

EXPLANATORY STATEMENT

Military Rehabilitation and Compensation (Non-warlike Service) Determination 2007/2

For the avoidance of doubt, this Determination does not affect the operation of the previous Military Rehabilitation and Compensation (Non-warlike Service) Determination 2007/1, made under paragraph 6(1)(b) of the *Military Rehabilitation and Compensation Act 2004* (the Act).

This Determination revokes and replaces the Military Rehabilitation and Compensation (Non-warlike Service) Determination 2006/2 (the 2006/2 Determination), made under paragraph 6 (1) (b) of the Act. Paragraph 6 (1) (b) of the Act defines non-warlike service as meaning service with the Australian Defence Force (ADF) 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 replace the existing list of eleven operations referred to in the 2006/2 Determination and to add a twelfth operation which determines that service with the ADF in support of the ADF mission in Fiji, on Operation QUICKSTEP, is non-warlike service for the purpose of the Act. The reference to the other operations in the 2006/2 Determination remain unchanged.

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

Clause 2 of this Determination revokes the 2006/2 Determination and provides that this Determination replaces that earlier instrument and confirms that the operation of the previous Military Rehabilitation and Compensation (non-warlike service) Determination 2007/1 is not affected by this Determination.

Clause 3 of this Determination provides that the Determination commences on 31 October 2006, the day that members of the ADF began non-warlike service in Operation QUICKSTEP.

Clause 4 specifies that service in the ADF mission in Fiji, Operation QUICKSTEP, is non-warlike service under the Act.

The Schedule is amended by the addition of item 12, which specifies the ADF mission in Fiji, Operation QUICKSTEP as an operation; service on it is therefore non-warlike service under the Act. An end date column has also been inserted.

This Determination is a legislative instrument for the purposes of the *Legislative Instruments Act 2003* (the LIA) and is taken to have commenced on 31 October 2006.

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 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 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*