

EXPLANATORY STATEMENT

Veterans' Entitlements Act 1986

Determination of Hazardous Service

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 22 October 1991 ("the 1991 Determination") by then Minister of State for Defence Science and Personnel, the Honourable Gordon Bilney, in relation to:

- (i). service with Allied Forces providing humanitarian aid to Kurdish refugees in Iraq and in the area of Turkey south of latitude 38° north;
- (ii). service afloat after 8 June 1991 in Royal Australian naval or allied naval units deployed in the following areas: the waters of the Arabian Gulf, the Gulf of Oman, the Northern Arabian Sea, the Gulf of Aden and the Red Sea bounded to the south and east by the following coordinates:

25° 00° North - 61° 50° East
20° 00° North - 61° 50° East
11° 50° North - 51° 17° East
- (iii). service with the United Nations Special Commission for the Destruction of Weapons of Mass Destruction in Iraq, whilst actually in Iraq; and

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 7 May 1991, the earliest date that members of the Australian Defence Force (ADF) were deployed on hazardous service:

- (i). as a member of the Australian Defence Force as part of Operation HABITAT on or after 7 May 1991 in Iraq and in the area of Turkey south of latitude 38° north,
- (ii). as a member of the Australian Defence Force afloat in Royal Australian naval or allied naval units deployed after 8 June 1991 and before 1 April 1996 in the waters of the Arabian Gulf, the Gulf of Oman, the

Northern Arabian Sea, the Gulf of Aden and the Red Sea bounded to the south and east by the following coordinates:

25° 00° North - 61° 50° East

20° 00° North - 61° 50° East

11° 50° North - 51° 17° East

- (iii). as a member of the Australian Defence Force as part of Operation BLAZER with the United Nations Special Commission for the Destruction of Weapons of Mass Destruction in Iraq on or after 2 July 1991.

This Determination is expressed to commence retrospectively, from 7 May 1991, which is the earliest date specified in the instrument.

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*