

EXPLANATORY STATEMENT

Veterans' Entitlements Act 1986

Determination of warlike and non-warlike service (Operation SOUTHERN WATCH)

The *Veterans' Entitlements Act 1986* (the Act) 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. While some of these require warlike service, others only require non-warlike service for eligibility under the Act.

The purpose of this Determination is to revoke a previous declaration of non-warlike service made by the then Minister for Veterans' Affairs in relation to this operation and to now declare service with the United States elements of the coalition force operation to patrol the Iraq No-Fly-Zones on Operation SOUTHERN WATCH, as non-warlike service for the purpose of the Act in an amended area of operations by removing Iraq and inserting Incirlik airbase in Turkey and inserting warlike service for the purpose of the Act in Iraq.

This Determination applies to service commencing on 31 August 1992, the day that members of the Australian Defence Force (ADF) began warlike service in Operation SOUTHERN WATCH.

The retrospective application 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* (LIA) and is exempt from disallowance pursuant to item 10 of Schedule 2 of the *Legislative Instruments Regulations 2004* (the Regulations) and is also exempt from sunseting pursuant to item 7(a) of Schedule 3 of the Regulations. This Determination takes effect on and from 16 April 2007 reflecting the date the Minister for Defence agreed to amend the area of operations affected by this non-warlike declaration and reclassified service in Iraq as warlike.

Consultation was considered unnecessary pursuant to section 18 of the LIA because the Determination relates to the service of members of the ADF (service instrument).

Authority: Subsection 5C(1) of the
Veterans' Entitlements Act
1986