



Australian Government
Repatriation Medical Authority

Statement of Principles concerning

MALIGNANT NEOPLASM OF THE ORAL CAVITY, OROPHARYNX AND HYPOPHARYNX

No. 2 of 2013

for the purposes of the

Veterans' Entitlements Act 1986
and

Military Rehabilitation and Compensation Act 2004

Title

1. This Instrument may be cited as Statement of Principles concerning malignant neoplasm of the oral cavity, oropharynx and hypopharynx No. 2 of 2013.

Determination

2. The Repatriation Medical Authority under subsection **196B(3)** and **(8)** of the *Veterans' Entitlements Act 1986* (the VEA):
 - (a) revokes Instrument No. 20 of 2005 concerning malignant neoplasm of the oral cavity, oropharynx and hypopharynx; and
 - (b) determines in its place this Statement of Principles.

Kind of injury, disease or death

3.
 - (a) This Statement of Principles is about **malignant neoplasm of the oral cavity, oropharynx and hypopharynx** and **death from malignant neoplasm of the oral cavity, oropharynx and hypopharynx**.
 - (b) For the purposes of this Statement of Principles, "**malignant neoplasm of the oral cavity, oropharynx and hypopharynx**" means a primary malignancy of the mucosa of the oral cavity, oropharynx or hypopharynx, which is the region that extends posteriorly from the lips

(excluding the vermillion border and the skin of the lips) to the upper borders of the larynx and oesophagus, and includes the gums, the floor of the mouth, the buccal mucosa, the alveolar ridge, the hard and soft palate, and the tongue. This definition excludes malignant neoplasm of the major or minor salivary glands or salivary gland ducts, soft tissue sarcoma, carcinoid tumour, non-Hodgkin's lymphoma and Hodgkin's lymphoma.

Basis for determining the factors

4. On the sound medical-scientific evidence available, the Repatriation Medical Authority is of the view that it is more probable than not that **malignant neoplasm of the oral cavity, oropharynx or hypopharynx** and **death from malignant neoplasm of the oral cavity, oropharynx or hypopharynx** can be related to relevant service rendered by veterans or members of the Forces under the VEA, or members under the *Military Rehabilitation and Compensation Act 2004* (the MRCA).

Factors that must be related to service

5. Subject to clause 7, at least one of the factors set out in clause 6 must be related to the relevant service rendered by the person.

Factors

6. The factor that must exist before it can be said that, on the balance of probabilities, **malignant neoplasm of the oral cavity, oropharynx or hypopharynx** or **death from malignant neoplasm of the oral cavity, oropharynx or hypopharynx** is connected with the circumstances of a person's relevant service is:
 - (a) smoking at least five pack-years of cigarettes, or the equivalent thereof in other tobacco products, before the clinical onset of malignant neoplasm of the oral cavity, oropharynx or hypopharynx, and
 - (i) smoking commenced at least ten years before the clinical onset of malignant neoplasm of the oral cavity, oropharynx or hypopharynx; and
 - (ii) where smoking has ceased, the clinical onset of malignant neoplasm of the oral cavity, oropharynx or hypopharynx has occurred within ten years of cessation; or
 - (b) the oral use of smokeless tobacco on more days than not, for at least ten years before the clinical onset of malignant neoplasm of the oral cavity, oropharynx or hypopharynx, and where the oral use of smokeless tobacco has ceased, the clinical onset of malignant neoplasm of the oral cavity, oropharynx or hypopharynx has occurred within ten years of cessation; or
 - (c) chewing betel quid or areca nut on more days than not, for at least ten years before the clinical onset of malignant neoplasm of the oral cavity, oropharynx or hypopharynx, and where chewing of betel quid or areca nut has ceased, the clinical onset of malignant neoplasm of the oral

cavity, oropharynx or hypopharynx has occurred within ten years of cessation; or

- (d) drinking maté on more days than not, for at least ten years before the clinical onset of malignant neoplasm of the oral cavity, oropharynx or hypopharynx, and where drinking maté has ceased, the clinical onset of malignant neoplasm of the oral cavity, oropharynx or hypopharynx has occurred within ten years of cessation; or
- (e) drinking at least 150 kilograms of alcohol before the clinical onset of malignant neoplasm of the oral cavity, oropharynx or hypopharynx; or
- (f) undergoing stem cell or solid organ transplantation before the clinical onset of malignant neoplasm of the oral cavity, oropharynx or hypopharynx; or
- (g) acquiring persistent infection of the oropharyngeal epithelium with human papilloma virus type 16 or 18 before the clinical onset of malignant neoplasm of the oral cavity, oropharynx or hypopharynx; or
- (h) being exposed to mustard gas at least ten years before the clinical onset of malignant neoplasm of the oral cavity, oropharynx or hypopharynx; or
- (i) being infected with the human immunodeficiency virus before the clinical onset of malignant neoplasm of the oral cavity, oropharynx or hypopharynx; or
- (j) for malignant neoplasm of the oral cavity only, having leukoplakia or erythroplakia at the affected site for at least the one year before the clinical onset of malignant neoplasm of the oral cavity; or
- (k) inability to obtain appropriate clinical management for malignant neoplasm of the oral cavity, oropharynx or hypopharynx.

Factors that apply only to material contribution or aggravation

7. Paragraph 6(k) applies only to material contribution to, or aggravation of, malignant neoplasm of the oral cavity, oropharynx or hypopharynx where the person's malignant neoplasm of the oral cavity, oropharynx or hypopharynx was suffered or contracted before or during (but not arising out of) the person's relevant service.

Inclusion of Statements of Principles

8. In this Statement of Principles if a relevant factor applies and that factor includes an injury or disease in respect of which there is a Statement of Principles then the factors in that last mentioned Statement of Principles apply in accordance with the terms of that Statement of Principles as in force from time to time.

Other definitions

9. For the purposes of this Statement of Principles:

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

"**death from malignant neoplasm of the oral cavity, oropharynx or hypopharynx**" 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 oral cavity, oropharynx or hypopharynx;

"**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 7300 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 means either cigarettes, pipe tobacco or cigars, smoked alone or in any combination;

"**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;

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

"**terminal event**" means the proximate or ultimate cause of death and includes:

- (a) pneumonia;
- (b) respiratory failure;
- (c) cardiac arrest;
- (d) circulatory failure; or
- (e) cessation of brain function.

Application

10. This Instrument applies to all matters to which section 120B of the VEA or section 339 of the MRCA applies.

Date of effect

11. This Instrument takes effect from 9 January 2013.

Dated this *fourteenth* day of *December* 2012

The Common Seal of the)
Repatriation Medical Authority)
was affixed to this instrument)
in the presence of:)

PROFESSOR NICHOLAS SAUNDERS AO
CHAIRPERSON