



Australian Government
Repatriation Medical Authority

Statement of Principles
concerning
MESOTHELIOMA
(Balance of Probabilities)
(No. 42 of 2024)

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

Dated 21 June 2024.

Professor Terence Campbell AM
Chairperson
by and on behalf of
The Repatriation Medical Authority

Contents

1 Name3

2 Commencement3

3 Authority3

4 Repeal3

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 factors4

9 Factors that must exist4

10 Relationship to service5

11 Factors referring to an injury or disease covered by another Statement of Principles.....5

Schedule 1 - Dictionary6

1 Definitions.....6

1 Name

This is the Statement of Principles concerning *mesothelioma (Balance of Probabilities)* (No. 42 of 2024).

2 Commencement

This instrument commences on 23 July 2024.

3 Authority

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

4 Repeal

The Statement of Principles concerning mesothelioma No. 105 of 2015 (Federal Register of Legislation No. F2015L01320) made under subsections 196B(3) and (8) of the VEA is repealed.

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 mesothelioma and death from mesothelioma.

Meaning of mesothelioma

- (2) For the purposes of this Statement of Principles, mesothelioma:
- (a) means a primary malignant neoplasm of the mesothelial cells that are located in the visceral and parietal mesothelium of the pleura, pericardium, peritoneum and tunica vaginalis testis; and
 - (b) excludes soft tissue sarcoma, carcinoid tumour, non-Hodgkin lymphoma and Hodgkin lymphoma.
- (3) While mesothelioma attracts ICD-10-AM code C45, in applying this Statement of Principles the meaning of mesothelioma 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), Tenth Edition, effective date of 1 July 2017, copyrighted by the Independent Hospital Pricing Authority, ISBN 978-1-76007-296-4.

*Death from **mesothelioma***

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

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 mesothelioma and death from mesothelioma can be related to relevant service rendered by veterans or members of the Forces under the VEA, or members under the MRCA.

Note: **MRCA**, **relevant service** and **VEA** are 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, mesothelioma or death from mesothelioma is connected with the circumstances of a person's relevant service:

- (1) inhaling asbestos fibres in an enclosed space:
 - (a) at the time material containing asbestos fibres was being applied, removed, dislodged, cut or drilled; and
 - (b) the first inhalation of asbestos fibres occurred at least 20 years before clinical onset;
 - (2) inhaling asbestos fibres in an open environment for a cumulative period of at least 1,000 hours before the clinical onset of mesothelioma:
 - (a) at the time material containing asbestos fibres was being applied, removed, dislodged, cut or drilled; and
 - (b) the first inhalation of asbestos fibres occurred at least 20 years before clinical onset;
 - (3) having asbestosis at the time of clinical onset;
 - (4) inhaling fluoro-edenite fibres at a concentration of at least 1.76 fibres per litre on more days than not for at least 10 years, at least 25 years before clinical onset of pleural or peritoneal mesothelioma;
- Note: **fluoro-edenite** is defined in the Schedule 1 - Dictionary.
- (5) inhaling erionite fibres at a concentration of at least 0.3 fibres/cm³, every day for at least 10 years, at least 25 years before clinical onset;

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

- (6) having received a cumulative equivalent dose of at least 0.5 sievert of ionising radiation to the affected region at least 10 years before clinical onset;

Note: *cumulative equivalent dose* is defined in the Schedule 1 – Dictionary.

- (7) having received ablative radiotherapy for the treatment of cancer at least 10 years before clinical onset, with the mesothelioma occurring within the original field of radiation;
- (8) firefighting for a cumulative period of at least 1,000 hours before the clinical onset of mesothelioma, where the firefighting commenced at least 20 years before clinical onset;

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

- (9) inability to obtain appropriate clinical management for mesothelioma before clinical worsening.

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(9) applies only to material contribution to, or aggravation of, mesothelioma where the person's mesothelioma 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:

cumulative equivalent dose means the total dose of ionising radiation received by the particular organ or tissue. The formula used to calculate the cumulative equivalent dose allows doses from multiple types of ionising radiation to be combined, by accounting for their differing biological effect. The unit of equivalent dose is the sievert. For the purposes of this Statement of Principles, the calculation of cumulative equivalent dose excludes doses received from normal background radiation, but includes therapeutic radiation, diagnostic radiation, cosmic radiation at high altitude, radiation from occupation-related sources and radiation from nuclear explosions or accidents.

erionite means a naturally occurring fibrous mineral that belongs to a group of minerals called zeolites. Erionite is not classed as asbestos, but it can grow as long thin fibres that are morphologically similar to asbestos (asbestiform).

Note: Whilst erionite can be found in many parts of the world, thus far confirmed cases of mesothelioma caused by its inhalation have been restricted to Turkey, Greece, Cyprus, and Mexico.

firefighting means being involved in the direct combat of fires, including activities to control, extinguish, mop-up or prevent fires, or participating in training activities involving fires.

fluoro-edenite means a naturally occurring fibrous mineral that belongs to a group of minerals called amphiboles.

Note: Whilst fluoro-edenite can be found in many parts of the world, thus far confirmed cases of mesothelioma caused by its inhalation have been restricted to Sicily.

mesothelioma—see subsection 7(2).

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.

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*.