

EXPLANATORY STATEMENT

Military Rehabilitation and Compensation (Non-warlike service) Determination 2007/1

For the avoidance of doubt, this Determination does not affect the operation of the previous Military Rehabilitation and Compensation (non-warlike service) Determination 2006/2, made under paragraph 6 (1) (b) of the *Military Rehabilitation and Compensation Act 2004* (the Act). Paragraph 6 (1) (b) of the Act defines non-warlike service as meaning service with the Defence Force that is of a kind determined in writing by the Defence Minister to be non-warlike service for the purposes of the Act.

The purpose of this Determination is to declare service with the Australian Defence Force in support of the Australian whole-of-Government operation to enhance international peace and security, on OPERATION VIGILANCE, is non-warlike service for the purpose of the Act.

Clause 1 of this Determination sets out the manner in which this Determination may be cited.

Clause 2 of this Determination confirms that the operation of the previous Military Rehabilitation and Compensation (non-warlike service) Determination 2006/2 is not affected by this Determination.

Clause 3 of this Determination provides that the Determination is taken to have commenced on 1 July 2006.

Clause 4 specifies that service in an operation described in the Schedule is non-warlike service, for the purposes of paragraph 6 (1) (b) of the Act.

The Schedule specifies the Australian Defence Force support of the Australian whole-of-Government operation to enhance international peace and security, OPERATION VIGILANCE as an operation; service on it is therefore non-warlike service under the Act.

The retrospective commencement date 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 date that this instrument is registered. 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.

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

This Determination is exempt from disallowance pursuant to item 6A of Schedule 2 of the *Legislative Instruments Regulations 2004* (the Regulations) and is also exempt from sunseting pursuant to item 3A of Schedule 3 of the Regulations.

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 6 (1) (b) of the
*Military Rehabilitation
and Compensation Act
2004*