

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Veterans' Affairs

Military Rehabilitation and Compensation (Members) Determination 2006 (No.2)

This Military Rehabilitation and Compensation (Members) Determination 2006 (No.2) is made under subsection 8(1) of the *Military Rehabilitation and Compensation Act 2004* (the Act).

Subsection 8(1) of the Act provides that the Defence Minister, defined in section 5 of the Act as the Minister responsible for the administration of section 1 of the Defence Act 1903, may determine in writing that a person or particular class of persons may be taken to be *members* for the purposes of the Act. Under the portfolio allocation of Ministerial Responsibilities, the Minister Assisting the Minister for Defence has responsibility for compensation matters and is therefore responsible for the promulgation of determinations by the Defence Minister under the Act.

A determination may be made under subsection 8(1) where a person or class of persons engage in activities or perform acts at the request or direction of the Defence Force, for the benefit of the Defence Force, or under a requirement made by or under a law of the Commonwealth for the purposes of the Defence Force. These persons are taken to be members for the purposes of the Act and are therefore entitled to certain benefits under the Act that are available to Defence Force members.

Clause 1 cites the full title of the Determination.

Clause 2 provides that the Determination is taken to have commenced on 1 July 2004, the date the new Military Rehabilitation and Compensation Act commenced. The retrospectivity is required to take account of previous contracts signed for similar activities on or after 1 July 2004.

Clause 3 determines that the classes of persons specified in Schedule 1 who perform or have performed the acts specified are declared members for the purposes of the Act.

Schedule 1 lists the class of persons, together with the acts or activities for the purposes of the Determination. The class of persons are those persons contracted by the Department of Defence to provide, or support the provision of, musical performances and entertainment at the request of the Defence Force without receiving any remuneration other than payment of expenses incurred. The class of persons includes not only professional artists but also managers and support crew whose services are necessary for the conduct of the performance.

This Determination is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Department of Veterans' Affairs and Defence Legal have been consulted in the making of this instrument.