - Dictionary.
- (12) having a cerebrovascular accident with hemiplegia, excluding transient ischaemic attack or transient symptoms with infarction, before the clinical onset of ulnar neuropathy at the elbow;
- (13) having an external burn to the affected arm requiring hospitalisation, within the two years before the clinical onset of ulnar neuropathy at the elbow;

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- (14) having an infection involving the affected ulnar nerve in the region of the elbow at the time of the clinical onset of ulnar neuropathy at the elbow;

Note: Examples of an infection involving the affected ulnar nerve include *Mycobacterium leprae* (leprosy) and tuberculosis.

- (15) having a lesion as specified at the elbow that compresses or displaces the affected ulnar nerve at the time of the clinical onset of ulnar neuropathy at the elbow;

Note: **lesion as specified** is defined in the Schedule 1 - Dictionary.

- (16) having acromegaly before the clinical onset of ulnar neuropathy at the elbow;

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

- (17) having a fracture of the bones of the affected elbow, including fracture of the medial epicondyle of the humerus, before the clinical worsening of ulnar neuropathy at the elbow;

- (18) having trauma to the affected elbow within the one year before the clinical worsening of ulnar neuropathy at the elbow;

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

- (19) performing repetitive and forceful activities involving flexion and extension of the affected elbow:
- (a) for a cumulative period of at least 90 hours, within a continuous period of three months before the clinical worsening of ulnar neuropathy at the elbow; and
 - (b) where the repetitive and forceful activities have not ceased more than 30 days before the clinical worsening of ulnar neuropathy at the elbow;

Note: Examples of repetitive and forceful activities include lifting, moving or carrying a load greater than ten kilograms, using hand saws or using large, hand-held power machinery, climbing vertical ladders, ammunitioning, using a hand-held piece of equipment such as a jackhammer or shovel, and overhead throwing.

- (20) having a surgical procedure under general anaesthesia, within the one month before the clinical worsening of ulnar neuropathy at the elbow;

- (21) having a surgical procedure to the affected elbow, including elbow arthroscopy, within the six months before the clinical worsening of ulnar neuropathy at the elbow;

- (22) being hospitalised, or confined to bed in a supine position, for at least two days within the two weeks before the clinical worsening of ulnar neuropathy at the elbow;

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- (23) daily self-propulsion of a manual wheelchair:
- (a) for a cumulative period of at least 60 hours within a continuous period of three months before the clinical worsening of ulnar neuropathy at the elbow; and
 - (b) where this activity has not ceased more than 30 days before the clinical worsening of ulnar neuropathy at the elbow;
- (24) having paraplegia at the time of the clinical worsening of ulnar neuropathy at the elbow;
- (25) using elbow or forearm crutches:
- (a) for a cumulative period of at least 60 hours within a continuous period of three months before the clinical worsening of ulnar neuropathy at the elbow; and
 - (b) where this activity has not ceased more than 30 days before the clinical worsening of ulnar neuropathy at the elbow;
- (26) having an inflammatory or degenerative joint disease from the specified list of specified list of inflammatory and degenerative joint diseases, involving the affected elbow, at the time of the clinical worsening of ulnar neuropathy at the elbow;
- Note: *specified list of inflammatory and degenerative joint diseases* is defined in the Schedule 1 - Dictionary.
- (27) having amyloidosis at the time of the clinical worsening of ulnar neuropathy at the elbow;
- Note: *amyloidosis* is defined in the Schedule 1 - Dictionary.
- (28) having a cerebrovascular accident with hemiplegia, excluding transient ischaemic attack or transient symptoms with infarction, before the clinical worsening of ulnar neuropathy at the elbow;
- (29) having an external burn to the affected arm requiring hospitalisation, within the two years before the clinical worsening of ulnar neuropathy at the elbow;
- (30) having an infection involving the affected ulnar nerve in the region of the elbow at the time of the clinical worsening of ulnar neuropathy at the elbow;
- Note: Examples of an infection involving the affected ulnar nerve include *Mycobacterium leprae* (leprosy) and tuberculosis.
- (31) having a lesion as specified at the elbow that compresses or displaces the affected ulnar nerve at the time of the clinical worsening of ulnar neuropathy at the elbow;

Note: *lesion as specified* is defined in the Schedule 1 - Dictionary.

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- (32) having acromegaly before the clinical worsening of ulnar neuropathy at the elbow;

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

- (33) inability to obtain appropriate clinical management for ulnar neuropathy at the elbow.

9 Relationship to service

- (1) The existence in a person of any factor referred to in section 8, must be related to the relevant service rendered by the person.
- (2) The factors set out in subsections 8(17) to 8(33) apply only to material contribution to, or aggravation of, ulnar neuropathy at the elbow where the person's ulnar neuropathy at the elbow was suffered or contracted before or during (but did not arise out of) the person's relevant service.

10 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 8 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 5

1 Definitions

In this instrument:

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

amyloidosis means the accumulation of insoluble fibrillar proteins in organs or tissues of the body such that vital function is compromised.

lesion as specified means:

- (a) benign or malignant neoplasm;
- (b) bony fragment or foreign body;
- (c) calcification;
- (d) cyst;
- (e) ganglion;
- (f) gouty tophus;
- (g) haemorrhage or haematoma;
- (h) lymphoedema;
- (i) scar;
- (j) tuberculoma; or
- (k) another pathological lesion that compresses or displaces the ulnar nerve.

Note: This definition includes thickening, scarring or calcification of the ulnar collateral ligament.

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

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.

specified list of inflammatory and degenerative joint diseases means:

- (a) amyloid arthropathy;
- (b) gout;
- (c) haemophilic arthropathy;
- (d) neuropathic arthropathy;
- (e) nodular fasciitis;
- (f) osteoarthritis;
- (g) other inflammatory arthritis requiring treatment with a disease modifying agent or a biological agent;
- (h) rheumatoid arthritis;

- (i) sarcoidosis;
- (j) systemic lupus erythematosus; or
- (k) systemic sclerosis.

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 elbow means a discrete event involving the application of significant physical force to or through the affected elbow 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, tenderness and altered range of movement of the elbow 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 elbow joint by splinting or similar external agent;
 - (ii) injection of a corticosteroid or local anaesthetic into that joint; or
 - (iii) surgery to that joint.

Note: Examples of acute trauma include dislocation of the elbow joint, tearing or stretching of the ulnar collateral ligament, and medial epicondyle apophysitis.

ulnar neuropathy at the elbow—see subsection 6(2).

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 ulnar neuropathy at the elbow (Balance of Probabilities) (No. 66 of 2017)</i>	7 November 2017 F2017L01452	4 December 2017	
<i>Amendment Statement of Principles concerning ulnar neuropathy at the elbow (Balance of Probabilities) (No. 45 of 2020)</i>	28 April 2020 F2020L00508	25 May 2020	

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Schedule 1 – Dictionary – trauma to the affected elbow.....	rs. No. 45 of 2020