



Statement of Principles concerning malignant neoplasm of the oesophagus (Reasonable Hypothesis) (No. 120 of 2015)

made under subsection 196B(2) of the

Veterans' Entitlements Act 1986

Compilation No. 1

Compilation date: 23 January 2017

Includes amendments up to: Amendment Statement of Principles concerning malignant neoplasm of the oesophagus (Reasonable Hypothesis) No. 21 of 2017 (F2017L00018)

The day of commencement of this Amendment Statement of Principles concerning malignant neoplasm of the oesophagus is 23 January 2017.

Prepared by the Repatriation Medical Authority Secretariat, Brisbane

About this compilation

This compilation

This is a compilation of the *Statement of Principles concerning malignant neoplasm of the oesophagus No.120 of 2015* that shows the text of the law as amended and in force on 23 January 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If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.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
MALIGNANT NEOPLASM OF THE
OESOPHAGUS
(Reasonable Hypothesis)
(No. 120 of 2015)

The Repatriation Medical Authority determines the following Statement of Principles under subsection 196B(2) of the *Veterans' Entitlements Act 1986*.

Statement of Principles concerning
Malignant Neoplasm Of The Oesophagus (Reasonable Hypothesis)
(No. 120 of 2015)
Veterans' Entitlements Act 1986

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1 Name

This is the Statement of Principles concerning *malignant neoplasm of the oesophagus (Reasonable Hypothesis)* (No. 120 of 2015).

2 Commencement

This instrument commences on 16 November 2015.

3 Authority

This instrument is made under subsection 196B(2) of the *Veterans' Entitlements Act 1986*.

4 Revocation

The Statement of Principles concerning malignant neoplasm of the oesophagus No. 41 of 2007, as amended, made under subsections 196B(2) and (8) of the VEA is revoked.

5 Application

This instrument applies to a claim to which section 120A of the VEA or section 338 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 malignant neoplasm of the oesophagus and death from malignant neoplasm of the oesophagus.

Meaning of malignant neoplasm of the oesophagus

- (2) For the purposes of this Statement of Principles, malignant neoplasm of the oesophagus means:
- (a) a primary malignant neoplasm arising from the cells of the oesophagus. The oesophagus is defined as the structure which begins proximally with the lower border of the hypopharynx and extends distally to the lower border of the oesophageal sphincter; and
 - (b) excludes soft tissue sarcoma, carcinoid tumour, non-Hodgkin's lymphoma and Hodgkin's lymphoma.

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- (3) While malignant neoplasm of the oesophagus attracts ICD-10-AM code C15, in applying this Statement of Principles the meaning of malignant neoplasm of the oesophagus 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)*, Ninth Edition, effective date of 1 July 2015, copyrighted by the Independent Hospital Pricing Authority, ISBN 978-1-76007-020-5.

*Death from **malignant neoplasm of the oesophagus***

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

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

8 Basis for determining the factors

The Repatriation Medical Authority is of the view that there is sound medical-scientific evidence that indicates that malignant neoplasm of the oesophagus and death from malignant neoplasm of the oesophagus can be related to relevant service rendered by veterans, members of Peacekeeping Forces, 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 as a minimum exist before it can be said that a reasonable hypothesis has been raised connecting malignant neoplasm of the oesophagus or death from malignant neoplasm of the oesophagus with the circumstances of a person's relevant service:

- (1) smoking at least 2.5 pack-years of cigarettes, or the equivalent thereof in other tobacco products, before the clinical onset of malignant neoplasm of the oesophagus, and:
 - (a) smoking commenced at least five years before the clinical onset of malignant neoplasm of the oesophagus; and
 - (b) where smoking has ceased, the clinical onset of malignant neoplasm of the oesophagus has occurred within 20 years of cessation;

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

- (2) the oral use of smokeless tobacco on more days than not, for at least five years before the clinical onset of malignant neoplasm of the oesophagus, and where the oral use of smokeless tobacco has ceased, the clinical onset of malignant neoplasm of the oesophagus has occurred within 15 years of cessation;

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

- (3) having received a cumulative equivalent dose of at least 0.1 sievert of ionising radiation to the oesophagus at least five years before the clinical onset of malignant neoplasm of the oesophagus;

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

- (4) inhaling respirable asbestos fibres in an enclosed space:
- (a) for a cumulative period of at least 1 000 hours before the clinical onset of malignant neoplasm of the oesophagus; and
 - (b) at the time material containing respirable asbestos fibres was being applied, removed, dislodged, cut or drilled; and
 - (c) the first inhalation of respirable asbestos fibres commenced at least five years before the clinical onset of malignant neoplasm of the oesophagus;
- (5) inhaling respirable asbestos fibres in an open environment:
- (a) for a cumulative period of at least 3 000 hours before the clinical onset of malignant neoplasm of the oesophagus; and
 - (b) at the time material containing respirable asbestos fibres was being applied, removed, dislodged, cut or drilled; and
 - (c) the first inhalation of respirable asbestos fibres commenced at least five years before the clinical onset of malignant neoplasm of the oesophagus;
- (6) for squamous cell or undifferentiated carcinoma of the oesophagus only:
- (a) drinking at least 180 kilograms of alcohol before the clinical onset of malignant neoplasm of the oesophagus;
 - (b) having a caustic burn of the oesophagus, at least ten years before the clinical onset of malignant neoplasm of the oesophagus;
 - (c) having Plummer-Vinson syndrome at the time of the clinical onset of malignant neoplasm of the oesophagus;
 - (d) drinking maté on more days than not for at least five years before the clinical onset of malignant neoplasm of the oesophagus, and where drinking maté has ceased, the clinical onset of malignant neoplasm of the oesophagus has occurred within 15 years of cessation; or
 - (e) acquiring persistent infection of the epithelium of the oesophagus with a strain from the specified list of human

papilloma virus (HPV) strains before the clinical onset of malignant neoplasm of the oesophagus;

Note: *alcohol*, *Plummer-Vinson syndrome* and *specified list of human papilloma virus (HPV) strains* are defined in the Schedule 1 - Dictionary.

- (7) for adenocarcinoma or undifferentiated carcinoma of the oesophagus only:
- (a) being obese for at least five years within the 20 years before the clinical onset of malignant neoplasm of the oesophagus;
 - (b) having Barrett's oesophagus before the clinical onset of malignant neoplasm of the oesophagus; or
 - (c) having gastro-oesophageal reflux disease for at least the five years before the clinical onset of malignant neoplasm of the oesophagus;

Note: *Barrett's oesophagus* and *being obese* are defined in the Schedule 1 - Dictionary.

- (8) having achalasia at the time of the clinical onset of malignant neoplasm of the oesophagus;

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

- (9) having pernicious anaemia for at least the five years before the clinical onset of malignant neoplasm of the oesophagus;

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

- (10) chewing betel quid or areca nut on more days than not for at least five years before the clinical onset of malignant neoplasm of the oesophagus, and where chewing betel quid or areca nut has ceased, the clinical onset of malignant neoplasm of the oesophagus has occurred within 15 years of cessation;

- (11) consuming an average daily intake of at least 100 grams per day of red meat, for at least ten years within the 25 years before the clinical onset of malignant neoplasm of the oesophagus;

- (12) consuming an average daily intake of at least 25 grams per day of processed meat product, for at least ten years within the 25 years before the clinical onset of malignant neoplasm of the oesophagus;

Note: *processed meat product* is defined in the Schedule 1 - Dictionary.

- (13) consuming hot beverages on more days than not for at least ten years before the clinical onset of malignant neoplasm of the oesophagus, and where consuming hot beverages has ceased, the clinical onset of malignant neoplasm of the oesophagus has occurred within ten years of cessation;

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

- (14) an inability to consume an average of at least 200 grams per day of any combination of fruits and vegetables, for at least five consecutive years within the 25 years before the clinical onset of malignant neoplasm of the oesophagus;
 - (15) having at least daily consumption of preserved vegetables for at least five years within the 25 years before the clinical onset of malignant neoplasm of the oesophagus;
- Note: *preserved vegetables* is defined in the Schedule 1 - Dictionary.
- (16) inability to perform effective personal dental hygiene for a continuous period of at least three months, within the five years before the clinical onset of malignant neoplasm of the oesophagus;
 - (17) inhaling, ingesting or having cutaneous contact with tetrachloroethylene for a cumulative period of at least 1 000 hours before the clinical onset of malignant neoplasm of the oesophagus, where the first exposure occurred at least ten years before the clinical onset of malignant neoplasm of the oesophagus;
 - (18) inability to obtain appropriate clinical management for malignant neoplasm of the oesophagus.

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(18) applies only to material contribution to, or aggravation of, malignant neoplasm of the oesophagus where the person's malignant neoplasm of the oesophagus 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(2) 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:

achalasia means failure of the lower oesophageal sphincter to relax with swallowing, due to degeneration of ganglion cells in the oesophageal wall. The thoracic oesophagus also loses its normal peristaltic activity and becomes dilated.

alcohol is measured by the alcohol consumption calculations utilising the Australian Standard of ten grams of alcohol per standard alcoholic drink.

Barrett's oesophagus means metaplasia of the epithelium of the lower oesophagus from the normal stratified squamous epithelium to abnormal columnar epithelium.

being obese means having a Body Mass Index (BMI) of 30 or greater.

$BMI = W/H^2$ and where:

W is the person's weight in kilograms; and

H is the person's height in metres.

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.

hot beverages means beverages that are consumed at temperatures of at least 60 degrees Celsius.

malignant neoplasm of the oesophagus—see subsection 7(2).

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

pack-years of cigarettes, or the equivalent thereof in other tobacco products means a calculation of consumption where one pack-year of cigarettes equals 20 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.

pernicious anaemia means a type of megaloblastic anaemia usually seen in older adults, involving impaired intestinal absorption of vitamin B12 due to lack of availability of intrinsic factor. It is characterised by pallor, achlorhydria, glossitis, gastric mucosal atrophy, weakness, antibodies against gastric parietal cells or intrinsic factor, and neurologic manifestations.

Plummer-Vinson syndrome means the triad of dysphagia, iron deficient anaemia, and oesophageal webs. It is also known as Paterson-Kelly syndrome and sideropenic dysphagia.

preserved vegetables means vegetables preserved by salting, fermenting or pickling.

processed meat product means preserved or cured meats, including ham, frankfurters, salami and bacon.

relevant service means:

- (a) operational service under the VEA;
- (b) peacekeeping service under the VEA;
- (c) hazardous service under the VEA;
- (d) British nuclear test defence service under the VEA;
- (e) warlike service under the MRCA; or
- (f) non-warlike service under the MRCA.

smokeless tobacco means tobacco products without combustion or pyrolysis at the time of use, including chewing tobacco and tobacco snuff.

specified list of human papilloma virus (HPV) strains means HPV type 6, 11, 16, 18, 30, 31 or 33.

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*.

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)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(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 malignant neoplasm of the oesophagus (Reasonable Hypothesis) No. 120 of 2015</i>	22 October 2015 F2015L01685	16 November 2015	
<i>Amendment Statement of Principles concerning malignant neoplasm of the oesophagus (Reasonable Hypothesis) No. 21 of 2017</i>	4 January 2017 F2017L00018	23 January 2017	

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Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Clause 9(3).....	rs. Instrument No. 21 of 2017

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Malignant Neoplasm Of The Oesophagus (Reasonable Hypothesis)
(No. 120 of 2015)
Veterans' Entitlements Act 1986*

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