



Australian Government
Department of Veterans' Affairs

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From: s 47F
To: s 47F
Subject: FW: Administrative Scheme for participants in British Nuclear Testing [SEC=OFFICIAL]

Latest info I have on applying for the administrative scheme

s 47F | Director

Liability and Service Eligibility I Benefits Policy Branch

Policy Division

Tel s 47F Ext s 47F Mobile s 47F

From: s 47F

Sent: Friday, 6 May 2022 3:35 PM

To: s 47F

Cc: s 47F

Subject: RE: Administrative Scheme for participants in British Nuclear Testing [SEC=OFFICIAL]

OFFICIAL

Good afternoon s 47F

Apologies for the delay in responding. Please find suggested changes below.

As mentioned in our previous discussions on Monday the eligibility for compensation under the *The Administrative Scheme for the Purposes of Compensating Persons Present at British Nuclear Sites in Australia* is narrow in that persons eligible to claim compensation under the scheme includes Aboriginals and other civilians such as graziers, who may have been exposed to the black mist and construction workers that were present at the time of the first test. You have indicated that the worker was employed either through the Commonwealth or the SA government this would indicate compensation is available through the Commonwealth or SA scheme rather than the British nuclear scheme. Referring to the text highlighted in green please note you could provide only the details for SA and the Comcare scheme here if preferred as these appear to be most relevant for the correspondent.

...I should also mention that another avenue for potential eligibility exists. In 2017, eligibility for the Veteran Gold Card was expanded to include those who had received compensation from other schemes for medical conditions resulting from exposure to the British Nuclear Tests. Therefore, if a person has medical conditions which are proven to have arisen from radiation exposure due to involvement in the BNT program, or subsequent exposure at a test site, and they received compensation for this exposure under a specified compensation scheme for the medical condition/s, then they may be eligible for the Veteran Gold Card. The person would need to have received compensation for their condition under:

- A Commonwealth/State/Territory workers' compensation scheme^{law}; or
- The Act of Grace Scheme; or
- The Special Administrative Scheme; or
- The Administrative Scheme for the Purposes of Compensating Persons Present at British Nuclear Sites in Australia.

Both the Act of Grace Scheme and the Special Administrative Scheme are now closed, . If a person was a Commonwealth, state or territory worker and they consider that a medical condition was due to their employment, they should contact the relevant workers

compensation scheme to make a claim. Links to workers compensation authorities are listed under the 'Further advice' section on the [Safe Work Australia website at https://www.safeworkaustralia.gov.au/workers-compensation](https://www.safeworkaustralia.gov.au/workers-compensation). If a person is not entitled to compensation under these schemes, they can contact the ~~but I understand that the final scheme remains open and is administered by the Attorney Generals' Department (AGD) about eligibility under the scheme for persons present at British nuclear test sites. AGD can be contacted at WorkersCompensationPolicy@ag.gov.au. Contact details for this department can be found at www.ag.gov.au/about-us/connect-us/contact-us.~~

Happy to discuss if required.

Regards

s 47F

Assistant Director

SRC Act Framework | Safety and Compensation Policy Branch

Safety and Industry Policy Division

Attorney-General's Department

T: s 47F (ext s 47F | s 47F ag.gov.au | www.ag.gov.au)

OFFICIAL

From: s 47F <s 47F dva.gov.au>

Sent: Tuesday, 3 May 2022 3:45 PM

To: s 47F <s 47F ag.gov.au>

Cc: s 47F <s 47F ag.gov.au>

Subject: RE: Administrative Scheme for participants in British Nuclear Testing [SEC=OFFICIAL]

Good afternoon s 47F

The works were undertaken by the Commonwealth Department of Housing and Construction. It appears he to be most likely that he was an employee in the SA Regional Office of the Department, but it is possible he was a contractor. Their role was to erect plinths and warning signs at Maralinga in 1979.

Cheers,

s 47F

'F

Director

Liability and Service Eligibility

Ph. s 47F

Ext. s 47F

From: s 47F <s 47F ag.gov.au>

Sent: Tuesday, 3 May 2022 3:21 PM

To: s 47F <s 47F dva.gov.au>

Cc: s 47F <s 47F ag.gov.au>

Subject: RE: Administrative Scheme for participants in British Nuclear Testing [SEC=OFFICIAL]

OFFICIAL

Good afternoon s 47F

To assist us to consider your proposed response are you able to provide any details in relation to how your constituent was employed in the 70's. What was his role and was he a employed as a private contractor an employee of the Commonwealth or State government.

Regards

s 47F

A/g Director

SRC Act Framework | Safety and Compensation Policy Branch

Safety and Industry Policy Division

Attorney-General's Department

T: s 47F (ext s 47F | s 47F ag.gov.au | www.ag.gov.au)

OFFICIAL

From: s 47F <s 47F dva.gov.au>

Sent: Thursday, 28 April 2022 4:56 PM

To: s 47F <s 47F ag.gov.au>

Cc: s 47F <s 47F ag.gov.au>

Subject: RE: Administrative Scheme for participants in British Nuclear Testing [SEC=OFFICIAL]

Many thanks s 47F

We currently have an extension on the corro until 6 May, does that work for you?

Greatly appreciate your help!

Cheers,

s 47F

'F

Director

Liability and Service Eligibility

Ph. s 47F

Ext. s 47F

From: s 47F <s 47F ag.gov.au>

Sent: Thursday, 28 April 2022 4:49 PM

To: s 47F <s 47F dva.gov.au>

Cc: s 47F <s 47F ag.gov.au>

Subject: RE: Administrative Scheme for participants in British Nuclear Testing [SEC=OFFICIAL]

OFFICIAL

Hi s 47F

We can assist with your request.

The scheme is very old and very rarely used, I will need to do some research around the current provisions of the scheme.

Do you have a particular timeframe that you are working to.

Regards

s 47F

A/g Director

SRC Act Framework | Safety and Compensation Policy Branch

Safety and Industry Policy Division

Attorney-General's Department

T: s 47F (ext s 47F | s 47F ag.gov.au | www.ag.gov.au)

OFFICIAL

From: s 47F <s 47F dva.gov.au>

Sent: Thursday, 28 April 2022 1:44 PM

To: s 47F <s 47F ag.gov.au>

Cc: s 47F <s 47F ag.gov.au>

Subject: FW: Administrative Scheme for participants in British Nuclear Testing [SEC=OFFICIAL]

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Good afternoon s 47F

I have received s 47F out of office message and was wondering if you might be able to assist with the inquiry below?

With many thanks,

s 47F

s 47F

Director
 Liability and Service Eligibility
 Department of Veterans' Affairs
 GPO Box 9998
 Canberra ACT 2601
 Ph. s 47F

From: s 47F

Sent: Thursday, 28 April 2022 1:38 PM

To: s 47F <s 47F [ag.gov.au](mailto:s 47F@ag.gov.au)>

Subject: Administrative Scheme for participants in British Nuclear Testing [SEC=OFFICIAL]

Good afternoon s 47F

I apologise for the email out of the blue, but your name was mentioned to me a while ago as a possible contact in relation to the Administrative Scheme providing compensation to persons who develop conditions arising from involvement in British Nuclear Testing. We have received correspondence from a gentleman who was involved in the Maralinga clean-up activities in the 1970s, and although his primary issue is with DVA Gold Card eligibility, if he received compensation for a condition found to be related to this involvement through the Administrative Scheme this might be another avenue for Gold Card eligibility for him.

As such, we're proposing putting in a brief description of the Scheme in our response and how to get in contact. Would you be OK with the following words, or have any alternate wording?

...I should also mention that another avenue for potential eligibility exists. In 2017, eligibility for the Veteran Gold Card was expanded to include those who had received compensation from other schemes for medical conditions resulting from exposure to the British Nuclear Tests. Therefore, if a person has medical conditions which are proven to have arisen from radiation exposure due to involvement in the BNT program, or subsequent exposure at a test site, and they received compensation for this exposure under a specified compensation scheme, then they may be eligible for the Veteran Gold Card. The person would need to have received compensation for their condition under:

- A Commonwealth/State/Territory workers' compensation law; or
- The Act of Grace Scheme; or
- The Special Administrative Scheme; or
- The Administrative Scheme for the Purposes of Compensating Persons Present at British Nuclear Sites in Australia.

Both the Act of Grace Scheme and the Special Administrative Scheme are now closed, but I understand that the final scheme remains open and is administered by the Attorney Generals' Department. Contact details for this department can be found at www.ag.gov.au/about-us/connect-us/contact-us.

If you're no longer involved in the Scheme, I apologise for the inconvenience and hope you might be able to point me in the right direction?

With many thanks,

s 47F

s 47F

Director
 Liability and Service Eligibility
 Department of Veterans' Affairs
 GPO Box 9998
 Canberra ACT 2601
 Ph. s 47F

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mail and delete all copies. If this e-mail or any attachments have been sent to you in error, that error does not constitute waiver of any confidentiality, privilege or copyright in respect of information in the e-mail or attachments.



Document created in accordance with section 17 of the *Freedom of Information Act 1982 (Cth)*

FOI reference number: LEX 82233

Request details:

'...Documents identifying the current status, administration, and operational arrangements (if any) of the 'Administrative Scheme for the Purposes of Compensating Persons Present at British Nuclear Test Sites in Australia', including:

(c) any policies, guidelines or procedures relating to assessment of claims under the scheme;

(d) any documents recording when or whether the scheme ceased active operation;

(e) any documents relating to applications, assessments, or consideration of claims under the scheme since 2000...'

Date of decision: 20 July 2026

Please note that some of the information released in the following document is dated in 2013. The information and data in the document reflects information that was collated at that point in time.



Australian Government
Department of Veterans' Affairs

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Australian Government

Department of Education, Employment and Workplace Relations

MINUTE

To: S 47F

Through: S 47F

From: S 47F

Date: 06/08/2013

File:

Contact officer: S 47F

Phone: S 47F

SUBJECT

The Administrative Scheme for the Purposes of Compensating Persons Present at British Nuclear Test Sites in Australia (BNT Scheme)

PURPOSE

1. To provide information on the BNT Scheme within the context of the Government's overall response to compensation for those affected Australians who were involved/present at the British Nuclear Test sites in the 1950s and 1960s. A short history of the Tests in Australia is provided at [Attachment A](#).
2. To outline issues considered in the assessment of claims and our ongoing management of the Scheme.

Whole of Government response to compensation for all persons affected by the Tests

The BNT scheme is a small component of the Australian Government's overall response to compensating those persons who participated in or who were affected by the Tests in Australia in the 1950s and 1960s.

Across a number of schemes, compensation and support has been provided to military personnel, Commonwealth employees, non-Commonwealth employees, aboriginal persons and other civilians who may have been exposed to radiation from the British Nuclear Tests (the Tests)

Statutory schemes

Claims for compensation for those Commonwealth employees and military personnel who believe they were injured/developed illnesses as a result of being present at the tests are assessed under legislation such as the *Safety, Rehabilitation and Compensation Act 1988* (or its predecessors) or the *Veterans' Entitlements Act 1986* respectively. Military personnel, Commonwealth employees as well as non-Commonwealth employees were also able to access two administrative schemes which are now closed (see below). [Attachment B](#) includes the statistical background on compensation claims made under the schemes and a comparison of compensation available internationally for those persons affected by Nuclear Tests.

Administrative schemes – non legislated

There are three administrative schemes of which the Department is aware by which the Australian Government has compensated persons affected by the British nuclear tests. They are the BNT Scheme, the *Act of Grace Scheme* and the *Special Administrative Scheme*. The latter two schemes have closed and were each available to military personnel, Commonwealth employees and non-Commonwealth employees. Details of each of the latter two schemes, along with Common Law claims against the Commonwealth Government relating to the Tests are at [Attachment B](#).

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The BNT Scheme

The BNT Scheme was established in 1986 by a Cabinet Decision (Decision no: 8432) and is documented in Hansard ([Attachment C](#)), as a response to the 1985 *Report of the Royal Commission into British Nuclear Tests in Australia* conducted by J. R. McClelland.

Senator the Hon Gareth Evans, Minister for Resources and Energy, stated in Parliament that the scheme would:

Extend the benefits of Commonwealth Government employees compensation legislation, including reverse onus of proof, to civilians at the sites, and to Aborigines and other civilians who may have been exposed to black mist;

...
The Government, nonetheless, is conscious of the importance of the matters dealt with in the Royal Commission report-especially for the Aboriginal traditional owners and those claiming to have suffered illness or injury as a consequence of the United Kingdom tests.

Recommendation 1: Compensation for Individuals

In accordance with this recommendation, the Government has decided to extend compensation eligibility to Aborigines and non-Commonwealth employees, at the rates and under the rules currently applicable under the *Compensation (Commonwealth Government Employees) Act 1971*. The Department of Social Security will establish an administrative scheme to handle these arrangements. Persons eligible to claim compensation under the scheme will include Aborigines and other civilians, such as graziers, who may have been exposed to the black mist. Construction workers, such as those still present at Maralinga at the time of the first test there, will also be eligible.

The net result of these provisions, in the present context, is that if a claimant can establish that he or she has a disease in fact caused by a radioactive substance, and that he or she suffered exposure to a radioactive substance as a result of being employed or otherwise present at or near the atomic test sites, that exposure will be 'deemed to have contributed' to that disease-unless the Commonwealth can establish the contrary. It will be appreciated-advice from the Attorney-General's Department confirms this-that this 'reverse onus' provision does not extend as far as deeming that any particular pathological condition, for example, cancer, which could possibly have been caused by exposure to a radioactive substance was in fact caused by such exposure. That must be established by the claimant in the ordinary way on the balance of probabilities.

Continuation of the scheme

The BNT scheme was originally the responsibility of the Social Security portfolio from its inception in 1986 to approximately 1988/89, as the Department of Social Security then administered the Compensation Act. From sometime around 1989 responsibility for the Compensation Act transferred to the Workplace Relations portfolio.

Legal Advice from the Australian Government Solicitor to Comcare in 2001 ([Attachment D](#)) outlines:

S 42

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Types of compensation available under the BNT Scheme

The BNT scheme was established by an Executive Government decision and does not have a legislative base. It references the provisions of the CCE Act as a guide to determining claims and the provision of compensation. The types of compensation available under the scheme include payment of medical expenses that relate to the compensable condition; compensation for lost wages; a lump sum for any permanent impairment; and - should the person die as a result of his/her condition funeral expenses and if survived by a dependent (usually spouse) payment of a lump sum death benefit.

If a claimant sustains a permanent impairment as a result of the illness, compensation for the impairment will be based on the date the impairment stabilised, for most cases under the BNT scheme permanent impairment is expected to occur under the period the CCE Act was current – therefore the person would be compensated under the Table of Maims and compensation would be limited to the capped amounts current under that Table. If the permanent impairment developed post the introduction of the SRC Act they would be assessed under that Act.

If a claimant dies as a result of the disease for which compensation has been paid, the funeral costs may be paid at the current rates available under the SRC Act (as of 1 July 2013, approx. \$ 10,900). If there are any surviving dependants the Minister may wish to consider paying them the death benefit lump sum available under the SRC Act at the date of death (as of 1 July 2013 approx. \$492,000).

Eligibility under the BNT Scheme

Claims under the BNT Scheme can be considered under the presumptive provisions of the CCE Act. This means that a causal relationship between a particular condition and the applicant's employment/location at the time of the tests will be accepted if the condition is one known to be caused by radiation and the applicant's employment/location at the time of the tests involved exposure to radiation. As with all presumptive provisions this is taken to be the case unless the contrary is established. All matters of fact are established on the balance of probabilities.

In order to establish eligibility in practice, Comcare in consultation with DEEWR, has established a consistent process for claims assessment, which is based on guidance from the Hansard record. For a claim to be successful under the BNT Scheme, it must be established that:

- a) the person was present at or near Maralinga, Emu Fields (South Australia) or the Monte Bello Islands (Western Australia) at the time of the British Nuclear Tests in the 1950s or 1960s
- b) the person would have been exposed to higher levels of ionising radiation as a result of the tests according to available records held by the Department of Resources Energy and Tourism (DRET) and the Australian National Archives
- c) the claimed diseases have been linked to exposure to ionising radiation and the claimant's level of exposure is high enough to have caused the person to develop those diseases as advised by the Australian Radiation and Nuclear Protection Association (ARPANSA).

Comcare uses DRET's and ARPANSA's formal advice to develop a report to the Department with advice regarding the merit of the claims. The Department then briefs the Minister or relevant delegate, including any relevant quantum of compensation payable. This advice is also received from Comcare and is based on provisions in the Compensation Act.

The process for determining claims under the BNT Scheme is outlined in more detail at [Attachment E](#).

Accepted Claims

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There have been six successful applications (of approximately 49 in total) since the BNT Scheme commenced in 1986 – five **S 47F**

. The majority of claims were made when the Social Security portfolio had carriage of the scheme. The Minister responsible for the Social Security portfolio approved the five claims **S 47F** in 1989. Of these five accepted claims three claims were to compensate relatives of persons who died in circumstances of the test and two developed psoriasis triggered by psychological trauma. Compensation was paid as a lump sum payment (approximately \$37,000) to each claimant with no on-going component.

The remaining successful claim was determined in 2004 while the scheme was administered by the Employment and Workplace Relations portfolio. **S 47F**

A sum of around \$52,000 (minus PAYE tax) comprising lost wages and reimbursement for medical expenses was paid to **S 47F** by the Department. **S 47F**

Current Claims

At 1 August 2013 DEEWR has six BNT scheme claims open or under consideration. These include:

1. There is one open approved claim at present (18 November 2013)l.
2. Five claims are under consideration by the Minister following a briefing by the Minister.
3. One claim is still being assessed by Comcare in order to advise the Department on briefing the Minister.

Funding for the Scheme

There is no specific appropriation under DEEWR's Parliamentary Budget Statement for the scheme. Any successful claims would need to be met from within the existing WR internal departmental budget. Any costs involved with investigating claims on Comcare's part, for example commissioning medical reports, are met/ reimbursed by DEEWR.

A Management Board paper from the former Department of Employment and Workplace Relations (DEWR) from January 2005 suggested that DoFD may support supplementation if the costs exceed \$250,000 in any year. However, as of 2013 there is no other documentation or corporate history to provide authorisation/corroboration for this assertion. If such a situation arose, the DEEWR External Budget Team have advised (as of July 2013) that a more substantial case would be required to obtain supplementary funding support.

Authorisation of Decision Making under the Scheme

If a Minister does not wish to consider a claim under the Scheme he/she may authorise a senior Department official to make a decision under the scheme (AGS Advice Attachment D).

If this authorisation is obtained the Department is still required to brief the Minister on its proposed decision prior to informing the claimant. This authorisation lapses when that Minister leaves the portfolio. As of 1/8/2013 the most recent such delegation was made by Minister Gillard on 25/3/10

Additional Information

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Additional and related information such as information on the numbers of Commonwealth employees who participated in the tests and the DVA Non-Liability Health Care Treatment Card, which became available in 2006 to military personnel, Commonwealth employees and contractors, is at Attachment F.

References

1. *The Report of the Royal Commission into Nuclear Tests in Australia – 1985 – Conclusions and Recommendations*
http://www.ret.gov.au/resources/radioactive_waste/Documents/ROYAL%20COMMISSION%20INTO%20BRITISH%20NUCLEAR%20TESTS%20IN%20AUSTRALIA.pdf
2. Australian Participants in British Nuclear Tests (Treatment) Bill 2006 Home Page
http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bill=r2631

Attachments

- Attachment A British Nuclear Tests Program in Australia
- Attachment B Compensation & treatment available to Australian participants in the BNT Program
- Attachment C Extract from Hansard 17 September 1986 regarding the Government's response to the Royal Commission into the British Nuclear Tests in Australia and announcing the intent to establish the BNT scheme
- Attachment D AGS Advice from July 2001 **s 42**
- Attachment E Process for investigating a claim under the BNT Scheme
- Attachment F Additional and related information
-

British Nuclear Tests Program in Australia¹

Background

In 1950, the Australian Government agreed to a British request that nuclear weapons tests be conducted in Australia. The British atomic testing program in Australia initially involved the detonation of a total of twelve nuclear devices over the period from 3rd October 1952 to 9th October 1957.

The tests were carried out in five major operations: two at the Monte Bello Islands off the Pilbara coast of Western Australia (1952 and 1956); one at Emu Field, South Australia (1953); and two at the Maralinga Range, South Australia (1956 and 1957). Scientific studies on weapons components, known as 'minor' trials, were undertaken in parallel between 1953 and 1963 at both Emu Field and the Maralinga Range.

Numbers of Australians Involved in the Tests

Over 16,000 Australian civilian and military personnel were involved in the program. Approximately half of these were civilian, in contrast to Britain, Canada and New Zealand whose participants were nearly all military.

Civilian participation

The civilians, mainly public servants and private contractors, had many roles. The most common was as a construction worker. A large number of linesmen for what was then known as the Post Master-General were also present at the land-based tests. However, there were many other occupations involved including nine members of the Public Service Board.

In total, it is thought that there were about 8,600 civilians involved in the program. Of these, 3,867 were included in the *Australian Participants in British Nuclear Tests in Australia Mortality and Cancer Incidence and Dosimetry Study 2006* as having had potential exposure to ionising radiation due to their participation in some aspects of the tests. Many civilians had left the test sites before any of the tests occurred.

Military participation

The military involvement was also diverse. For the tests at the Monte Bello Islands, there was a large ship-borne RAN contingent of 2,800 sailors, most of whom remained beyond the 45-mile radius Prohibited Area.

The tests at Maralinga and Emu Field mainly involved the Australian Army with logistical support from RAN and RAAF personnel.

¹ Source— *Department of Veterans Affairs Briefing paper 2009*
Contact Officer **S 47F** Veterans Compensation Policy Team
Ph- **S 47F**

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There was some RAAF flight involvement in all of the tests. RAAF pilots flew aircraft through and around the fallout clouds to take measurements of the fallout as it dispersed. RAAF ground crews later worked on these aircraft at various airbases around Australia.

There were a total of about 8,200 military personnel with some involvement in the actual tests program, with 7,116 included in the *Australian Participants in British Nuclear Tests in Australia Mortality and Cancer Incidence and Dosimetry Study 2006* as having had potential exposure to ionising radiation. About 4,500 military participants are still alive.

Impact of the BNT program on Indigenous Australians

The Department of Veterans' Affairs (DVA) has made several attempts in the past to identify Indigenous Australians who may have been involved in the BNT program in Australia or in the area of the tests. The difficulty has been in tracing any such individuals as records have been scarce.

In the past, the Department of Resources, Energy & Tourism (RET) have had contact with a small number of local indigenous groups who claimed to have been impacted by the BNT program in Australia. One of these groups in particular, the Maralinga Tjarutja, has been engaged with the Commonwealth Government ever since the tests took place. Claims from these individuals were settled in the early 1990's for a total cost of \$400,000.

The 1985 *Report of the Royal Commission into British Nuclear Tests - Commission President J.R McClelland* makes substantial references to Indigenous Australians but gives little idea of the individuals involved. For reasons best known to the Commission, greater details were obtained regarding Indigenous populations consequent to Operation Hurricane conducted at the Monte Bello Islands than for the mainland tests.

The table below summarises the figures extracted from the Royal Commission Report. The fact that population numbers of indigenous Australians in the region around the Monte Bello Islands in Western Australia following the Hurricane tests can be listed at approximately 5,000, does not mean the numbers were more or less in the vicinity of Emu Field and Maralinga - consequently the relatively low figures for Maralinga should not be relied upon.

Indigenous Australians known to have been in the vicinity of the nuclear tests – Royal Commission Report

Hurricane						
Region	Major Towns	Missions	Adult Male	Adult Female	Children	Total
Gascoyne			303	243	339	885
Pilbara			859	741	204	1804
Murchison			675	535	639	1849
Total			1837	1519	1182	4538
	Halls Creek		275	198	90	563
	Broome		222	222	171	615
	Port Hedland		163	115	120	398
	Marble Bar		510	470	280	1260
	Roebourne		104	81	113	298
	Onslow		87	78	20	215
	Nullagine		66	48	7	121
Hurricane (cont'd)						
Region	Major Towns	Missions	Adult	Adult	Children	Total

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			Male	Female		
	Mt Magnet		89	67	84	240
	Sandstone		7	6	2	15
	Wiluna		200	150	90	440
	Yalgoo		81	66	56	203
	Carnarvon		125	109	146	380
	Gascoyne Junction		70	45	50	165
	Total		1999	1655	1229	4883
		Balgo	24	26	40	50*
		La Grange	23	27	32	82*
		Jigalong	16	27	44	87*
		Carnarvon	2	1	93	96
		Total	65	81	209	355
		* approx numbers only				
		Data as at 30 June 1952				
Maralinga						
	54	Walked from Yalata to Cundeelee				
	150	Visited Ooldea				
	60	Cooper Pedy				
	100	Assembled at Ooldea				
	90	Visiting Yalata				
	24	Northwest of Maralinga				
	70	No reference				
Total	548					

Other studies of the health impacts of the weapons tests have excluded non-urban Indigenous Australians (e.g. the study by Wise and Moroney, first presented to the Royal Commission, which states: “Two population groups are excluded from the calculations. They are the aboriginals living away from populations centres and personnel involved directly in nuclear test activities ...” (Keith N. Wise and John R. Moroney, Australian Radiation Laboratory, May 1992, “Public Health Impact of Fallout from British Nuclear Weapons Tests in Australia, 1952 – 1957”, Dept. of Health, Housing and Community Services, ARL/TRI05 ISSN 0157-1400, p. 2.).

While the Monte Bello Islands off the coast of Western Australia were uninhabited, the Royal Commission (p. 261) concluded that: “The presence of Aborigines on the mainland near Monte Bello Islands and their extra vulnerability to the effect of fallout was not recognised by either [the Atomic Weapons Research Establishment - UK] or the Safety Committee. It was a major oversight that the question of acceptable dose levels for Aborigines was recognised as a problem at Maralinga but was ignored in setting the fallout criteria for the Mosaic tests.”

In relation to the two Totem tests at Emu Field in South Australia, the Royal Commission found that there was a failure at the Totem trials to consider adequately the distinctive lifestyle of Indigenous Australians and their special vulnerability to radioactive fallout, that inadequate resources were allocated to guaranteeing the safety of Indigenous Australians during the Totem nuclear tests, and that the Native Patrol Officer had an impossible task of locating and warning

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Indigenous Australians, some of whom lived a traditional lifestyle and were located over more than 100,000 square kilometres (Royal Commission Report, p. 173).

A number of Indigenous populations were moved from Ooldea to Yalata prior to the 1956-57 series of tests at Maralinga (for reasons unconnected to the tests), and this resulted in individuals moving away from their traditional lands. Yet movements by Indigenous populations still occurred throughout the region at the time of the tests. It was later realised that a traditional Aboriginal route crossed through the Maralinga testing range.

In relation to the Buffalo series of tests in 1956, the Royal Commission found that regard for the safety of Indigenous populations was characterised by “ignorance, incompetence and cynicism”, and that the site was chosen on the false premise that it was no longer used by the Traditional Owners - Aboriginal people continued to inhabit the Prohibited Zone for six years after the tests. The reporting of sightings of Aborigines was “discouraged and ignored”, the Royal Commission found (p.323).

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Attachment B

Compensation & Treatment Available to Australian Participants of the BNT Program

1. Statutory Compensation Schemes

Compensation is available to Australian participants in the BNT Program or their widow(er)s, where exposure to ionising radiation has been established. This compensation is available in respect of Australian Defence Force (ADF) members under the *Veterans' Entitlements Act 1986* (VEA) (as a result of legislative changes which came into force on 30 June 2010) and Commonwealth employees through the *Safety, Rehabilitation and Compensation Act 1988* (SRC Act). Prior to 2010 the military claims for compensation were also assessed under the SRC Act.

DVA advised in 2009 that the majority of claims lodged with DVA under the SRC Act for conditions linked to BNT participation were rejected, as the medical evidence required to establish a causal link between the service and the claimed conditions is normally not quantifiable. In the year following the legislative changes in 2010 which gave access to the VEA, DVA advised that more claims were made (approximately 200) as this Act has a more generous onus of proof – about a third of the claims were accepted – it is not known the types of illnesses for which the claims were made and on what basis they were accepted.

ADF Claims (source: whole of Government working group on British Nuclear Test issues convened by DVA in 2009 – resulted in DVA Information Brief BR09/0829 (working group))

46 (13 death and 33 injury/disease) of 290 SRC Act nuclear claims have been accepted (16%) from 1981 to the present day. The 290 includes claims for conditions known to have an association with exposure to ionising radiation, but also claims for other conditions and death. Claimants are not required to prove that their condition is specifically linked to exposure to ionising radiation for a cancer-related condition.

These claims figures have been sourced from Defcare (SRC Act claims management system used by DVA) and are not definitive as there have been several changes in administration of military compensation claims over the years (Comcare to 1991, Department of Defence 1991-1999, DVA from 1999) and data capture may have been incomplete.

Commonwealth Employee Claims (source: working group)

The below statistics were provided by Comcare for accepted SRC Act claims arising from “exposure to ionising radiation during the BNT program in Australian. Note – Comcare administered Defence Claims up until 1991, hence the inclusion of some ADF members.

A total of 10 claims have been accepted (1 Australian Federal Police Officer, 1 employee of the Post Master General's Office, 1 Department of Supply employee, 1 Department of Works employee and 6 ADF personnel) from a total of 389 claims received under this scheme.

2. Non-Liability Health Care Scheme

In response to the *Australian Participants in British Nuclear Tests in Australia Mortality and Cancer Incidence and Dosimetry Study 2006*, Australians who were involved in the BNT Program were provided coverage under a non-liability health care scheme established under the *Australian Participants in British Nuclear Tests (Treatment) Act 2006*. This scheme is administered by the Department of Veterans' Affairs.

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In order to be eligible for the non-liability health treatment, an individual must satisfy the definition of an Australian participant in the BNT Program as defined in sections 1-3 of the Act.

Eligible participants receive a Repatriation Health Card – For Specific Conditions (White Card), which provides non-liability health care testing and treatment of all malignant neoplasms, irrespective of causation, for all ADF, Australian Public Service employees and third party civilian contractors who participated in the Program. This scheme does not extend to widow/ers or their children.

Non- Liability Health Care Scheme Claims (source: working group)

Since the inception of the non-liability health care scheme on 19 June 2006, a total of 804 claimants have been deemed eligible as a participant of the British Nuclear Tests in Australia, from a total of 1341 claimants.

3. Administrative Schemes & Australian Common Law Cases

3.1 BNT Scheme

In 1986, following the McClelland Royal Commission, the Commonwealth Government established the BNT Administrative Scheme with benefits referencing the previous Act the *Compensation (Commonwealth Government Employees) Act 1971*. It was established to provide compensation coverage to third party civilian contractors, pastoralists and Indigenous Australians for injuries or diseases arising from the circumstances of the BNT Program and where liability could be established. This scheme, which remains in force, is administered by the Department of Education, Employment and Workplace Relations.

In the Government Response and Ministerial Statement relating to the Royal Commission, the then Minister for Resources and Energy, the Hon. Senator Gareth Evans, stated that the extension of compensation benefits to Aborigines and non-Commonwealth employees, would be "at the rates and under the rules currently applicable under the *Compensation (Commonwealth Government Employees) Act 1971*."

Coverage under this Scheme provides eligible persons with reimbursement for medical costs and lost wages, access to a permanent impairment lump sum compensation payment, and death and funeral benefits if a causal link can be established between the illness/es and/ or death and presence at or near the tests.

Administrative Scheme Claims

There have been some six successful claims under the Administrative Scheme and 49 applications for compensation in total. Five of the successful claims were **S 47F**

There are currently five claims under consideration by DEEWR for compensation under the scheme.

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3.2 Act of Grace Scheme

In September 1989, the Government established an Act of Grace Scheme, jointly administered by the former Department of Primary Industries and Energy (now DRET) and the Attorney-General's Department. Under the Act of Grace Scheme, claimants with Common Law actions issued and served on the Commonwealth in 1988 and up to 4 September 1989, could apply to have their case assessed outside of the court. An offer of compensation under this Scheme was made subject to the applicant signing a Deed of Release and Indemnity and without the Commonwealth accepting liability.

Act of Grace Scheme Claims (source: working group)

There have been 6 claims under the Act of Grace Scheme, of which 2 were successful (1 ADF; 1 Commonwealth Government employee).

3.3 Special Administrative Scheme

In September 1989, another administrative scheme, titled the Special Administrative Scheme, was introduced. This was administered by the former Department of Primary Industries and Energy. The Scheme provided compensation to eligible test participants suffering from leukaemia (other than chronic lymphatic leukaemia) or multiple myeloma, or, if they had died as a result of these diseases, paid lump sum compensation to their dependants.

In 1995, the scheme was amended to reflect new epidemiological findings which found that the belief that there was an increased risk of developing multiple myeloma amongst test participants was not substantiated. Consequently, only test participants who had developed leukaemia, within 25 years of test participation, or dependants of those who had died as a result of developing such a leukaemia, were considered eligible for compensation. An offer of compensation under this Scheme was made subject to the applicant signing a Deed of Release and Indemnity and without the Commonwealth accepting liability.

Special Administrative Scheme Claims (source: working group)

There have been 26 claims under the Special Administrative Scheme, of which 12 were successful (1 civilian [Kwinana employee]; 4 ADF personnel; 6 Commonwealth Government employees; one claimant who is either a civilian or a Commonwealth Government employee). This Scheme is now closed

3.4 Australian Common Law Cases

An individual may launch a common law claim against the Commonwealth of Australia related to the BNT Program. These claims are administered by DRET which has provision in its budget for "Defence of Common Law Actions".

To DRET's knowledge, the Australian Government Solicitor (AGS) acted for the Commonwealth in all the common law actions arising from the tests.

Common Law Claims (source: working group)

AGS has advised that of late 2009 there have been approximately 80 cases (DRET advises that it has only identified 74 common law applicants to date), of which only six resulted in a court decision (the others being either discontinued or settled). Five of those cases found in the Commonwealth's favour; only one claimant was successful [Johnstone v Cth (1989)]. The last common law action was settled in May 2004.

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Benefits Available to those affected by nuclear tests in other countries (as of 2009)

In 2009 the following comparison of compensation or related benefits available to participants/persons affected by nuclear tests conducted by the British as well as by other nations by the Department of Veterans' Affairs was undertaken as part of the whole of government working group concerned with issues relating to the British Nuclear tests. It was apparent that most countries provide some form of compensation and health care for veterans' radiation related diseases, either on a presumptive or causative basis or both. In some instances availability of information was extremely limited.

The UK, NZ, Canada and USA provide compensation under their war veterans' disablement schemes. Canada also provides an ex-gratia payment of \$24,000 Canadian.

In considering any comparison of these benefits it must be noted that these arrangements exhibit a range of detail differences such as standards of proof, types and levels of compensation operate in different national compensation, health and welfare contexts.

<i>Country</i>	<i>Compensation</i>	<i>Health Care</i>
United Kingdom	• Access to war pensions scheme from 1988 for participants diagnosed with multiple myeloma or leukaemia (other than chronic lymphatic leukaemia). From 1993, new claims only accepted for leukaemia manifested within 25 years of exposure.	• Health care for conditions compensated under war pensions scheme.
Canada	• Access to Disability Pensions, Special Awards, Allowances and Dependant Benefits if the veteran's service caused their conditions. • Ex-gratia payment of \$24,000 (Canadian) from 2008.	• Health care for conditions accepted as linked to the veteran's nuclear test service.
New Zealand	• Access to war disablement pension: a presumptive list of conditions for which liability will be accepted.	• Health Care for conditions compensated under war pensions scheme.

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US	• Compensation payable under Title 38 of their Pensions, Bonuses and Veterans' Relief for list of diseases/cancers for radiation exposed veterans. This list mimics the NZ list of cancers, however , such disease must "manifest to a degree of 10% within one year of separation from the military" to be treated as presumptive. • After this period, compensation is payable only on the basis of evidence of causation.	• Health Care for veterans with radiation-related illnesses is provided within the framework of a complicated priorities system - veterans who have established a service connection to their illness/es are given priority health care over those who have not established a service connection. • The Ionising Radiation Registry Program provides a complete physical examination, including all necessary tests, for any veteran who was exposed to radiation as part of the nuclear testing program or the occupation of Japan - participants need not be registered for VA health care to register in this program.
France	• In late 2009 legislation passed which provides compensation coverage to civilians and military personnel who participated in the atomic tests conducted in the Algerian Sahara and French Polynesia from the period of 1960 - 1996. • The compensation coverage relates to 18 radiation related illnesses identified by the United Nations Scientific Committee on the Effects of Atomic Radiation, which include leukaemia, thyroid cancer and other diseases. • Claims are considered by a special Committee on a case-by-case basis, final recommendation is made to the Defence Ministry for a decision.	• Not known
Russia	• Small monthly pension, no comprehensive compensation scheme	• Some health care believed to be provided, no details known
China	• Nothing official – believed to be an undisclosed compensation scheme	• Not known

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Attachment C

ROYAL COMMISSION INTO BRITISH NUCLEAR TESTS IN AUSTRALIA: Government Response and Ministerial Statement

Date 17 September, 1986
Database Senate Hansard
Speaker Evans Sen The Hon G.J. (RESOURCES AND ENERGY, ALP, VIC, Government)
Page 498
Proof No
Source Senate
Type Speech
Context Miscellaneous

Senator GARETH EVANS (Victoria-Minister for Resources and Energy) —by leave- The report of the Royal Commission into British Nuclear Tests in Australia was presented to the Governor-General on 20 November 1985 and was tabled in Parliament on 5 December 1985. No substantive response was made to its recommendations at that stage. In summary, the seven Royal Commission recommendations were as follows:

1. Extend the benefits of Commonwealth Government employees compensation legislation, including reverse onus of proof, to civilians at the sites, and to Aborigines and other civilians who may have been exposed to black mist;
2. compile a national register of nuclear veterans, Aborigines and others who may have been exposed to black mist or radiation at the tests;
3. clean-up Maralinga and Emu so that they are fit for unrestricted habitation by the traditional Aboriginal owners;
4. establish a Maralinga Commission to oversee the clean-up and co-ordinate future management of the site;
5. signpost areas still not suited for permanent habitation on the Monte Bello Islands and to collect small debris;
6. all clean-up costs for Maralinga, Emu and Monte Bellos to be borne by the United Kingdom Government; and
7. compensate those with traditional interests in the Maralinga lands, in the form of technology and services.

Some of these recommendations raise complex policy issues, some involve delicate intergovernmental negotiations, some cannot be finally addressed without extensive further

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technical research; all have taken time to consider, and some-for reasons which I will make clear-will not be able to be finally responded to for some time yet. The Government, nonetheless, is conscious of the importance of the matters dealt with in the Royal Commission report-especially for the Aboriginal traditional owners and those claiming to have suffered illness or injury as a consequence of the United Kingdom tests-and remains keen to sustain the momentum that has already developed in the nine months since the report was presented. We have accordingly **now determined our responses**, to a greater or lesser extent, **to recommendations 1, 2, 4 and 7**; we are actively engaged in the process of considering recommendations 3 and 5; and we have commenced discussions with the United Kingdom Government-as yet only in their preliminary stages-in relation to recommendation 6.

Recommendation 1: Compensation for Individuals

In accordance with this recommendation, the Government has decided to extend compensation eligibility to Aborigines and non-Commonwealth employees, at the rates and under the rules currently applicable under the *Compensation (Commonwealth Government Employees) Act 1971*. The Department of Social Security will establish an administrative scheme to handle these arrangements. Persons eligible to claim compensation under the scheme will include Aborigines and other civilians, such as graziers, who may have been exposed to the black mist. Construction workers, such as those still present at Maralinga at the time of the first test there, will also be eligible.

The existing onus of proof provisions of the Compensation Act-including the existing 'reverse onus' clause in section 30-will apply to Aborigines and non-Commonwealth employees in the same way as to Commonwealth employees who are suffering injuries or disease which may have resulted from the atomic tests. Section 30 provides that where the disease in question is one specified in the regulations as being related to employment of a particular kind, then 'unless the contrary is established, the employment ...shall be deemed to have been a contributing factor to the contraction of the disease'. Item 4 of regulation 12 of the Compensation (Commonwealth Employees) Regulations in turn identifies a 'pathological condition caused by ... radium or another radioactive substance' as being related to 'employment involving exposure to or contact with radium or other radioactive substances'.

The net result of these provisions, in the present context, is that if a claimant can establish that he or she has a disease in fact caused by a radioactive substance, and that he or she suffered exposure to a radioactive substance as a result of being employed or otherwise present at or near the atomic test sites, that exposure will be 'deemed to have contributed' to that disease-unless the Commonwealth can establish the contrary. It will be appreciated-advice from the Attorney-General's Department confirms this-that this 'reverse onus' provision does not extend as far as deeming that any particular pathological condition, for example, cancer, which could possibly have been caused by exposure to a radioactive substance was in fact caused by such exposure. That must be established by the claimant in the ordinary way on the balance of probabilities.

The pathological condition usually cited in compensation claims under regulation 12 item 4 is cancer. But the natural incidence of death from cancer in the Australian population is approximately one in five, and similar statistics apply elsewhere in the world. It is no doubt because of this high natural incidence that the existing Compensation Act provisions do not assume that a person's cancer has been caused by exposure to radioactivity but require this to be established on the balance of probabilities. Although it may not be easy in every case for claimants to establish on the balance of probabilities the necessary causal link between their disease and exposure to radioactivity, it seems highly unlikely, on the basis of the material cited in the Royal Commission report-although the

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Commission's conclusions were not quantified in this respect-that any injustice will be done.

The United Nations Scientific Committee on the Effects of Atomic Radiation has concluded that the risks of fatal cancer induction from external radiation is of the order of one chance in 100,000 for every millisievert of radiation dose. On this basis, at the very low levels of radiation to which some 15,000 Australians-including Commonwealth employees, non-Commonwealth employees and Aborigines-may have been exposed during the tests, there is a risk of only one or two cancer cases in excess of normal population incidence. While the Government will not be seeking to deny compensation in any case where compensation appears justified, it will nevertheless make full use of the appeals process if compensation is awarded and it believes that Commonwealth liability does not exist.

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Attachment D

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Our ref: 01038684

20 July 2001

S 47F

Principal Legal Adviser
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S 42

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Process for investigating a Claim under the BNT Scheme

1. When DEEWR, as the Department responsible, receives an enquiry about claiming under the scheme, a form² (based on Comcare's general claim form) is sent to gather the appropriate information. Claimants are asked to provide answers to questions such as:
 - their employment/otherwise at the time of the tests
 - their location at the time (Maralinga, Monte Bello Islands, areas around these sites),
 - the illnesses for which the person is claiming compensation,
 - the date the illness developed,
 - medical reports relating to the illness, etc.

The form also contains a statement seeking the person's permission to forward their details to Comcare, as a technical claims assessor, so that Comcare is able to investigate the claim, and possibly seek a specialist's report following an examination of the person in regard to their illness.

2. Once the form is returned to DEEWR the person's case is referred by letter to Comcare formally seeking assistance in investigating the claim. The Department is responsible for paying for any medical assessments, and subsequent medical reports, if any, which Comcare deems necessary for the person to attend in assisting it to provide advice on the merits of the claim.
3. Comcare forwards the person's name, place and date of employment/presence during the tests to the Department of Resources Energy and Tourism (DRET). DRET reviews this information against its records regarding all persons recorded as being present at the time of the tests and the proximity of the persons present at the time to the test sites.
4. DRET provides a report to Comcare detailing whether the person is recorded as having been at the site, or if not at the site, whether the area they were located at the time of the tests was subject to fallout. In either case DRET details the possible level of exposure the person may have experienced.

If advice from DRET supports the physical criteria for eligibility under the scheme Comcare provides the relevant case information to ARPANSA for their conversion of the atmospheric level of radiation to the physical impact of that on a person's body and health. ARPANSA provide medical advice on whether a level of exposure on a person's body is likely to have resulted in the development of the diseases for which they are claiming compensation. ARPANSA provides a formal report to Comcare detailing their advice.

5. Comcare consolidates the advice from DRET and ARPANSA to provide an assessment to DEEWR. If the advice is that the claim should be accepted DEEWR may then ask Comcare to develop an estimate of the compensation payable.
6. The Department is responsible for making a recommendation to the Minister regarding the acceptance or rejection of the claim. If the claim is recommended to be accepted, DEEWR should outline in its advice the possible costs involved in compensating the person – these are to be based on the Compensation Act.

² [Admin Scheme information form 2013.doc](#)

Additional and Related Information

1. Commonwealth Public Servants present at the British Nuclear Tests

There were approximately 8,200 Commonwealth Public Servants present at the Tests (as well as approximately 8,000 military personnel). If any of these persons sustained any injuries or developed any illnesses as a result of being at the tests, they are able to claim under the *Safety, Rehabilitation and Compensation Act 1988*, or its predecessors – depending on the time the injury/illness first manifested. The procedures for establishing liability for any claimed illness/death relating to radiation exposure is carried out by Comcare in the same manner as the merits of radiation claims are investigated under the Scheme.

2. The DVA White Card 2006 - Non-Liability Health Care Treatment

From 2006 it is possible for military personnel, Commonwealth public servants, AFP and civilian contractors present at the British Nuclear Tests to access non-liability health care treatment for any cancers they contract. A person accesses this by contacting the Department of Veteran's Affairs (DVA) and establishing the person's presence at the sites at the times of the tests.

An advantage of considering claims from persons who were contractors and who are in receipt of the White Card, is that meeting eligibility for the Card establishes that their presence at or near the tests at the relevant times has already been established. However, their proximity to the test sites themselves must then be established. For instance, some contractors did not venture far from Maralinga village which was over 40 km from the test site, and RET has determined that there was minimal fallout over the village.

Extract from DVA website

Eligibility for non – liability Health Care (DVA White Card)

'All Australian military personnel, Australian Public Service Employees and third party civilian contractors who participated in the BNT programs in the 1950s and 1960s in Australia are eligible for non-liability health care treatment for all cancers, irrespective of causation.

Other civilians who were at or near the tests, such as pastoralists and aboriginal persons, are not eligible for the White Card

Legislation governing this treatment received assent on 30 November 2006.

Eligibility for non-liability health care treatment was extended to those persons who were working, or were a visitor, in at least one of these testing areas while tests were conducted or were present in a test area within a 2 year period after the relevant explosion. Those who participated in the minor nuclear test trials conducted between 1953 and 1963 are also eligible.

Eligibility was extended to Commonwealth Police, Australian Federal Police and Australian Protective Service Officers who patrolled the Maralinga nuclear test area up to 30 June 1988 on 12 June 2008.

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View the [Definition of an Australian Participant in the British Nuclear Test Program](#) for the Purposes of Non-liability Health Care Treatment for All Malignant Cancers.'

White Card - Background

The findings of the Australian Participants in British Nuclear Tests in Australia Study were released in June 2006. The Study examined whether there is an increased rate of death and cancer among male nuclear test participants compared to the general Australian community. The Mortality and Cancer Incidence study found that there was a statistically significant increase in the number of certain cancers contracted by the study participants and resulting mortality compared to the rate of those cancers in the general Australian population. The incidence of contraction of all cancers was also higher than that in the Australian population.

The findings of the Study are presented in two volumes. Volume 1, Dosimetry 2006, reports on the radiation dosimetry study which used data from the tests and modeling to estimate the radiation exposure of participants in the tests. Volume 2, Mortality and Cancer Incidence 2006, reports on the mortality and cancer incidence of participants, and a case-control study on the occurrence of leukemia in relation to radiation exposure.

The Study was commissioned by the Repatriation Commission, managed by the Department of Veterans' Affairs and conducted by Adelaide University in association with organizations such as the Australian Radiation Protection and Nuclear Safety Agency.

The full study is broken up into two volumes which can be accessed individually and the Main Findings can be viewed separately.

- [Go to the Dosimetry 2006 - Volume 1](#)
- [Go to the Mortality & Cancer Incidence 2006 - Volume 2](#)
- [Download the Main Findings of the Study](#)

More information on the DVA White Card can be found on the DVA Website BNT Page- the link is:

http://www.dva.gov.au/health_and_wellbeing/health_programs/nuctest/Pages/index.aspx
