



Specialist Medical Review Council

REASONS

*Section 196W
Veterans' Entitlements Act 1986*

Re: Statements of Principles Nos. 67 & 68 of 2013

in respect of motor neurone disease

Request for Review Declaration No. 31

APPENDICES

APPENDIX A: THE CONSTITUTED COUNCIL AND LEGISLATIVE FRAMEWORK OF THE REVIEW

APPENDIX B:

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APPENDIX A: THE CONSTITUTED COUNCIL AND LEGISLATIVE FRAMEWORK OF THE REVIEW

The Specialist Medical Review Council

1. The composition of each Review Council changes from review to review depending on the issues relevant to the particular Statement/s of Principles under review. When a review is undertaken three to five Councillors selected by the Convener constitute the Council.
2. The Minister must appoint one of the Councillors to be the Convener. If the Council does not include the Convener, the Convener must appoint one of the Councillors selected for the review to preside at all meetings as Presiding Councillor.
3. **Professor Lin Fritschi** was the Presiding Councillor for this review. She is a John Curtin Distinguished Professor at Curtin University. Her research interests include cancer epidemiology, occupational causes of cancer, and exposure assessment in epidemiological studies.
4. The other members of the Council were:
 - Dr Glenn McCulloch, former head of neurosurgery at The Queen Elizabeth Hospital in Adelaide, South Australia, and former president of the Neurosurgical Society of Australasia. He is currently the clinical director of the South Australian audit of perioperative mortality.
 - Associate Professor John Worthington, a Conjoint Associate Professor of the University of New South Wales (UNSW) Australia and a Senior Staff Specialist Neurologist at Royal Prince Alfred Hospital, Sydney. John's research interests include Stroke and TIA, their prevention, management and outcomes as well as the epidemiology of neurological diseases. He is a co-author of the first Australian epidemiological studies of symptomatic myasthenia gravis and Jakob-Creutzfeldt disease.

The Legislation

5. The legislative scheme for the making of Statements of Principles is set out in Parts XIA and XIB of the VEA. Statements of Principles operate as templates. They are determined by the RMA, and set out those criteria (conditions or exposures), known as factors, that must as a minimum exist before it can be said that an injury, disease or death can be

connected with service, on either or both of the two statutory tests, the reasonable hypothesis test¹ and the balance of probabilities test.² Statements of Principles are ultimately applied by decision-makers in determining individual claims for benefits under the VEA and the *Military Rehabilitation and Compensation Act 2004* (the MRCA).³

¹ The reasonable hypothesis test is set out in section 196B(2) of the VEA which provides; If the Authority is of the view that there is sound medical-scientific evidence that indicates that a particular kind of injury, disease or death can be related to:

- (a) operational service rendered by veterans; or
- (b) peacekeeping service rendered by members of Peacekeeping Forces; or
- (c) hazardous service rendered by members of the Forces; or
- (caa) British nuclear test defence service rendered by members of the Forces; or
- (ca) warlike or non-warlike service rendered by members;

the Authority must determine a Statement of Principles in respect of that kind of injury, disease or death setting out:

- (d) the factors that must as a minimum exist; and
- (e) which of those factors must be related to service rendered by a person;

before it can be said that a reasonable hypothesis has been raised connecting an injury, disease or death of that kind with the circumstances of that service.

² The balance of probabilities test is set out in section 196B(3) of the VEA which provides; If the Authority is of the view that on the sound medical-scientific evidence available it is more probable than not that a particular kind of injury, disease or death can be related to:

- (a) eligible war service (other than operational service) rendered by veterans; or
- (b) defence service (other than hazardous service and British nuclear test defence service) rendered by members of the Forces; or
- (ba) peacetime service rendered by members;

the Authority must determine a Statement of Principles in respect of that kind of injury, disease or death setting out:

- (c) the factors that must exist; and
- (d) which of those factors must be related to service rendered by a person;

before it can be said that, on the balance of probabilities, an injury, disease or death of that kind is connected with the circumstances of that service.

³ See sections 120, 120A and 120B of the VEA and sections 335, 338 and 339 of the MRCA.

APPENDIX B:**APPENDIX B1: MATERIAL BEFORE THE RMA****MOTOR NEURONE DISEASE**

Reference List for #RMA136-5 - Numerical order

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APPENDIX A

Information received in relation to investigation 136-5 concerning motor neurone disease as at 7 June 2017

1. Submissions

- 1.1 [REDACTED] State President VVAA NSW, 19 November 1994 (unable to be located);
- 1.2 [REDACTED] Department of Veterans' Affairs (Manager VAN), 20 January 1995 (176468R);
- 1.3 Department of Veterans' Affairs, 13 April 1995 (submission for consideration of the Authority prior to the initial determination of SOPs concerning motor neuron disease Numbers 245 and 246 of 1995, including draft SOPs and reference list) (14332R & 176471R);
- 1.4 [REDACTED], National Secretary, VVAA, 25 April 1995 (156319R);
- 1.5 [REDACTED], National Secretary, VVAA, undated (received 10 May 1995) (156320R);
- 1.6 RMA medical researcher letter, 15 May 1995 (176460R);
- 1.7 [REDACTED] 26 June 1996 (156321R);
- 1.8 [REDACTED] RSL Queensland Branch, 24 September 1996 (156331R);
- 1.9 [REDACTED], Chairman Adelaide Legacy, 24 March 1997 (148062R);
- 1.10 [REDACTED] Chairman Legacy National Pensions Committee, 23 April 1997 (148061R);
- 1.11 RMA medical researcher file minute 'Correspondence re Motor Neuron Disease and exposure to heavy metals', 24 April 1997 (148058R);
- 1.12 RMA medical researcher file minute 'Trauma and Motor Neuron Disease', undated 1997 (148060R);
- 1.13 RMA medical researcher discussion paper re Motor Neuron Disease, 12 August 1997 (147674R);
- 1.14 [REDACTED] 19 January 1998 (156348R);
- 1.15 [REDACTED] Regular Defence Force Welfare Association, 17 June 1999 (request for investigation) (156349R);
- 1.16 [REDACTED], 26 June 1999 (156350R);
- 1.17 [REDACTED], 24 January 2000 (156365R);
- 1.18 RMA medical researcher briefing paper 'Motor Neuron Disease', April 2001 (156366R);
- 1.19 RMA medical researcher letter, 12 December 2002 (156351R);
- 1.20 Mrs Jean Martin, 4 March 2004 (request for investigation) (156371R);
- 1.21 RMA medical researcher discussion paper 'Motor neurone disease and stress', April 2004 (156373R);

- 1.22** [REDACTED], Canberra Legacy, 5 May 2004 (156369R);
1.23 [REDACTED]; 27 August 2004 (156370R);
1.24 Motor Neurone Disease Association of Victoria Inc., 8 September 2004 (156368R);
1.25 RMA medical researcher briefing paper concerning 'Motor Neurone Disease', February 2006 (13112850R);
1.26 RMA medical researcher briefing paper concerning 'Motor Neurone Disease and electrical injury', June 2009 (13112889R);
1.27 [REDACTED], National President VVF, request for investigation, 29 October 2010 (156388R);
1.28 [REDACTED] - email request for review of SOPs concerning motor neurone disease - 5 June 2012 (176475R);
1.29 [REDACTED] - Request for investigation - Amyotrophic lateral sclerosis - [REDACTED]
[REDACTED] 1 April 2013 (1326096R);
1.30 DVA adviser comments for RMA meeting August 2013 – 30 July 2013 (1374817R);
1.31 RMA medical researcher briefing paper - motor neurone disease - August 2013 (1352309R);
1.32 [REDACTED] – Request for review - motor neurone disease - 3 October 2016 (165583R);
1.33 RMA medical researcher - Discussion paper in response to an investigation request - head injury and motor neurone disease - December 2016 (165663R);
1.34 [REDACTED] - Further submission - motor neurone disease - 5 December 2016 (166853R).

APPENDIX B2: NEW MATERIAL WHICH WAS NOT BEFORE THE RMA

- Ivins BJ, Schwab KA, Warden D, Harvey LT, Hoilien MA, Powell CO, et al. Traumatic brain injury in U.S. Army paratroopers: prevalence and character. *J Trauma* (2003) 55(4):617
- Ivins BJ, Crowley JS, Johnson J, Warden DL, Schwab KA. Traumatic brain injury risk while parachuting: comparison of the personnel armor system for ground troops helmet and the advanced combat helmet. *Military Medicine*. 2008;173:1168–1172
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