



Australian Participants in British Nuclear Tests (Treatment) Bill 2006

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Australian Participants in British Nuclear Tests (Treatment) Bill 2006

Date introduced: 14 September 2006

House: House of Representatives

Portfolio: Veterans' Affairs

Commencement: Royal Assent

Purpose

To provide for an Act to provide for the testing and treatment of Australian participants in the British nuclear tests conducted in Australia in the 1950s and 60s.

Background

The British nuclear tests in Australia

From October 1952 to October 1957, British atomic weapons detonation tests were conducted at Monte Bello Islands off the west coast of Western Australia and at Emu Field and Maralinga in South Australia. The table below sets out the tests that were conducted in Australia.¹

List of British Atomic Detonation Tests in Australia			
Location	Operation	Date/s	Kilotonnes
Monte Bello Islands	Hurricane	2 October 1952	25
Emu Field	Totem	15 October 1953	10
		27 October 1953	8
Monte Bello Islands	Mosaic	16 May 1956	15
		19 June 1956	60
Maralinga	Buffalo	27 September 1956	15
		4 October 1956	1.5
		11 October 1956	3
		22 October 1956	10
Maralinga	Antler	14 September 1957	0.9
		25 September 1957	5.67
		9 October 1957	26.6

There were also British tests (involving hydrogen bombs) at Christmas Island in the Indian Ocean and Malden Islands in the Pacific Ocean, but Australians were not involved. There is also more detail about the tests in Australia such as exact dates and how the detonations were placed in Table 1.1 in the recent Repatriation Commission Dosimetry Study² of 28 June 2006.³

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The purpose of the Australian nuclear tests was to enable the United Kingdom (UK) to develop nuclear fission bombs and, later, nuclear fusion or hydrogen bombs and the tests occurred with the full cooperation of the Australian Government.

Nuclear test participants

The Explanatory Memorandum sets out who is to be regarded as a nuclear test participant for the purposes of the testing and treatment provided for by the Bill.⁴ It is important to note that a participant refers to more than a person who witnessed or was present when the detonations occurred but includes persons involved at the test sites up to 1965, in the case of Maralinga.

Exposure to radiation at the tests was broader than exposure to nuclear detonations

There were also six hundred minor trials conducted between 1953 and 1963, including the testing of bomb components. For example, one series was designed to determine what would happen to a nuclear weapon in the event of a transport or storage accident such as a fire. Some of these trials are claimed to have caused some of the most extensive site contamination.⁵ There is also more detail of these minor trials in the Dosimetry Study report from the recently released Repatriation Commission studies of Australian participants in the British nuclear tests in Australia.⁶ The Dosimetry Study report also details that these minor trials did involve relatively large quantities of radioactive contamination.⁷

Exposure to radiation

A summary of the levels of exposure to radiation that could have occurred during the nuclear testing is provided in Appendix 1 attached to the recently released Repatriation Commission Cancer and Mortality Incidence Study of 28 June 2006.⁸

Anecdotal claims by personnel involved are that service personnel were required to line up with their backs to the detonation with their hands over their eyes for the first minute or so and then told to turn around to witness the mushroom cloud of the blast. It is also claimed few wore anything more than shorts and service uniform to witness the blast and it is only those who were considered at risk of radiation who were issued with any protective clothing and radiation dose badges.⁹

Australian personnel at the British nuclear tests in Australia

Both Australian and British personnel were involved in the tests and included military and civilian participants. Details of the numbers of Australian persons (civilian and military) recorded as present at the British nuclear tests were provided in a press release issued by the Hon. Mr Bruce Scott, MP on 29 June 2001. The Nominal Roll of test participants lists:

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- Navy—3 235
- Army—1 658
- RAAF—3 223
- 8 907 civilians - including 10 indigenous people.¹⁰

The total of 17 023 persons comprises 8 116 service personnel and 8 907 civilians.

UK personnel at the British nuclear tests in Australia

More than 20 000 British servicemen took part in the nuclear tests conducted in Australia and on Christmas and Malden islands in the 1950s. Of the 20 000 servicemen, most were on national service and in their early 20s. The group also contained 238 New Zealanders and 62 Fijians. All were involved in a wide range of duties from highly technical detonation preparations to catering and small other jobs.

Studies into the health impacts of the nuclear tests in Australia

Several inquiries and studies have been conducted by both the UK and Australian governments and by others over the years arising from concerns that participation in the nuclear tests in Australia has led to illnesses and medical conditions. Summaries of some of the studies are to be found Appendix 1 to the recent mortality and cancer incidence study.¹¹ The Appendix 1 comments mainly refer to surveys of test participants that have been undertaken. However, not all studies, inquiries and reports into the health impacts on nuclear test participants are referred to in this Appendix. Some of those referred to and also some not referred to are discussed in more detail below.

Australian Ionising Radiation Advisory Council Report No. 9 to government

The Australian Ionising Radiation Advisory Council (AIRAC) was asked in September 1980 by the then Minister for Science and Environment Senator the Hon. James J Webster to investigate certain matters related to the British nuclear tests including their effects of radiation fallout, the occurrence of 'black mists' and their possible health affects. The report by AIRAC was provided in January 1983¹² and essentially concluded that the tests were conducted within the limits existent at the time and no persons were exposed to any excessive radiation that might lead to adverse health affects in the future.¹³

Donovan Report

Arising from concerns about the health of nuclear test participants, a survey was conducted by the Commonwealth Department Health into the health of atomic personnel that was released in 1983.¹⁴ The survey consisted of a health questionnaire survey of all then surviving nuclear test participants and an analysis of the causes of death for non-

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surviving participants. The aim of the survey was to identify associations between test participation and subsequent illness. The survey did find a correlation between illnesses and test participation and also a higher incidence of some illnesses with increased exposure to radiation through the tests. These instances were mostly ascribed to chance.

Kerr Committee Report

In May 1984, the then Minister for Resources and Energy, Senator the Hon. Peter Walsh appointed a committee, under the chairmanship of Professor C B Kerr, to review the data on atmospheric fallout arising from British nuclear tests in Australia. The review only dealt in part with health-related issues, but recommended that there was enough evidence to warrant further investigation into health affects and that a repository of nuclear test data and files be established and maintained.¹⁵ The Kerr Report was quite critical of the AIRAC No. 9 report of 1983.¹⁶ The Kerr Report was fairly thin on substantive conclusions about the impacts of radiation as it didn't have much independent scientific evidence to refer to. Rather it noted there was much anecdotal evidence of disease and illness amongst participants who had made submissions to the report. In its own words it 'drew conclusions from evidence submitted'.¹⁷

The Kerr Report was heavily criticised by the AIRAC as being 'too thin' on professional analysis of the evidence and the AIRAC took the Kerr Report as an attack on their professional conduct and integrity in advising the government on the issues.¹⁸

McClelland Royal Commission

Arising from concerns about the impact of the tests in the Kerr Report and the conflict between the opinions by the AIRAC with the Kerr Report conclusions, the government in July 1984 appointed Mr Justice J R McClelland to conduct a Royal Commission. The report of the Royal Commission was presented in November 1985.¹⁹ The McClelland commission report was quite critical of the AIRAC No. 9 Report and also of the Department of Health survey report. The McClelland commission report concluded that there was no point in conducting an epidemiological study of those involved in the tests, due to the deficiencies in the available data.²⁰ This appears to be, in part, based on examinations by the McClelland commission report of survey reports conducted by the South Australian government in the early 1980s into the cancer incidence in Aborigines exposed to test radiation and comments these reports made on the feasibility of post-test epidemiological studies.

The South Australian government reports questioned the reliability of post epidemiological studies, be they prospective studies, or cross-sectional studies or retrospective case-control studies, due to the very small population of Aboriginal people involved and the lack of any comparable population elsewhere in the community. The McClelland commission report seems to have concluded that these comments/analysis made in the South Australian reports would also apply to nuclear test participants as well, notwithstanding they are a much larger group with a comparable population in the broader community. The McClelland commission report was also critical of the management of

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the conduct of the tests by the Atomic Weapons Tests Safety Committee (AWTSC) claiming:

The AWTSC failed to carry out many of its tasks in a proper manner. At times it was deceitful and allowed unsafe firing to occur. It deviated from its charter by assuming responsibilities which properly belonged to the Australian government.²¹

Public health impact from fallout from British nuclear weapons in Australia

A report was commissioned by the Australian Radiation Laboratory (ARL) into the public health impact from fallout from British nuclear tests in Australia.²² This report was originally provided to the McClelland Royal Commission of 1985, but was not included in the report as it covered matter outside the Commissions terms of reference. The ARL report only examined and reported on the population **not** directly involved in the test activities, that is the civilian population (including Aboriginal people) away from the test sites. So the ARL report did not comment on nuclear test participants or the Aboriginal people exposed to radiation in the tests.

Overseas studies

1988 and 1993 government sponsored studies in the UK

In the UK, two studies were conducted by the UK National Radiological Protection Board on personnel who participated in the British nuclear tests in Australia. The first report was issued in 1988, with a follow-up report in 1993. The 1988 report identified a possible increased risk in test participants developing multiple myeloma and leukaemia (other than chronic lymphatic leukaemia). As a consequence of this report, the British Government extended their war pensions scheme to cover British participants in the nuclear weapons tests who had these conditions. Following the publication of the follow-up study in 1993, the British Government tightened its regulations, deciding to accept new claims only if leukaemia (other than chronic lymphatic leukaemia) had developed in participants within the first 25 years after the nuclear weapons tests.

Studies by Sue Rabbit Roff in the UK

More recently, an Australian-born academic working at the University of Dundee, Sue Rabbitt Roff, conducted two studies (1997 and 1998) which focussed attention on the health of personnel who participated in the nuclear weapons tests in Australia.²³ The first Rabbit Roff report on mortality of 1997 showed a significantly higher mortality rate amongst nuclear test participants from neoplasms than for a like group in the general population. The second Rabbitt Roff study report of 1998 found an increased incidence of some cancers in the participant population than in the general community that warranted further comparison and examination.

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Recent UK studies

The British Government has announced that a further inquiry is to be conducted by the National Radiological Protection Board. Also instigated by the Sue Rabbitt-Roff study reports in 2003, the UK government also commissioned a follow-up study on the mortality and incidence of cancer over the period 1952-98 in men from the UK who participated in the UK's atmospheric nuclear weapons tests and experimental programs.²⁴ Generally this study found no greater incidence of death or cancer in the nuclear test participant population than in a like population not involved in the tests. This is similar to the very recent Australian government mortality and cancer incidence study results.²⁵

Monitoring of nuclear test participants studies and new evidence

The process by which the Government monitors the results of studies into the impacts of the nuclear tests was outlined by Mr Kevin Andrews, MP in an answer to a question on notice in the House of Representatives on 15 May 2002.²⁶

Kaldor report commissioned by the Australian government

John Kaldor, Professor of Epidemiology at the University of New South Wales was asked in January 1999 by the Australian Government to review research by Sue Rabbitt Roff into the health of nuclear veterans from the UK.²⁷ Her work was of interest because many of the tests had occurred in Australia and involved the Australian military and civilians. The terms of reference for his review were to basically examine the findings made by Sue Rabbitt Roff, in particular her conclusion that there was a higher incidence of cancer and deaths amongst nuclear test participants, and report to government. Kaldor reported back to the Government in July 1999.²⁸ The major findings of his report were:

- The Rabbitt Roff studies looked at the causes of death and self-reported health status of members of the British Nuclear Test Veterans Association. She did not use any standard epidemiological method for comparing the occurrence of death or illness in the study population with a relevant unexposed population. Due to methodological limitations the studies provide no new information about health risks experienced by Australian participants in the UK Tests.
- Rabbitt Roff's finding concerning high levels of multiple myeloma should be tested further by cross-matching the cases she identified with those identified in a 1991 study by the UK National Radiological Protection Board (NRPB).
- The value of further mortality or cancer incidence studies of Australian test participants and the combination of those studies with the NRPB studies should be investigated.

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Australian government-commissioned mortality and cancer incidence studies recently released

It was largely due to the recommendations in the Kaldor report that the Government announced a study into the mortality and cancer incidence of nuclear test participants in 1999.²⁹ The cancer incidence and mortality studies were released on 28 June 2006.³⁰ The study estimated that there are some 5 500 nuclear test participants alive today.³¹

Compensation for illness/injuries arising out of participation in the nuclear tests

UK and Australian agreement for compensation

The UK and Australian governments signed an agreement on 11 December 1993 under which Britain agreed to pay Australia £20 million in an ex-gratia settlement of Australia's claims concerning the British nuclear test program in Australia. Under this agreement, the payment was to cover future claims for compensation for participants.³²

There have been a number of means by which those who participated in the British atomic weapons testing program have been able to claim compensation for any adverse health effects, which they claim to have suffered as a result of the tests. The Explanatory Memorandum attached to the Bill sets out in brief these compensation arrangements.³³

Claims for workers compensation

The *Safety, Rehabilitation and Compensation Act 1988* (SRCA), which is administered by Comcare Australia in relation to civilian employees of the Commonwealth and more recently by the Department of Veterans' Affairs (DVA) in relation to Australian Defence Force personnel, has applied at all times during and since the tests were carried out in the 1950s and 1960s. This means that claims for compensation for illness or injuries claimed to have been instigated by participation in the tests are covered by the compensation arrangements in the SRCA.

The SCRA has since been replaced by the *Military Rehabilitation and Compensation Act 2004* (MRCA).³⁴ However, the MRCA only covers military service personnel still in the armed services on the date the Act received royal assent, being 27 April 2004. Military personnel no longer in the armed services prior to that date are provided for by the SRCA.

Common law claims

The Department of Education, Science and Training (DEST) and the Australian Government Solicitor's office have also been involved in compensation matters relating to the British atomic weapons testing program. Claims under these arrangements involve common law actions.

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Results of compensation claims by nuclear test participants

DVA and the Department of Defence have accepted 25 claims from claimants under the SRCA for services related to nuclear tests, the majority of which have not been related to ionising radiation but were for other (unspecified) conditions. Nine were for the effects of ionising radiation and they have been paid in total \$1 047 781.12.³⁵ There was also some detail provided in an answer to a question on notice in the Senate on 22 August 2001.³⁶

Special Administrative Scheme

The Commonwealth had a 'Special Administrative Scheme', which is now closed and it provided compensation for participants in the tests who developed multiple myeloma or leukaemia (other than chronic lymphatic leukaemia) within 25 years of participation in the tests.

Act of Grace Scheme

There was also an 'Act of Grace' scheme jointly administered by the former Department of Primary Industry and Energy and the Attorney-General's Department. This enabled plaintiffs with common law actions issued and served on the Commonwealth from 1988 until September 1989 to have their cases settled outside of the court system. This provided some redress to plaintiffs who did not have the financial resources to pursue a common law action through the courts.

Compensation claims not always the an easy pathway for nuclear test participants to pursue

One of the long-standing hurdles for nuclear test participants (civilian and Defence Force) seeking compensation is that the compensation arrangements detailed above (claims against the SRCA and common law claims) place the burden of proof on the participant through the legal and court system. This makes the process very time-consuming and expensive for any individual claimant. In contrast the Government has 'deep pockets' to fund the defence of any claim. The ordinary individual does not have this access, rendering the contest and process very one-sided.

The other concerns expressed by nuclear test participants in pursuing compensation and common law claims arising from participation in the nuclear tests were outlined in the Clarke Review report:

Section 7(1)³⁷ of the SRCA (and the predecessor s.30 of the 1971 Act) has been applied to claims for disease or death related to exposure to ionising radiation from the tests only where:

it has been established that the member was at a test site at the time of, or after, a test was carried out there;

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it has been confirmed that the member was actually exposed to a dose of ionising radiation at the test site; and

the member has suffered from a disease that is characteristic of exposure to ionising radiation.

The major difficulty that atomic test participants have had in satisfying these requirements has been in providing evidence that they were exposed to a dose of ionising radiation. Less frequently, claims have failed because claimants were not at the test sites at the required times (or, if documentary evidence did not record their presence, they were not able to prove that they were there), or because they claimed for conditions not recognised as characteristic of exposure to ionising radiation.³⁸

The records of who participated in the tests, and those exposed to ionising radiation (and dosage levels) have their origins in UK Ministry of Defence records and Australian Radiation Laboratory records. Criticisms of these records include: they are incomplete, and do not present exposure to all radiation types.³⁹ Without a record of exposure to ionising radiation, section 7(1) of the SRCA was considered not to apply. Therefore, claimants were forced to use the civil standards of proof under section 14⁴⁰ of the SRCA, with the onus of proof on the claimant applying; that is it is more probable than not that the illness/injury is related to the service. Under this test few claimants have been able to prove exposure to ionising radiation and, therefore, a link between that exposure and their disease.⁴¹

Complaints about lack of recognition of service by nuclear test participants

Frustration in the lack of access to proper compensation has been recently manifest in the considerations by the Clarke Review into veterans' entitlements which reported in January 2003.⁴² The Review received some 160 submissions about the tests, mostly from former Defence Force personnel and a small number from civilian personnel involved in the tests. The Clarke Review's terms of reference was to generally review outstanding claims for 'veterans' entitlements'. However, participants in the nuclear tests are not considered to be 'veterans' under the *Veterans' Entitlements Act 1986* (VEA). Notwithstanding this, the Clarke Review was specifically commissioned to examine the nuclear test participation issue.⁴³

Call for nuclear test participants to be covered by the VEA

The majority of the submissions to the Clarke Review urged the classification of nuclear test service as 'hazardous service', and, therefore, covered by Part IV of the VEA. A small number of submissions also sought classification of participation in the tests as 'qualifying service' for the service pension.⁴⁴ If this latter claim was accepted it would basically allow access to the service pension and also to the Gold Card for those aged 70 or more. This was not supported by the Clarke Review and it did not recommend that the nuclear test participation be classified the same as 'qualifying service', or war service.

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Part IV of the VEA provides for the classification of peacekeeping service for members of the Defence Force. Classification of 'Hazardous Service' under Part IV provides for access to the disability pension provided under Part II of the VEA for illnesses/injuries arising out of the service. It also allows for access to the war widows'/ers' pension provided under Part II of the VEA, to surviving partners of a person whose death is accepted as being caused/attributed to their hazardous service. Such classification also allows access to a health treatment card (White Card) for the medical condition/s accepted as being caused/attributed to the hazardous service. For those with a significant impairment arising from the hazardous service (that is with an impairment of 70 per cent or more), there is also access to the Gold Card providing coverage for all medical conditions.

Governments have not considered nuclear test participation a matter for assistance under the VEA

Hitherto, governments have considered participation in the nuclear tests in Australia by both Defence Force personnel and civilians as peacetime service and, therefore, to be covered by workers and other personal liability compensation arrangements. Governments have not been persuaded that participants are to be provided for under the VEA.⁴⁵

Nuclear test participants or veterans?

In this context, it is interesting to note that the name of the Bill refers to 'nuclear test participants' and not 'nuclear test veterans', being the terminology that is commonly used in the media, in studies and by commentators on this issue. The Government is careful to refer to them as 'participants' and not 'veterans', as it may be confused with the use of the term 'veteran' in the VEA. In the VEA 'veteran' refers to a service person with 'qualifying war service', so not all old ex-service personal are 'veterans'. Notwithstanding this, in the community any old sailer, soldier or airman is commonly called a 'veteran'. This Bill provides for treatment and testing separate to the VEA and re-states the Government's view that nuclear test participants should not be provided for under the VEA.

Recommendations by the Clarke Review examination of compensation for nuclear test participants

As stated above, the Clarke Review did examine the nuclear test service and what would be appropriate assistance by government. In short, the Clarke Review recommended the accreditation of participation in the nuclear tests for Defence Force staff as 'non-warlike hazardous service'.⁴⁶ Governments have for a long period been very reluctant to accredit peacetime military service the same as warlike service or hazardous non-warlike service (peacekeeping service) as defined and recognised in the VEA. Classification of the nuclear tests participation as hazardous peacekeeping service would allow Defence Force staff access to the same benefits under the VEA as for 'Hazardous Service' as covered in Part

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IV of the VEA, which is described in ‘*Complaints about lack of recognition of service by nuclear test participants*’ above.

Government response to the Clarke Review recommendation about nuclear test participation

Essentially the Government rejected the Clarke Review recommendation to accord Defence Force personnel involved in the nuclear testing with accreditation as being involved in non-warlike hazardous service. It didn’t do this overtly, rather in a general way stating:

The Government also had decided to respond positively to the needs of those affected by the British Atomic Test programme when the outcomes are available of the Australian Participants in the British Nuclear Test Programme – Cancer Incidence and Mortality Study.

The Government will continue to provide special recognition and comprehensive assistance to those who have served Australia in times of war, at personal risk of injury or death from an armed enemy.

In keeping with this approach, we have accepted the Clarke Report’s recommendation that there be no change in the incurred danger test for Qualifying Service. However, we reject the view that this test has been interpreted too narrowly.⁴⁷

Governments have been reluctant to accredit peacetime service as either war service or non-warlike hazardous service under the VEA

There was a period from 1973 to 1986 when provisions of the then *Repatriation Act* were applied to peacetime service of members of the permanent military forces, allowing access to the disability pension for illness and injury and the war widows’ pension for loss of life under the VEA. This originally arose out of pre-1972 election commitments made by the Whitlam Government but this was discontinued with the passage of the VEA in 1986.

There were several submissions made to the Clarke Review to have various forms of peacetime military service accredited as either warlike or non-warlike hazardous service under the VEA.⁴⁸ Some of these claims included special submarine operations to the north and west of Australia, personnel involved in covert intelligence gathering or covert signals operations and also major peacetime accidents, like the Black Hawk helicopter accident of 1996. Generally, the Clarke Review did not recommend that peacetime service should be accredited as service under the VEA. The exception to this was service including mine clearing, bomb disposal and improvised explosive device clearance. The Clarke Review did make several recommendations about recognition (at varying levels) in the VEA.⁴⁹ Some of these recommendations were accepted by the Government, namely some mine clearing and bomb disposal work post World War Two (WWII) in the South Pacific. This was provided for with the *Veterans’ Entitlements (Clarke Review) Act 2004*.⁵⁰

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However, this extension of access to accreditation as warlike service for mine and bomb clearance post WWII in the South Pacific does show that some peacetime service, which is not during a war period, has been recognised as service for the VEA. But it should be acknowledged that this is exceptional. Generally, governments have not wanted to have peacetime service recognised in the VEA, as it would then diminish the special recognition given to the special service provided for in the VEA. This was again emphasised in the Prime Minister's press release when announcing the Government's responses to the Clarke Review recommendations⁵¹

Governments have considered that illness/injuries/death incurred by Defence Force staff during peace time activities should be covered by workers compensation arrangements, as applies to public servants generally. The most recent affirmation of this was the *Military Rehabilitation and Compensation Act 2003*.⁵²

Government announcement to provide for cancer screening and treatment

In releasing the nuclear test participant cancer incidence and mortality studies, the Government announced the extension of coverage for all testing and treatment for all cancers for the participants. The Government announced:

"Although the study found that the rate of some cancers among the nuclear test participants was higher than in the general Australian population, it did not find any link between the increase in cancer rates and exposure to radiation," Mr Billson said.

"Despite the lack of association between cancer rates and radiation exposure, the Government has decided that it would be appropriate to provide health cover for nuclear test participants who have any form of cancer."⁵³

The Government has decided to provide (for participants in the nuclear testing), coverage for testing and treatment of all cancers. So again the Government has decided not to extend accreditation of the nuclear test participation as hazardous service, as recommended by the Clarke Review. This is consistent with past actions by government to not to provide coverage under the VEA for peace time service.

Start date for the coverage of treatment and screening

Coverage for treatment and screening is to apply from 19 June 2006, being three months prior to the date of the Government's decision, or from up to three months prior to the date of lodgement of a claim, whichever is the later.⁵⁴

Provision of testing and treatment not an admission that nuclear test participants have any illnesses associated with the testing

In announcing that the government would provide for free testing and cancer treatment for nuclear test participants, the government emphasised this measure was not an admission

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that they accepted there was a link between increased cancer rates and exposure to radiation.⁵⁵

Cancer treatment and testing

The 2006 mortality and cancer incidence study of the Australian participants of the British nuclear tests found that the death rate from cancer was 18 per cent higher in this group than in the general population, and that the incidence of cancer was 23 per cent higher than expected.⁵⁶ No link with radiation exposure and cancer incidence or mortality was established. However, the findings of the mortality and cancer incidence study were challenged by veterans and others, notably because of the exclusion from the study of test participants who died before 1982, alleged errors in data in the original hard copy (that were subsequently corrected in the online version) and alleged underestimates of the levels of radiation exposure.⁵⁷ Although radiation exposure was not implicated in these higher than expected mortality and morbidity findings, the government;

‘is of the view that support is appropriate for a group that has a clearly defined healthcare need’.⁵⁸

Funded through DVA, this Bill provides for eligible persons to access free cancer treatment and ongoing cancer tests, provided the test does not replicate an existing community wide government screening program. Testing or screening for cancer is seen to be of benefit because it is assumed that the person tested will benefit from early diagnosis through early access to treatment. However, there are risks and potential harms to cancer testing. Some cancer tests, such as the prostate specific antigen (PSA) test for prostate cancer are not considered reliable, and can result in further invasive and potentially damaging procedures being undertaken. The Cancer Council has expressed particular concern over the negative effects of unnecessary testing for prostate cancer in asymptomatic men:

testing well men for prostate cancer exposes them to tests that can cause harm and treatment that may not offer long-term benefits but may leave them with side effects such as impotence and incontinence.⁵⁹

Therefore, the Cancer Council advises that where screening is initiated by the health system, individuals invited to participate should be informed, prior to any testing, of potential adverse effects as well as the potential benefits.⁶⁰

Current cancer testing in Australia

In Australia cancer testing for individuals is already subsidised under pathology arrangements through Medicare, provided the patient is referred by a registered medical practitioner and provided the test is considered ‘clinically relevant’⁶¹. Most services are bulk-billed.⁶² The *Health Insurance Act 1973* specifically excludes payment of Medicare benefits for community-wide screening programs, except where Ministerial direction allows (as in the case of the Pap test for cervical cancer).⁶³

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Testing for cancers already covered by community-wide screening programs is specifically excluded under this Bill. Community-wide free cancer screening is provided for under the Public Health Outcome Funding Agreements (PHOFAs) between the Commonwealth and the States.⁶⁴ Community-wide free screening is defined by the Cancer Council as:

the application of a test to a population which has no overt signs or symptoms of the disease in question, to detect unsuspected disease while a cure is still possible.⁶⁵

The community-wide screening programs that are currently available are:

- the BreastScreen Australia Program, which funds biennial mammographic screening for women aged 50-69 years,⁶⁶
- the National Cervical Screening program which funds biennial pap tests for cervical cancer for women aged 18-70, and.⁶⁷
- the National Bowel Cancer Screening Program (NBCSP) has recently commenced in Queensland, with other States to follow in a staged roll-out between 2006 and June 2008.⁶⁸

The staged rollout of the NBCSP is to allow for the States to prepare for an expected increase in demand on publicly funded services (such as follow-up colonoscopies in public hospitals for un-insured patients). Initially only people turning 55 or 65 years of age between 1 May 2006 and 30 June 2008 are being invited to screen.⁶⁹ This means that some British nuclear test participants will be eligible for the NBCSP and therefore ineligible for the benefits proposed under this Bill. For example, a nuclear test participant who was 22 in 1963, and is turning 65 this year, may be eligible for the first round of bowel cancer screening under the NBCSP, and therefore ineligible for the bowel cancer testing provisions under this Bill. In comparison, a colleague who was just 18 in 1963 and turns 61 this year would be deemed ineligible for the first stage of the NBCSP (which targets only those turning 55 or 65) but would be eligible to access bowel cancer testing under the provisions of this Bill.

Concerns have been raised that the NBCSP may increase the burden on public hospital services (such as increasing demand for follow-up colonoscopies in public hospitals for un-insured patients), and lead to delays in timely treatment.⁷⁰ If these concerns are founded, then nuclear test participants who are referred to undergo bowel cancer screening through the NBSCP (especially those who are uninsured) may face delays in accessing treatment. Such delays are unlikely to be experienced by those nuclear test participants who are ineligible for NBSCP but eligible for bowel cancer tests under the provisions of this Bill, because the tests and subsequent treatment (including in private facilities) will be funded by DVA. To address this potential discrepancy in equitable access to treatment services, the definition of testing in s 4(1) could be amended so that the requirement that

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testing which replicates an existing community wide government screening program is not included, is removed.

Costs of testing and treatment

The Explanatory Memorandum estimates the financial impact of the Bill to the Commonwealth at \$15.8 million over four years.⁷¹ However, estimating the cost of cancer testing and treatment is complex, because treatment regimes often involve a mix of surgery, chemotherapy, radiotherapy, and in future, possibly gene therapy.⁷² The direct cost of cancer is lower to the health system than for many other diseases, including circulatory, respiratory, digestive, mental and musculoskeletal diseases. The total cost of cancer to the government in 1993-94 was around \$2 billion, or just 6 per cent of total recurrent health expenditure.⁷³ Most estimates of the cost of cancer treatment relate mainly to inpatient costs, that is, treatment in hospital, which in a public setting are largely borne by State/territory governments. However, it has been noted that there has been a trend away from inpatient treatment toward community-based care for cancer, an area where the Commonwealth meets most of the cost.⁷⁴

Main provisions

Part 1 – Preliminary

Item 4 in Part 1 sets out the definitions that are used in the Bill.

Item 5 sets out who is to be regarded as a nuclear test participant for the Bill and also the areas to be regarded as nuclear test areas.

Part 2 – Treatment of malignant neoplasia

Division 1 – Eligibility to be provided with treatment

Item 7 sets out who is eligible for treatment under the Bill. Essentially the person needs to be a nuclear test participant as set out in Item 5 in Part 1 and an Australian resident. A person is not entitled to treatment if eligible for treatment coverage under the VEA or the SRCA, or the Administrative Scheme set up by the Commonwealth government to provide for nuclear test veterans. **Item 10** provides that it is to be the Commission who can determine claims refers to the Repatriation Commission as set out in section 179 of the VEA – see **Item 4 in Part 1** of the Bill.

Division 2 – Provision of treatment

Item 12 empowers the Commission to approve treatment. **Item 13** allows the retrospective approval of treatment for up to 3 months prior to a claim for treatment approval. **Item 14** removes from the Commission the obligation to provide treatment or the right to access to treatment for an individual other than that approved by the Commission under the Bill.

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Item 16 empowers the Commission to set out in writing the treatment principles that are to apply under this Bill and that they are binding on the Commission. **Item 16** also empowers the Commission itself to modify the treatment principles without amendment to the Bill in the Parliament. Any modifications to the treatment principles have to be approved by the Minister in writing. Such an approval is a legislative instrument.⁷⁵

Like **Item 16**, **Item 17** empowers the Commission to set out in writing the principles for private patient treatment and also for the Commission to change these principles without having to amend the Bill in the Parliament. Any modifications to the treatment principles have to be approved by the Minister in writing. Such an approval is a legislative instrument.⁷⁶

Item 18 empowers the Commission to set out an approved pharmaceutical scheme and to modify such a scheme after approval in writing by the Minister. Such an approval is a legislative instrument.⁷⁷

Part 3 – Travelling expenses

Item 19 sets out the power for the Commission to provide for travelling expenses to access treatment provided under the Bill and **Item 20** allows for the advances of treatment expenses. **Item 21** requires a claim to be made for the provision of treatment expenses and **Item 23** empowers the Commission to determine travel expenses claims.

Part 4 – Review of decisions

Division 1 – Review by Commission

Division 1 in Part 4 empowers the Commission to review its own decisions made under the Bill.

Division 2 – Review by Administrative Appeal Tribunal

Division 2 in Part 4 empowers the AAT to review decisions made by the Commission under the Bill. This means if a person is not satisfied with a decision by the Commission or a review of a decision by the Commission they can appeal to the AAT.

Part 5 – Administration and enforcement

Division 1 – General

Item 30 prescribes that the Commission has responsibility for the application of the Bill subject to the control of the Minister.

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Division 2 – Obtaining and giving information

Division 2 in Part 5 of the Bill contains the normal and usual information access and information obtaining powers for a department, or agency required to process claims. These powers only extend to that which is necessary for the determination of the claim.

Division 3 – Offences

Item 37 contains standard offence provisions attached to legislation governing the lodgement of claims for assistance and knowingly providing false or misleading information. **Items 38 to 44** provide provisions to ensure that there is no misuse of powers and practices associated with servicing under the Bill by medical practitioners or medical service providers.

Division 4 – Recovery of amounts paid because of false or misleading statements

Division 4 provides items in the Bill to allow the recovery of amounts obtained by way of false or misleading statements. **Item 44** provides for the recovery of amounts overpaid under this Bill from ongoing payments provided under the Bill.

Concluding comments

The history of claims about adverse health reactions and deaths suffered by nuclear test participants goes back many years, far longer than the first studies and reports undertaken in Australia that commenced in the early 1980s. There are several reasons for this. First, many of the participants themselves consider, in retrospect, that they were exposed to hazardous radiation during the tests, especially given what is now known about the dangers of radiation. Secondly, the participants have continuously reported incidences of illness and death that they consider are abnormal and therefore are associated with the tests. Acceptance of their claims for compensation by governments and relevant authorities of their claims for compensation has largely not been realised as been exacerbated by several studies and reports claiming there is no higher incidence of illness in the participant population than in a like population in the broader community.

Governments have consistently said that the redress for nuclear test participants is available through claims for workers compensation under normal workers compensation arrangements. However, for many, this is a prohibitively costly, time consuming and exhausting process, where the government chooses to contest a claim. The low number of successful claims made against the government via the workers compensation route has been a source of frustration to affected nuclear test participants.

In effect, this Bill does little to address the long-standing issues of recognition and compensation for the ill effects claimed to have been suffered by the nuclear test participants but does provide assistance in identifying cancers and for treating cancers.

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Endnotes

- 1 The Hon. John Clarke QC, *Report of the Review of Veterans' Entitlements*, January 2003, Canberra, Chapter 16, Table 16.1, p. 373. <http://www.veteransreview.gov.au/index.htm>
- 2 Dosimetry is an estimate of the dosage level of radiation received, Australian participants in British nuclear tests in Australia, *Dosimetry Study report*, Repatriation Commission, Department of Veterans' Affairs, Canberra, May 2006, Chapter 7, pp. 101-103. http://www.dva.gov.au/media/publicat/2006/nuclear_test/dosimetry/
- 3 *ibid.*, Table 1.1, p. 3.
- 4 Explanatory Memorandum, pp. 1-3.
- 5 J R McClelland, *Report of the Royal Commission into British Nuclear Tests in Australia*, Canberra, November 1985, Chapter 10 The Minor Trials, pp. 395-415.
- 6 Australian participants in British nuclear tests in Australia, *Dosimetry Study report*, *op. cit.*, pp. 6-7.
- 7 *ibid.*, pp 6-7, 28.
- 8 Australian participants in British nuclear tests in Australia, *Mortality and cancer incidence study*, Repatriation Commission, Department of Veterans' Affairs, Canberra, May 2006, pp. 118-124. http://www.dva.gov.au/media/publicat/2006/nuclear_test/mortality_and_cancer_incidence/
- 9 Aiden Windle, 'Every cloud had a plutonium lining', *Melbourne Age* 9 October 2002.
- 10 The Hon. Mr Bruce Scott, MP, Minister for Veterans' Affairs and Minister Assisting the Minister for Defence, *Nominal Roll Completed for Atomic Test Studies*, Media Release, Canberra, 29 June 2001.
- 11 Australian participants in British nuclear tests in Australia, *Mortality and cancer incidence study*, *op. cit.*, pp 124-127.
- 12 Australian Ionising Radiation Advisory Council, Report to the Minister for Science and the Environment, *AIRAC Report No. 9*, Canberra, January 1983.
- 13, *ibid.* p. 19.
- 14 The Department of Health, *Survey of Atomic Personnel*, The Donovan Report, Canberra, 1983.
- 15 Professor C. B. Kerr (Chairman), *Report of the expert committee on the review of data on atmospheric fallout arising from British nuclear tests in Australia*, Atmospheric Fallout Committee, Canberra, 31 May 1984.
- 16 *ibid.* pp. 34-35.
- 17 *ibid.* p. 33.
- 18 Professor, A M Clark, Australian Ionising Radiation Advisory Council, *Response to the Kerr Report*, Letter to the Hon. Barry Cohen, MP, Minister for Home Affairs and Environment, Canberra, 13 August 1984.

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- 19 J R McClelland, *Report of the Royal Commission into British Nuclear Tests in Australia*, op. cit.
- 20 *ibid.*, p. 609.
- 21 *ibid.*, 12.10.102.
- 22 K N Wise, J R Moroney, Australian Radiation Laboratory, *Public health impact from fallout from British nuclear weapons in Australia*, Department of Health, Housing and Community Services, Canberra May 1992.
- 23 S Rabbitt Roff, *Mortality profile from a pre-defined sample of death certificates of veterans of UK nuclear weapons tests*, Dundee University Medical School, October 1997 and S Rabbitt Roff, *Report on morbidity study of the British nuclear tests veterans association and the New Zealand nuclear tests veterans association and their families*, Dundee University Medical School, April, 1998.
- 24 Berridge, M A English, N Hunter and G M Kendall C R Muirhead, D Bingham, R G E Haylock, J A O'Hagan, A A Goodill, G L C, 'Follow up study of the mortality and incidence of cancer 1952–98 in men from the UK who participated in the UK's atmospheric nuclear weapons tests and experimental programs', UK National Radiological Protection Board, March 2003.
http://www.hpa.org.uk/hpa/news/nrpb_archive/press_releases/2003/press_release_03_03.htm
- 25 Australian participants in British nuclear tests in Australia, *Mortality and cancer incidence study*, Repatriation Commission, Department of Veterans' Affairs, Canberra, op. cit.
- 26 Mr Kevin Andrews, MP, *answer to a question on notice*, No. 68, House of Representatives Hansard, 15 May 2002, pg. 2294. <http://www.aph.gov.au/hansard/reps/dailys/dr150502.pdf>

Veterans: British Nuclear Tests (Question No. 68)

Mr Murphy asked the Minister representing the Minister for Health and Ageing, upon notice, on 13 February 2002:

Further to part (2) of the answer by the former Minister for Veterans' Affairs to question No. 2548 (*Hansard*, 6 August 2001, page 29189), has the Australian Radiation Protection and Nuclear Safety Agency obtained international research regarding the possible effects of exposure to ionising radiation and made this information available to those affected by the British nuclear tests; if not, why not.

Mr Andrews—The Minister for Health and Ageing has provided the following answer to the honourable member's question:

The Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) continually monitors international research and publications on the effects to humans of exposure to ionizing radiation. There have been no significant changes to the understanding of these effects since 1986 when a detailed review of the survivors of the atomic weapons tests in Japan was undertaken. The most recent review of the available research on the effects of ionizing radiation on humans is presented in detail in the United Nations Scientific Committee on the Effects of Atomic Radiation, UNSCEAR 2000 Report to the General Assembly, with Scientific Annexes.

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ARPANSA generally does not have direct contact with those who participated in British nuclear tests in Australia, as this is the responsibility of the Department of Veterans Affairs. ARPANSA provides information regarding ionizing radiation effects to the Department of Veterans Affairs through participation on inter-departmental committees and through direct contact with officers of the Department.

- 27 The Hon. Mr Bruce Scott, MP, Minister for Veterans' Affairs and Minister assisting the Minister for Defence, *Government acts on nuclear review*, Media Release, Canberra, 16 July 1999.
- 28 Professor John Kaldor, *'Report to the Minister assisting the Minister for Defence on recent studies of nuclear test veterans'*, University of New South Wales, July 1999.
- 29 The Hon. Mr Bruce Scott, MP, Minister for Minister for Veterans' Affairs and Minister Assisting the Minister for Defence, *'Government acts on nuclear review'*, Media Release, Canberra, 16 July 1999:

GOVERNMENT ACTS ON NUCLEAR REVIEW

Work will begin immediately on assessing the impact of the UK nuclear tests on the health of Australian participants. The Minister for Veterans' Affairs and Minister Assisting the Minister for Defence, Bruce Scott, today announced the Government would compile a nominal roll, and conduct mortality and cancer incidence studies, of Australians involved in the UK nuclear tests, following receipt yesterday of a review by Professor John Kaldor of the University of NSW.

In January 1999, the Minister asked Professor Kaldor to review the work of Dundee University researcher, Ms Sue Rabbitt-Roff, on the health of UK nuclear participants, and to assess implications for Australians involved in the tests in the 1950's and 1960's. "Governments have acted too slowly on this issue in the past and I am committed to getting on with addressing the issues raised in Professor Kaldor's review," Mr Scott said. The review indicates that the Rabbitt-Roff research from the University of Dundee in 1997 and 1998 has substantial limitations.

Mr Scott said the nominal roll would include all service personnel involved in the testing, and any civilians involved including aborigines and pastoralists, for whom information is available. The mortality and cancer incidence studies, both based on the names on the nominal roll, will enable the Government to determine if current compensation and assessment arrangements are sufficient.

Mr Scott said he would also establish a scientific contact point to gather international research on exposure to ionising radiation, which would be made available to participants in the testing. The Minister assured all participants in the testing program that their health was of primary concern to the Government. "The Government extended the initial deadline for the review, at Professor Kaldor's request, to enable him to comprehensively address the review's terms of reference," Mr Scott said. "Professor Kaldor is a world recognised epidemiologist whose careful attention to detail is reflected in the high quality of this report." "This public report should

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reassure all participants in the testing program that the Government is acting on their long standing concerns about the effect of the tests.” Mr Scott said.

30 The Hon. Mr Bruce Billson, MP, Minister for Minister for Veterans' Affairs and Minister Assisting the Minister for Defence, *'Australian Participants in British nuclear tests in Australia – the full study'*, op. cit.

31 The Hon. Mr Bruce Billson, MP, Minister for Minister for Veterans' Affairs and Minister Assisting the Minister for Defence, *Nuclear Test Participants To Receive Additional Health Care*, Media Release, Parliament House, Canberra, 28 June 2006. http://minister.dva.gov.au/media_releases/2006/06_june/va058.htm

32 Senator the Hon. Nick Minchin, Minister for Industry, Science and Resources, *Answer to a Question on Notice*, Question No. 3865, Senate Hansard, 27 September 2001, pp. 28303–28305. <http://www.aph.gov.au/hansard/senate/dailys/ds270901.pdf>

(2) Was there a contribution from the British Government for this compensation; if so, how much; if not, was the British Government asked to make a contribution; if not, why not.

Yes, the Australian and British Governments signed an agreement on 11 December 1993 under which Britain agreed to pay Australia £20 million in an ex gratia settlement of Australia's claims concerning the British nuclear test program in Australia.

33 Explanatory Memorandum, p. iii.

34 Jennifer Nicholson, *Military Rehabilitation and Compensation Bill 2003*, *Bills Digest No. 112 2003–04*, Parliamentary Library, Canberra, 25 March 2005. <http://www.aph.gov.au/library/pubs/bd/2003–04/04bd112.pdf>

35 Senator the Hon. Ian Campbell, *Answer to Question on Notice*, Question No. 1130, Senate Hansard, 27 March 2006, pp. 186–187. <http://www.aph.gov.au/hansard/senate/dailys/ds270306.pdf>

The Department of Veterans' Affairs and the Department of Defence have accepted 25 claims from claimants for services related to nuclear tests, the majority of which have not been related to ionising radiation but were for other conditions. Nine (9) were for the effects of ionising radiation and they have been paid in total \$1 047 781.12.

36 Senator the Hon. Nick Minchin, Minister for Industry, Science and Resources, *Answer to a Question on Notice*, Question No. 3625, Senate Hansard, 22 August 2001, pp. 26428–26431. <http://www.aph.gov.au/hansard/senate/dailys/ds220801.pdf>

(1) Compensation has been paid to claimants under:

- the Special Administrative Scheme and the Act of Grace Scheme administered by the Department of Industry, Science and Resources;
- as result of a successful common law action;

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- under the Safety, Rehabilitation and Compensation Act 1988 administered by COMCARE; and
- the Military Compensation and Rehabilitation Service (MCRS) which assumed responsibility for claims by ex-service personnel in July 1991 from COMCARE.

The breakdown for each category is as follows:

(a) 9 payments have been made to Australian servicemen (a further 7 cases are still under consideration);

(b) 5 payments have been made to indigenous people;

(c) 3 payments have been made to civilians;

(d) no payments have been made to pastoralists;

(e) 10 payments have been made to families of the deceased (excludes 3 payments to families in category (b));

(f) the health disorders for which payments have been made include malignant neoplasms and skin conditions such as psoriasis.

(g) 1981 (1), 1989 (6), 1990 (6), 1991 (1), 1992 (2), 1993 (1), 1994 (2), 1996 (2), 1998 (1), 2000 (2) and 2001 (3).

(h) The average compensation payout has been \$126,561.

(2) Australian servicemen – 342 (This figure includes some cases where the Commonwealth has accepted liability for conditions arising from a member's service but where no compensation has been paid.)

Indigenous people – 14

Civilians – 11

(3) Common Law Actions

Since the conclusion of the British Nuclear Testing Program, at least 79 common law actions against the Commonwealth have been instituted by ex-servicemen, other former Commonwealth employees and employees of Commonwealth contractors. Many of the cases before the courts have either been discontinued or withdrawn. Four cases have been heard by the court.

37 SAFETY, REHABILITATION AND COMPENSATION ACT 1988 SECT 7 Provisions relating to diseases

(1) Where:

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(a) an employee has suffered, or is suffering, from a disease or the death of an employee results from a disease;

(b) the disease is of a kind specified by the Minister by notice in writing as a disease related to employment of a kind specified in the notice; and

(c) the employee was, at any time before symptoms of the disease first became apparent, engaged by the Commonwealth or a licensed corporation in employment of that kind;

the employment in which the employee was so engaged shall, for the purposes of this Act, be taken to have contributed in a material degree to the contraction of the disease, unless the contrary is established.

38 The Hon. John Clarke QC, *Report of the Review of Veterans' Entitlements*, January 2003, op. cit. p377.

39 The Hon. John Clarke QC, *Report of the Review of Veterans' Entitlements*, January 2003, op. cit. p378.

40 SAFETY, REHABILITATION AND COMPENSATION ACT 1988
SECT 14 Compensation for injuries

(1) Subject to this Part, Comcare is liable to pay compensation in accordance with this Act in respect of an injury suffered by an employee if the injury results in death, incapacity for work, or impairment.

(2) Compensation is not payable in respect of an injury that is intentionally self-inflicted.

(3) Compensation is not payable in respect of an injury that is caused by the serious and wilful misconduct of the employee but is not intentionally self-inflicted, unless the injury results in death, or serious and permanent impairment.

41 The Hon. John Clarke QC, *Report of the Review of Veterans' Entitlements*, January 2003, op. cit., p. 378.

42 The Hon. John Clarke QC, *Report of the Review of Veterans' Entitlements*, January 2003, op. cit.

43 The Hon. John Clarke QC, *Report of the Review of Veterans' Entitlements*, January 2003, op. cit., p. 371.

44 *ibid.*, p. 371.

45 Senator the Hon. Nick Minchin, Minister for Industry, Science and Resources, *Answer to a Question on Notice*, Question No. 3625, op.cit.

(13) (b) No disability pension paid by DVA would be paid for illnesses relating to atomic testing. Atomic testing is not service covered by the Veterans' Entitlements

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Act 1986. Therefore, all pensions paid by DVA are for conditions arising from service other than atomic testing.

- 46 The Hon. John Clarke QC, *Report of the Review of Veterans' Entitlements*, January 2003, op. cit., p. 399.
- 47 The Hon. John Howard, MP, (Prime Minister), *Additional benefits for veterans, government response to the Clarke Report*, Media Release, Parliament House, Canberra, 2 March 2004, http://www.pm.gov.au/news/media_releases/media_Release724.html
- 48 The Hon. John Clarke QC, *Report of the Review of Veterans' Entitlements*, January 2003, op. cit., Chapter 14, Part II, pp. 342–354.
- 49 The Hon. John Clarke QC, *Report of the Review of Veterans' Entitlements*, January 2003, op. cit., Chapter 14, Part II, pp. 346–351.
- 50 Peter Yeend, Veterans' Entitlements (Clarke Review) Bill 2004, *Bills Digest No. 134 2003–04*, Parliamentary Library, Canberra, 28 May 2004. <http://www.aph.gov.au/library/pubs/bd/2003–04/04bd134.pdf>
- 51 The Hon. John Howard, MP, (Prime Minister), *Additional benefits for veterans, government response to the Clarke Report*, op. cit.
- 52 Jennifer Nicholson, Military Rehabilitation and Compensation Bill 2003, *Bills Digest No. 112 2003–04*, op. cit.
- 53 The Hon. Mr Bruce Billson, MP, Minister for Minister for Veterans' Affairs and Minister Assisting the Minister for Defence, *Nuclear Test Participants To Receive Additional Health Care*, op. cit.
- 54 Explanatory Memorandum, p. iii.
- 55 The Hon. Mr Bruce Billson, MP, Minister for Minister for Veterans' Affairs and Minister Assisting the Minister for Defence, *Nuclear Test Participants To Receive Additional Health Care*, op. cit.
- 56 Australian participants in British nuclear tests in Australia, *Mortality and cancer incidence study*, op. cit., p. v.
- 57 'Maralinga report excludes pre-1982 mortalities' *Australasian Science*, August 2006, p. 10. Dr Sue Wareham; Paul Malone 'N-test report errors corrected secretly' *Canberra Times*, 14 September 2006, p. 10. Paul Malone 'Maralinga veterans still await justice' *Canberra Times* 16 September, 2006.
- 58 The Hon. Mr B Billson, MP, Minister for Veterans' Affairs and Minister Assisting the Minister for Defence, Australian Participants in British Nuclear Tests (Treatment) Bill 2006, Second Reading Speech, *House of Representatives Hansard*, 14 September, 2006, p. 7. <http://www.aph.gov.au/hansard/reps/dailys/dr140906.pdf>
59. Cancer Council of NSW, 'Prostate cancer screening', Information sheet, <http://www.cancercouncil.com.au/editorial.asp?pageid=358>.
60. The Cancer Council Australia, *National cancer prevention policy 2004*, p. 88. [National cancer prevention policy 2004–06](#)

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61. Department of Health and Ageing, *Medicare Benefits Schedule Book*, November 2005, p. 3.
A “clinically relevant” service is a service rendered by a medical or dental practitioner or an optometrist that is generally accepted in the medical, dental or optometric profession (as the case may be) as being necessary for the appropriate treatment of the patient to whom it is rendered.
62. The bulk billing rate for pathology tests for the financial year 2005–06 was 85.7%, according to the Medicare statistics.
63. Department of Health and Ageing, *Medicare Benefits Schedule Book*, November 2005, op. cit., p 565.
64. These are 5 year bilateral agreements which provide broad banded and specific purpose funding from the Australian Government to the States and Territories for a range of public health programs, including for cancer screening. The current agreements cover the period 2004–05 to 2008–09. For more details see the Department’s website, <http://www.health.gov.au/internet/wcms/publishing.nsf/Content/health-publth-about-phofa-phofa.htm>
65. The Cancer Council Australia, op. cit, p. 86.
66. BreastScreen Australia offers free breast screening every two years to women aged from 50 to 69. Women from 40 to 49 and women 70 and over can also have a free breast screen. It's not available to women under 40. See website cancerscreening.gov.au
67. Cervical cancer screening is provided largely through mainstream health services with GPs performing the majority of Pap smears (although States and Territories provide significant funding as well). See website cancerscreening.gov.au
68. The National Bowel Cancer Screening program is being phased in over a number of years, commencing in 2006, but is not specifically covered by the PHOFAs.
69. The Hon. Mr Tony Abbott, MP, Minister for Health and Ageing, ‘Bowel cancer screening starts this week’, *Media Release*, Canberra, 7 August 2006. <http://www.health.gov.au/internet/ministers/publishing.nsf/Content/health-mediarel-yr2006-ta-abb113.htm?OpenDocument&yr=2006&mth=8>
70. Lynette Hoffman, ‘Screen test’, *Weekend Australian*, 10 June 2006, p. 28.
71. Explanatory Memorandum, p. ii.
72. *Optimising cancer care in Australia: a consultative report*, Clinical Oncological Society of Australia, The Cancer Council of Australia and the National Cancer Control Initiative, Carlton, Vic., 2003, p. 6.
73. *ibid*, p 8. These estimates are the most recent available.
74. *ibid*.
75. Moira Coombs, Acts Interpretation Amendment (Legislative Instruments) Bill 2005, *Bills Digest No. 11 2005–06*, Parliamentary Library, Canberra, 8 August 2005. <http://www.aph.gov.au/library/pubs/bd/2005-06/06bd011.pdf>
76. *ibid*.

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77 *ibid.*

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