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# Schedule

## Humanitarian Overseas Service Medal Regulations 2011

### Part 1 Preliminary

#### 1 Name of Regulations

These Regulations are the *Humanitarian Overseas Service Medal Regulations 2011*.

#### 2 Definitions

In these Regulations:

**clasp** means a device that denotes the declared operation for which the Medal was awarded.

**dangerous circumstances** means circumstances in which persons are, or were, exposed to the risk of death or significant harm.

**declared operation** means an operation declared under regulation 3.

**Department** means the Department responsible for the administration of the Australian system of awards and honours.

**eligible service** means service of the kind mentioned in regulation 5.

**humanitarian service** means:

- (a) service that gives immediate remedy to needy or distressed persons in order to sustain their life or dignity; or
- (b) action to assist needy or distressed persons in order to sustain their life or dignity.

**Medal** means the Humanitarian Overseas Service Medal.

**Minister** means:

- (a) the Minister responsible for the administration of the Australian system of honours and awards; or
- (b) another Minister or member of the Federal Executive Council who is authorised by the Minister responsible for the administration of the Australian system of honours and awards to act on behalf of that Minister.

**operational area** means the area mentioned in paragraph 4 (1) (b) in relation to an operation.

**overseas** means outside Australia and the external territories as defined in paragraph 17 (pd) of the *Acts Interpretation Act 1901*.

**previous Regulations** means:

- (a) the *Humanitarian Overseas Service Medal Regulations*; or

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- (b) the *Humanitarian Overseas Service Medal (2004 Indian Ocean Tsunami and Other Natural Disasters Relief) Regulations 2005*.

**Register of Awards** means the register maintained under paragraph 12 (2) (a).

**Registrar** means the registrar appointed under subregulation 12 (1).

**Secretary** means the Secretary of the Department.

### **3 Declared operations**

- (1) The Governor-General may declare, in writing, on the recommendation of the Minister, that an operation is a declared operation.

#### *Operations in hazardous areas*

- (2) The Governor-General may make a declaration about an operation if the operation is, or was, carried out:
- (a) overseas; and
  - (b) by, or under the auspices of, the United Nations in accordance with action taken under Chapter VI (Pacific Settlement of Disputes); and
  - (c) in dangerous circumstances.
- (3) The Governor-General may make a declaration about an operation if the operation is, or was, carried out:
- (a) overseas; and
  - (b) by, or under the auspices of, the United Nations in accordance with action taken under Chapter VII (Action with Respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression) of the United Nations Charter; and
  - (c) in dangerous circumstances.
- (4) The Governor-General may make a declaration about an operation if:
- (a) the operation is carried out overseas; and
  - (b) the operation is carried out to give humanitarian service at a time when civilians or refugees are exposed to a situation that causes, or has the potential to cause, death or significant distress; and
  - (c) the Minister's recommendation states that the Minister is satisfied that the operation is being carried out in conditions similar to warlike activity.
- (5) The Governor-General may make a declaration about an operation if:
- (a) the operation was carried out overseas; and
  - (b) the operation was carried out to give humanitarian service at a time when civilians or refugees were exposed to a situation that causes, or has the potential to cause, death or significant distress; and

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- (c) the Minister's recommendation states that the Minister is satisfied that the operation was carried out in conditions similar to warlike activity.

#### *Operations for disasters*

- (6) The Governor-General may make a declaration about an operation if:
  - (a) the operation is carried out overseas; and
  - (b) the operation relates to a disaster; and
  - (c) the operation is carried out to give humanitarian service to persons affected by the disaster; and
  - (d) the operation is carried out in dangerous circumstances; and
  - (e) the Minister's recommendation states that the Minister is satisfied that the operation is being carried out in circumstances in which its danger and risks are similar to those of an operation mentioned in subregulation (2), (3), (4) or (5).
- (7) The Governor-General may make a declaration about an operation if:
  - (a) the operation was carried out overseas; and
  - (b) the operation related to a disaster; and
  - (c) the operation was carried out to give humanitarian service to persons affected by the disaster; and
  - (d) the operation was carried out in dangerous circumstances; and
  - (e) the Minister's recommendation states that the Minister is satisfied that the operation was carried out in circumstances in which its danger and risks were similar to those of an operation mentioned in subregulation (2), (3), (4) or (5).

#### **4 Content of declaration — general**

- (1) The Governor-General must specify in a declaration under subregulation 3 (1):
  - (a) the name by which the operation is to be known for the purpose of these Regulations; and
  - (b) the area in which the operation occurs or occurred (the *operational area*); and
  - (c) either:
    - (i) the dates or period during which the operation occurred; or
    - (ii) if the operation is continuing — the date on which the operation commenced.
- (2) The Governor-General may also specify in the declaration that:
  - (a) a person who has previously received an award of another medal for the person's service in the same operation is not eligible for an award of the Medal; or

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- (b) a person who is entitled to an award of another medal for the person's service in the same operation is not eligible for an award of the Medal; or
  - (c) a person who is a locally-engaged member of the staff of an organisation from the operational area (whether the person is in the area as a refugee or a resident) is not eligible for an award of the Medal; or
  - (d) a person who is a commercial contractor to an organisation in the area specified in the declaration, or an employee of a commercial contractor of that kind, is not eligible for an award of the Medal.

## 5 Content of declaration — organisations

- (1) The Governor-General must specify in a declaration under subregulation 3 (1) each class of persons (an **organisation**):
  - (a) that is to be recognised as carrying out, or having carried out, the operation; and
  - (b) service with which may be claimed as eligible service under these Regulations.

### *Examples*

- 1 A class of persons included in, or operating under the auspices of, a government organisation or a non-government organisation.
  - 2 A contingent to, or a component of, a class of persons mentioned in example 1.
- (2) The Governor-General may specify an organisation only if the Minister has recommended to the Governor-General, in writing, that the organisation be specified in the declaration.
  - (3) The Minister must not recommend that an organisation be specified in the declaration unless the Minister is satisfied that:
    - (a) the organisation is recognised as an organisation that gives humanitarian service; and
    - (b) specifying the organisation would not bring the Medal into disrepute.
  - (4) For subregulation (3), the Minister may have regard to any of the following:
    - (a) advice from a government or non-government body about the organisation;
    - (b) whether the organisation is a member of a relevant peak body or council;
    - (c) whether the organisation is a signatory to a relevant code of conduct or practice.
  - (5) The Governor-General must also specify in the declaration:
    - (a) either:
      - (i) the period during which the organisation participated in the operation; or
      - (ii) if the participation is continuing — the date when the participation commenced; and

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- (b) the qualifying period of service required to be given by a member of the organisation to be eligible for an award of the Medal; and
  - (c) whether the period of qualifying service must be calculated as continuous service or may be aggregated from several periods of service in 1 or more organisations; and
  - (d) whether inspection visits may be counted as humanitarian service, and any special conditions attaching to calculation of that service.

## **6 Eligible service**

- (1) A person gives eligible service during a declared operation if the person gives humanitarian service:
  - (a) in the operational area of the operation; and
  - (b) as a member of an organisation specified in the declaration; and
  - (c) for the qualifying period of service specified in the declaration; and
  - (d) in the period of the operation; and
  - (e) in the period during which the organisation was involved in the declared operation.
- (2) Eligible service may be paid service or unpaid service.
- (3) The declaration about the declared operation may specify conditions in which service is not eligible service for an award of the Medal.
- (4) If a period of service by a person is shorter than the qualifying period of service specified in the declaration, the Secretary may treat the service as eligible service if:
  - (a) the person's service was terminated, because of death, disability or illness of the person due to that service, before the qualifying period was completed; and
  - (b) the Secretary is satisfied that the person would have completed the qualifying period if the termination had not occurred.
- (5) If a period of service by a person is shorter than the qualifying period of service specified in the declaration, the Secretary may treat the service as eligible service if the Secretary considers that, taking into account the operational requirements of the organisation with which the person gave the service, it would be appropriate to treat the service as eligible service.

## **Part 2 Award of Medal and clasps**

### **7 Award**

- (1) The Governor-General may, on the recommendation of the Secretary, award to a person who has given eligible service during a declared operation the Medal and a clasp.

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- (2) If a person:
    - (a) has been awarded the Medal and a clasp under these Regulations or the previous Regulations for eligible service during a declared operation; and
    - (b) gives eligible service during another declared operation; the Governor-General may award to the person the Medal in the form of a clasp denoting the other operation.
  - (3) The Medal and clasp may be awarded posthumously.

## **8 Cancellation of award**

- (1) The Governor-General may, on the recommendation of the Secretary, cancel an award of the Medal or a clasp.
- (2) If the Governor-General cancels an award of the Medal:
  - (a) the Registrar must note the cancellation in the Register of Awards; and
  - (b) the person must return the Medal to the Registrar.
- (3) If the Governor-General cancels an award of a clasp:
  - (a) the Registrar must note the cancellation in the Register of Awards; and
  - (b) the person must return the clasp to the Registrar.

## **9 Reinstatement of award**

- (1) The Governor-General may, on the recommendation of the Secretary, reinstate an award of the Medal or a clasp that has been cancelled.
- (2) If the Governor-General reinstates an award, the Registrar must:
  - (a) note the reinstatement in the Register of Awards; and
  - (b) return the Medal or clasp.

# **Part 3 The Medal and clasp**

## **10 Design of the Medal or clasp**

The design of the Medal, or of a clasp, is the design determined by the Governor-General.

## **11 Wearing of the Medal or clasp**

The manner in which, and occasions on which, the Medal, or a clasp, may be worn are as determined by the Governor-General.

# **Part 4 Administration**

## **12 Registrar of Awards**

- (1) The Governor-General must appoint a Registrar of Awards.

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- (2) The Registrar must:
    - (a) enter the names of each person to whom the Medal or a clasp has been awarded under these Regulations in the Register of Awards; and
    - (b) keep such other records relating to the award of the Medal as the Governor-General directs.
  - (3) The Registrar may:
    - (a) correct an error in an entry in the Register of Awards or another record kept under this regulation; and
    - (b) annotate an entry in the Register of Awards in accordance with regulation 8 or 9; and
    - (c) annotate an entry in another record kept under this regulation.

### **13 Delegations**

- (1) The Secretary may delegate, in writing, to a Senior Executive Service employee in the Department:
  - (a) the power under subregulation 4 (4) or (5) to treat a period of service as eligible service; and
  - (b) the power under regulation 7 to recommend the award of the Medal.
- (2) A delegation under this regulation:
  - (a) is revocable; and
  - (b) continues in force until expressly revoked.

## **Part 5 Transitional**

### **14 Revocation of previous Regulations**

- (1) The *Humanitarian Overseas Service Medal Regulations* are revoked.
- (2) The *Humanitarian Overseas Service Medal (2004 Indian Ocean Tsunami and Other Natural Disasters Relief) Regulations 2005* are revoked.

### **15 Registrar**

The person who was the Registrar of Awards under the previous Regulations immediately before these Regulations commence is taken to be appointed under regulation 10 as the Registrar of Awards on the day on which these Regulations commence.

### **16 Operations declared under previous Regulations**

An operation that was declared in accordance with the previous Regulations applies, on and after the day on which these Regulations commence, as if:

- (a) it had been declared under regulation 3; and

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- (b) all of the requirements in regulations 3 to 5 had been met in relation to the declaration of the operation.

**17 Eligible service given under previous Regulations**

- (1) This regulation applies if a person:
  - (a) gave eligible service in accordance with the requirements of the previous Regulations during an operation that was declared in accordance with the previous Regulations; but
  - (b) did not comply with all of the requirements under the previous Regulations for an award of the Medal or a clasp.
- (2) The person's eligible service is taken, on the day on which these Regulations commence, to be eligible service that is to be counted for the purpose of compliance with the requirements under these Regulations for an award of the Medal or the clasp.

**18 Compliance with requirements under previous Regulations**

- (1) This regulation applies if:
  - (a) a person complied with the requirements under the previous Regulations for an award of the Medal or a clasp; but
  - (b) the Governor-General did not award the person the Medal or the clasp before the day on which these Regulations commence.
- (2) The person is taken, on the day on which these Regulations commence, to have complied with the requirements under these Regulations for an award of the Medal or the clasp.