

## **EXPLANATORY STATEMENT**

### **Veterans' Entitlements (Continuous Full-time Service - Operation Anode) Determination**

#### **EMPOWERING PROVISION**

Paragraph 5R(1)(a) of the *Veterans' Entitlements Act 1986*

#### **PURPOSE**

To deem official war photographers who were attached to the Australian Defence Force (ADF) in the Solomons on Operation Anode, on or after 21 October 2003, to be members of the ADF while providing services on the Operation thereby making them eligible for the same entitlements under the *Veterans' Entitlements Act 1986* that members of the ADF would be eligible to receive.

#### **RETROSPECTIVITY**

The attached instrument applies to the relevant class of persons on or after 21 October 2003 ie before it was registered on the Federal Register of Legislative Instruments. Subsection 12(2) of the *Legislative Instruments Act 2003* provides (as paraphrased) that retrospective legislative instruments that negatively affect citizens are of no effect. The attached instrument does not fall within this prohibition because it is beneficial in nature and does not disadvantage any person or impose liabilities on any person (other than the Commonwealth).

#### **CONSULTATION**

The Rule-Maker (Minister for Veterans' Affairs) decided that consultation in respect of the attached instrument was not necessary for the following reasons:

- the instrument was beneficial in nature;
- the instrument was identical to a previous instrument that had been operating successfully since 2003;
- it was necessary to make the instrument relatively quickly (before the end of 2005) because the original instrument on which it was based could not be found, meaning it could not be registered under the *Legislative Instruments Act 2003*, the result being that the original instrument would, by virtue of the *Legislative Instruments Act 2003*,

be automatically repealed in 2006 and therefore a replacement instrument needed to be made;

- the *Legislative Instruments Act 2003* cites "service instruments" (ie instruments similar to the one attached) as an example of a legislative instrument in respect of which consultation may be inappropriate (para.18(g)).