

# EXPLANATORY STATEMENT

## *Veterans' Entitlements Act 1986*

### Determination of Hazardous Service – Gulf war

The *Veterans' Entitlements Act 1986* (the Act) provides for the payment of pensions and other benefits to, and medical treatment for, veterans and certain other persons, and for other purposes. In particular, it 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. Some of these entitlements and benefits require a member to have rendered "warlike service"; others only require "non-warlike service" or "hazardous service" for eligibility under the Act.

The purpose of this Determination is to revoke and replace the Determination made on 17 May 1991 ("the 1991 Determination") by then Minister of State for Defence Science and Personnel, the Honourable Gordon Bilney, in relation to service in:

- (1) Bahrain, Oman, Qatar, Saudi Arabia, the United Arab Emirates and the Island of Cyprus;
- (2) the sea areas contained within the Gulf of Suez, the Gulf of Aqaba, the Red Sea, the Gulf of Aden, the Persian Gulf and the Gulf of Oman; and
- (3) the sea area contained within the Arabian Sea north of the boundary formed by the joining of each of the following points to the next:

(a) 20° 30' North	70° 40' East
(b) 14° 30' North	67° 35' East
(c) 8° 30' North	60° 00' East
(d) 6° 20' North	53° 52' East
(e) 5° 48' North	49° 02' East
- (4) the sea area contained within the Suez Canal and the Mediterranean Sea east of 30° E.

This Determination also remakes the 1991 Determination to overcome minor administrative impediments associated with mandatory registration requirements under the *Legislative Instruments Act 2003*. The text of this Determination is in similar terms to the 1991 Determination. This Determination is a legislative instrument for the purposes of the *Legislative Instruments Act 2003* (the LIA) and is therefore subject to the registration and Parliamentary scrutiny regime outlined in the LIA.

This Determination applies to service on or after 2 August 1990, the date that members of the Australian Defence Force (ADF) were deployed on hazardous service in the subparagraphs (1 or 4) above. This Determination is expressed to commence retrospectively, from 2 August 1990, which is the date specified in Item 10 of schedule 2 of the Act (and the date of commencement of the 1991 Determination).

The retrospective operation of this Determination is required to ensure that no ADF member (or his or her legal personal representative as the case may be) is disadvantaged if claiming

for death, injury or disease that occurred between the period when they commenced service on the Operation and the date that this Determination is registered on the Federal Register of Legislative Instruments. The retrospective application of this Determination does not affect the rights of a person (other than the Commonwealth or an authority of the Commonwealth) so as to disadvantage that person nor does it impose liabilities on a person (other than the Commonwealth or an authority of the Commonwealth) in respect of anything done or omitted to be done before the date this Determination is registered.

Consultation was considered inappropriate and unnecessary pursuant to section 18 of the LIA because the Determination relates to the service of members of the ADF.

Authority: Paragraph 120(7) of the *Veterans' Entitlements Act 1986*