

# EXPLANATORY STATEMENT

## *Veterans' Entitlements Act 1986*

### Determination of Warlike Service – Vietnam (Southern Zone)

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" for eligibility under the Act.

The purpose of this Determination is to revoke and replace the Determination made on 23 December 1997 ("the 1997 Determination") by then Minister for Defence Industry, Science and Personnel, the Honourable Bronwyn Bishop, in relation to service in Vietnam (Southern Zone). This Determination also remakes the 1997 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 1997 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 during the period from and including 12 January 1973 to 29 April 1975, the period that members of the Australian Defence Force (ADF) were deployed on warlike service in Vietnam (Southern Zone). This Determination is expressed to commence retrospectively, from 12 January 1973, which is the date specified in the instrument (and the date of commencement of the 1997 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: Subsection 5C(1) of the *Veterans' Entitlements Act 1986*