

EXPLANATORY STATEMENT

Veterans' Entitlements (Warlike Service) Amendment Determination 2020 (No. 1)

This Determination amends *Veterans' Entitlements (Warlike Service) Determination 2019* (the Principal Determination) made under subsection 5C(1) of the *Veterans' Entitlements Act 1986* (the Act). Subsection 5C(1) of the Act defines warlike service as meaning service in the Defence Force of a kind determined in writing by the Minister for Defence to be warlike service.

A determination of warlike service under the Act requires the Repatriation Commission to apply a more beneficial standard of proof when assessing a claim for liability of a veteran's injury, disease or death in relation to a period of warlike service. This beneficial standard of proof reflects an understanding of the unique nature of military service and the risks associated with service on warlike operations. A veteran with warlike service will, subject to income and assets tests, be eligible for the Service Pension at age 60, which is earlier than Age Pension age. A veteran with warlike service will be eligible for the Service Pension at any age if permanently incapacitated for work. The warlike service classification also renders a veteran automatically eligible for receipt of the Department of Veterans' Affairs (DVA) Veteran Gold Card at age 70. In recognition of the unquantifiable effects of combat, the Veteran Gold Card provides treatment for any medical condition on the Medicare Benefits Schedule, irrespective of the link to military service. A veteran in receipt of the Service Pension, and with a level of service-related disability assessed at 50% or greater of the General Rate of Disability Pension, is also eligible for the Veteran Gold Card regardless of age.

This Determination is a legislative instrument for the purposes of the *Legislation Act 2003* and is exempt from disallowance pursuant to item 33 in Section 10 of the *Legislation (Exemptions and Other Matters) Regulation 2015* (the Regulations) and is also exempt from sunseting pursuant to item 65 in Section 12 of the Regulations.

The purpose of this Determination is to add Operation Orenda as a warlike operation to the Principal Determination.

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

Section 2 provides that this instrument commences on the day after registration.

Section 3 identifies that this Determination is made under the definition of warlike service in subsection 5C(1) of the *Veterans' Entitlements Act 1986*.

Section 4 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.

Schedule 1 – Warlike Service amendment

Section 1 of this Determination inserts a new operation into the Principal Determination. Operation Orenda has been inserted into the table at Schedule 1 at item 32 and specifies the nature of operation, the area of operation and the period from which Service in that area is Warlike Service for the purposes of the definition in subsection 5C(1) of the Act.

Consultation

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 5C(1) of the
Veterans' Entitlements Act 1986