Work Health and Safety Act 2011
(application to Defence activities and Defence members) Declaration 2012

Work Health and Safety Act 2011

I, General David Hurley, Chief of the Defence Force, with the approval of the Minister for Employment and Workplace Relations, make the following declaration under subsection 12D (2) of the Work Health and Safety Act 2011.

Dated 10 December 2012

David Hurley
Chief of the Defence Force
1 Name of declaration
This declaration is the Work Health and Safety Act 2011 (application to Defence activities and Defence members) Declaration 2012.

2 Commencement
This declaration commences on the day after it is registered.

3 Definitions
In this Declaration:

defence civilian has the same meaning as in the Defence Force Discipline Act 1982.
defence member means:
(a) a member of the Permanent Navy, the Regular Army or the Permanent Air Force; or
(b) a member of the Reserves who:
   (i) is rendering continuous full-time service; or
   (ii) is on duty or in uniform; or
(c) a defence civilian who is involved in a warlike operation or non-warlike operation.
deployed defence member means a defence member who is posted, assigned or attached for duty to:
(a) a United Nations’ force; or
(b) a foreign or multinational force; or
(c) the Australian Defence Force performing duties outside Australia.
non-warlike operation means an operation:
(a) that occurs outside Australia; and
Section 5

(b) that uses deployed defence members; and
(c) that is unlikely to result in fatalities; and
(d) that includes a risk to deployed defence members that is greater than the risk faced by defence members undertaking peacetime duties; and
(e) for which deployed defence members are authorised to use lethal force in the following circumstances only:
   (i) self-defence;
   (ii) when defending another person.

*Examples*
1 Mine avoidance and clearance operations.
2 Weapons inspection and destruction operations.
3 Service protected or assisted evacuation operations.
4 Peacekeeping operations.

*Warlike operation* means an operation:
(a) that occurs outside Australia; and
(b) that uses deployed defence members; and
(c) that is likely to result in fatalities; and
(d) for which deployed defence members are authorised to use lethal force for specific military objectives.

*Examples*
1 Operations undertaken as part of a declared war.
2 Combat operations against an armed adversary.
3 Peace enforcement operations.

4 **Provisions of Act declared not to apply to specified activity**

For subsection 12D (2) of the Act, a provision of the Act specified in an item in Schedule 1 does not apply to the activity specified in the item.

5 **Provisions of Act declared not to apply to class of members**

For subsection 12D (2) of the Act, a provision of the Act specified in an item in Schedule 2 does not apply to a defence member in the class of defence members specified in the item.

### Schedule 1

#### Provisions of Act and specified activity

(Section 4)

<table>
<thead>
<tr>
<th>Item</th>
<th>Provisions of the Act</th>
<th>Specified activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Sections 38 and 39</td>
<td>A non-warlike operation</td>
</tr>
<tr>
<td>2</td>
<td>Sections 38 and 39</td>
<td>A warlike operation</td>
</tr>
</tbody>
</table>
### Schedule 2

**Provisions of Act and class of members**

*(section 5)*

<table>
<thead>
<tr>
<th>Item</th>
<th>Provisions of the Act</th>
<th>Class of members</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Sections 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78 and 79</td>
<td>All defence members</td>
</tr>
<tr>
<td>2</td>
<td>Sections 84, 85, 86, 87, 88 and 89</td>
<td>All defence members</td>
</tr>
</tbody>
</table>

**Note**