

EXPLANATORY STATEMENT

Defence Force (Home Loans Assistance)(Warlike Service – Operation HIGHROAD) Declaration 2014

The *Defence Force (Home Loans Assistance) Act 1990* (the Act), together with the Agreement incorporated in the Act, provides for the payment of housing loan subsidies for certain members of the Australian Defence Force (ADF). Section 3C(1) of the Act enables the Minister to declare duty to be warlike service for the purposes of the Act.

The purpose of this Instrument is to declare service provided by ADF personnel on Operation HIGHROAD, the ADF contribution to the new North Atlantic Treaty Organisation-led Resolute Support Mission in Afghanistan as warlike service for the purpose of the Act.

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

Clause 2 provides that the Instrument commences on the day after it is registered.

Clause 3 provides the authority under which this Instrument is made.

Clause 4 specifies that service in an operation as described in the table is warlike service for the purposes of subsection 3C(1) of the Act.

The effect of this Instrument is that it will enable members of the ADF who are rendering or have rendered warlike service on Operation HIGHROAD and are entitled to assistance under the Defence HomeOwner Scheme established under the Act and the Agreement, to certain additional benefits under the Act.

These benefits entitle a person who is rendering or has rendered warlike service to additional periods of housing subsidy as well as a waiver of the five year qualifying period of service. The entitlement to additional years of subsidy range from two additional years, for warlike service of less than three months, to five additional years for warlike service of more than nine months.

The Department of the Prime Minister and Cabinet and the Department of Veterans' Affairs were consulted during the classification process. It is noted that decisions about the nature of service are subject to bipartisan consultation through Government and do not impact business or competition.

Authority: Subsection 3C(1) of the
*Defence Force (Home
Loans Assistance) Act
1990*

Statement of Compatibility with Human Rights

This Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

This Instrument has the following purpose:

- to declare service provided by Australian Defence Force (ADF) personnel on Operation HIGHROAD, the ADF contribution to the new North Atlantic Treaty Organisation-led Resolute Support Mission in Afghanistan as warlike service for the purpose of the Act.

This Instrument engages the following human rights:

- *Right to an adequate standard of living* (article 11(1) International Covenant on Economic, Social and Cultural Rights).

The *Defence Force (Home Loans Assistance)(Warlike Service – Operation HIGHROAD) Declaration 2014* establishes that service provided by ADF personnel on the operation contributing to the new North Atlantic Treaty Organisation led Resolute Support Mission in Afghanistan, is within the definition of “warlike service” in section 3C(1) of the *Defence Force (Home Loans Assistance) Act 1990*.

Legitimate objective: Defence members who perform duty on warlike operations qualify for a housing subsidy, the period of which depends on the length of duty in the warlike specified area. The actual decision about whether the nature of service will be warlike or non-warlike is made by the Executive. This declaration simply ensures that the nature of service that a member provides is reflected in the level and type of benefits that they may be eligible for as a veteran.

Reasonable, necessary and proportionate: Declaring the nature of service that a member has provided allows the relevant level of additional support to be provided to assist the member with the purchase of their own home.

Although the application for benefits may require some provision of personal information, these restrictions are considered proportional:

- The personal information is treated in accordance with legislated privacy protections, and
- The benefits are additional to those provided to the general public to address veterans’ needs.

This Instrument is compatible with human rights because, to the extent that it may limit human rights, those limitations are reasonable, necessary and proportionate.