

EXPLANATORY STATEMENT

Veterans' Entitlements Act 1986 Determination of warlike service (Operation PALATE II)

The *Veterans' Entitlements Act 1986 (VEA)* provides for automatic treatment for certain cancers, post traumatic stress disorder and some other prescribed conditions, access to the Veterans' Counselling Service, funeral benefits, Service pension, access to gold card, and the Victoria Cross Allowance. While some of these require warlike service, others only require non-warlike service for Veterans' Entitlements Act eligibility.

The purpose of this Determination is to declare service with the United Nations Assistance Mission in Afghanistan, on Operation PALATE II, as warlike service for the purpose of the VEA.

This Determination applies to service on 27 June 2005, the day that members of the Australian Defence Force (ADF) commenced warlike service in Operation PALATE II.

This Determination is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*. The day after it is registered on the Federal Register of Legislative Instruments, the instrument is taken to have effect retrospective to 27 June 2005.

The retrospective effect of the Determination is required to ensure no ADF member is disadvantaged if claiming for death, injury or disease that occurred between the period when they commenced duty on the operation and the day after the date that this instrument is registered under the LIA. The retrospective application of this Determination does not affect the rights of any persons (other than the Commonwealth) so as to disadvantage those persons nor does it impose liabilities (other than on the Commonwealth) in respect of anything done before the date the Determination is registered.

The Rule Maker has noted that even though this Determination is beneficial in nature and consultation in respect of this instrument may not be required, consultation did take place between the Department of Veterans' Affairs and Defence and both parties support the measure. In making this decision the Rule-Maker also noted that the Determination related to the service of members of the ADF (service instrument) and paragraph 18(g) of the LIA states that service instruments are the kind of instruments in respect of which consultation may be inappropriate.

Authority: Subsection 5C(1) of the
Veterans' Entitlements Act
1986