EXPLANATORY STATEMENT

###### Defence Force (Home Loans Assistance) (Warlike Service) Declaration 2025

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). Subsection 3C(1) of the Act enables the Minister to declare duty to be warlike service for the purposes of the Act. Subsection 3C(3) of the Act enables the Minister to revoke or vary a declaration made under subsection 3C(1).

This Instrument is a legislative instrument for the purposes of the *Legislation Act 2003*.

**Purpose**

The Instrument enables members of the ADF to access certain additional benefits under the Act if they are rendering, or have rendered, warlike service on the operations listed in this Instrument. These members are entitled to assistance under the Defence Home Owner Scheme established under the Act and the Agreement.

The benefits under the Act provide members with additional periods of housing subsidy and a waiver of the 5‑year qualifying period of service. The additional years of subsidy range from 2 additional years for warlike service of less than 3 months up to 5 additional years for warlike service of more than 9 months.

These benefits are limited to a decreasingly small number of eligible ADF members as the scheme provided under the Act is closed to new members.

The purpose of this Instrument is to do the following:

* Declare service provided by ADF members on the following operations as warlike service for the purpose of the Act:
  + Operation AUGURY
  + Operation HIGHROAD
  + Operation OKRA
  + Operation SLIPPER.
* Amend the dates of operation for Operation OKRA and Operation SLIPPER.
* Repeal and consolidate the various individual instruments that declare operations for the purpose of the Act.

The following instruments are due to sunset this year in accordance with section 50 of the *Legislation Act 2003*:

* *Defence Force (Home Loans Assistance) (Warlike Service*—*Operation Highroad) Declaration 2014*.
* *Defence Force (Home Loans Assistance) (Warlike Service*—*Operation Slipper) Declaration 2014*.

These instruments have been reviewed and the operations named in each instrument continue to remain relevant to the application of the Act.

Additionally, the following instruments, which are being repealed by, and incorporated into, this Instrument, have been reviewed and the operations named in each instrument continue to remain relevant to the application of the Act.

* *Defence Force (Home Loans Assistance) (Warlike Service*—*Operation Okra) Declaration 2016;*
* *Defence Force (Home Loans Assistance) (Warlike Service*—*Operation Augury) Declaration 2017.*

**Operational details**

Details of the operation of this Instrument are provided at annex A.

**Retrospective application**

This Instrument 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 this Instrument commences.

Any retrospective operation of this Instrument is required to ensure that no member is disadvantaged by the provision of entitlements that may have occurred between the period when they commenced service on an operation and the date that this Instrument is registered.

**Human rights compatibility**

The statement of compatibility under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* for this Determination is at annex B.

**Consultation**

The Department of the Prime Minister and Cabinet and the Department of Veterans’ Affairs were consulted during the process of classifying the named operations.

Decisions about the nature of service are subject to bipartisan consultation through Government and do not impact business or competition.

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| **Approved by:** | **The Hon Matt Keogh MP**  Minister for Defence Personnel |
| **Authority:** | Subsection 3C of the *Defence Force (Home Loans Assistance) Act 1990* |

**Annex A**

***Defence Force (Home Loans Assistance) (Warlike Service) Declaration 2025***

***Operational details***

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 provides definitions of certain abbreviations and acronyms used throughout this Instrument.

Clause 5 provides that each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms. Subsection 3C(3) of the Act enables the Minister to revoke or vary a declaration made under subsection 3C(1).

Clause 6 provides that duty performed by a member of the ADF allotted for duty on an operation described in an item in the table is warlike service for the purposes of section 3B of the Act. The operations described were declared operations in the instruments being repealed by Schedule 1 of this Instrument. The operations described continue to remain relevant to the application of the Act.

The dates of operation for Operation OKRA and Operation SLIPPER have been amended as follows:

* Duty performed between 9 September 2015 and 31 December 2024 has been included for Operation OKRA.
* Duty performed between 11 October 2001 and 30 July 2009 has been included for Operation SLIPPER.

*Schedule 1—Repeals*

Item 1 repeals the whole of the *Defence Force (Home Loans Assistance) (Warlike Service*—*Operation Highroad) Declaration 2014*.

Item 2 repeals the whole of the *Defence Force (Home Loans Assistance) (Warlike Service*—*Operation Slipper) Declaration 2014*.

Item 3 repeals the whole of the *Defence Force (Home Loans Assistance) (Warlike Service*—*Operation Okra) Declaration 2016*.

Item 4 repeals the whole of the *Defence Force (Home Loans Assistance) (Warlike Service*—*Operation Augury) Declaration 2017*.

**Annex B**

***Defence Force (Home Loans Assistance) (Warlike Service) Declaration 2025***

***Statement of Compatibility with Human Rights***

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

**Overview of the Instrument**

The purpose of this Instrument is to do the following:

* Declare service provided by ADF personnel on the following operations as warlike service for the purpose of the Act:
  + Operation AUGURY
  + Operation HIGHROAD
  + Operation OKRA
  + Operation SLIPPER.
* Amend other dates of operation for Operation OKRA and Operation SLIPPER.
* Repeal and consolidate the various individual instruments that declare operations for the purpose of the Act.

**Human rights implications**

*Right to an adequate standard of living*

The protection of a person's right to an adequate standard of living engages Article 11 of the International Covenant on Economic, Social and Cultural Rights. Article 11 recognises the right of everyone to an adequate standard of living for them and their family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.

***Assessment of compatibility***

This Instrument is compatible with human rights as it promotes the right to an adequate standard of living for members of the ADF who are rendering, or have rendered, warlike service on the operations listed by providing access to certain benefits in addition to assistance under the Defence Home Owner Scheme.

**Conclusion**

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