



Defence Act 1903

No. 20, 1903

Compilation No. 78

Compilation date:	1 September 2021
Includes amendments up to:	Act No. 13, 2021
Registered:	24 September 2021

Prepared by the Office of Parliamentary Counsel, Canberra

About this compilation

This compilation

This is a compilation of the *Defence Act 1903* that shows the text of the law as amended and in force on 1 September 2021 (the **compilation date**).

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

Contents

Part I—Introductory	1
1	Short title.....1
3	Commencement of Act.....1
4	Interpretation.....1
5	Application of Act.....6
5A	Extension of Act to Territories.....6
6	Application of the <i>Criminal Code</i>6
7	Act does not appropriate money.....6
Part II—Control and administration	7
8	The Minister.....7
9	Command of the Defence Force.....7
10	Administration of the Defence Force.....7
11	Defence Instructions.....8
12	Appointments.....8
13	Acting appointments.....9
14	Resignation.....9
15	Termination of appointment.....10
16	Remuneration and allowances.....10
Part III—The Australian Defence Force	11
Division 1—Constitution of the Australian Defence Force	11
17	The Australian Defence Force.....11
18	Royal Australian Navy.....11
19	Australian Army.....11
20	Royal Australian Air Force.....12
21	Ranks and corresponding ranks.....13
Division 2—Service in the Defence Force	14
22	Voluntary entry.....14
23	Service in the Permanent Forces.....14
24	Service in the Reserves.....15
25	Training for Reserves.....15
26	Volunteer service by Reserves.....15
27	Service is not a civil contract.....15
Division 3—Calling out the Reserves	16
28	Governor-General may call out Reserves.....16

29	Period of service while covered by call out order.....	17
Part IIIAAA—Calling out the Defence Force to protect Commonwealth interests, States and self-governing Territories		
		18
Division 1—Introduction		
		18
30	Simplified outline of this Part.....	18
31	Definitions.....	20
Division 2—Calling out the Defence Force		
		25
Subdivision A—Simplified outline of this Division		
		25
32	Simplified outline of this Division	25
Subdivision B—Making call out orders		
		26
33	Calling out the Defence Force to protect Commonwealth interests	26
34	Contingent call out of the Defence Force to protect Commonwealth interests	28
35	Calling out the Defence Force to protect States and Territories.....	30
36	Contingent call out of the Defence Force to protect States and Territories.....	32
Subdivision C—Common provisions for making, varying and revoking call out orders		
		34
37	Making, varying and revoking call out orders.....	34
38	Commonwealth interests orders or variations that were not requested by a State or Territory.....	36
Subdivision D—Effect of making call out order		
		37
39	Chief of Defence Force to utilise Defence Force as directed.....	37
40	Assisting and cooperating with police forces of affected States and Territories	37
Division 3—Special powers generally authorised by Minister		
		39
Subdivision A—Introduction		
		39
41	Simplified outline of this Division	39
42	Application of this Division	40
43	Powers that may be exercised under this Division and Division 4	40
44	Location of exercise of powers.....	40
45	International obligations.....	41

Subdivision B—Special powers generally authorised by Minister	41
46 Special powers generally authorised by Minister	41
Division 4—Powers exercised in specified areas	45
Subdivision A—Introduction	45
47 Simplified outline of this Division	45
48 Application of this Division	46
49 International obligations	46
50 Members to wear uniforms and identification when exercising powers	46
Subdivision B—Declaration of specified area	47
51 Declaration of specified area	47
Subdivision C—Powers to search premises in specified area	50
51A Authorisation to search premises in specified area	50
51B Information to be given to occupier etc. and those searched	52
51C Occupier etc. entitled to be present during search	53
Subdivision D—Powers relating to means of transport and persons in specified area	53
51D Powers relating to means of transport and persons in specified area	53
51E General provisions relating to section 51D	57
Division 5—Powers to protect declared infrastructure	59
Subdivision A—Introduction	59
51F Simplified outline of this Division	59
51G International obligations	60
Subdivision B—Infrastructure declaration	60
51H Infrastructure declaration	60
Subdivision C—Powers to protect declared infrastructure	61
51J Application of this Subdivision	61
51K Location of exercise of powers	62
51L Powers to protect declared infrastructure	62
Division 6—Provisions common to Divisions 3 to 5	65
51M Simplified outline of this Division	65
51N Use of reasonable and necessary force	65
51P Persons to be informed of certain matters if detained	67
51Q Action to be taken if things are seized	67

51R	Offence for failing to comply with a direction	69
51S	Exercise of powers when certain obligations not complied with	69
Division 7—Expedited orders and declarations		70
51T	Simplified outline of this Division	70
51U	Making expedited orders and declarations	70
51V	Effect of expedited order or declaration	72
51W	Effect of expedited order on Ministerial authorisation	74
Division 8—Miscellaneous		76
Subdivision A—Simplified outline of this Division		76
51X	Simplified outline of this Division	76
Subdivision B—Applicable criminal law		76
51Y	Applicable criminal law	76
51Z	Defence of superior orders in certain circumstances	77
Subdivision C—Other provisions		78
51ZA	Publication of order and report	78
51ZB	Independent review of this Part	79
51ZC	Instruments that are not legislative instruments	79
51ZD	Effect on other Defence Force utilisation and powers	80
Part IIIA—Superannuation		81
52	Determination of benefit	81
52A	Department's employer superannuation contributions	82
52B	Providing information to CSC in relation to invalidity	83
53	Trustee of scheme providing superannuation benefit	84
Part IIIA—Remuneration, allowances and other benefits		85
Division 1—Determinations by the Minister		85
58A	Interpretation	85
58B	Minister may make determinations	85
58E	Delegation	87
Division 2—The Defence Force Remuneration Tribunal		89
58F	Interpretation	89

58G	Establishment of Defence Force Remuneration Tribunal	90
58H	Functions and powers of Tribunal	91
58HA	Hearings in relation to discriminatory determinations	93
58HB	Review of discriminatory determinations	94
58J	Reports by Tribunal	95
58K	Procedure of Tribunal	95
58KA	Single member may conduct Tribunal's business	96
58KB	Procedure where single member is conducting Tribunal's business	97
58KC	Review of action etc. of single member	98
58KD	Determinations giving effect to agreement between the parties	99
58L	Terms and tenure of office	99
58M	Resignation	99
58N	Termination of appointment	99
58P	Acting appointments	99
58Q	Fees and allowances	100
Division 3—The Defence Force Advocate		101
58R	Interpretation	101
58S	Defence Force Advocate	101
58T	Functions of Advocate	101
58U	Tenure and terms of office	102
58V	Resignation	102
58W	Termination of appointment	102
58X	Acting Defence Force Advocate	102
58Y	Fees and allowances	102
Part IV—Liability to serve in the Defence Force in time of war		104
Division 1—Liability to serve		104
59	Persons liable to serve in Defence Force in time of war	104
60	Proclamation calling upon persons to serve in time of war	104
61	Registration and allotment for service	105
61A	Persons exempt from service	105
61B	Entry into Defence Force for service	106
61C	Part not to apply to certain persons	107

Division 2—Determination of conscientious belief	108
61CA Application for determination of conscientious belief.....	108
61CB Secretary must refer application.....	108
61CC Function of Conscientious Objection Tribunals	108
61CD Parties to the hearing of an application.....	109
61CE Notice of determination to be given to parties.....	109
Division 3—Establishment and membership of Conscientious Objection Tribunals	110
61CF Establishment of Conscientious Objection Tribunals	110
61CG Period of appointment of members.....	110
61CH Remuneration and allowances of members	110
61CJ Other terms and conditions.....	111
61CK Leave of absence	111
61CL Resignation.....	111
61CM Removal from office	111
61CN Member of a Tribunal unavailable to complete proceeding.....	111
61CO Acting appointments.....	112
Division 4—Procedures of Conscientious Objection Tribunals	114
61CP Tribunals' way of operating	114
61CQ Powers of Tribunals.....	114
61CR Procedure of Tribunals	114
61CS Majority decision.....	115
61CT Procedure where opinion of members equally divided.....	115
61CU Hearings	115
61CV Onus of proof	116
61CW Protection of members and persons giving evidence etc.	116
61CX Fees for persons giving evidence.....	116
61CY Failure of witness to attend.....	116
61CZ Refusal to be sworn or to answer questions etc.	117
61CZA Contempt of Tribunal	119
Division 5—Reviews and appeals	120
61CZB Review of determinations of Conscientious Objection Tribunals.....	120
61CZC AAT Act to apply subject to modification.....	120

61CZD	Appeals from AAT	121
61CZE	Operation etc. of decision subject to appeal	121
Part V—Australian Defence Force Cadets		123
62	Australian Defence Force Cadets	123
62A	Direction and administration of the Cadets	123
62B	Chief of the Defence Force may make determinations	124
62C	Relationship to the Defence Force	124
62D	Acceptance is not a civil contract	124
62E	Annual report	124
Part VI—Special powers in relation to defence		126
63	General powers for defence purposes	126
64	Control of railways in time of war	126
65	Railways to carry troops etc. when required	126
66	Conveyance by railway and tramway	126
67	Registration and impressment of vehicles etc	127
68	Billeting and quartering	127
70	Tolls	127
Part VIA—Security of defence premises		128
Division 1—Preliminary		128
71	Simplified outline	128
71A	Definitions	129
Division 2—Defence security officials		132
71B	Contracted defence security guards	132
71C	Security authorised members of the Defence Force	133
71D	Defence security screening employees	133
71E	Identity cards	134
71F	Delegations relating to training and qualification requirements	135
71G	Delegations relating to identity cards	136
Division 3—Powers exercisable with consent at defence access control points and on defence premises		138
Subdivision A—General provisions		138
71H	Consensual identification and limited search— person about to pass a defence access control point	138
71J	Consensual search—vehicle, vessel or aircraft about to pass a defence access control point	139

71K	Consensual identification—person on defence premises	140
Subdivision B—Special provisions for declared explosive ordnance depots		140
71L	Declared explosive ordnance depots	140
71M	Consensual search—person on a declared explosive ordnance depot	142
71N	Consensual search—vehicle, vessel or aircraft on a declared explosive ordnance depot	142
71P	Powers additional to other powers.....	143
Subdivision C—Offences		143
71Q	Offences—search powers exercised without consent	143
Division 4—Powers exercisable without consent at defence access control points and on defence premises		144
71R	Non-consensual identification and search—person about to pass a defence access control point.....	144
71S	Non-consensual search—vehicle, vessel or aircraft about to pass a defence access control point.....	145
71T	Non-consensual identification and search—person on defence premises	146
71U	Non-consensual search—vehicle, vessel or aircraft on defence premises	147
71V	Offence—refusing to provide evidence etc. required under this Division	148
71W	Offence—hindering or obstructing a search under this Division	148
71X	Security authorised members of the Defence Force may respond to attack.....	149
71Y	Power to stop and detain	149
71Z	Powers are in addition to powers under this Part.....	149
Division 5—Seizure		150
72	Power to seize things on defence premises.....	150
Division 6—Matters relating to exercise of powers under Part		151
72A	Certain powers to be exercised only by security authorised members of the Defence Force unless not reasonably practicable	151
72B	Defence security officials must produce identity cards, etc.....	151
72C	Persons to be informed of offence.....	153

72D	Conduct of searches and limited searches	153
72E	Use of equipment to examine things etc	153
72F	Power to move certain unattended things on defence premises	154
72G	Use of reasonable and necessary force, etc. by defence security officials	154
72H	Use of force involving death or grievous bodily harm by security authorised members of the Defence Force in responding to an attack	155
72J	Limit on power to restrain and detain	155
72K	Limit on power to arrest	156
72L	Powers not to be used to stop protests etc	156
72M	Security authorised members of the Defence Force may use dogs	156
72N	Persons assisting defence security officials	157
Division 7—Other matters		158
72P	Unauthorised entry etc. on defence premises or defence accommodation	158
72Q	Certain information may be collected and provided to law enforcement agencies etc.	158
72R	Compensation for acquisition of property	159
72S	Other powers not affected	159
Part VIB—The Woomera Prohibited Area		161
72T	Definitions	161
72TA	The Woomera Prohibited Area	162
72TB	Application of this Part and Part VII of the <i>Defence Force Regulations 1952</i>	162
72TC	Offence—being in the Woomera Prohibited Area without permission	164
72TD	Standing permission	165
72TE	Permits	165
72TF	Minister’s permission	166
72TG	Offence—failing to comply with conditions	166
72TH	Minister may suspend permission	167
72TJ	Minister may give directions	167
72TK	Compensation for acquisition of property	168
72TL	Compensation for loss or damage	168
72TM	Review of decisions	168
72TN	Delegation	169
72TO	Infringement notices	170

72TP	The Woomera Prohibited Area Rules.....	172
Part VII—Offences		174
73A	Unlawfully giving or obtaining information as to defences.....	174
73F	Penalty.....	174
79	Unlawfully disposing of arms etc.	175
80A	Falsely representing to be returned soldier, sailor or airman	176
80B	Improper use of service decorations	177
82	Sketching etc. of fortifications prohibited	178
83	Unauthorised use, possession or supply of emblems or flags	179
84	Penalty for bringing contempt on uniform	181
Part VIII—Offences in relation to service tribunals		182
86	Failure of witness to appear.....	182
88	False or misleading evidence.....	182
89	Contempt of service tribunals etc.	183
90	Failure to comply with order under section 140 of the <i>Defence Force Discipline Act 1982</i>	183
Part VIIIA—Testing for prohibited substances		185
Division 1—Preliminary		185
91	Application of Part	185
92	Object of Part	185
93	Definitions.....	185
93A	Authorised person	186
93B	Determinations about prohibited substances and prohibited substance tests.....	187
Division 2—Testing for prohibited substances		188
94	Requirement to undergo a prohibited substance test	188
95	Conduct of testing	188
96	Notice to person required to provide a sample	189
Division 3—Return of a positive test result		190
98	Application.....	190
100	Notice to be given of a positive test result.....	190
101	Termination.....	190

Division 4—Miscellaneous	192
106 Failure to provide sample	192
107 Unauthorised acts in relation to sample	192
108 Finding made as a result of testing not admissible in certain criminal proceedings.....	193
109 Defence Instructions.....	193
110 Other administrative action not precluded.....	194
Part VIIIB—Inspector-General of the Australian Defence Force	195
Division 1—Establishment and functions of the Inspector-General of the Australian Defence Force	195
110A Object of Part	195
110B Inspector-General of the Australian Defence Force	195
110C Functions of the Inspector-General ADF	195
110DA Conduct of inquiry or investigation.....	197
110DB Inspector-General ADF may end an inquiry or investigation	197
Division 2—Administrative provisions about the Inspector-General of the Australian Defence Force	198
110E Appointment.....	198
110F Qualifications for appointment.....	198
110G Tenure	198
110H Resignation.....	198
110I Remuneration	199
110J Leave of absence	199
110K Engaging in other paid work	199
110L Termination of appointment	199
110M Disclosure of interests	200
110N Acting appointments.....	200
110O Staff.....	201
110P Inquiry officers, inquiry assistants and Assistants IGADF	201
Division 3—Other matters	203
110Q Protection from civil actions	203
110R Annual report by Inspector-General ADF	203
110S Delegation	203

Part VIHC—Defence Honours and Awards Appeals Tribunal	204
Division 1—Preliminary	204
110T Definitions	204
Division 2—Establishment and functions of Defence Honours and Awards Appeals Tribunal	206
110U Establishment of Tribunal	206
110UA Functions of Tribunal	206
110UB Tribunal and Tribunal members not subject to direction	206
Division 3—Review of decisions by the Tribunal	207
110V What decisions are reviewable?	207
110VA Who can apply for review?	207
110VB Review of decisions by the Tribunal	208
110VC Power to dismiss review applications	209
Division 4—Inquiries by the Tribunal	211
110W Minister may direct Tribunal to hold inquiry	211
Division 5—General provisions relating to operation of the Tribunal	212
110X Role of the Chair	212
110XA Constitution of Tribunal for Tribunal proceedings	212
110XB What happens if a Tribunal member stops being available	213
110XC Summoning persons to give evidence or produce documents	215
110XD Protection of confidential or sensitive evidence or submissions etc.	216
110XE Formal requirements relating to decisions etc. of the Tribunal	216
110XF Protection of Tribunal members and other persons	217
110XG Disclosure of interests by Tribunal members	218
110XH Procedural rules	219
Division 6—Tribunal members	220
110Y Constitution of Tribunal	220
110YA Appointment of Tribunal members	220
110YB Period of appointment	221
110YC Acting appointments	221
110YD Other employment	222
110YE Remuneration	222

110YF	Leave	223
110YG	Resignation	223
110YH	Termination	223
110YI	Other terms and conditions	224
Division 7—Miscellaneous		225
110Z	Regulations	225
Part VIID—Director of Defence Counsel Services		226
110ZA	Director of Defence Counsel Services	226
110ZB	Functions and powers of the Director of Defence Counsel Services	226
110ZC	Delegation	227
110ZD	Protection from action	227
Part IX—Legal procedure		229
111	Subscription, arms etc. vested in commanding officer	229
111A	Property of Rifle Club vested in Captain	229
Part IXA—Provisions relating to the forces of other countries		230
Division 1—Interpretation		230
116A	Interpretation	230
Division 2—Attachment of personnel and mutual powers of command		231
116B	Attachment to the Defence Force of members of the forces of another country and vice versa	231
116C	Forces serving together	232
116D	Corresponding ranks	234
Division 3—Absentees without leave		235
116E	Interpretation	235
116F	Apprehension of absentees without leave	235
116G	Detention of illegal absentee	236
116H	Disposal of person in custody	236
116J	Evidence for the purposes of this Division	237
116K	Proof of facts by certificate	238
Division 4—Miscellaneous		239
116M	Delegation	239

Part IXB—Public areas of defence land	240
116P Interpretation	240
116Q Public areas of defence land	240
116R Delegation	240
116S Appointment of rangers	241
116T Rangers ex officio	241
116U Identity cards	241
116V Powers of arrest	241
116W General powers of rangers	242
116X Seizure and forfeiture	243
116Y Assaulting etc. rangers	244
116ZA Officers and employees of governments and authorities	244
116ZB Prosecution of offences	245
116ZC Concurrent operation of State and Territory laws	245
116ZCA Infringement notices	245
116ZD By-laws	247
Part IXC—Salvage claims	249
117 Interpretation	249
117A Salvage claims by crew of Naval ships	250
117AA Apportionment of salvage between the Commonwealth and crew members	251
117AB Apportionment of salvage amongst crew members	252
Part IXD—Defence aviation areas	253
117AC Defence aviation areas	253
117AD Regulations in relation to defence aviation areas	254
117AE Monitoring powers	254
117AF Modifications of Part 2 of the Regulatory Powers Act	255
117AG Appointment of inspectors for defence aviation areas	256
117AH Delegation of powers of Secretary or Chief of Defence Force	257
Part X—Miscellaneous	258
117B Members and former members may bring actions for money due in respect of service	258
118 Penalty against raising forces without authority	258
118A Employer not to prevent employee from serving	258

118B	Enlistment of apprentices in time of war	259
119	Forfeiture or suspension of salary in certain circumstances	259
120	Notice etc. need not be in writing unless required herein	260
120A	Delegation	260
120B	Attachment of salaries of members	263
121	Proof of order	267
121A	Validation of declaration and past acts in relation to the Woomera Prohibited Area	267
122	Appointments etc. not invalid because of defect etc. in connection with appointment	268
122AA	Taxation consequences of disposals of assets to defence companies	269
122B	Exercise of rights and discharge of duties and obligations by legal officers	270
123	Immunity from certain State and Territory laws.....	270
123AA	Immunity in relation to certain assistance	271
123A	Intoxicating liquor	273
123B	Religion	273
123F	Certain persons not permitted to serve in Defence Force.....	273
123G	Orders in relation to rifle ranges.....	274
123H	Tactical payment scheme for activities of the Defence Force outside Australia.....	274
123J	Delegations in relation to the tactical payment scheme.....	275
Part XI—Regulations		276
124	Regulations.....	276
Schedule 1—Ranks and corresponding ranks		284
1	Ranks and corresponding ranks	284
Endnotes		286
Endnote 1—About the endnotes		286
Endnote 2—Abbreviation key		288
Endnote 3—Legislation history		289
Endnote 4—Amendment history		312

An Act to provide for the Naval and Military Defence and Protection of the Commonwealth and of the several States

Part I—Introductory

1 Short title

This Act may be cited as the *Defence Act 1903*.

3 Commencement of Act

This Act shall commence on a day to be fixed by Proclamation.

4 Interpretation

(1) In this Act, unless the contrary intention appears:

AAT means the Administrative Appeals Tribunal.

AAT Act means the *Administrative Appeals Tribunal Act 1975*.

accused person has the same meaning as in the *Defence Force Discipline Act 1982*.

administration of the Defence Force: see subsection 10(2).

Aircraft—Includes aeroplanes, seaplanes, balloons, kite balloons, airships and other machines for flying.

Aircraft Material—Includes any engines, fittings, guns, gear, instruments, ammunition, bombs or apparatus for use in connexion with aircraft, and any components or accessories of aircraft, and petrol and any other substance used for providing motive power for aircraft, and lubricating oil.

Air Force means the Royal Australian Air Force.

Section 4

Air Force Reserve: see subsection 20(3).

Airman—Means a member of the Air Force other than an officer.

Army means the Australian Army.

Army Reserve: see subsection 19(3).

Australia and ***Commonwealth*** includes the Territories.

Australian Air Force Cadets: see subsection 62(4).

Australian Army: see subsection 19(1).

Australian Army Cadets: see subsection 62(3).

Australian Defence Force or ***ADF***: see section 17.

Australian Defence Force Cadets or ***ADF Cadets*** or ***Cadets***: see subsection 62(1).

Australian Navy Cadets: see subsection 62(2).

cadet means an officer, instructor or cadet in the Cadets.

call out order:

- (a) in Division 3 of Part III—has the meaning given by subsection 28(1); and
- (b) in Part IIIAAA—has the meaning given by section 31.

Chief of the Defence Force means the Chief of the Defence Force appointed under subsection 12(1).

Conscientious Objection Tribunal means a Conscientious Objection Tribunal established under section 61CF.

court martial means a court martial convened under the *Defence Force Discipline Act 1982*.

CSC has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

defence aviation area has the meaning given by subsection 117AC(1).

defence aviation area inspector has the meaning given by subsection 117AG(1).

Defence Force means the Australian Defence Force.

Defence Force magistrate has the same meaning as in the *Defence Force Discipline Act 1982*.

Defence Instructions: see subsection 11(1).

Director of Defence Counsel Services means the person appointed under subsection 110ZA(2) as the Director of Defence Counsel Services or a person acting as the Director of Defence Counsel Services.

exemption from service because of conscientious beliefs means exemption from service under paragraph 61A(1)(h) or (i) or exemption from combatant duties under subsection 61A(1A).

Federal Court means the Federal Court of Australia.

flexible service determination: see subsection 23(2).

Foreign Affairs Minister means the Minister administering the *Diplomatic Privileges and Immunities Act 1967*.

Inspector-General ADF means the Inspector-General of the Australian Defence Force referred to in section 110B.

legal officer has the same meaning as in the *Defence Force Discipline Act 1982*.

legal practitioner has the same meaning as in the *Defence Force Discipline Act 1982*.

Member—Includes any officer, sailor, soldier and airman.

Naval Reserve: see subsection 18(3).

Section 4

Navy means the Royal Australian Navy.

officer means:

- (a) a person appointed as an officer of the Navy, Army or Air Force and who holds a rank specified in items 1 to 12 of the table in subclause 1(1) of Schedule 1; or
- (b) a chaplain in the Defence Force.

Permanent Air Force: see subsection 20(2).

Permanent Forces means the Permanent Navy, the Regular Army and the Permanent Air Force.

Permanent Navy: see subsection 18(2).

protected person: see subsection 123AA(3).

public resources has the same meaning as in the *Public Governance, Performance and Accountability Act 2013*.

Regular Army: see subsection 19(2).

Regulatory Powers Act means the *Regulatory Powers (Standard Provisions) Act 2014*.

Reserves means the Naval Reserve, the Army Reserve and the Air Force Reserve.

Royal Australian Air Force or **RAAF**: see subsection 20(1).

Royal Australian Navy or **RAN**: see subsection 18(1).

Sailor—Means a member of the Navy other than an officer.

service chief means:

- (a) the Chief of Navy; or
- (b) the Chief of Army; or
- (c) the Chief of Air Force.

Service Decoration—Means any order, medal, badge, clasp, bar or other insignia that was or may be conferred for valour,

distinguished conduct or service, long service, good conduct, devotion to duty, efficiency, participation in a campaign or other warlike operation or for any other reason on a member of the Defence Force or of any armed force of any part of the Queen's dominions or of any Power allied or associated with Australia in any war or warlike operations in which Australia is or has been engaged, and includes the ribbon of any such order, medal, badge, clasp or other decoration and any colourable imitation, representation or miniature of any such order, medal, badge, clasp or other decoration.

Service tribunal has the same meaning as in the *Defence Force Discipline Act 1982*.

Soldier—Means a member of the Army other than an officer.

The Secretary means the Secretary of the Department.

Time of Defence Emergency—Means the period between the publication of a proclamation declaring that a state of defence emergency exists in relation to Australia and the publication of a proclamation that that state of defence emergency no longer exists.

Time of War—Means any time during which a state of war actually exists, and includes the time between the issue of a proclamation of the existence of war or of danger thereof and the issue of a proclamation declaring that the war or danger thereof, declared in the prior proclamation, no longer exists.

Vice Chief of the Defence Force means the Vice Chief of the Defence Force appointed under subsection 12(2).

War—Means any invasion or apprehended invasion of, or attack or apprehended attack on, Australia by an enemy or armed force.

Section 5

- (3) For the purposes of Part IV, a person is taken to have a conscientious belief in relation to a matter if the person's belief in respect of that matter:
- (a) involves a fundamental conviction of what is morally right and morally wrong, whether or not based on religious considerations; and
 - (b) is so compelling in character for that person that he or she is duty bound to espouse it; and
 - (c) is likely to be of a long standing nature.

5 Application of Act

This Act applies to, and in relation to, the Defence Force, and to all members of the Defence Force whether appointed or enlisted, or deemed to be enlisted, under this Act or under any other Act and whether serving within or beyond the territorial limits of Australia.

5A Extension of Act to Territories

This Act extends to the external Territories as if each of those Territories were part of Australia.

6 Application of the *Criminal Code*

Chapter 2 of the *Criminal Code* applies to all offences against this Act.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

7 Act does not appropriate money

Nothing in this Act shall be taken as an appropriation of any public moneys.

Part II—Control and administration

8 The Minister

- (1) The Minister has general control and administration of the Defence Force.

Note: Command in chief of the Defence Force is vested in the Governor-General: see section 68 of the Constitution.

- (2) In performing and exercising functions and powers under this Part, the Chief of the Defence Force and the Secretary must comply with any directions of the Minister.

9 Command of the Defence Force

- (1) The Chief of the Defence Force has command of the Defence Force.
- (2) The Chief of the Defence Force must advise the Minister on matters relating to the command of the Defence Force.
- (3) The Vice Chief of the Defence Force is to assist the Chief of the Defence Force in the command of the Defence Force.
- (4) In so assisting, the Vice Chief of the Defence Force must comply with any directions of the Chief of the Defence Force.

10 Administration of the Defence Force

- (1) The Secretary and the Chief of the Defence Force have joint administration of the Defence Force.
- (2) The ***administration of the Defence Force*** does not include any matter:
 - (a) falling within the command of the Defence Force; or
 - (b) specified by the Minister.

Section 11

- (3) The Vice Chief of the Defence Force is to assist with the administration of the Defence Force as directed by the Chief of the Defence Force.
- (4) An instrument made under paragraph (2)(b) is not a legislative instrument.

11 Defence Instructions

- (1) For the purposes of the administration of the Defence Force, the Secretary and the Chief of the Defence Force together may issue instructions known as ***Defence Instructions***.
- (2) A document purporting to be a Defence Instruction, or a copy of a Defence Instruction, is taken to be a Defence Instruction unless the contrary is established.
- (3) Despite section 46AA of the *Acts Interpretation Act 1901*, a Defence Instruction may make provision for or in relation to a matter by applying, adopting or incorporating any matter contained in an instrument or other writing as in force or existing from time to time.

12 Appointments

- (1) The Governor-General may, by writing, appoint an officer of an arm of the Defence Force to be Chief of the Defence Force.
- (2) The Governor-General may, by writing, appoint an officer of an arm of the Defence Force to be Vice Chief of the Defence Force.
- (3) The Chief of the Defence Force and the Vice Chief of the Defence Force hold office for the periods specified in their instruments of appointment.
- (4) A person appointed as Chief of the Defence Force or Vice Chief of the Defence Force ceases to hold office if he or she ceases to be an officer of an arm of the Defence Force.

13 Acting appointments*Vice Chief must act as Chief of the Defence Force*

- (1) The Vice Chief of the Defence Force must act as the Chief of the Defence Force:
 - (a) during a vacancy in the office of the Chief of the Defence Force; or
 - (b) during any period, or during all periods, when the Chief of the Defence Force:
 - (i) is absent from duty; or
 - (ii) is, for any reason, unable to perform the duties of the office.

Acting Vice Chief of the Defence Force

- (2) The Governor-General may, by writing, appoint an officer of an arm of the Defence Force to act as the Vice Chief of the Defence Force:
 - (a) during a vacancy in the office of the Vice Chief of the Defence Force; or
 - (b) during any period, or during all periods, when the Vice Chief of the Defence Force:
 - (i) is absent from duty or from Australia; or
 - (ii) is, for any reason, unable to perform the duties of the office.

14 Resignation

- (1) The Chief of the Defence Force or the Vice Chief of the Defence Force may resign his or her appointment by giving the Governor-General a written resignation.
- (2) However, the resignation does not have effect unless and until it is accepted by the Governor-General.

Section 15

15 Termination of appointment

- (1) The Governor-General may, on the recommendation of the Prime Minister and by notice in writing, terminate the appointment of the Chief of the Defence Force or the Vice Chief of the Defence Force.
- (2) Before recommending to the Governor-General that the appointment be terminated, the Prime Minister must have received a report about the proposed termination from the Minister.

16 Remuneration and allowances

- (1) The Chief of the Defence Force and the Vice Chief of the Defence Force are to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, they are to be paid the remuneration that is prescribed by the regulations.
- (2) The Chief of the Defence Force and the Vice Chief of the Defence Force are to be paid the allowances determined under Part IIIA.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

Note: The remuneration of the Chief of Navy, the Chief of Army and the Chief of Air Force is also determined by the Remuneration Tribunal. For appointment etc. of service chiefs, see the regulations.

Part III—The Australian Defence Force

Division 1—Constitution of the Australian Defence Force

17 The Australian Defence Force

The *Australian Defence Force* (or *ADF*) consists of the following arms:

- (a) the Royal Australian Navy;
- (b) the Australian Army;
- (c) the Royal Australian Air Force.

18 Royal Australian Navy

- (1) The *Royal Australian Navy* (or *RAN*) consists of:
 - (a) the Chief of Navy; and
 - (b) the Permanent Navy; and
 - (c) the Naval Reserve.
- (2) The *Permanent Navy* consists of:
 - (a) officers appointed to, and sailors enlisted in, the Permanent Navy; and
 - (b) members of the Defence Force transferred to the Permanent Navy.
- (3) The *Naval Reserve* consists of:
 - (a) officers appointed to, and sailors enlisted in, the Naval Reserve; and
 - (b) members of the Defence Force transferred to the Naval Reserve.

19 Australian Army

- (1) The *Australian Army* consists of:
 - (a) the Chief of Army; and

Section 20

- (b) the Regular Army; and
 - (c) the Army Reserve.
- (2) The ***Regular Army*** consists of:
 - (a) officers appointed to, and soldiers enlisted in, the Regular Army; and
 - (b) members of the Defence Force transferred to the Regular Army.
- (3) The ***Army Reserve*** consists of:
 - (a) officers appointed to, and soldiers enlisted in, the Army Reserve; and
 - (b) members of the Defence Force transferred to the Army Reserve.

20 Royal Australian Air Force

- (1) The ***Royal Australian Air Force*** (or ***RAAF***) consists of:
 - (a) the Chief of Air Force; and
 - (b) the Permanent Air Force; and
 - (c) the Air Force Reserve.
- (2) The ***Permanent Air Force*** consists of:
 - (a) officers appointed to, and airmen enlisted in, the Permanent Air Force; and
 - (b) members of the Defence Force transferred to the Permanent Air Force.
- (3) The ***Air Force Reserve*** consists of:
 - (a) officers appointed to, and airmen enlisted in, the Air Force Reserve; and
 - (b) members of the Defence Force transferred to the Air Force Reserve.

21 Ranks and corresponding ranks

The ranks and corresponding ranks of members of the Defence Force (other than chaplains) are set out in Schedule 1.

Division 2—Service in the Defence Force

22 Voluntary entry

- (1) Members of the Defence Force must be persons who volunteer and are accepted for service in the Defence Force.
- (2) Subsection (1) has effect subject to Part IV and any other Act.

23 Service in the Permanent Forces

- (1) Members of the Permanent Forces are bound to render continuous full time service.

Note: ***Permanent Forces*** means the Permanent Navy, the Regular Army and the Permanent Air Force: see subsection 4(1).

Flexible service determinations

- (2) The requirement to render continuous full time service does not prevent the Chief of the Defence Force determining hours of duty or periods of duty for a member of the Permanent Forces under a ***flexible service determination***.
- (3) A flexible service determination:
 - (a) must be in writing; and
 - (b) may be revoked or varied by the Chief of the Defence Force at any time; and
 - (c) has effect subject to any terms and conditions (the ***flexible service terms and conditions***) set out in the determination.
- (4) Flexible service terms and conditions may relate to remuneration, allowances, availability for duty outside the hours of duty or periods of duty set out in the determination or any other relevant matter.
- (5) A flexible service determination is not a legislative instrument.

24 Service in the Reserves

A member of the Reserves is not bound to render continuous full time service unless the member:

- (a) is involved in a period of training that requires continuous full time service; or
- (b) is required to render continuous full time service after volunteering to do so (see section 26); or
- (c) is called out under Division 3 of this Part for a period of service that is specified by the Chief of the Defence Force to be continuous full time service; or
- (d) is called upon under Division 1 of Part IV.

Note: **Reserves** means the Naval Reserve, the Army Reserve and the Air Force Reserve: see subsection 4(1).

25 Training for Reserves

Members of the Reserves must render service during training periods in accordance with the regulations.

26 Volunteer service by Reserves

- (1) A member of the Reserves may volunteer to render the following for a period or periods specified by the member:
 - (a) continuous full time service;
 - (b) service other than continuous full time service.
- (2) The Chief of the Defence Force may accept some or all of the service.
- (3) The member is bound to render the service accepted by the Chief of the Defence Force.

27 Service is not a civil contract

No civil contract of any kind is created with the Crown or the Commonwealth in connection with a member's service in the Defence Force.

Division 3—Calling out the Reserves

28 Governor-General may call out Reserves

- (1) The Governor-General may, by notifiable instrument, make an order (a ***call out order***) calling out some or all of the Reserves for service.

Circumstances for call out order

- (3) However, a call out order may only be made in circumstances (whether within or outside Australia) involving one or more of the following:
- (a) war or warlike operations;
 - (b) a time of defence emergency;
 - (c) defence preparation;
 - (d) peacekeeping or peace enforcement;
 - (e) assistance to Commonwealth, State, Territory or foreign government authorities and agencies in matters involving Australia's national security or affecting Australian defence interests;
 - (f) support to community activities of national or international significance;
 - (g) civil aid, humanitarian assistance, medical or civil emergency or disaster relief.

Advice to Governor-General

- (4) In making or revoking a call out order, the Governor-General is to act with the advice of the Minister.
- (4A) Before giving advice to the Governor-General in relation to the making or revoking of a call out order, the Minister must consult the Prime Minister.

Further orders

- (8) The making of a call out order in relation to particular circumstances does not prevent the making of further call out orders in relation to those circumstances.

29 Period of service while covered by call out order

Period specified by Chief of the Defence Force

- (1) A member of the Reserves covered by a call out order is bound to render service for the period or periods specified in writing by the Chief of the Defence Force.
- (2) Unless it ends earlier, and despite any specification by the Chief of the Defence Force, a period ends on the day on which the revocation of the call out order takes effect.

Other service not affected

- (3) This section does not limit a requirement to render service otherwise than under this section.

Part IIIAAA—Calling out the Defence Force to protect Commonwealth interests, States and self-governing Territories

Division 1—Introduction

30 Simplified outline of this Part

The Defence Force can be called out under a call out order made under this Part. A call out order is made by the Governor-General if the Prime Minister, the Minister and the Attorney-General (who are called the authorising Ministers) are satisfied of various matters.

There are 2 general kinds of call out orders: Commonwealth interests orders and State protection orders. For both kinds of call out orders, the Defence Force can be called out immediately or, under a contingent call out order, if specified circumstances arise.

Under a Commonwealth interests order, the Defence Force is called out to protect Commonwealth interests in Australia or the Australian offshore area. The order might apply in a State or Territory, or in the Australian offshore area, or in more than one of those places. Each State or self-governing Territory in which domestic violence is occurring, or is likely to occur, must generally be consulted before the Governor-General makes a Commonwealth interests order.

A State or self-governing Territory can apply for a State protection order to protect the State or Territory from domestic violence.

Section 30

A power under a call out order may be exercised in a State or Territory either because the State or Territory is specified in the order or because the power is exercised in the State or Territory for a purpose specified in the order.

As far as reasonably practicable, the Chief of the Defence Force must assist, and cooperate with, the police force of a State or Territory that is affected by a call out of the Defence Force.

Members of the Defence Force can exercise certain powers if the Defence Force is called out under a call out order. There are 3 categories of powers:

- (a) powers that generally can be exercised only if authorised by an authorising Minister; and
- (b) powers that can be exercised in an area that has been declared by the authorising Ministers; and
- (c) powers for protecting infrastructure that has been declared by the authorising Ministers.

Expedited call out orders, specified area declarations and infrastructure declarations can be made by the authorising Ministers or other Ministers in sudden and extraordinary emergencies.

Call out orders, specified area declarations and infrastructure declarations are all provided to the Presiding Officers for tabling in each House of the Parliament.

An independent review of this Part is to be commenced at least every 5 years. The operation, effectiveness and implications of this Part can also be reviewed on the initiative of the Independent National Security Legislation Monitor under the *Independent National Security Legislation Monitor Act 2010*.

Section 31

31 Definitions

In this Part:

Australian offshore area means:

- (a) Australian waters; or
- (b) the exclusive economic zone adjacent to the coast of Australia; or
- (c) the sea over the continental shelf of Australia;

and includes the airspace over an area covered by paragraph (a), (b) or (c).

Note: The exclusive economic zone adjacent to the coast of an external Territory, and the sea over the continental shelf of an external Territory, are part of the Australian offshore area (see the definition of ***Australia*** in section 4).

Australian waters means:

- (a) the territorial sea of Australia; or
- (b) the waters of the sea on the landward side of the territorial sea of Australia;

but does not include the internal waters of a State or self-governing Territory.

Note: The territorial sea of an external Territory, and the waters of the sea on the landward side of the territorial sea of an external Territory, are part of Australian waters (see the definition of ***Australia*** in section 4).

authorised Defence officer means:

- (a) an officer; or
- (b) an officer in a class of officers;

authorised, by the Chief of the Defence Force under subsection 51A(6), to be an authorised Defence officer.

authorising Ministers means the Prime Minister, the Minister and the Attorney-General.

call out order means an order made under section 33, 34, 35 or 36.

Section 31

Commonwealth interests order means a call out order made under section 33 or 34.

contingent call out order means a call out order made under section 34 or 36.

criminal act means an act or omission that would, if done or omitted to be done in the Jervis Bay Territory, contravene the substantive criminal law of the Jervis Bay Territory.

declared infrastructure means infrastructure, or a part of infrastructure, that is declared under section 51H.

domestic violence has the same meaning as in section 119 of the Constitution.

expedited order means an order made under section 51U.

expedited order or declaration means an order or declaration made under section 51U.

facility includes a fixed or floating structure or installation of any kind (but does not include a means of transport).

infrastructure includes physical facilities, supply chains, information technologies and communication networks or systems.

infrastructure declaration means a declaration made under section 51H.

internal waters of a State or self-governing Territory:

- (a) means the waters of the sea within the limits of the State or Territory; and
- (b) includes the airspace over those waters.

location includes any premises or place.

means of transport means a vehicle, vessel, aircraft, train or other means of transporting persons or goods (whether or not manned).

Section 31

member of the police force, of a Territory for which the Australian Federal Police provides police services, means a member or special member of the Australian Federal Police providing police services for the Territory.

Minister for Home Affairs means the Minister who administers the *Australian Federal Police Act 1979*.

person who may be detained, in relation to a call out order, means a person:

- (a) who is likely to pose a threat to any person's life, health or safety, or to public health or public safety; or
- (b) both:
 - (i) who has committed an offence, against a law of the Commonwealth, a State or a Territory, that is related to the domestic violence or threat specified in the call out order; and
 - (ii) whom it is necessary, as a matter of urgency, to detain.

Note: For paragraph (b), in order to detain a person, a member of the Defence Force must believe on reasonable grounds that the conditions in that paragraph have been met.

police force, of a Territory for which the Australian Federal Police provides police services, means the Australian Federal Police, to the extent that it provides police services for the Territory.

premises includes:

- (a) a place that is private property; and
- (b) in the Australian offshore area—a facility.

Presiding Officer means the President of the Senate or the Speaker of the House of Representatives.

search of a person means:

- (a) a search of the person or of things in the possession of the person that may include:
 - (i) requiring the person to remove the person's overcoat, coat or jacket and any gloves, shoes and hat; and

Section 31

- (ii) an examination of those items; or
- (b) a search of the person conducted by quickly running the hands over the person's outer garments and an examination of anything worn or carried by the person that is conveniently and voluntarily removed by the person;

but does not include:

- (c) requiring the person to remove all of the person's garments; or
- (d) an examination of the person's body cavities.

search authorisation has the meaning given by subsection 51A(1).

self-governing Territory means:

- (a) the Australian Capital Territory; or
- (b) the Northern Territory and its internal waters.

specified area means an area that is declared to be a specified area in a declaration that is in force under section 51.

specified area declaration means a declaration in force under section 51.

State includes the internal waters of the State.

State protection order means a call out order made under section 35 or 36.

substantive criminal law means law (including unwritten law):

- (a) creating offences or imposing criminal liability for offences; or
- (b) dealing with capacity to incur criminal liability; or
- (c) providing a defence or providing for the reduction of the degree of criminal liability; or
- (d) providing for the confiscation of property used in, or derived from, the commission of an offence; or
- (e) dealing with other subjects declared by the regulations to be within the ambit of the substantive criminal law of the Jervis Bay Territory; or

Section 31

- (f) providing for the interpretation of laws of the kinds mentioned above.

thing includes any means of transport.

thing that may be seized, in relation to a call out order, means a thing that:

- (a) is likely to pose a threat to any person's life, health or safety, or to public health or public safety; or
- (b) is likely to cause serious damage to property; or
- (c) is connected with the domestic violence or threat specified in the call out order, and that it is necessary, as a matter of urgency, to seize.

utilised under a call out order: the Defence Force, or a member of the Defence Force, is **utilised** under a call out order if the Defence Force or member is utilised under section 39.

vessel means:

- (a) a ship, boat, raft, pontoon or submersible craft; or
 - (b) any other thing capable of carrying persons or goods through or on water;
- (whether or not crewed) and includes a hovercraft and other non-displacement craft.

Division 2—Calling out the Defence Force

Subdivision A—Simplified outline of this Division

32 Simplified outline of this Division

A call out order is made by the Governor-General if the Prime Minister, the Minister and the Attorney-General (who are called the authorising Ministers) are satisfied of various matters.

There are 2 general kinds of call out orders: Commonwealth interests orders and State protection orders. For both kinds of call out orders, the Defence Force can be called out immediately or, under a contingent call out order, if specified circumstances arise.

Under a Commonwealth interests order, the Defence Force is called out to protect Commonwealth interests in Australia or the Australian offshore area. The order might apply in a State or Territory, or in the Australian offshore area, or in more than one of those places. Each State or self-governing Territory in which domestic violence is occurring, or is likely to, would or would be likely to occur, must generally be consulted before the Governor-General makes a Commonwealth interests order.

A State or self-governing Territory can apply for a State protection order to protect the State or Territory from domestic violence.

A power under a call out order may be exercised in a State or Territory either because the State or Territory is specified in the order or because the power is exercised in the State or Territory for a purpose specified in the order.

As far as reasonably practicable, the Chief of the Defence Force must assist, and cooperate with the police force of, a State or Territory that is affected by a call out of the Defence Force.

Section 33

Subdivision B—Making call out orders

33 Calling out the Defence Force to protect Commonwealth interests

Conditions for making order

- (1) The Governor-General may make an order under subsection (3) if the authorising Ministers are satisfied that:
- (a) any of the following applies:
 - (i) domestic violence that would, or would be likely to, affect Commonwealth interests is occurring or is likely to occur in Australia;
 - (ii) there is a threat in the Australian offshore area to Commonwealth interests (whether those interests are in that area or elsewhere);
 - (iii) domestic violence that would, or would be likely to, affect Commonwealth interests is occurring or is likely to occur in Australia, and there is a threat in the Australian offshore area to those or any other Commonwealth interests; and
 - (b) the Defence Force should be called out and the Chief of the Defence Force should be directed to utilise the Defence Force to protect the Commonwealth interests against the domestic violence or threat, or both; and
 - (c) one or more of Divisions 3, 4 and 5 should apply in relation to the order.
- Note 1: See section 38 if domestic violence is occurring or is likely to occur in a State or self-governing Territory that does not request a call out order.
- Note 2: An expedited order may be made by one or more Ministers in sudden and extraordinary emergencies (see Division 7).
- (2) In determining whether the authorising Ministers are satisfied as mentioned in paragraph (1)(b) in relation to domestic violence that is occurring or is likely to occur in one or more States or self-governing Territories, the authorising Ministers:
- (a) must consider:

- (i) the nature of the domestic violence; and
- (ii) whether the utilisation of the Defence Force would be likely to enhance the ability of each of those States and Territories to protect the Commonwealth interests against the domestic violence; and
- (b) may consider any other matter that the authorising Ministers consider is relevant.

Power of Governor-General to make order

- (3) The Governor-General may, by written order, call out the Defence Force and direct the Chief of the Defence Force to utilise the Defence Force to protect the Commonwealth interests against the domestic violence or threat, or both.

Note: For additional rules in relation to making, varying and revoking call out orders, see section 37.

- (4) However, the Reserves must not be called out or utilised in connection with an industrial dispute.

Content of order

- (5) The order must:
 - (a) state that it is made under this section; and
 - (b) specify:
 - (i) the domestic violence or threat, or both; and
 - (ii) the Commonwealth interests; and
 - (iii) for domestic violence occurring or likely to occur in one or more States or self-governing Territories—each of those States and Territories; and
 - (c) state which of Divisions 3, 4 and 5 apply in relation to the order; and
 - (d) state that the order:
 - (i) comes into force when it is made; and
 - (ii) ceases to be in force at the end of a specified period (which must not end more than 20 days after it is made), unless it is revoked earlier.

Section 34

When order is in force

- (6) The order is in force as stated in accordance with paragraph (5)(d).

Note: The order can be extended under section 37.

34 Contingent call out of the Defence Force to protect Commonwealth interests

Conditions for making order

- (1) The Governor-General may make an order under subsection (3) if the authorising Ministers are satisfied that:
- (a) if specified circumstances were to arise:
 - (i) domestic violence that would, or would be likely to, affect Commonwealth interests would occur, or would be likely to occur, in Australia; or
 - (ii) there would be, or it is likely there would be, a threat in the Australian offshore area to Commonwealth interests (whether those interests are in that area or elsewhere); or
 - (iii) domestic violence that would, or would be likely to, affect Commonwealth interests would occur, or would be likely to occur, in Australia and there would be, or it is likely there would be, a threat in the Australian offshore area to those or any other Commonwealth interests; and
 - (b) if the specified circumstances were to arise, for reasons of urgency, it would be impracticable for a Commonwealth interests order to be made under section 33; and
 - (c) if the circumstances arise, the Defence Force should be called out and the Chief of the Defence Force should be directed to utilise the Defence Force to protect the Commonwealth interests against the violence or threat, or both; and
 - (d) if the circumstances arise, one or more of Divisions 3, 4 and 5 should apply in relation to the order.

Section 34

Note 1: See section 38 if domestic violence would occur, or would be likely to occur, in a State or self-governing Territory that does not request a call out order.

Note 2: An expedited order may be made by one or more Ministers in sudden and extraordinary emergencies (see Division 7).

- (2) In determining whether the authorising Ministers are satisfied as mentioned in paragraph (1)(c) in relation to domestic violence that would occur, or would be likely to occur, in one or more States or self-governing Territories if specified circumstances were to arise, the authorising Ministers:
- (a) must consider:
 - (i) the nature of the domestic violence; and
 - (ii) whether the utilisation of the Defence Force would be likely to enhance the ability of each of those States and Territories to protect the Commonwealth interests against the domestic violence; and
 - (b) may consider any other matter that the authorising Ministers consider is relevant.

Power of Governor-General to make order

- (3) The Governor-General may, by written order, specify that, if the specified circumstances arise:
- (a) the Defence Force is called out; and
 - (b) the Chief of the Defence Force is directed to utilise the Defence Force to protect the Commonwealth interests against the domestic violence or threat, or both.

Note: For additional rules in relation to making, varying and revoking call out orders, see section 37.

- (4) However, the Reserves must not be called out or utilised in connection with an industrial dispute.

Content of order

- (5) The order must:
- (a) state that it is made under this section; and

Section 35

- (b) specify:
 - (i) the circumstances to which the order relates; and
 - (ii) the domestic violence or threat, or both; and
 - (iii) the Commonwealth interests; and
 - (iv) for domestic violence that would, or would be likely to, occur in one or more States or self-governing Territories—each of those States and Territories; and
- (c) state which of Divisions 3, 4 and 5 apply in relation to the order; and
- (d) state that the order:
 - (i) comes into force when it is made; and
 - (ii) ceases to be in force at the end of a specified period, unless it is revoked earlier.

When order is in force

- (6) The order is in force as stated in accordance with paragraph (5)(d).

Note: The order can be extended under section 37.

35 Calling out the Defence Force to protect States and Territories

Conditions for making order

- (1) The Governor-General may make an order under subsection (3) if:
 - (a) a State Government or Government of a self-governing Territory applies to the Commonwealth Government to protect the State or Territory against domestic violence that is occurring, or is likely to occur, in the State or Territory; and
 - (b) the authorising Ministers are satisfied that:
 - (i) the Defence Force should be called out and the Chief of the Defence Force should be directed to utilise the Defence Force to protect the State or Territory against the domestic violence; and
 - (ii) one or more of Divisions 3, 4 and 5 should apply in relation to the order.

Section 35

Note: An expedited order may be made by one or more Ministers in sudden and extraordinary emergencies (see Division 7).

- (2) In determining whether the authorising Ministers are satisfied as mentioned in subparagraph (1)(b)(i) in relation to domestic violence that is occurring, or is likely to occur, in the State or self-governing Territory, the authorising Ministers:
- (a) must consider:
 - (i) the nature of the domestic violence; and
 - (ii) whether the utilisation of the Defence Force would be likely to enhance the ability of the State or Territory to protect the State or Territory against the domestic violence; and
 - (b) may consider any other matter that the authorising Ministers consider is relevant.

Power of Governor-General to make order

- (3) The Governor-General may, by written order, call out the Defence Force and direct the Chief of the Defence Force to utilise the Defence Force to protect the State or Territory against the domestic violence.

Note: For additional rules in relation to making, varying and revoking call out orders, see section 37.

- (4) However, the Reserves must not be called out or utilised in connection with an industrial dispute.

Content of order

- (5) The order must:
- (a) state that it is made under this section; and
 - (b) specify:
 - (i) the domestic violence; and
 - (ii) the State or Territory; and
 - (c) state which of Divisions 3, 4 and 5 apply in relation to the order; and
 - (d) state that the order:

Section 36

- (i) comes into force when it is made; and
- (ii) ceases to be in force at the end of a specified period (which must not end more than 20 days after it is made), unless it is revoked earlier.

When order is in force

- (6) The order is in force as stated in accordance with paragraph (5)(d).

Note: The order can be extended under section 37.

36 Contingent call out of the Defence Force to protect States and Territories

Conditions for making order

- (1) The Governor-General may make an order under subsection (3) if:
- (a) a State Government or Government of a self-governing Territory applies to the Commonwealth Government to protect the State or Territory against domestic violence that would occur, or would be likely to occur, in the State or Territory if specified circumstances were to arise; and
 - (b) the authorising Ministers are satisfied that, if the specified circumstances were to arise, for reasons of urgency, it would be impracticable for a State protection order to be made under section 35; and
 - (c) the authorising Ministers are satisfied that, if the specified circumstances arise:
 - (i) the Defence Force should be called out and the Chief of the Defence Force should be directed to utilise the Defence Force to protect the State or Territory against the domestic violence; and
 - (ii) one or more of Divisions 3, 4 and 5 should apply in relation to the order.

Note: An expedited order may be made by one or more Ministers in sudden and extraordinary emergencies (see Division 7).

Section 36

- (2) In determining whether the authorising Ministers are satisfied as mentioned in subparagraph (1)(c)(i) in relation to domestic violence that would occur, or would be likely to occur, in the State or self-governing Territory if specified circumstances were to arise, the authorising Ministers:
- (a) must consider:
 - (i) the nature of the domestic violence; and
 - (ii) whether the utilisation of the Defence Force would be likely to enhance the ability of the State or Territory to protect the State or Territory against the domestic violence; and
 - (b) may consider any other matter that the authorising Ministers consider is relevant.

Power of Governor-General to make order

- (3) The Governor-General may, by written order, specify that, if the specified circumstances arise:
- (a) the Defence Force is called out; and
 - (b) the Chief of the Defence Force is directed to utilise the Defence Force to protect the State or Territory against the domestic violence.

Note: For additional rules in relation to making, varying and revoking call out orders, see section 37.

- (4) However, the Reserves must not be called out or utilised in connection with an industrial dispute.

Content of order

- (5) The order must:
- (a) state that it is made under this section; and
 - (b) specify:
 - (i) the circumstances to which the order relates; and
 - (ii) the domestic violence; and
 - (iii) the State or Territory; and

Section 37

- (c) state which of Divisions 3, 4 and 5 apply in relation to the order; and
- (d) state that the order:
 - (i) comes into force when it is made; and
 - (ii) ceases to be in force at the end of the period specified in the order, unless it is revoked earlier.

When order is in force

- (6) The order is in force as stated in accordance with paragraph (5)(d).

Note: The order can be extended under section 37.

Subdivision C—Common provisions for making, varying and revoking call out orders

37 Making, varying and revoking call out orders

Variation of order

- (1) The Governor-General may, in writing, vary a call out order if:
 - (a) the authorising Ministers are still satisfied as mentioned in subsection 33(1), 34(1), 35(1) or 36(1) (as the case requires); and
 - (b) the order, as varied, complies (subject to subsection (2)) with the following provisions (as the case requires):
 - (i) subsections 33(3) to (5);
 - (ii) subsections 34(3) to (5);
 - (iii) subsections 35(3) to (5);
 - (iv) subsections 36(3) to (5); and
 - (c) for a State protection order—the State or Territory that applied for the order requests the variation.

Note: See section 38 if a Commonwealth interests order specifies a State or self-governing Territory that does not request a variation.

- (2) The Governor-General may vary a call out order to extend the period during which the order is in force. However, a period that is

Section 37

varied in an order under section 33 or 35 must not end more than 20 days after the variation takes effect.

Note: Sections 33 and 35 allow the Defence Force to be called out immediately.

Revocation of order

- (3) The Governor-General must, in writing, revoke a call out order if:
- (a) one or more authorising Ministers cease to be satisfied as mentioned in subsection 33(1), 34(1), 35(1) or 36(1) (as the case requires); or
 - (b) for a State protection order—the State Government or Government of the self-governing Territory withdraws its application to the Commonwealth Government for the call out order.

When variation or revocation takes effect

- (4) A variation or revocation of a call out order takes effect when the order is varied or revoked.

Advice to Governor-General

- (5) In making, varying or revoking a call out order, the Governor-General is to act with the advice of:
- (a) the Executive Council; or
 - (b) without limiting paragraphs 16A(a) and (b) of the *Acts Interpretation Act 1901*, if, despite paragraph (a), an authorising Minister is satisfied that, for reasons of urgency, the Governor-General should act with the advice of the authorising Minister—the authorising Minister.

Effect of revocation of call out order etc.

- (6) To avoid doubt, if a call out order is revoked or ceases to be in force:
- (a) the call out of the Defence Force under the order ends; and

Section 38

- (b) the Chief of the Defence Force must cease utilising the Defence Force under section 39.

Notice to State or self-governing Territory

- (7) As soon as reasonably practicable after making, varying or revoking a Commonwealth interests order that specifies a State or self-governing Territory, an authorising Minister must arrange for the Government of the State or Territory to be notified of the making, variation or revocation of the order. However, a failure to do so does not affect the validity of the making, variation or revocation of the order.

Further orders

- (8) The fact that a call out order has been made does not prevent further call out orders being made in relation to the same matter.

38 Commonwealth interests orders or variations that were not requested by a State or Territory

- (1) The Governor-General may make or vary a Commonwealth interests order in relation to domestic violence whether or not any State or self-governing Territory in which the domestic violence is occurring, is likely to occur, would occur, or would be likely to occur, requests the order or variation (as the case requires).
- (2) However, if any Government of those States or Territories does not request the order or variation, an authorising Minister must (subject to subsection (3)) consult that Government about the order or variation before the Governor-General makes or varies the order.

Note: An authorising Minister is not required to consult in relation to an expedited call out order (see subsection 51V(6)).

- (3) Subsection (2) does not apply to a Commonwealth interests order made under section 33 if the authorising Ministers are satisfied that, for reasons of urgency, it is impracticable to comply with that subsection.

Subdivision D—Effect of making call out order

39 Chief of Defence Force to utilise Defence Force as directed

- (1) The Chief of the Defence Force must comply with this section if:
 - (a) the Governor-General makes a call out order; and
 - (b) for a contingent call out order—the circumstances specified in the order arise.
- (2) The Chief of the Defence Force must utilise the Defence Force (subject to subsection (3) and section 40), in such manner as is reasonable and necessary, for the purpose specified in the order under subsection 33(3), 34(3), 35(3) or 36(3).

Note: Section 40 requires the Chief of the Defence Force to assist and cooperate with the police forces of affected States and Territories.

Limitations on power

- (3) In doing so, the Chief of the Defence Force:
 - (a) must (subject to paragraph (b)) comply with any direction that the Minister gives from time to time as to the way in which the Defence Force is to be utilised; and
 - (b) must not stop or restrict any protest, dissent, assembly or industrial action, except if there is a reasonable likelihood of:
 - (i) the death of, or serious injury to, persons; or
 - (ii) serious damage to property.

40 Assisting and cooperating with police forces of affected States and Territories

- (1) In utilising the Defence Force under a call out order (except in the Australian offshore area), the Chief of the Defence Force must, as far as is reasonably practicable, ensure that:
 - (a) the Defence Force:
 - (i) is utilised to assist any State or Territory specified in the order, and any other State or Territory in which powers

Section 40

under this Part may be exercised in accordance with section 44 or 51K or subsection 51(5); and

(ii) cooperates with the police force of those States and Territories; and

(b) the Defence Force is not utilised for any particular task in any of those States and Territories (except in relation to airborne aircraft) unless a member of the police force of that State or Territory requests that the Defence Force be so utilised.

- (2) A request under paragraph (1)(b) must, if reasonably practicable, be in writing.
- (3) Subsection (1) does not require or permit the Chief of the Defence Force to transfer to any extent command of the Defence Force to a State or Territory, or to a police force or member of the police force of that State or Territory.
- (4) Subsection (1) is subject to subsection 39(3).

Note: Subsection 39(3) requires the Chief of the Defence Force to comply with Ministerial directions and generally not stop or restrict protests etc.

Division 3—Special powers generally authorised by Minister

Subdivision A—Introduction

41 Simplified outline of this Division

This Part confers powers on members of the Defence Force if the Defence Force is being utilised under a call out order that specifies that this Division applies. Generally, the powers must be authorised by an authorising Minister. The powers can be exercised without Ministerial authorisation in sudden and extraordinary emergencies.

The powers in this Division can also be exercised in an area specified under Division 4. If a particular power can be exercised both under this Division and Division 4, the power is taken to be exercised under this Division (so that any rules under Division 4 that would otherwise apply to the power do not apply).

A power exercised under this Division for the purposes of a call out order can be exercised in a State or Territory that is not specified in the order if the exercise of the power is for the purpose specified in the order.

Division 6 allows members of the Defence Force exercising powers under this Division to use reasonable and necessary force. Division 6 also:

- (a) confers powers and imposes obligations if persons are detained or things are seized; and
- (b) contains an offence for failing to comply with a direction; and

Section 42

- (c) deals with the consequences of the exercise of powers by members of the Defence Force if obligations imposed in relation to the exercise of those powers have not been met or if call out orders and other instruments have not been validly made.

42 Application of this Division

This Division applies if a call out order states that this Division applies in relation to the order.

Note: The powers under this Division must generally be authorised by a Minister (see subsection 46(1)).

43 Powers that may be exercised under this Division and Division 4

- (1) To avoid doubt, a power under this Division may be exercised in an area specified under Division 4.
- (2) If a power may be exercised under this Division, and under Division 4, the power is taken, for the purposes of this Part, to be exercised under this Division.

Note: For example, searches may be undertaken under this Division and Division 4. Searches undertaken under Division 4 must be undertaken by a member of the Defence Force who is in uniform (see section 50). A member who may undertake a search under this Division and Division 4 is not required to wear a uniform.

44 Location of exercise of powers

- (1) A power may be exercised in a State or self-governing Territory under this Division in relation to a call out order if:
 - (a) the exercise of the power in that State or Territory is authorised by the order; or
 - (b) the power is exercised for the purpose specified in the order under subsection 33(3), 34(3), 35(3) or 36(3).

Note: For example, powers might be exercised in a State because:

- (a) the State is specified in the order; or

- (b) the powers are exercised in a State that is not specified in the order for the purpose of protecting a State that is specified in the order against domestic violence that is occurring in that State; or
 - (c) the powers are exercised in a State that is not specified in the order for the purpose of protecting Commonwealth interests in the Australian offshore area, as specified in the order.
- (2) A power must not be exercised under this Division outside the Australian offshore area.

45 International obligations

In giving an authorisation under Subdivision B in relation to an action or power that is to be, or may be, taken or exercised in the Australian offshore area, an authorising Minister must have regard to Australia's international obligations.

Subdivision B—Special powers generally authorised by Minister

46 Special powers generally authorised by Minister

When special powers may be exercised

- (1) A member of the Defence Force who is being utilised under a call out order may, under the command of the Chief of the Defence Force, take an action under subsection (5), or exercise a power under subsection (7) or (9) in relation to taking such an action, if:
- (a) an authorising Minister has authorised in writing taking the action; or
 - (b) the member believes on reasonable grounds that there is insufficient time to obtain the authorisation because a sudden and extraordinary emergency exists.

Note: An authorisation for the purposes of paragraph (1)(a) that relates to an expedited order is not required to be in writing (see section 51W).

- (2) An authorising Minister may, under paragraph (1)(a), authorise taking an action in relation to a contingent call out order even if the circumstances specified in the order have not yet arisen.

Section 46

- (3) An authorising Minister must not, under paragraph (1)(a), authorise the taking of measures against an aircraft or vessel, or the giving of an order in relation to the taking of such a measure, under paragraph (5)(d) or (e) unless the Minister is satisfied that taking the measure:
- (a) is reasonable and necessary; or
 - (b) for a contingent call out order—would be reasonable and necessary if the circumstances specified in the order were to arise.
- (4) Without limiting paragraph (1)(a), the taking of an action may be authorised under that paragraph in relation to:
- (a) particular domestic violence or a particular threat specified in the call out order; or
 - (b) any domestic violence or threat specified in the call out order.

Note: For example, the taking of a particular action may be authorised for domestic violence specified in the order, while the taking of different action may be authorised for a threat specified in the order.

Taking authorised actions

- (5) The member may take any one or more of the following actions:
- (a) capture or recapture a location (including a facility) or thing;
 - (b) prevent, or put an end to:
 - (i) acts of violence; or
 - (ii) threats to any person's life, health or safety, or to public health or public safety;
 - (c) protect any persons from:
 - (i) acts of violence; or
 - (ii) threats to any person's life, health or safety, or to public health or public safety;
 - (d) take measures (including the use of force) against an aircraft (whether or not the aircraft is airborne) or vessel, up to and including destroying the aircraft or vessel (subject to subsection (6));

- (e) give an order relating to the taking of measures referred to in paragraph (d) of this subsection (subject to subsection (6)).
- (6) Paragraphs (5)(d) and (e) do not authorise taking a measure against an aircraft or vessel, or the giving of an order (the *member's order*) in relation to taking such a measure, unless:
 - (a) the member of the Defence Force takes the measure, or gives the member's order, under, or under the authority of, an order (the *superior's order*) of a superior; and
 - (b) the member was under a legal obligation to obey the superior's order; and
 - (c) the superior's order was not manifestly unlawful; and
 - (d) the member has no reason to believe that circumstances have changed in a material way since the superior's order was given; and
 - (e) the member has no reason to believe that the superior's order was based on a mistake as to a material fact; and
 - (f) taking the measure, or giving the member's order, was reasonable and necessary to give effect to the superior's order.

Additional powers

- (7) The member may, in connection with taking any action mentioned in subsection (5), do any one or more of the following:
 - (a) free any hostage from a location (including a facility) or thing;
 - (b) control the movement of persons or of means of transport;
 - (c) evacuate persons to a place of safety;
 - (d) search persons, locations or things for things that may be seized, or persons who may be detained, in relation to the call out order;
 - (e) seize any thing found in the search that the member believes on reasonable grounds is a thing that may be seized in relation to the call out order;

Section 46

- (f) detain any person found in the search that the member believes on reasonable grounds is a person who may be detained in relation to the call out order for the purpose of placing the person in the custody of a member of a police force at the earliest practicable time;
- (g) provide security (whether or not armed, and whether or not with a police force) including by patrolling or securing an area or conducting cordon operations;
- (h) direct a person to answer a question put by the member, or to produce to the member a particular document that is readily accessible to the person, (including by requiring the person to provide identification to the member);
- (i) operate, or direct a person to operate, a facility, machinery or equipment (including electronic equipment) in a particular manner (whether or not the facility, machinery or equipment is on a facility or means of transport).

Note 1: For the definitions of *person who may be detained*, *search* and *thing that may be seized*, see section 31.

Note 2: See also sections 51P (persons to be informed of certain matters if detained), 51Q (actions to be taken if things seized) and 51R (offence for failing to comply with a direction).

- (8) A member who controls the movement of persons or of means of transport under paragraph (7)(b) must not do so for longer than is reasonable and necessary in the circumstances.

Incidental powers

- (9) The member may do anything incidental to anything in subsection (5) or (7), including enter any place or premises or board an aircraft or vessel.

Powers do not limit each other

- (10) To avoid doubt, no paragraph of subsection (5) or (7) limits the operation of any other paragraph of either of those subsections.

Division 4—Powers exercised in specified areas

Subdivision A—Introduction

47 Simplified outline of this Division

This Division confers powers on members of the Defence Force if the Defence Force is being utilised under a call out order that specifies that this Division applies. The powers are to be exercised in a specified area which may be in Australia or the Australian offshore area. The authorising Ministers specify the area in a specified area declaration.

An expedited specified area declaration can be made under Division 7 in sudden and extraordinary emergencies.

Uniforms must be worn by members of the Defence Force when exercising powers under this Division.

The powers under this Division are:

- (a) the power to search premises in the specified area; and
- (b) powers relating to means of transport in the specified area; and
- (c) powers relating to persons in the specified area.

If a call out order specifies that this Division and Division 3 apply in relation to the order, the powers under Division 3 can be exercised in the specified area. If a particular power can be exercised both under this Division and Division 3, the power is taken to be exercised under Division 3 (so that any rules under this Division that would otherwise apply to the power do not apply).

Division 6 allows members of the Defence Force exercising powers under this Division to use reasonable and necessary force. Division 6 also:

Section 48

- (a) confers powers and imposes obligations if persons are detained or things are seized; and
- (b) contains an offence for failing to comply with a direction; and
- (c) deals with the consequences of the exercise of powers by members of the Defence Force if obligations imposed in relation to the exercise of those powers have not been met or if call out orders and other instruments have not been validly made.

48 Application of this Division

This Division applies if a call out order states that this Division applies in relation to the order.

49 International obligations

In making a specified area declaration under Subdivision B in relation to the Australian offshore area, the authorising Ministers must have regard to Australia's international obligations.

50 Members to wear uniforms and identification when exercising powers

- (1) A person commits an offence if:
 - (a) the person is a member of the Defence Force; and
 - (b) the person is exercising powers under this Division, or under Division 6 (provisions common to Divisions 3 to 5) in its operation in relation to this Division; and
 - (c) the person does not, at all times while exercising those powers:
 - (i) wear the person's uniform; and
 - (ii) have the person's surname, the person's numbers, or the person's combination of numbers and letters of the alphabet, on or attached to the uniform in a place that is visible.

Penalty: 30 penalty units.

Exception

- (2) Subsection (1) does not apply if:
- (a) the contravention by the person occurs because of an act of another person (not being a member of the Defence force) done without the consent of the person; or
 - (b) the power is taken not to be exercised under this Division because of section 43 (powers that may be exercised under Divisions 3 and 4).

Note: A defendant bears an evidential burden in relation to the matter in subsection (2) (see subsection 13.3(3) of the *Criminal Code*).

Members to be given means to comply with obligations

- (3) The Chief of the Defence Force must take such steps as are reasonable and necessary to ensure that members do not contravene subsection (1).

Geographical application

- (4) Section 15.2 of the *Criminal Code* (extended geographical jurisdiction—category B) applies to an offence against subsection (1) to the extent that this section applies in relation to the Australian offshore area.

Subdivision B—Declaration of specified area

51 Declaration of specified area

- (1) The authorising Ministers may, in writing, declare an area to be a specified area, in relation to a call out order, if the area is either or both of the following:
- (a) a part of a State or Territory that is specified in the call out order;
 - (b) if the call out order specifies a threat in the Australian offshore area—a part of the Australian offshore area.

Part IIIAAA Calling out the Defence Force to protect Commonwealth interests, States and self-governing Territories

Division 4 Powers exercised in specified areas

Section 51

Note 1: An expedited declaration may be made by one or more other Ministers in sudden and extraordinary emergencies (see Division 7).

Note 2: A specified area declaration may be varied or revoked in accordance with subsections 33(3) and (3AA) of the *Acts Interpretation Act 1901*.

- (2) To avoid doubt, a declaration may be made under subsection (1) in relation to a contingent call out order whether or not the circumstances specified in the call out order have arisen.
- (3) A declaration made under subsection (1):
- (a) comes into force when it is made; and
 - (b) ceases to be in force if:
 - (i) it is revoked; or
 - (ii) the call out order to which it relates ceases to be in force.

Declaration of areas in the Australian offshore area and internal waters

- (4) Without limiting subsection (1), an area in the Australian offshore area or the internal waters of a State or self-governing Territory may be specified by referring to an area:
- (a) that surrounds one or more vessels or classes of vessels; and
 - (b) whose boundaries change as the location of the vessels change.
- (5) The area specified under subsection (4) in relation to a vessel whose location changes:
- (a) may move from the internal waters of a State or self-governing Territory that is specified in the call out order to the internal waters of another State or self-governing Territory if the vessel so moves; and
 - (b) may move from the internal waters of a State or self-governing Territory to the Australian offshore area if the vessel so moves; and
 - (c) may move from the Australian offshore area to the internal waters of a State or Territory if the vessel so moves.

Section 51

However, the area does not move beyond the Australian offshore area, even if the vessel so moves.

Statement to be prepared

- (6) If a specified area declaration is made, the authorising Ministers must arrange for the preparation of a statement that:
 - (a) summarises the content of the call out order to which the declaration relates, but without including any reference to whether Division 3 applies in relation to the order; and
 - (b) states that the declaration has been made; and
 - (c) describes the specified area and its boundaries.
- (7) The statement must:
 - (a) except in the Australian offshore area—be broadcast or otherwise made public by television, radio or electronic means so as to be capable of being received within the specified area; and
 - (b) in the Australian offshore area—be notified to persons in the Australian offshore area to the extent practicable; and
 - (c) in any case—be forwarded, within 24 hours after the declaration is made, to the Presiding Officer of each House of the Parliament for tabling in that House.
- (8) However, subsections (6) and (7) do not apply if:
 - (a) the call out order states that Division 3 applies in relation to the order; and
 - (b) the authorising Ministers declare, in writing, that they are satisfied that the application of subsections (6) and (7) would prejudice the exercise of powers under Division 3 by members of the Defence Force who are being utilised under the call out order.

Houses to sit within 6 days

- (9) Each House of the Parliament must sit within 6 days after its Presiding Officer receives the statement that is forwarded in accordance with paragraph (7)(c).

Section 51A

Effect of failure to publish or sit

- (10) A failure to comply with subsection (6), (7) or (9) does not affect the validity of the declaration.

Subdivision C—Powers to search premises in specified area

51A Authorisation to search premises in specified area

- (1) The Chief of the Defence Force, or an authorised Defence officer, (the ***authorising officer***) may give an authorisation (a ***search authorisation***) if, while the Defence Force is being utilised under a call out order, the authorising officer believes on reasonable grounds that, on any premises in the specified area, there is:
- (a) a person who is likely to pose a threat to:
 - (i) any person's life, health or safety; or
 - (ii) public health or public safety; or
 - (b) a thing that is likely to:
 - (i) pose a threat to any person's life, health or safety; or
 - (ii) pose a threat to public health or public safety; or
 - (iii) cause serious damage to property; or
 - (c) a person or thing connected with the domestic violence or threat specified in the order.

Content of authorisation

- (2) The search authorisation must:
- (a) authorise any member of the Defence Force who is being utilised under the call out order to enter and search:
 - (i) all premises within the specified area; or
 - (ii) specified premises within the specified area (including premises specified by referring to an area or a class of premises);
- for the purpose of:
- (iii) finding the person or thing mentioned in subsection (1); or

Section 51A

- (iv) determining that the person or thing mentioned in subsection (1) is not on those premises; and
- (b) authorise any member conducting a search under the authorisation to seize any thing found on the premises in the course of the search that the member believes on reasonable grounds to be a thing that may be seized in relation to the call out order; and
- (c) state that, if any member conducting a search under the authorisation believes on reasonable grounds that a person who is at or near premises while the search is being carried out has any thing that may be seized in relation to the call out order in the person's possession, the member is authorised to:
 - (i) search the person; and
 - (ii) seize any thing found in the search that the member believes on reasonable grounds is a thing that may be seized in relation to the call out order; and
- (d) state that, if the member finds a person at or near premises in the course of a search under the authorisation whom the member believes on reasonable grounds to be a person who may be detained in relation to the call out order, the member is authorised to:
 - (i) require the person to provide identification to the member; and
 - (ii) detain the person for the purpose of placing the person in the custody of a member of a police force at the earliest practicable time; and
- (e) state the time during which the authorisation remains in force, which must not be more than 24 hours.

Note 1: For the definitions of *person who may be detained*, *search* and *thing that may be seized*, see section 31.

Note 2: See also sections 51P (persons to be informed of certain matters if detained) and 51Q (actions to be taken if things seized).

Effect of the authorisation

- (3) The authorisation has effect according to its terms.

Section 51B

Further authorisations and powers

- (4) Paragraph (2)(e) does not prevent the issue of further authorisations in relation to the same premises.
- (5) To avoid doubt, a member of the Defence Force may exercise powers under Subdivision D in premises that are being searched in accordance with this section.

Authorisation of Defence officers

- (6) The Chief of the Defence Force may, in writing, authorise a specified officer, or an officer in a specified class of officers, to be an authorised Defence officer.

51B Information to be given to occupier etc. and those searched

Right of occupier to be given information

- (1) If a person who is the occupier of premises described in a search authorisation, or another person who apparently represents the occupier, is present at the premises when a search is being carried out, a member of the Defence Force must:
 - (a) tell the person that the member is a member of the Defence Force; and
 - (b) give that person a document that:
 - (i) states that the search is authorised under this Division; and
 - (ii) sets out the effect of this section and section 51C (occupier etc. entitled to be present during search); and
 - (iii) states that things may be seized during the search; and
 - (iv) sets out contact details for inquiries in relation to things that are so seized.

Section 51C

Right of person searched to be given information

- (2) Before any person is searched in accordance with a search authorisation, a member of the Defence Force must give the person a copy of a document described in paragraph (1)(b).

51C Occupier etc. entitled to be present during search

- (1) If a person who is the occupier of premises described in a search authorisation, or another person who apparently represents the occupier, is present at the premises when a search is being carried out, the person is entitled to observe the search being carried out.

Search not to be impeded

- (2) The entitlement to observe the search being carried out ceases if the person impedes the search.

Multiple searches

- (3) This section does not prevent 2 or more areas of the premises being searched at the same time.

Subdivision D—Powers relating to means of transport and persons in specified area

51D Powers relating to means of transport and persons in specified area

- (1) This section applies if a member of the Defence Force who is being utilised under a call out order believes on reasonable grounds that there is in a specified area:
 - (a) a person who is likely to pose a threat to:
 - (i) any person's life, health or safety; or
 - (ii) public health or public safety; or
 - (b) a person who has in the person's possession a thing that is likely to:
 - (i) pose a threat to any person's life, health or safety; or

Section 51D

- (ii) pose a threat to public health or public safety; or
 - (iii) cause serious damage to property; or
- (c) a person connected with the domestic violence or threat specified in the order; or
- (d) a thing that is likely to:
 - (i) pose a threat to any person's life, health or safety; or
 - (ii) pose a threat to public health or public safety; or
 - (iii) cause serious damage to property; or
- (e) a thing connected with the domestic violence or threat specified in the order.

Powers relating to any means of transport or person, and other general powers

- (2) Any member of the Defence Force who is being utilised under the call out order may do any one or more of the following:
 - (a) erect barriers or other structures, at the border of, or in any part of, the specified area;
 - (b) stop any person (including a person mentioned in subsection (1)), or means of transport, in the specified area (whether or not barriers were erected);
 - (c) direct any person:
 - (i) not to enter the specified area; or
 - (ii) to leave, or not to leave, the specified area; or
 - (iii) to move from a place in the specified area to another place in the specified area; or
 - (iv) not to move from a place in the specified area to another place in the specified area;
 - (d) direct a person in charge of any means of transport:
 - (i) not to bring the means of transport into the specified area; or
 - (ii) to take, or not to take, the means of transport out of the specified area; or
 - (iii) to take the means of transport from a place in the specified area to another place in the specified area; or

Section 51D

- (iv) not to take the means of transport from a place in the specified area to any other place, or to a specified place, in the specified area;
- (e) if there is no person in charge of a means of transport that is in a specified area—take any action that is reasonable and necessary for either of the following purposes:
 - (i) taking the means of transport out of the specified area;
 - (ii) taking the means of transport from a place in the specified area to another place in the specified area;
- (f) direct a person in charge of a means of transport not to move the means of transport within the specified area (including by bringing it into or taking it out of that area) unless the person agrees to a member searching:
 - (i) the person; and
 - (ii) the means of transport and any thing in or on the means of transport;
- (g) direct any person not to move within the specified area (including by coming into or going out of that area) unless the person agrees to a member searching the person;
- (h) if a person agrees to a search under paragraph (f) or (g)—conduct the search and:
 - (i) seize any thing found in the search that the member believes on reasonable grounds is a thing that may be seized in relation to the call out order; or
 - (ii) detain the person, if the member believes on reasonable grounds that the person is a person who may be detained in relation to the call out order, for the purpose of placing the person in the custody of a member of a police force at the earliest practicable time;
- (i) direct a person in the specified area to answer a question put by the member, or to produce to the member a particular document that is readily accessible to the person, (including by requiring the person to provide identification to the member);
- (j) operate, or direct a person to operate, a facility, machinery or equipment (including electronic equipment) in a particular

Section 51D

manner (whether or not the facility, machinery or equipment is on a facility or means of transport), if the member believes on reasonable grounds that doing so is reasonable and necessary for the purpose of:

- (i) preserving the life or safety of any person in the specified area; or
- (ii) protecting against the threat of the person or thing mentioned in subsection (1).

Note 1: For the definitions of *person who may be detained*, *search* and *thing that may be seized*, see section 31.

Note 2: See also sections 51E (general provisions relating to section 51D), 51P (persons to be informed of certain matters if detained), 51Q (actions to be taken if things seized) and 51R (offence for failing to comply with a direction).

Search and seizure powers relating to specific means of transport

- (3) Any member of the Defence Force who is being utilised under the call out order may do any one or more of the following if the member believes on reasonable grounds that a person or thing mentioned in subsection (1) is in or on a means of transport in the specified area:
 - (a) detain the means of transport;
 - (b) search the means of transport, and any thing found in or on the means of transport;
 - (c) seize any thing (including a means of transport) found in the search that the member believes on reasonable grounds is a thing that may be seized in relation to the call out order;
 - (d) detain any person found in the search who the member believes on reasonable grounds is a person who may be detained in relation to the call out order for the purpose of placing the person in the custody of a member of a police force at the earliest practicable time.
- (4) A member who detains a means of transport under paragraph (3)(a) must not detain the means of transport for longer than is reasonable and necessary to search it and any thing found in or on it, unless

Section 51E

the means of transport is seized in accordance with paragraph (3)(c).

Search and seizure powers relating to the suspect

- (5) Any member of the Defence Force who is being utilised under the call out order may do any one or more of the following if the member believes on reasonable grounds that a person (the **suspect**) mentioned in paragraph (1)(a), (b) or (c) is in the specified area:
- (a) search the suspect;
 - (b) seize any thing found in the search that the member believes on reasonable grounds is a thing that may be seized in relation to the call out order;
 - (c) detain the suspect if the member believes on reasonable grounds that the suspect is a person who may be detained in relation to the call out order for the purpose of placing the suspect in the custody of a member of a police force at the earliest practicable time.

51E General provisions relating to section 51D

Power to enter means of transport

- (1) A member of the Defence Force may enter a means of transport for the purpose of giving a direction under subsection 51D(2).

Vessels and aircraft in the Australian offshore area

- (2) The master of a vessel, or the captain of an aircraft, that is in the Australian offshore area, is entitled to observe a search that is being carried out under subsection 51D(2), (3) or (5).
- (3) The entitlement to observe the search being carried out ceases if the master or captain impedes the search of the vessel or aircraft.
- (4) Subsection (2) does not prevent 2 or more areas of the vessel or aircraft being searched at the same time.

Part IIIAAA Calling out the Defence Force to protect Commonwealth interests, States and self-governing Territories

Division 4 Powers exercised in specified areas

Section 51E

Powers do not limit each other

- (5) To avoid doubt, no paragraph of subsection 51D(2), (3) or (5) limits the operation of any other paragraph of any of those subsections.

Division 5—Powers to protect declared infrastructure

Subdivision A—Introduction

51F Simplified outline of this Division

This Division confers powers on members of the Defence Force if the Defence Force is being utilised under a call out order that specifies that this Division applies. The powers are to protect infrastructure, in Australia or the Australian offshore area, that has been declared by the authorising Ministers in an infrastructure declaration.

An infrastructure declaration can be made whether or not a call out order is in force.

An expedited infrastructure declaration can be made under Division 7 in sudden and extraordinary emergencies.

Division 6 allows members of the Defence Force exercising powers under this Division to use reasonable and necessary force. Division 6 also:

- (a) confers powers and imposes obligations if persons are detained or things are seized; and
- (b) contains an offence for failing to comply with a direction; and
- (c) deals with the consequences of the exercise of powers by members of the Defence Force if obligations imposed in relation to the exercise of those powers have not been met or if call out orders and other instruments have not been validly made.

Section 51G

51G International obligations

In making an infrastructure declaration under Subdivision B authorising the exercise of powers in the Australian offshore area, the authorising Ministers must have regard to Australia's international obligations.

Subdivision B—Infrastructure declaration

51H Infrastructure declaration

- (1) The authorising Ministers may, in writing, declare that particular infrastructure, or a part of particular infrastructure, in Australia or in the Australian offshore area is declared infrastructure (whether or not a call out order is in force).

Note: An expedited declaration may be made by one or more other Ministers in sudden and extraordinary emergencies (see Division 7).

- (2) However, the authorising Ministers may do so only if they believe on reasonable grounds that:
- (a) either:
 - (i) there is a threat of damage or disruption to the operation of the infrastructure or the part of the infrastructure; or
 - (ii) if a contingent call out order is in force—if the circumstances specified in the order were to arise, there would be a threat of damage or disruption to the operation of the infrastructure or the part of the infrastructure; and
 - (b) the damage or disruption would directly or indirectly endanger the life of, or cause serious injury to, any person.
- (3) The authorising Ministers must, in writing, revoke the declaration if:
- (a) any one or more of the authorising Ministers cease to believe the matters in subsection (2); or
 - (b) if the declaration was requested by a State or self-governing Territory—the State or Territory requests the revocation.

- (4) The authorising Ministers may, in writing, vary or revoke the declaration in any other circumstances.
- (5) An infrastructure declaration:
 - (a) comes into force when it is made; and
 - (b) ceases to be in force:
 - (i) if the declaration specifies a period—at the end of the specified period; or
 - (ii) otherwise—when the declaration is revoked.

Note: A period specified in an infrastructure declaration might be different from a period specified in a call out order to which the declaration relates.

Declarations involving States and Territories that have not been requested

- (6) The authorising Ministers may make the declaration in relation to infrastructure, or a part of infrastructure, that is in a State or a self-governing Territory whether or not the Government of the State or the self-governing Territory requests the making of the declaration.
- (7) However, if the Government of the State or the self-governing Territory does not request the declaration, an authorising Minister must (subject to subsection (8)) consult that Government about the declaration before the Ministers make it.

Note: An authorising Minister is not required to consult in relation to an expedited infrastructure declaration (see subsection 51V(6)).
- (8) Subsection (7) does not apply if the authorising Ministers are satisfied that, for reasons of urgency, it is impracticable to comply with that subsection.

Subdivision C—Powers to protect declared infrastructure

51J Application of this Subdivision

This Subdivision applies if:

Section 51K

- (a) a call out order states that this Division applies in relation to the order; and
- (b) an infrastructure declaration is in force in relation to infrastructure or a part of infrastructure.

51K Location of exercise of powers

- (1) A power may be exercised in a State or self-governing Territory under this Subdivision in relation to a call out order if:
 - (a) the exercise of the power in that State or Territory is authorised by the order; or
 - (b) the power is exercised for the purpose specified in the order under subsection 33(3), 34(3), 35(3) or 36(3).

Note: For example, powers might be exercised in a State because:

- (a) the State is specified in the order; or
- (b) the powers are exercised in a State that is not specified in the order for the purpose of protecting a State that is specified in the order against domestic violence that is occurring in that State; or
- (c) the powers are exercised in a State that is not specified in the order for the purpose of protecting Commonwealth interests in the Australian offshore area, as specified in the order.

- (2) A power must not be exercised under this Subdivision beyond the outer limit of the Australian offshore area.

51L Powers to protect declared infrastructure

- (1) A member of the Defence Force who is being utilised under a call out order may, under the command of the Chief of the Defence Force, take any of the actions in subsection (2), or exercise any of the powers in subsection (3) or (5), for the purpose of protecting declared infrastructure.
- (2) The member may take one or more of the following actions:
 - (a) prevent, or put an end to, damage or disruption to the operation of the declared infrastructure;
 - (b) prevent, or put an end to:
 - (i) acts of violence; or

Section 51L

- (ii) threats to any person's life, health or safety, or to public health or public safety;
- (c) protect any persons from:
 - (i) acts of violence; or
 - (ii) threats to any person's life, health or safety, or to public health or public safety.
- (3) The member may do any one or more of the following in connection with taking any such action:
 - (a) control the movement of persons or of means of transport;
 - (b) evacuate persons to a place of safety;
 - (c) search persons, locations or things for any thing that may be seized, or any persons who may be detained, in relation to the call out order;
 - (d) seize any thing found in the search that the member believes on reasonable grounds is a thing that may be seized in relation to the call out order;
 - (e) detain any person found in the search that the member believes on reasonable grounds:
 - (i) is a person who may be detained in relation to the call out order; or
 - (ii) is a person who is likely to pose a risk to the operation or integrity of declared infrastructure;for the purpose of placing the person in the custody of a member of a police force at the earliest practicable time;
 - (f) provide security (whether or not armed, and whether or not with a police force) including by patrolling or securing an area or conducting cordon operations;
 - (g) direct a person to answer a question put by the member, or to produce to the member a particular document that is readily accessible to the person, (including by requiring the person to provide identification to the member);
 - (h) operate, or direct a person to operate, a facility, machinery or equipment (including electronic equipment) in a particular manner (whether or not the facility, machinery or equipment is on a facility or means of transport).

Part IIIAAA Calling out the Defence Force to protect Commonwealth interests, States and self-governing Territories

Division 5 Powers to protect declared infrastructure

Section 51L

Note 1: For the definitions of *person who may be detained*, *search* and *thing that may be seized*, see section 31.

Note 2: See also sections 51P (persons to be informed of certain matters if detained), 51Q (actions to be taken if things seized) and 51R (offence for failing to comply with a direction).

- (4) A member who controls the movement of persons or of means of transport under paragraph (3)(a) must not do so for longer than is reasonable and necessary in the circumstances.
- (5) The member may do anything incidental to anything in subsection (2) or (3).

Powers do not limit each other

- (6) To avoid doubt, no paragraph of subsection (2) or (3) limits the operation of any other paragraph of either of those subsections.

Division 6—Provisions common to Divisions 3 to 5

51M Simplified outline of this Division

A member of the Defence Force who is being utilised under a call out order may use reasonable and necessary force, whether the member is exercising a power under this Part or not. Additional limitations apply in relation to the use of force against persons.

Powers (such as the power to make a thing safe and prevent it from being used), and obligations, apply under this Division if a member detains a person or seizes a thing under any of Divisions 3 to 5.

A person may commit an offence if a person fails to comply with a direction given to the person under Division 3, 4 or 5.

This Division also deals with the consequences of the exercise of powers by members of the Defence Force if obligations imposed in relation to the exercise of those powers have not been met or if call out orders and other instruments have not been validly made.

51N Use of reasonable and necessary force

- (1) A member of the Defence Force who is being utilised under a call out order (whether or not the member is exercising a power under this Part):
 - (a) may use such force against persons and things as is reasonable and necessary in the circumstances (subject to subsections (2) and (3)); and
 - (b) if using force against persons—must do so in accordance with this section.

Restrictions on use of force

- (2) A member of the Defence Force must not use force against persons or things in exercising a power under paragraph 46(7)(h), 51D(2)(i)

Section 51N

or 51L(3)(g) to direct a person to answer a question put by a member of the Defence Force, or to produce to a member of the Defence Force a particular document that is readily accessible to the person.

- (3) In using force against a person, a member of the Defence Force must not do anything that is likely to cause the death of, or grievous bodily harm to, the person unless:
- (a) the member believes on reasonable grounds that doing that thing:
 - (i) is necessary to protect the life of, or to prevent serious injury to, a person (including the member); or
 - (ii) in relation to powers exercised under Division 5—is necessary to protect the declared infrastructure in respect of which the powers are being exercised against the domestic violence or threat specified in the call out order; or
 - (iii) in relation to powers exercised under paragraph 46(5)(d) or (e)—is reasonable and necessary to give effect to the order under which, or under the authority of which, the member is acting; and
 - (b) if a person against whom force is to be used is attempting to escape being detained by fleeing—the person has, if practicable, been called on to surrender and the member believes on reasonable grounds that the person cannot be apprehended in any other manner.

Note: Division 5 provides powers in relation to declared infrastructure. Paragraphs 46(5)(d) and (e) allow measures to be taken against aircraft and vessels.

- (4) In using force against a person (except when exercising a power under paragraph 46(5)(d) or (e)), a member of the Defence Force must not subject a person to greater indignity than is reasonable and necessary in the circumstances.
- (5) A reference in this section to using force against a person is taken to include a reference to using force against a thing if the use of

Section 51P

force against the thing is likely to cause the death of, or grievous bodily harm to, a person.

51P Persons to be informed of certain matters if detained

- (1) A member of the Defence Force who detains a person under this Part must inform the person, at the time the person is detained, of the following (as the case requires):
 - (a) the offence against the law of the Commonwealth, the State or the Territory that the person is reasonably believed to have committed;
 - (b) both of the following:
 - (i) that the person is believed to be likely to pose a threat to any person's life, health or safety, or to public health or public safety;
 - (ii) the reasons for that belief;
 - (c) both of the following:
 - (i) that the person is believed to be likely to pose a risk to the operation or integrity of declared infrastructure;
 - (ii) the reasons for that belief.
- (2) Subsection (1) does not apply to the detention of a person if:
 - (a) the person should, in the circumstances, know the substance of the offence, threat or risk; or
 - (b) the person's actions make it impracticable for the member to inform the person of the offence, threat or risk.
- (3) For the purposes of paragraph (1)(a), it is sufficient if the person is informed of the substance of the offence, and it is not necessary that this be done in language of a precise or technical nature.

51Q Action to be taken if things are seized

- (1) If a thing is seized under Division 3, 4 or 5, a member of the Defence Force may take any action that is reasonable and necessary to make the thing safe or prevent it being used.

Section 51Q

- (2) Without limiting subsection (1), the member may destroy the thing if:
 - (a) the member believes on reasonable grounds that it is reasonable and necessary to do so to make the thing safe; or
 - (b) the member believes on reasonable grounds:
 - (i) that using the thing would be likely to pose a threat to any person's life, health or safety, or to public health or public safety, or cause serious damage to property; and
 - (ii) that it is reasonable and necessary to destroy it to prevent it from being used.
- (3) If the thing was seized from a person, a member of the Defence Force must:
 - (a) give the person a receipt for the thing (even if the thing has been destroyed), if it is practicable to do so; and
 - (b) if the thing has not been destroyed and the member believes on reasonable grounds that the thing has been used or otherwise involved in the commission of an offence against a law of the Commonwealth, a State or a Territory—give the thing to a member of a police force at the earliest practicable time; and
 - (c) if the thing has not been destroyed and paragraph (b) does not apply:
 - (i) return the thing to the person, if it is practicable to do so; or
 - (ii) give it to a member of a police force, at the earliest practicable time.
- (4) If a member of the Defence Force believes on reasonable grounds that a thing seized from a person has been used or otherwise involved in the commission of an offence against a law of the Commonwealth, a State or a Territory, the member may:
 - (a) require the person to provide identification to the member; and
 - (b) detain the person for the purpose of placing the person in the custody of a member of a police force at the earliest practicable time.

51R Offence for failing to comply with a direction

- (1) A person commits an offence if:
- (a) the person is given a direction under Division 3, 4 or 5; and
 - (b) the person fails to comply with the direction.

Penalty: 60 penalty units.

Geographical jurisdiction for offences

- (2) Section 15.4 of the *Criminal Code* (extended geographical jurisdiction—category D) applies to an offence against subsection (1).

51S Exercise of powers when certain obligations not complied with

Members who fail to comply with obligations

- (1) If, before, while or after exercising a power under any of Divisions 3 to 5 or this Division, a member of the Defence Force fails to comply with any obligation imposed under this Part that relates to the exercise of the power, the member is not, and is taken not to have been, entitled to exercise the power unless the member exercised the power in good faith.

Members exercising powers in relation to invalid order etc.

- (2) A member of the Defence Force is not liable to an action, suit or proceeding, whether civil or criminal, in relation to the exercise, or purported exercise, of powers under any of Divisions 3 to 5 or this Division in relation to a call out order, infrastructure declaration, specified area declaration or authorisation if:
- (a) the order, declaration or authorisation was not validly made; and
 - (b) if the member made the authorisation—the powers were exercised or purportedly exercised in good faith.

Division 7—Expedited orders and declarations

51T Simplified outline of this Division

In sudden and extraordinary emergencies:

- (a) a call out order may be made under this Division by authorising Ministers, or other Ministers, instead of the Governor-General; and
- (b) a specified area declaration or infrastructure declaration can be made under this Division by one or 2 authorising Ministers, or other Ministers, instead of all authorising Ministers.

51U Making expedited orders and declarations

- (1) A person or persons (the *maker* or *makers*) referred to in subsection (2) may make a call out order, an infrastructure declaration or a specified area declaration if the maker or makers are satisfied that:
 - (a) because a sudden and extraordinary emergency exists, it is not practicable for an order or declaration to be made under the section under which the order or declaration would otherwise be made; and
 - (b) for a call out order or an infrastructure declaration—the circumstances referred to in subsection 33(1), 34(1), 35(1), 36(1) or 51H(2) (as the case requires) exist.

Who may make the order or declaration

- (2) An order or declaration under this section may be made by:
 - (a) the Prime Minister; or
 - (b) the other 2 authorising Ministers jointly, but only if those Ministers are satisfied that the Prime Minister is unable to be contacted for the purposes of considering whether to make, and making, an order or declaration under this section; or

Section 51U

- (c) an authorising Minister (the ***available authorising Minister***), jointly with any one of the following Ministers (the ***alternative Minister***):

- (i) the Deputy Prime Minister;
- (ii) the Foreign Affairs Minister;
- (iii) the Treasurer;
- (iv) the Minister for Home Affairs;

but only if the available authorising Minister and the alternative Minister are satisfied that the other authorising Ministers are unable to be contacted for the purposes of considering whether to make, and making, an order or declaration under this section.

Note 1: An order or declaration would not be required to be made under this section if an acting Prime Minister, or acting authorising Ministers, were available to make the order or declaration (see subsection 19(4) of the *Acts Interpretation Act 1901*).

Note 2: For the effect of the order, see sections 51V and 51W.

Order or declaration not in writing

- (3) An order or declaration under this section need not be in writing. If it is not in writing, the maker or makers, and the Chief of the Defence Force, must each:
- (a) make a written record (which may be electronic) of the order or declaration; and
 - (b) sign (including by electronic signature) the record; and
 - (c) in the case of a Minister (including the Prime Minister)—as soon as practicable:
 - (i) cause the record to be given to the Chief of the Defence Force; and
 - (ii) cause a copy of the record to be given to the Governor-General; and
 - (iii) for a specified area declaration—cause a copy of the record to be given to each of the Presiding Officers; and
 - (d) in the case of the Chief of the Defence Force—as soon as practicable:

Section 51V

- (i) cause the record to be given to the Prime Minister; or
 - (ii) cause the record to be given to one of the other 2 Ministers, and cause a copy of the record to be given to the other Minister;
- as the case requires.

However, a failure to comply with paragraph (c) or (d) does not affect the validity of the order or declaration.

References to certain circumstances

- (4) To avoid doubt, a reference in paragraph (1)(b) to the circumstances referred to in subsection 33(1), 34(1), 35(1), 36(1) or 51H(2):
 - (a) does not include a reference to the authorising Ministers being satisfied as to particular matters; and
 - (b) in relation to a State protection order—includes a reference to a State Government or Government of a self-governing Territory having made an application of a kind referred to in subsection 35(1) or 36(1).

51V Effect of expedited order or declaration

- (1) An expedited order or declaration has effect for all purposes as if it were:
 - (a) a call out order made by the Governor-General; or
 - (b) an infrastructure declaration or a specified area declaration made by the authorising Ministers;(as the case requires) except as provided by subsections (4) and (5) and for the purposes of section 51U.
- (2) In particular:
 - (a) for a call out order—subsection 33(5), 34(5), 35(5) or 36(5) (as the case requires) applies to the order; and
 - (b) for a call out order or infrastructure declaration—the order or declaration may be varied or revoked in the same way, and in the same circumstances, as the order or declaration may be

Section 51V

varied or revoked under section 37 or subsection 51H(3) or (4).

However, a variation of an expedited order or declaration must not extend the period during which the order or declaration is in force.

Note: A new order or declaration would need to be made after the expedited order or declaration had ceased to be in force.

- (3) For the purposes of paragraph (2)(b) of this section:
- (a) for a call out order—the reference in paragraph 37(1)(a) to the authorising Ministers still being satisfied is taken to be a reference to those Ministers being satisfied; and
 - (b) for a call out order or infrastructure declaration—the reference in paragraph 37(3)(a) or subsection 51H(3) to the authorising Ministers ceasing to be satisfied or to believe is taken to be a reference to those Ministers not being satisfied or believing.

Content of an order or declaration

- (4) An expedited order or declaration:
- (a) must state that it is made under this section, and that it has effect as if it were a call out order, infrastructure declaration or specified area declaration (as the case requires); and
 - (b) despite paragraph 33(5)(d), 34(5)(d), 35(5)(d), 36(5)(d), 51(3)(b) or 51H(5)(b) (as the case requires), must state that it ceases to be in force at the end of a specified period (which must not end more than 5 days after it comes into force), unless it is revoked earlier.

Note: The period of an expedited order or declaration must not be extended (see subsection (2) of this section).

When order is in force

- (5) An expedited order or declaration:
- (a) comes into force when it is made, or (if it is not in writing) when:
 - (i) the Prime Minister, or the other 2 Ministers; and

Section 51W

- (ii) the Chief of the Defence Force;
have complied with paragraph 51U(3)(b) (which is about signing the record); and
- (b) ceases to be in force as stated in accordance with paragraph (4)(b) of this section.

Consultation with State or Territory not required

- (6) To avoid doubt, subsections 38(2) and 51H(7) do not apply to an expedited order or declaration that would have effect as if it were a Commonwealth interests order or infrastructure declaration.

51W Effect of expedited order on Ministerial authorisation

- (1) An authorisation made for the purposes of paragraph 46(1)(a) (special powers generally authorised by Minister) as a result of an expedited order need not be in writing.
- (2) If the authorisation is not in writing, the authorising Minister, and the Chief of the Defence Force, must each:
 - (a) make a written record (which may be electronic) of the authorisation; and
 - (b) sign (including by electronic signature) the record; and
 - (c) in the case of the authorising Minister—cause the record to be given to the Chief of the Defence Force as soon as practicable; and
 - (d) in the case of the Chief of the Defence Force—as soon as practicable:
 - (i) cause the record to be given to the Prime Minister; or
 - (ii) cause the record to be given to the authorising Minister who made the order, and cause a copy of the record to be given to the other Minister;as the case requires.

However, a failure to comply with paragraph (c) or (d) does not affect the validity of the authorisation.

- (3) If the authorisation is not in writing, it comes into force when the authorising Minister, and the Chief of the Defence Force, have complied with paragraph (2)(b).

Section 51X

Division 8—Miscellaneous

Subdivision A—Simplified outline of this Division

51X Simplified outline of this Division

The criminal law of the Jervis Bay Territory applies in relation to criminal acts of members of the Defence Force done, or purported to be done, under this Part.

It may be a defence to a criminal act done by a member of the Defence Force that the member was under a legal obligation to obey an order of a superior.

Call out orders that have ceased to be in force are tabled in each House of the Parliament, as are specified area declarations and any report on the utilisation of the Defence Force that occurred under the order.

An independent review of this Part is to be commenced at least every 5 years. The operation, effectiveness and implications of this Part can also be reviewed on the initiative of the Independent National Security Legislation Monitor under the *Independent National Security Legislation Monitor Act 2010*.

This Part does not affect any utilisation of the Defence Force that would be permitted if this Part were disregarded.

Subdivision B—Applicable criminal law

51Y Applicable criminal law

Application of criminal law of the Jervis Bay Territory

- (1) In relation to a criminal act of a member of the Defence Force that is done, or purported to be done, under this Part:

Section 51Z

- (a) the substantive criminal law of the Jervis Bay Territory, as in force from time to time, applies; and
 - (b) the substantive criminal law of the States and the other Territories, as in force from time to time, does not apply.
- (2) To avoid doubt, Chapter 2 of the *Criminal Code* does not apply to an act done, or purported to be done, under this Part that is a criminal act (except to the extent that it constitutes an offence against the law of the Commonwealth).

Functions of the Director of Public Prosecutions

- (3) To avoid doubt, the functions of the Director of Public Prosecutions under section 6 of the *Director of Public Prosecutions Act 1983* in relation to the law of the Jervis Bay Territory as applied by subsection (1) of this section are exclusive of the corresponding functions of any officer of a State or Territory, in relation to the law of the Jervis Bay Territory as so applied, under a law corresponding to that Act.

Note: It is not intended that this section or Act restrict or limit the power of State or Territory police force to investigate any criminal acts done, or purported to be done, by Defence Force members when operating under this Part.

51Z Defence of superior orders in certain circumstances

- (1) The fact that a criminal act was done, or purported to be done, by a member of the Defence Force under this Part under an order of a superior does not (subject to subsection (2)) relieve the member of criminal responsibility.
- (2) It is a defence to a criminal act done, or purported to be done, by a member of the Defence Force under this Part that:
 - (a) the criminal act was done by the member under an order of a superior; and
 - (b) the member was under a legal obligation to obey the order; and
 - (c) the order was not manifestly unlawful; and

Section 51ZA

- (d) the member had no reason to believe that circumstances had changed in a material respect since the order was given; and
 - (e) the member had no reason to believe that the order was based on a mistake as to a material fact; and
 - (f) the action taken was reasonable and necessary to give effect to the order.
- (3) Subsection (2) does not limit the defences that may be available to the person.

Subdivision C—Other provisions

51ZA Publication of order and report

- (1) The Minister must arrange for presentation to each House of the Parliament in accordance with subsection (2) of a copy of:
- (a) any call out order that has ceased to be in force; and
 - (b) any specified area declarations that relate to the order; and
 - (c) a report on any utilisation of the Defence Force that occurred under the order, including the number of premises searched under Subdivision C of Division 4 (powers to search premises in specified area).

Reporting to Parliament

- (2) The copy of the call out order and report must be forwarded to the Presiding Officer of each House of the Parliament, before the end of 7 days after the order ceases to be in force:
- (a) if that House sits before those 7 days—for tabling in that House before the end of those 7 days; or
 - (b) otherwise—for distribution to all Senators or Members of the House of Representatives before the end of those 7 days.

Multiple call out orders

- (3) For the purposes of this section, if more than one call out order is made in relation to the same or related circumstances, without any

Section 51ZB

intervening period when a call out order relating to those circumstances is not in force:

- (a) each of the orders is taken to be a single call out order; and
- (b) the order is taken to cease to be in force when the last of the orders ceases to be in force.

Effect of revocation

- (4) To avoid doubt, a reference to an order ceasing to be in force includes a reference to an order ceasing to be in force because it is revoked.

51ZB Independent review of this Part

- (1) The Minister may, at any time, cause an independent review of this Part to be conducted by one or more persons who, in the Minister's opinion, possess appropriate qualifications to carry out the review.
- (2) The Minister must ensure that, at least every 5 years, an independent review of this Part is commenced by one or more persons who, in the Minister's opinion, possess appropriate qualifications to carry out the review.

Note: The independent review may be a review that was conducted under subsection (1).

- (3) The review may be completed after the end of the 5-year period.
- (4) The persons who undertake a review under this section must give the Minister a written report of the review.
- (5) The Minister must cause a copy of the report to be tabled in each House of the Parliament within 15 sitting days of receiving it.

51ZC Instruments that are not legislative instruments

An order, authorisation or declaration made under this Part is not a legislative instrument.

Part IIIAAA Calling out the Defence Force to protect Commonwealth interests, States and self-governing Territories

Division 8 Miscellaneous

Section 51ZD

51ZD Effect on other Defence Force utilisation and powers

This Part does not affect any utilisation of the Defence Force that would be permitted or required, or any powers that the Defence Force would have, if this Part were disregarded.

Part IIIAA—Superannuation

52 Determination of benefit

- (1) The Minister may, by legislative instrument, make determinations for the purpose of providing a superannuation benefit in respect of:
 - (a) service on and after 1 January 1988 by members of the Permanent Forces; and
 - (b) continuous full time naval, military or air force service on and after that day by members of the Reserves.
- (2) A determination:
 - (a) shall not be inconsistent with this Act; and
 - (b) shall not be expressed to take effect from a day before 1 January 1988.
- (3) In making determinations, the Minister shall have regard to:
 - (a) principle 3 of the wage fixing principles adopted by the Conciliation and Arbitration Commission in its national wage case decision of 23 September 1983, as modified by its national wage case decision of 26 June 1986;
 - (b) the provisions of the *Superannuation (Productivity Benefit) Act 1988*; and
 - (c) matters relating to the terms and conditions of service of members of the Defence Force and the arrangements for the administration of the Defence Force.
- (3A) The Minister may not make a determination that would have the effect that the Commonwealth, as employer, would have an individual superannuation guarantee shortfall for a member referred to in subsection (1) for any quarter under the *Superannuation Guarantee (Administration) Act 1992*.
- (4A) Paragraph 14(1)(a) of the *Legislation Act 2003* applies in relation to a determination under this section as if the reference in that paragraph to legislative instruments covered by subsection 14(3) of

Section 52A

that Act included a reference to determinations under section 58H of this Act.

Note: Section 14 of the *Legislation Act 2003* allows legislative instruments to provide for matters by reference to disallowable legislative instruments as in force at a particular time or from time to time. That section would, for example, allow a determination under this section to provide for matters by reference to a determination under section 58B as in force at a particular time or from time to time.

- (5) Determinations may make provision for, and in relation to, reducing a superannuation benefit under the determinations in a case where a person becomes entitled to benefits under the *Military Superannuation and Benefits Act 1991* in circumstances mentioned in subparagraph 5A(1)(b)(i) of that Act.

Note: Section 5A of the *Military Superannuation and Benefits Act 1991* provides for superannuation benefits for a non-member spouse in respect of splitting agreements and splitting orders under the *Family Law Act 1975*.

- (6) Reductions referred to in subsection (5) are to be disregarded in applying subsection (3A).

52A Department's employer superannuation contributions

- (1) This section applies in relation to a person if:
- (a) the person:
 - (i) renders service as a member of the Permanent Forces on or after 1 July 2016; or
 - (ii) renders continuous full time naval, military or air force service as a member of the Reserves on or after that day; and
 - (b) the person:
 - (i) is a member of the Australian Defence Force Superannuation Scheme; or
 - (ii) would have been a member of ADF Super except that another fund has become the person's chosen fund for contributions by the Department.

Section 52B

Employer superannuation contributions

- (2) Each payday for the person, the Department must contribute to the person's chosen fund, for the benefit of the person, 16.4% of the ordinary time earnings paid by the Department for the person for the pay period.

Definitions

- (3) In this section:

ADF Super has the meaning given by the *Australian Defence Force Superannuation Act 2015*.

chosen fund for a person:

- (a) if the person has chosen a fund under section 32F of the *Superannuation Guarantee (Administration) Act 1992*—has the same meaning as in that section; or
- (b) otherwise—means ADF Super.

ordinary time earnings for a person is the number of dollars in the person's ordinary time earnings (within the ordinary meaning of the expression):

- (a) including any payments of parental leave; but
- (b) excluding any amount that is deducted from those earnings under a salary sacrifice arrangement.

payday for a person means the day on which the person's ordinary time earnings are ordinarily paid for a pay period.

pay period for a person means the period in relation to which person's ordinary time earnings are ordinarily paid.

52B Providing information to CSC in relation to invalidity

The Department may disclose information obtained by the Department to CSC if:

- (a) the information relates to a person:

Section 53

- (i) who has been, or is to be, retired from the Defence Force; or
 - (ii) whose service in the Defence Force has been, or is to be, terminated;
- as a result of physical or mental impairment; and
- (b) the information is provided to CSC for the purposes of:
 - (i) Part V of the *Defence Force Retirement and Death Benefits Act 1973* (invalidity benefits); or
 - (ii) Division 2 of Part 3 of the Schedule to the Military Superannuation and Benefits Trust Deed (invalidity benefits) made under section 4 of the *Military Superannuation and Benefits Act 1991*.

Note: This section constitutes an authorisation for the purposes of other laws, such as the *Privacy Act 1988*.

53 Trustee of scheme providing superannuation benefit

For the purposes of the definition of **trustee** in section 43 of the *Superannuation Contributions Tax (Assessment and Collection) Act 1997*, CSC is taken to be the person who manages the scheme constituted by the Defence Force (Superannuation) (Productivity Benefit) Determination made under section 52 of the *Defence Act 1903*.

Note: The definitions of **public sector superannuation scheme**, **superannuation fund** and **trustee** in section 43 of the *Superannuation Contributions Tax (Assessment and Collection) Act 1997* are relevant to this section.

Part IIIA—Remuneration, allowances and other benefits

Division 1—Determinations by the Minister

58A Interpretation

In this Division, unless the contrary intention appears:

determination means a determination made under section 58B.

member includes a person who has ceased to be a member, whether by reason of death or otherwise.

member of the family, in relation to a member, includes a member of the household of the member and a dependant of the member.

remuneration means remuneration by way of salary, pay, allowances or otherwise.

58B Minister may make determinations

- (1) The Minister may, by legislative instrument, make determinations, not inconsistent with this Act, providing for and in relation to:
 - (a) the remuneration of members; and
 - (b) the payment of allowances or other pecuniary benefits (except allowances or benefits by way of remuneration) to or for members, including the payment of additional compensation to members of the Reserves to whom compensation is payable under the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988*; and
 - (c) the payment of allowances or other pecuniary benefits to or in respect of members of the families of members; and
 - (d) leave of absence and long service leave of members; and
 - (e) the provision of other benefits to or in respect of members, or to or in respect of members of the families of members; and

Section 58B

- (f) the payment of allowances and expenses to or in respect of, and the provision of travelling facilities for, applicants for appointment or engagement as members in respect of attendance at an enlistment centre of the Defence Force or attendance for interview or examination; and
 - (g) deductions from the remuneration of a member or from allowances or other pecuniary benefits referred to in paragraphs (b) and (c); and
 - (ga) payments, by way of compensation, incentives or other benefits, to:
 - (i) members of the Reserves; or
 - (ii) their dependants; or
 - (iii) their employers, business or professional partners or other associates; or
 - (iv) other persons;in relation to the availability of the members for defence service, or for losses incurred or inconvenience suffered because of the members' absence on defence service (including losses incurred or inconvenience suffered because of the operation of the *Defence Reserve Service (Protection) Act 2001*); and
 - (h) the meanings to be attributed to words and expressions used in existing determinations and future determinations made under this section, and the circumstances in which those meanings are to apply.
- (1AA) Expressions used in paragraph (1)(ga) that are defined in the *Defence Reserve Service (Protection) Act 2001* have the same meaning as in that Act.
- (1A) Paragraph 14(1)(a) of the *Legislation Act 2003* applies in relation to a determination under this section as if the reference in that paragraph to legislative instruments covered by subsection 14(3) of that Act included a reference to:
- (a) determinations under section 58H of this Act; and
 - (b) determinations under section 24 of the *Public Service Act 1999*.

Section 58E

Note: Section 14 of the *Legislation Act 2003* allows legislative instruments to provide for matters by reference to disallowable legislative instruments as in force at a particular time or from time to time.

- (1B) A determination under this section may provide that, where an amount has been paid (whether before or after the commencement of this subsection) to a member or to a member of the family of a member under the regulations or under a determination made under this section or under Division 2, the member or the member of the family of the member is required to pay to the Commonwealth an amount, not exceeding the first-mentioned amount, upon the occurrence of an event specified in the determination, and may provide for the manner of recovery of such an amount.
- (2) Subsection (1) does not authorize the making of a determination providing for or in relation to the payment to or in respect of a member, or to or in respect of a member of the family of a member, of a benefit in the nature of a pension.
- (9) In this section, a reference to this Act does not include a reference to the regulations.

58E Delegation

- (1) The Minister may delegate his or her powers to make determinations under subsection 58B(1) to one or more of the following:
- (a) the Secretary;
 - (b) an SES employee performing duty in the Department;
 - (c) an APS employee who holds, or performs the duties of, a position not below an Executive Level 2 position, or equivalent, in the Department;
 - (d) an officer of the Navy who holds a rank not below the rank of Captain;
 - (e) an officer of the Army who holds a rank not below the rank of Colonel;
 - (f) an officer of the Air Force who holds a rank not below the rank of Group Captain.

Part IIIA Remuneration, allowances and other benefits

Division 1 Determinations by the Minister

Section 58E

- (2) However, the Minister must not delegate his or her power under paragraph 58B(1)(ga) to make determinations for and in relation to payments, by way of compensation, incentives or other benefits.

Division 2—The Defence Force Remuneration Tribunal

58F Interpretation

In this Division, unless the contrary intention appears:

AIRC means the Australian Industrial Relations Commission referred to in section 61 of the *Workplace Relations Act 1996*, as in force immediately before the commencement of Schedule 1 to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*.

Defence Force Advocate means the Defence Force Advocate appointed under section 58S.

FWC means the Fair Work Commission.

member of the Tribunal means a member of the Tribunal appointed under section 58G, and includes the President.

President means the President of the Tribunal appointed under section 58G.

relevant allowances, in relation to a member, means allowances by way of remuneration payable to the member and, without limiting the generality of the foregoing, includes any allowance payable to the member:

- (a) in respect of the service of the member on a ship or aircraft;
- (b) as general compensation for the disadvantages of rendering naval, military or air force service;
- (c) in respect of particular skills or qualifications possessed by the member; or
- (d) as compensation for the hazardous nature of the duties that the member is required to perform or for the conditions under which the member is required to perform his or her duties.

Section 58G

Remuneration Tribunal means the Remuneration Tribunal established by subsection 4(1) of the *Remuneration Tribunal Act 1973*.

salary includes pay.

single member means a member of the Tribunal specified in a direction made under subsection 58KA(1).

Tribunal means the Defence Force Remuneration Tribunal established by section 58G.

58G Establishment of Defence Force Remuneration Tribunal

- (1) There is established by this section a Defence Force Remuneration Tribunal.
- (2) The Tribunal shall consist of:
 - (a) a President;
 - (b) a person who is experienced in industrial relations matters; and
 - (c) a person who was, but is no longer, a member of the Permanent Forces (although the person may be a member of the Reserves).
- (3) The members of the Tribunal shall be appointed by the Governor-General on a part-time basis.
- (4) The person appointed as President shall be a Deputy President of the FWC.
- (5) A person must not be appointed as a member of the Tribunal if he or she has, at any time during the year preceding the appointment, been a member of the Permanent Forces.
- (6) The performance of the duties and functions and the exercise of the powers of the Tribunal are not affected by reason only of there being one vacancy in the membership of the Tribunal.

58H Functions and powers of Tribunal

- (1) The functions of the Tribunal are to inquire into and determine, in accordance with this section, the matters referred to in subsection (2).
- (2) The Tribunal shall, as provided for by this section:
 - (a) inquire into and determine the salaries and relevant allowances to be paid to members; and
 - (b) inquire into and make determinations in respect of prescribed matters that have been referred to the Tribunal.
- (3) The Minister or, subject to subsection (4), the Secretary or the Chief of the Defence Force may, by notice in writing given to the President, refer a prescribed matter to the Tribunal.
- (4) The Secretary or the Chief of the Defence Force shall not, without the approval in writing of the Minister, refer a prescribed matter to the Tribunal pursuant to subsection (3) if:
 - (a) at any time during the preceding 12 months, the Minister has made a determination under section 58B that relates, in whole or in part, to that matter; or
 - (b) the Secretary or the Chief of the Defence Force is aware that, at any time during the preceding 12 months, submissions have been made to the Minister requesting the Minister to make a determination that relates, in whole or in part, to that matter and the Minister has not made such a determination.
- (5) The Tribunal shall, within 2 years of the commencement of this section or within such shorter period as the Minister, by notice in writing given to the President, determines, inquire into and make a determination in respect of the salaries and relevant allowances to be paid to members.
- (6) Where a determination of the Tribunal in respect of the salaries and relevant allowances to be paid to members is in force, the Tribunal shall inquire into and make a further determination in respect of those salaries and allowances:

Section 58H

- (a) within 2 years of the first-mentioned determination taking effect; or
 - (b) if the Minister, by notice in writing given to the President, requests the Tribunal to make a further determination in respect of those salaries and allowances within a shorter period of the first-mentioned determination taking effect—within that shorter period.
- (7) A determination of the Tribunal shall be in writing and shall take effect, or shall be deemed to have taken effect, on such day as the Tribunal specifies for the purpose in the determination.
- (8) The Tribunal shall not specify as the day on which a determination of the Tribunal takes effect a day earlier than the day on which the determination is made in any case where, if the determination so took effect:
 - (a) the rights of a person (other than the Commonwealth) which existed immediately before the last-mentioned day would be affected in a manner prejudicial to that person; or
 - (b) liabilities would be imposed on a person (other than the Commonwealth) in respect of anything done or omitted to be done before that last-mentioned day;and where, in a determination of the Tribunal, any provision is made in contravention of this subsection, that provision shall be of no effect.
- (9) The President shall give a copy of each determination made by the Tribunal to the Minister, to the Secretary and to the Chief of the Defence Force.
- (10) Where the Tribunal has made a determination (not being a determination made pursuant to subsection (12)), the Minister, the Secretary or the Chief of the Defence Force may, by notice in writing given to the President within 28 days of the determination being made, request the Tribunal to reconsider the determination.
- (11) A notice of request under subsection (10) shall set out the grounds on which the reconsideration is being sought.

Section 58HA

- (12) As soon as practicable after a request is made under subsection (10) for reconsideration of a determination, the Tribunal shall reconsider the determination and shall make a further determination affirming, varying or replacing the first-mentioned determination.
- (13) The Minister shall cause a copy of each determination of the Tribunal to be laid before each House of the Parliament within 15 sitting days of that House after the determination is received by the Minister.
- (14) Any regulation made under this Act, and any determination made under section 58B of this Act, has no effect to the extent that it is inconsistent with any determination of the Tribunal.
- (15) In this section, **prescribed matter** means a matter in relation to which the Minister may make determinations under section 58B, not being a matter referred to in paragraph (2)(a).

58HA Hearings in relation to discriminatory determinations

- (1) If a determination is referred to the Tribunal under section 46PY of the *Australian Human Rights Commission Act 1986*, the Tribunal must hold a hearing to review the determination.
- (2) Unless the hearing takes place before a single member of the Tribunal, subsections 58K(1) to (6) apply to the hearing as if it were a meeting of the Tribunal.
- (3) The Tribunal must decide whether or not the hearing is to be held in public.
- (4) If the Tribunal decides that the hearing is not to be held in public, then, subject to subsection (5) and subsections 58K(9) and 58KB(5), the Tribunal may decide the people who may be present.
- (5) The Sex Discrimination Commissioner is entitled to notice of, and to be present at, the hearing and may make submissions to the Tribunal.

Section 58HB

(6) In this section:

determination includes a variation to a determination.

Tribunal includes a single member conducting the Tribunal's business under a direction under subsection 58KA(1).

58HB Review of discriminatory determinations

(1) If:

- (a) a determination has been referred to the Tribunal under section 46PY of the *Australian Human Rights Commission Act 1986*; and
- (b) the Tribunal considers that the determination is a discriminatory determination;

the Tribunal must take the necessary action to remove the discrimination, by setting aside the determination, setting aside terms of the determination or varying the determination.

(2) In this section:

determination has the same meaning as in section 58HA.

discriminatory determination means a determination that:

- (a) has been referred to the Tribunal under section 46PY of the *Australian Human Rights Commission Act 1986*; and
- (b) requires a person to do an act that would be unlawful under Part II of the *Sex Discrimination Act 1984* except for the fact that the act would be done in direct compliance with the determination.

Tribunal has the same meaning as in section 58HA.

(3) For the purposes of the definition of **discriminatory determination** in subsection (2), the fact that an act is done in direct compliance with the determination does not of itself mean that the act is reasonable.

58J Reports by Tribunal

- (1) The Minister may, by notice in writing given to the President, request the Tribunal to inquire into and report to the Minister on a matter specified in the notice, being a matter in relation to which the Tribunal may make a determination pursuant to section 58H.
- (2) When a request is made under subsection (1), the Tribunal shall inquire into the matter concerned and give to the Minister a report in writing on that matter.

58K Procedure of Tribunal

- (1) The President shall convene such meetings of the Tribunal as he or she considers necessary for the efficient performance of its functions.
- (2) Meetings of the Tribunal shall be held at such places as the President determines.
- (3) The President shall preside at all meetings of the Tribunal at which he or she is present.
- (4) If the President is not present at a meeting of the Tribunal, another member of the Tribunal nominated by the President shall preside at the meeting.
- (5) The Tribunal shall keep records of its meetings.
- (6) At a meeting of the Tribunal:
 - (a) 2 members of the Tribunal constitute a quorum;
 - (b) all questions shall be decided by a majority of votes of the members of the Tribunal present and voting; and
 - (c) the member of the Tribunal presiding has a deliberative vote and, in the event of an equality of votes, also has a casting vote.
- (7) The Tribunal shall, in making a determination, have regard to:
 - (a) any decision of, or principles established by, the FWC that is or are relevant to the making of the determination; or

Section 58KA

- (b) if the FWC has not yet made any such decision or established any such principles, any decision of, or principles established by, the AIRC that is or are relevant to the making of the determination.
- (8) In the performance of the functions of the Tribunal:
 - (a) the Tribunal may regulate the conduct of its proceedings as it thinks fit and is not bound to act in a formal manner; and
 - (b) the Tribunal may inform itself on any matter in such manner as it thinks fit and is not bound by the rules of evidence.
- (9) The Defence Force Advocate and a person representing the Commonwealth are entitled to be present, and to make submissions to the Tribunal, during any proceedings before the Tribunal.
- (10) Where the Tribunal thinks that a person or body should be heard in relation to a matter that is being, or is to be, considered by the Tribunal, the Tribunal may permit the person or body to be present, and to make submissions to the Tribunal, during proceedings before the Tribunal in relation to that matter.

58KA Single member may conduct Tribunal's business

- (1) Subject to subsection (2), the President may:
 - (a) if a person referred to in subsection 58K(9) requests the President to do so and the President considers it appropriate; or
 - (b) in any case, on the President's initiative;direct, in writing, that a member of the Tribunal specified in the direction is to conduct the Tribunal's business in relation to any matter that is specified in the direction, being a matter that is being, or is to be, dealt with by the Tribunal.
- (2) The President must not, in a direction made under subsection (1), direct that a single member is to deal with a request made under subsection 58KC(1).
- (3) The President may, at any time, in writing, terminate a direction made under subsection (1).

Section 58KB

- (4) Where a single member is conducting the Tribunal's business in relation to a matter:
 - (a) the single member may exercise any powers or perform any functions of the Tribunal in relation to that matter; and
 - (b) any act of the single member in relation to that matter is taken to be an act of the Tribunal.
- (5) In this section, a reference to a matter that is being, or is to be, dealt with by the Tribunal includes a reference to any part of such a matter.

58KB Procedure where single member is conducting Tribunal's business

- (1) Where a single member is conducting the Tribunal's business:
 - (a) section 58K does not apply to the single member's conduct of such business; and
 - (b) the following provisions apply.
- (2) The single member may conduct such proceedings relating to the matter to which the direction relates as he or she considers necessary.
- (3) In the conduct of the Tribunal's business:
 - (a) the single member is not bound to act in a formal manner; and
 - (b) the single member may inform himself or herself on any matter in such manner as he or she thinks fit and is not bound by the rules of evidence.
- (4) The single member must, in making a determination, have regard to:
 - (a) any decision of, or principles established by, the FWC that is or are relevant to the making of the determination; or
 - (b) if the FWC has not yet made any such decision or established any such principles, any decision of, or principles established by, the AIRC that is or are relevant to the making of the determination.

Section 58KC

- (5) The Defence Force Advocate and a person representing the Commonwealth are entitled to be present, and to make submissions to the single member, during any proceedings conducted by the single member.
- (6) Where the single member thinks that a person or body should be heard in relation to a matter that is being, or is to be, considered by him or her, the single member may permit the person or body to be present, and to make submissions to the single member, during proceedings conducted by the single member in relation to that matter.

58KC Review of action etc. of single member

- (1) Where:
 - (a) a single member is conducting the Tribunal's business in relation to a matter; and
 - (b) in dealing with the matter, the single member exercises a power or performs a function of the Tribunal;the Minister, the Secretary or the Chief of the Defence Force may, by notice in writing given to the President within 28 days after the single member has completed his or her conduct of that business, request the Tribunal to reconsider the exercise of the power or performance of the function.
- (2) The notice must specify the exercise of the power or the performance of the function requested to be reconsidered and the grounds for seeking the reconsideration.
- (3) As soon as practicable after the request is made, the Tribunal must:
 - (a) reconsider the exercise of the power or performance of the function specified in the request; and
 - (b) make a determination affirming, varying or replacing anything done by the single member in exercising that power or performing that function.

58KD Determinations giving effect to agreement between the parties

The Tribunal may, in making a determination, give effect to any agreement reached between the Minister, acting on behalf of the Commonwealth, and the Chief of the Defence Force, acting on behalf of the members of the Australian Defence Force, in relation to a matter to which the determination relates.

58L Terms and tenure of office

- (1) Subject to this Division, a member of the Tribunal holds office for such period, not exceeding 5 years, as is specified in his or her instrument of appointment, but is eligible for re-appointment.
- (2) A person must not continue to hold office as a member of the Tribunal if:
 - (a) he or she becomes a member of the Permanent Forces (although he or she may become a member of the Reserves); or
 - (b) he or she becomes the Defence Force Advocate; or
 - (c) in the case of the President, he or she ceases to be a Deputy President of the FWC.

58M Resignation

A member of the Tribunal may resign his or her office by writing signed by him or her and delivered to the Governor-General.

58N Termination of appointment

The Governor-General may terminate the appointment of a member of the Tribunal by reason of misbehaviour or physical or mental incapacity.

58P Acting appointments

- (1) The Minister may appoint a person to act as a member (including the President) of the Tribunal:

Section 58Q

- (a) during a vacancy in the office of that member; or
- (b) during any period, or during all periods, when that member is absent from duty or from Australia or is, for any other reason (including the reason that, in the case of a member not being the President, he or she is acting as President), unable to perform the duties of his or her office.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

- (8) A reference in section 58H, 58J, 58K, 58KA, 58KC or 58U to the President or to a member of the Tribunal shall be read as including a reference to a person acting as the President or as a member of the Tribunal, as the case may be.

58Q Fees and allowances

- (1) A member of the Tribunal shall be paid such fees and allowances as the Remuneration Tribunal determines.
- (2) The appointment of the holder of a prescribed office as a member of the Tribunal, or service by the holder of a prescribed office as such a member, does not affect his or her tenure of that prescribed office or his or her rank, title, status, precedence, salary, annual or other allowances or other rights or privileges as the holder of that prescribed office and, for all purposes, his or her service as a member of the Tribunal shall be taken to be service as the holder of the prescribed office.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.
- (4) In this section, **prescribed office** means an office, appointment or other employment which is referred to in subsection 7(11) of the *Remuneration Tribunal Act 1973* as an office, appointment or other employment on a full-time basis or a judicial office referred to in subsection 7(12) of that Act.

Division 3—The Defence Force Advocate

58R Interpretation

In this Division, unless the contrary intention appears:

Advocate means the Defence Force Advocate appointed under section 58S.

Remuneration Tribunal means the Remuneration Tribunal established by subsection 4(1) of the *Remuneration Tribunal Act 1973*.

Tribunal means the Defence Force Remuneration Tribunal established by section 58G.

58S Defence Force Advocate

- (1) There shall be a Defence Force Advocate, who shall be appointed by the Minister on a part-time basis.
- (2) The person appointed as the Advocate shall be a person who:
 - (a) is experienced in industrial relations matters; and
 - (b) has a knowledge of the nature of service in the Defence Force.
- (3) In making an appointment under subsection (1), the Minister shall have regard to any recommendations made by the Chief of the Defence Force.

58T Functions of Advocate

The functions of the Advocate are:

- (a) to advise the Chief of the Defence Force in relation to matters that have been, or may be, referred to the Tribunal by the Chief of the Defence Force pursuant to subsection 58H(3);

Section 58U

- (b) to prepare submissions to be made to the Tribunal on behalf of the Defence Force concerning any matter that is being considered by the Tribunal; and
- (c) to represent the Defence Force in proceedings before the Tribunal.

58U Tenure and terms of office

- (1) Subject to this Division, the Advocate holds office for 3 years, but is eligible for re-appointment.
- (2) A person shall not continue to hold the office of Advocate if he or she becomes a member of the Tribunal.

58V Resignation

The Advocate may resign his or her office by writing signed by him or her and delivered to the Minister.

58W Termination of appointment

The Minister may terminate the appointment of the Advocate by reason of misbehaviour or physical or mental incapacity.

58X Acting Defence Force Advocate

The Minister may appoint a person to act as the Advocate:

- (a) during a vacancy in the office of the Advocate; or
- (b) during any period, or during all periods, when the Advocate is absent from duty or from Australia or is, for any other reason, unable to perform the duties of his or her office.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

58Y Fees and allowances

- (1) The Defence Force Advocate shall be paid such fees and allowances as the Remuneration Tribunal determines.

- (2) This section has effect subject to the *Remuneration Tribunal Act 1973*.

Part IV—Liability to serve in the Defence Force in time of war

Division 1—Liability to serve

59 Persons liable to serve in Defence Force in time of war

All persons (except those who are exempt from service under this Part or to whom this Part does not apply) who:

- (a) have resided in Australia for not less than 6 months; and
- (c) have attained the age of 18 years but have not attained the age of 60 years;

are liable, when called upon under section 60, to serve in the Defence Force.

60 Proclamation calling upon persons to serve in time of war

- (1) In time of war the Governor-General may, by proclamation, call upon persons specified in section 59 to serve in the Defence Force in accordance with this Act for the duration of the time of war.
- (2) A Proclamation under this section must call on persons in the order in which they are included in classes established for the purposes of this subsection under subsection (3).
- (3) The regulations may establish a series of classes of persons for the purposes of subsection (2).
- (4) A Proclamation must be laid before each House of the Parliament before, but not more than 90 days before, the day on which it is expressed to come into effect.
- (5) A Proclamation does not come into effect unless, within the period of 90 days before it is expressed to come into effect, it is approved, by resolution, by each House of the Parliament.

61 Registration and allotment for service

- (1) The regulations may make provision for and in relation to:
- (a) the registration of persons who are or may become liable to serve in the Defence Force in time of war;
 - (b) the deferment of the service of persons, or persons included in classes of persons, who have been called upon under section 60 to serve in the Defence Force;
 - (c) medical and other examinations of persons who have been so called upon;
 - (f) the choice, by ballot or otherwise, from persons who have been called upon to serve in the Defence Force of those persons who are required so to serve; and
 - (g) the allotment of persons required so to serve for service in a part of the Navy, the Army or the Air Force.

61A Persons exempt from service

- (1) The following persons are exempt from service in the Defence Force in time of war so long as the employment, condition, status, belief, or other reason stated in regulations made for the purposes of paragraph (j), on which the exemption is based continues:
- (a) persons subject to a prescribed mental or physical disability;
 - (b) members and officers of the Parliament of the Commonwealth or of a State;
 - (c) judges of federal or State courts and police, stipendiary or special magistrates of a Territory or of a State;
 - (d) ministers of religion;
 - (e) members of a religious order who devote the whole of their time to the duties of the order;
 - (f) persons who are students at a college maintained solely for training persons to become members of a religious order;
 - (g) persons who are students at a theological college as defined by the regulations or are theological students as prescribed;
 - (h) persons whose conscientious beliefs do not allow them to participate in war or warlike operations;

Section 61B

- (i) persons whose conscientious beliefs do not allow them to participate in a particular war or particular warlike operations; and
 - (j) persons who, for a reason stated in the Regulations, are declared by the Regulations to be exempt from service in the Defence Force in time of war.
- (1A) Persons whose conscientious beliefs do not allow them to engage in duties of a combatant nature (either generally or during a particular war or particular warlike operations) are not exempt from liability to serve in the Defence Force in time of war but are exempt from such duties while members of the Defence Force as long as those beliefs continue.
- (2) A person who, in pursuance of section 60, has been called upon to serve in the Defence Force and is, by virtue of this section, exempt from service shall, notwithstanding the exemption, do any act that such a person is required, by or under the regulations, to do.

Penalty: 1 penalty unit.

61B Entry into Defence Force for service

- (1) A person who, in accordance with the regulations, is allotted for service in a part of the Navy, the Army or the Air Force shall, as from the time at which he or she presents himself or herself for service in that part, be deemed to have been enlisted in that part and to have been engaged to serve in that part for the duration of the time of war.
- (2) A person who, in pursuance of section 60, has been called upon to serve in the Defence Force and fails, when required by or under the regulations, to present himself or herself for examination or service or to do any other act required to be done by persons so called upon remains liable to do that act, notwithstanding that the time originally appointed for the doing of that act has expired or that he or she has been convicted for failing to do that act.

Section 61C

61C Part not to apply to certain persons

Nothing in this Part applies to:

- (a) a person whose presence in Australia is occasioned solely by his or her employment in the service of a government outside Australia; or
- (b) a prescribed official of any international organisation; or
- (c) a member of the Defence Force.

Section 61CA

Division 2—Determination of conscientious belief

61CA Application for determination of conscientious belief

- (1) A person who claims to be exempt from service because of conscientious beliefs must, within 7 days after he or she is called on for service under section 60 apply to the Secretary, in writing, to have his or her claim determined by a Conscientious Objection Tribunal.
- (2) At any time after a Tribunal has made a determination that a person is or is not exempt from service because of conscientious beliefs either the applicant for that determination or the Commonwealth may apply to the Secretary, in writing, to have a Tribunal set aside the previous determination and, where appropriate, make a new determination in substitution for it on the grounds of a change in circumstances.

61CB Secretary must refer application

If the Secretary receives an application under subsection 61CA(1) or (2), the Secretary must refer the application to a Conscientious Objection Tribunal for determination.

61CC Function of Conscientious Objection Tribunals

- (1) The function of a Conscientious Objection Tribunal is to determine, following an application that is referred to it by the Secretary, whether the person to whom the application related is exempt from service because of conscientious beliefs.
- (2) Subject to this Part, a determination under subsection (1) is final and binding for all purposes.

61CD Parties to the hearing of an application

In this Part, the parties to the hearing of an application by a Conscientious Objection Tribunal are the applicant and the Commonwealth.

61CE Notice of determination to be given to parties

- (1) If a Conscientious Objection Tribunal makes a determination it must notify the parties of the result of the determination as soon as possible.
- (2) A Tribunal must give the parties a statement in writing of the reasons for its determination within 28 days of making that determination.

Division 3—Establishment and membership of Conscientious Objection Tribunals

61CF Establishment of Conscientious Objection Tribunals

- (1) The Minister may, by notice in the *Gazette*, establish such Conscientious Objection Tribunals as he or she thinks necessary for the purposes of this Part.
- (2) Each Tribunal is to comprise:
 - (a) a presiding member; and
 - (b) 2 other members.
- (3) Members are to be appointed in writing by the Minister and may be appointed as either full-time or part-time members.
- (4) A person is not to be appointed as a presiding member of a Tribunal unless he or she is a legal practitioner of not less than 7 years standing.
- (5) A person is not to be appointed as another member of a Tribunal unless the Minister is satisfied that he or she is capable, by reason of training or experience, of ascertaining facts other than by adversarial procedures.

61CG Period of appointment of members

Members are to hold office for such period, not exceeding 5 years, as is specified in the instrument of appointment.

61CH Remuneration and allowances of members

- (1) Members are to be paid:
 - (a) such remuneration as is determined by the Remuneration Tribunal; and
 - (b) such allowances as are prescribed.

Section 61CJ

- (2) If no determination of the remuneration of members by the Remuneration Tribunal is in operation, members are to be paid such remuneration as is prescribed.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

61CJ Other terms and conditions

A member holds office on such terms and conditions (if any) in respect of matters not provided for by this Part as are determined by the Minister in writing.

61CK Leave of absence

The Minister may grant leave of absence to a member on such terms and conditions as to remuneration or otherwise as the Minister determines in writing.

61CL Resignation

A member may resign in writing signed by him or her and sent to the Minister.

61CM Removal from office

The Minister may remove a member from office for proved misbehaviour or physical or mental incapacity.

61CN Member of a Tribunal unavailable to complete proceeding

- (1) If the hearing of an application has been commenced or completed by a Conscientious Objection Tribunal but, before the proceeding has been determined, one of the members constituting the Tribunal for the purposes of the application has:
 - (a) ceased to be a member; or
 - (b) ceased to be available for the purposes of the application;the following provisions have effect:

Section 61CO

- (c) if the member concerned is a member other than a member appointed as a presiding member—the hearing and determination, or the determination, of the application may be completed by the Tribunal constituted by the remaining 2 members;
 - (d) in any other case—the proceeding must be reheard by another Tribunal.
- (2) If an application that was being dealt with by one Tribunal is reheard by another Tribunal, that other Tribunal may, for the purposes of that application, have regard to any record of the proceedings before the first-mentioned Tribunal.
- (3) The reference in subsection (2) to a record of proceedings includes a reference to a record of any evidence taken in the proceeding.

61CO Acting appointments

- (1) The Minister may appoint a person to act as a full-time member of a Conscientious Objection Tribunal during any period, or during all periods, when the member is absent from duty or from Australia or is, for any reason, unable to perform the duties of the member's office.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

- (2) The Minister may appoint a person to act as a part-time member of a Tribunal during any period, or during all periods, when the member is, for any reason, unable to perform the duties of the member's office.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

- (3) Where a person has been appointed under subsection (1) or (2), the Minister may direct that the person is to continue to act in the appointment after the normal terminating event occurs.
- (4) A direction under subsection (3) must specify the period during which the person may continue to act in the appointment.

Section 61CO

- (5) The period specified under subsection (4) may be specified by reference to the happening of a particular event or the existence of particular circumstances.
- (6) A direction under subsection (3):
 - (a) is to be given only if there is a pending determination or other special circumstances justifying the giving of the direction; and
 - (b) may only be given before the normal terminating event occurs.
- (7) A person continuing to act under a direction under subsection (3) must not continue to act for more than 12 months after the normal terminating event occurs.
- (8) If a Tribunal includes a person acting or purporting to act under an appointment under this section, any decision of, or any direction given or any other act done by, the Tribunal is not invalid merely because:
 - (a) the occasion for the appointment had not arisen; or
 - (b) there was a defect or irregularity in connection with the appointment; or
 - (c) the appointment had ceased to have effect; or
 - (d) the occasion to act had not arisen or had ceased.
- (10) For the purposes of this section, the normal terminating event for an appointment under subsection (1) or (2) is:
 - (a) if the appointment is made under subsection (1)—the member ceasing to be absent or ceasing to be unable to perform the duties of the member's office; or
 - (b) if the appointment is made under subsection (2)—the member ceasing to be unable to perform the duties of the member's office.

Division 4—Procedures of Conscientious Objection Tribunals

61CP Tribunals' way of operating

A Conscientious Objection Tribunal, in carrying out its functions under this Part:

- (a) must provide procedures which are informal, quick, fair, just and economical; and
- (b) must act according to substantial justice and the merits of the case; and
- (c) is not bound by technicalities, legal forms or rules of evidence.

61CQ Powers of Tribunals

For the purposes of making a determination, a Conscientious Objection Tribunal may:

- (a) take evidence on oath or affirmation; and
- (b) summon a person to appear before it to give evidence; and
- (c) summon a person to produce to it such documents as are referred to in the summons; and
- (d) require a person appearing before it to give evidence either to take an oath or to make an affirmation that the evidence that the person will give will be true.

61CR Procedure of Tribunals

- (1) The presiding member of a Conscientious Objection Tribunal may convene such hearings of the Tribunal as he or she thinks necessary for the performance of its functions.
- (2) The presiding member is to preside at all hearings of the Tribunal.
- (3) A Tribunal must keep records of its hearings.

61CS Majority decision

A question before a Conscientious Objection Tribunal on an application for a determination is to be decided according to the opinion of a majority of the members of the Tribunal.

61CT Procedure where opinion of members equally divided

If:

- (a) an application is referred to a Conscientious Objection Tribunal for a determination; and
- (b) section 61CS does not apply to a question before the Tribunal on the application;

the question is to be decided according to the opinion of the member presiding.

61CU Hearings

- (1) Subject to this section, a Conscientious Objection Tribunal is to take oral evidence in public.
- (2) If a Tribunal is satisfied that it is necessary, in the interests of determining a matter which is before it, the Tribunal may direct that oral evidence is to be taken in private.
- (3) If a Tribunal makes a direction under subsection (2), it may give directions as to the persons who may be present when the oral evidence is given.
- (4) If a Tribunal is satisfied that it would be difficult for a person to give oral evidence, the Tribunal may accept a written statement from that person.
- (5) An applicant may be assisted in presenting his or her case by another person, whether or not that person is a legal practitioner.

Section 61CV

61CV Onus of proof

- (1) In proceedings before a Conscientious Objection Tribunal the onus of proving exemption from service because of conscientious belief rests with an applicant.
- (2) Such onus is to be discharged on the balance of probabilities.

61CW Protection of members and persons giving evidence etc.

- (1) A member of a Conscientious Objection Tribunal has, in the performance of his or her duties as a member, the same protection and immunity as a Judge of the Federal Court.
- (2) Subject to this Part, an applicant, a person summoned to attend, or appearing, before a Conscientious Objection Tribunal to give evidence, a person representing the Commonwealth or a person who assists an applicant at a hearing, has the same protection and is, in addition to the penalties provided by this Part, subject to the same liabilities, as a witness in proceedings in the Federal Court.

61CX Fees for persons giving evidence

- (1) A person, other than the applicant, summoned to appear before a Conscientious Objection Tribunal to give evidence is entitled to be paid, in respect of his or her attendance, fees, and allowances for expenses, ascertained in accordance with a determination under subsection (2).
- (2) The Minister may, by legislative instrument, determine the amounts of fees and allowances to be paid under subsection (1).
- (4) The fees and allowances referred to in subsection (1) are to be paid by the Commonwealth.

61CY Failure of witness to attend

- (1) A person commits an offence if:

Section 61CZ

- (a) the person is served under paragraph 61CQ(b) with a summons to appear before a Conscientious Objection Tribunal to give evidence and is tendered reasonable expenses; and
- (b) the person:
 - (i) fails to attend as required by the summons; or
 - (ii) fails to appear and report from day to day and has not been excused, or released from further attendance, by a member.

Penalty: Imprisonment for 6 months.

- (2) Subsection (1) does not apply if the person has a reasonable excuse.

Note: The defendant bears an evidential burden in relation to the matter in subsection (2). See subsection 13.3(3) of the *Criminal Code*.

- (3) In paragraph (1)(a), strict liability applies to the physical element of circumstance, that the summons is under paragraph 61CQ(b).

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

61CZ Refusal to be sworn or to answer questions etc.

- (1) A person commits an offence if the person:
- (a) is required to produce a document by a summons under paragraph 61CQ(c) served on the person; and
 - (b) refuses or fails to do so.

Penalty: Imprisonment for 6 months.

- (2) In paragraph (1)(a), strict liability applies to the physical element of circumstance, that the summons is under paragraph 61CQ(c).

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (3) A person commits an offence if the person:
- (a) is appearing before a Conscientious Objection Tribunal to give evidence; and

Section 61CZ

(b) is required under paragraph 61CQ(d) either to take an oath or to make an affirmation; and

(c) refuses or fails to comply with the requirement.

Penalty: Imprisonment for 6 months.

(4) In paragraph (3)(b), strict liability applies to the physical element of circumstance, that the requirement is under paragraph 61CQ(d).

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

(5) A person commits an offence if the person:

(a) is appearing before a Conscientious Objection Tribunal to give evidence; and

(b) is required to answer a question by the presiding member; and

(c) refuses or fails to answer the question.

Penalty: Imprisonment for 6 months.

(6) Subsections (1), (3) and (5) do not apply if the person has a reasonable excuse.

Note: The defendant bears an evidential burden in relation to the matter in subsection (6). See subsection 13.3(3) of the *Criminal Code*.

(7) A person commits an offence if the person:

(a) is appearing before a Conscientious Objection Tribunal to give evidence; and

(b) gives evidence that is false or misleading in a material particular; and

(c) knows that the evidence is false or misleading in the material particular.

Penalty: Imprisonment for 6 months.

61CZA Contempt of Tribunal

A person must not:

- (a) obstruct or hinder a Conscientious Objection Tribunal, or a member of such a tribunal, in the performance of the functions of the Tribunal; or
- (b) disrupt the taking of evidence by a Conscientious Objection Tribunal.

Penalty: Imprisonment for 12 months.

Division 5—Reviews and appeals

61CZB Review of determinations of Conscientious Objection Tribunals

A party to a determination by a Conscientious Objection Tribunal may apply to the AAT for review of that determination.

61CZC AAT Act to apply subject to modification

- (1) The AAT Act applies in relation to the review of a determination of a Conscientious Objection Tribunal subject to the modifications set out in this section.
- (2) Section 30 of the AAT Act applies in relation to such a review as if it read as follows:

30 Parties to proceedings before Tribunal

“The parties to a proceeding before the AAT for a review of a determination of a Conscientious Objection Tribunal are:

- (a) the person in relation to whom the determination was made; and
 - (b) the Commonwealth.”.
- (3) Sections 30A, 31, 44 and 44A of the AAT Act do not apply in relation to such a review.
 - (4) Subsection 46(1) of the AAT Act applies in relation to such a review as if the words preceding paragraph (a) of that subsection read as follows:
 - “(1) When a question of law is referred to the Federal Court of Australia in accordance with section 45:”.

61CZD Appeals from AAT

- (1) A party to a proceeding before the AAT may appeal to the Federal Court, on a question of law only, from any decision of the AAT in that proceeding.
- (2) An appeal by a person under subsection (1) must be instituted:
 - (a) within 28 days after the day on which the document setting out the terms of the decision of the AAT is given to the person or within such further time (whether before or after the end of that period) as the Federal Court allows; and
 - (b) in such manner as is prescribed by rules of court made under the *Federal Court of Australia Act 1976*.
- (3) The Federal Court has jurisdiction to hear and determine appeals instituted in the Court in accordance with subsection (2) and that jurisdiction must be exercised by the Court constituted as a Full Court.
- (4) The Federal Court:
 - (a) must hear and determine the appeal; and
 - (b) may affirm, vary or set aside the order of the AAT; and
 - (c) may give such judgment, or make such order, as in all the circumstances it thinks fit, or refuse to make an order; and
 - (d) may remit the case for rehearing and determination, either with or without the hearing of further evidence, by the AAT.

61CZE Operation etc. of decision subject to appeal

- (1) Subject to this section, the institution of an appeal to the Federal Court from a decision of the AAT does not:
 - (a) affect the operation of the decision; or
 - (b) prevent the taking of action to implement the decision; or
 - (c) prevent the taking of action in reliance on the making of the decision.
- (2) If an appeal is instituted in the Federal Court from a decision of the AAT, the Federal Court or a Judge of the Federal Court may make

Section 61CZE

such orders of the kind referred to in subsection (3) as that Court or Judge considers appropriate for the purpose of securing the effectiveness of the hearing and determination of the appeal.

- (3) The orders that may be made under subsection (2) are orders staying, or otherwise affecting the operation or implementation of, either or both of the following:
 - (a) the decision of the AAT or a part of that decision;
 - (b) the decision to which the proceeding before the AAT related or a part of that decision.
- (4) The Federal Court or a Judge of that Court may, by order, vary or revoke an order in force under subsection (2) (including an order that has previously been varied under this subsection).
- (5) An order in force under subsection (2):
 - (a) is subject to such conditions as are specified in the order; and
 - (b) has effect until:
 - (i) where a period for the operation of the order is specified in the order—the end of that period or, if a decision is given on the appeal before the end of that period, the giving of the decision; or
 - (ii) where no period is so specified—the giving of a decision on the appeal.

Part V—Australian Defence Force Cadets

62 Australian Defence Force Cadets

- (1) The *Australian Defence Force Cadets* (or *ADF Cadets* or *Cadets*) consists of the following:
 - (a) the Australian Navy Cadets;
 - (b) the Australian Army Cadets;
 - (c) the Australian Air Force Cadets.
- (2) The *Australian Navy Cadets* consists of persons who have volunteered and been accepted by the Chief of the Defence Force as officers, instructors or cadets in the Australian Navy Cadets.
- (3) The *Australian Army Cadets* consists of persons who have volunteered and been accepted by the Chief of the Defence Force as officers, instructors or cadets in the Australian Army Cadets.
- (4) The *Australian Air Force Cadets* consists of persons who have volunteered and been accepted by the Chief of the Defence Force as officers, instructors or cadets in the Australian Air Force Cadets.

62A Direction and administration of the Cadets

- (1) The Chief of the Defence Force is to direct and administer the Cadets.
- (2) In directing and administering the Cadets, the Chief of the Defence Force must comply with any directions of the Minister.
- (3) The Chief of the Defence Force may direct the Vice Chief of the Defence Force, a service chief or any other member of the Defence Force to assist with the direction and administration of the Cadets.
- (4) The Chief of the Defence Force may use members of the Defence Force and the resources of the Defence Force for the purposes of administering, managing, supervising and training cadets.

Section 62B

Note: The use and management of public resources must comply with the requirements of the *Public Governance, Performance and Accountability Act 2013*.

62B Chief of the Defence Force may make determinations

- (1) The Chief of the Defence Force may, by legislative instrument, make determinations providing for and in relation to the following:
 - (a) the payment of allowances or other pecuniary benefits to or for cadets;
 - (b) the payment of allowances or other pecuniary benefits to or in respect of members of the families of cadets;
 - (c) the provision of other benefits to or in respect of cadets, or to or in respect of members of the families of cadets.
- (2) A legislative instrument under subsection (1) may provide for an amount paid under a determination made under that subsection to be wholly or partly repaid to the Commonwealth if an event specified in the determination occurs.

62C Relationship to the Defence Force

- (1) A cadet is not a member of the Defence Force.
- (2) A person with a role in administering, managing, supervising or training cadets does not become a member of the Defence Force because of that role.

62D Acceptance is not a civil contract

No civil contract of any kind is created with the Crown or the Commonwealth in connection with the acceptance of a person as an officer, instructor or cadet in the Cadets.

62E Annual report

- (1) The Chief of the Defence Force must, as soon as practicable after the end of each financial year, prepare a report on the administration of the Cadets during that year.

Section 62E

- (2) The report must be included in the annual report prepared by the Secretary and given to the Minister under section 46 of the *Public Governance, Performance and Accountability Act 2013* for the financial year.

Part VI—Special powers in relation to defence

63 General powers for defence purposes

- (1) The Governor-General may:
- (f) Subject to the provisions of this Act do all matters and things deemed by him or her to be necessary or desirable for the efficient defence and protection of the Commonwealth or of any State.

64 Control of railways in time of war

The Governor-General may in time of war authorize any officer to assume control of any railway for transport for naval, military or air-force purposes.

65 Railways to carry troops etc. when required

The principal railway official in any State or the owner, controller, or manager of any railway or tramway in any State shall when required by the Governor-General, and as prescribed, convey and carry members of the Defence Force, together with their horses, guns, ammunition, forage, baggage, aircraft, aircraft material and stores from any place to any place on the railway or tramway, and shall provide all engines, carriages, trucks and rolling-stock necessary for the purpose.

66 Conveyance by railway and tramway

Members of the Defence Force when on duty in uniform or carrying a rifle shall, subject to the Regulations, be conveyed over the railways and tramways of the Commonwealth or of any State for the purpose of attending musters, parades, and rifle practices, and returning therefrom, on production of a pass signed by a commanding officer or an officer authorised in writing by a commanding officer to sign such passes.

67 Registration and impressment of vehicles etc.

The owner of any vehicle, horse, mule, bullock, aircraft, aircraft material, boat or vessel, or of any goods, required for naval, military or air-force purposes, shall, when required to do so by an officer authorized in that behalf by the regulations, furnish it for those purposes, and shall be recompensed therefor in the manner prescribed, and the owners of any vehicles, horses, mules, bullocks, aircraft, aircraft material, boats or vessels may be required by the regulations to register them periodically.

68 Billeting and quartering

Members of the Defence Force may in time of war as prescribed be billeted, quartered or cantoned, but nothing in this Act shall authorize the quartering or billeting of any member of the Defence Force in any house solely occupied by women or by women and children.

70 Tolls

No toll or due, whether demandable by virtue of any Act or State Act or otherwise, at any wharf, landing place, aerodrome, bridge gate, or bar on a public road shall be demanded or taken in respect of:

- (a) Any member of the Defence Force on march or duty or any prisoner under his or her charge;
- (b) Any horse ridden or used by any member of the Defence Force on march or duty or by any prisoner under his or her charge;
- (c) Any vehicle employed only in conveying members of the Defence Force on march or duty or any prisoner under their charge or conveying naval, military or air-force arms, stores, baggage, aircraft or aircraft material; or
- (d) Any animal drawing any such vehicle.

Part VIA—Security of defence premises

Division 1—Preliminary

71 Simplified outline

- (1) The following is a simplified outline of this Part.
- (2) This Division sets out the meaning of expressions used in this Part.
- (3) Division 2 provides for matters relating to defence security officials.
- (4) Division 3 sets out the powers exercisable by defence security officials with consent at defence access control points and on defence premises. Subdivision B of Division 3 contains special provisions relating to declared explosive ordnance depots.
- (5) Division 4 sets out the powers exercisable by special defence security officials without consent at defence access control points and on defence premises, and provides for related matters, including offences relating to non-compliance with requirements, hindering and obstructing.
- (6) Division 5 relates to seizure of things.
- (7) Division 6 sets out provisions that apply generally in relation to the exercise of powers under this Part, including the following:
 - (a) the production of identity cards;
 - (b) informing persons of offences;
 - (c) the use of force;
 - (d) limits on the exercise of certain powers.
- (8) Division 7 provides for other matters, including:
 - (a) an offence of unauthorised entry on, or being on, defence premises or defence accommodation; and

- (b) the provision of information obtained by certain surveillance devices to law enforcement and other agencies.

71A Definitions

- (1) In this Part:

contracted defence security guard has the meaning given by section 71B.

criminal offence means an offence against a law of the Commonwealth, a State or a Territory.

declared explosive ordnance depot has the meaning given by section 71L.

defence access control point means a point of entry to, or exit from, defence premises or a part of defence premises, where entry or exit is controlled or limited by any means, including but not limited to control by means of:

- (a) guarding by defence security officials; or
- (b) physical barriers such as security screens, locked doors or gates.

defence accommodation means any building or other structure, or any place, that:

- (a) is in Australia; and
- (b) is used for, or in connection with, the accommodation of a group of members of any part of the Defence Force.

defence premises means:

- (a) any of the following that is in Australia, and is owned or occupied by the Commonwealth for use by the Defence Force or the Department:
 - (i) an area of land or any other place (whether or not it is enclosed or built on);
 - (ii) a building or other structure;

Section 71A

- (iii) a vehicle, vessel or aircraft, including any fixed or moveable ramp, stairs or other means of access to, or exit from, the vehicle, vessel or aircraft;
- (iv) a prohibited area, within the meaning of the *Defence (Special Undertakings) Act 1952*; or
- (b) the Woomera Prohibited Area.

defence security official means:

- (a) a contracted defence security guard (see section 71B); or
- (b) a security authorised member of the Defence Force (see section 71C); or
- (c) a defence security screening employee (see section 71D).

defence security screening employee has the meaning given by section 71D.

intelligence or security agency means any of the following:

- (a) the Australian Secret Intelligence Service;
- (b) the Australian Security Intelligence Organisation;
- (ba) the Australian Signals Directorate;
- (c) the Office of National Intelligence.

limited search of a person means:

- (a) a search of things in the possession of a person that may include:
 - (i) requesting the person to remove his or her overcoat, coat or jacket and any gloves, shoes and hat; and
 - (ii) an examination of any of those items that the person consents to remove; or
 - (b) a search of a person conducted by quickly running the hands over the person's outer garments and an examination of anything worn or carried by the person that is conveniently and voluntarily removed by the person;
- but does not include requesting the person to remove all of his or her garments.

Section 71A

optical surveillance device means any device capable of being used to record visually or observe an activity, but does not include spectacles, contact lenses or a similar device used by a person with impaired sight to overcome that impairment.

personal information has the same meaning as in the *Privacy Act 1988*.

person assisting a defence security official has the meaning given by section 72N.

protective service officer has the same meaning as in the *Australian Federal Police Act 1979*.

search:

- (a) of a person—has the same meaning as in section 31; and
- (b) of a vehicle, vessel or aircraft—includes a search of a thing in the vehicle, vessel or aircraft.

security authorised member of the Defence Force has the meaning given by section 71C.

special defence security official means:

- (a) a security authorised member of the Defence Force (see section 71C); or
- (b) a defence security screening employee (see section 71D).

vessel has the same meaning as in section 31.

Woomera Prohibited Area means the area prescribed under subsection 72TA(1).

- (2) To avoid doubt, a thing includes a substance, a vehicle, vessel or aircraft and a thing in electronic or magnetic form.

Division 2—Defence security officials

71B Contracted defence security guards

- (1) A person is a *contracted defence security guard* if:
 - (a) the person is one of the following:
 - (i) a party to a contract with the Commonwealth or a Commonwealth entity;
 - (ii) a subcontractor for a contract with the Commonwealth or a Commonwealth entity;
 - (iii) an employee of a person referred to in subparagraph (i) or (ii); and
 - (b) the contract is for, or includes, the provision of security services at one or more defence premises; and
 - (c) either of the following applies:
 - (i) the person is authorised under subsection (2);
 - (ii) the person is included in a class of persons authorised under subsection (2) (including a person who becomes a member of the class after the authorisation is given); and
 - (d) the person satisfies the training and qualification requirements determined under subsection (4).
- (2) The Minister may, in writing, authorise a person, or a class of persons, for the purposes of paragraph (1)(c).
- (3) An authorisation made under subsection (2) is not a legislative instrument.
- (4) The Minister must, by legislative instrument, determine the training and qualification requirements for contracted defence security guards.
- (5) Without limiting the training and qualification requirements that may be determined in a legislative instrument under subsection (4), different training and qualification requirements may apply to different kinds of contracted defence security guards.

71C Security authorised members of the Defence Force

- (1) A person is a *security authorised member of the Defence Force* if the person:
 - (a) is a member of the Defence Force; and
 - (b) either of the following applies:
 - (i) the person is authorised under subsection (2);
 - (ii) the person is included in a class of persons authorised under subsection (2) (including a person who becomes a member of the class after the authorisation is given); and
 - (c) the person satisfies the training and qualification requirements determined under subsection (4).
- (2) The Minister may, in writing, authorise a person, or a class of persons, for the purposes of paragraph (1)(b).
- (3) An authorisation made under subsection (2) is not a legislative instrument.
- (4) The Minister must, by legislative instrument, determine the training and qualification requirements for security authorised members of the Defence Force.
- (5) Without limiting the training and qualification requirements that may be determined in a legislative instrument under subsection (4):
 - (a) different training and qualification requirements may apply to different kinds of security authorised members of the Defence Force; and
 - (b) the Minister must determine training and qualification requirements that apply to security authorised members of the Defence Force in relation to the use of dogs as referred to in section 72M.

71D Defence security screening employees

- (1) A person is a *defence security screening employee* if the person:
 - (a) is an APS employee in the Department; and

Section 71E

- (b) either of the following applies:
 - (i) the person is authorised under subsection (2);
 - (ii) the person is included in a class of persons authorised under subsection (2) (including a person who becomes a member of the class after the authorisation is given); and
 - (c) the person satisfies the training and qualification requirements determined under subsection (4).
- (2) The Minister may, in writing, authorise a person, or a class of persons, for the purposes of paragraph (1)(b).
 - (3) An authorisation made under subsection (2) is not a legislative instrument.
 - (4) The Minister must, by legislative instrument, determine the training and qualification requirements for defence security screening employees.
 - (5) Without limiting the training and qualification requirements that may be determined in a legislative instrument under subsection (4), different training and qualification requirements may apply to different kinds of defence security screening employees.

71E Identity cards

- (1) The Secretary must issue an identity card to each defence security official.

Form of identity card

- (2) The identity card must:
 - (a) be in the form approved in writing by the Secretary; and
 - (b) contain a recent photograph of the defence security official.

Offence

- (3) A person commits an offence if:
 - (a) the person has been issued with an identity card; and

Section 71F

- (b) the person ceases to be a defence security official; and
- (c) the person does not, within 7 days of so ceasing, return the person's identity card to the Secretary.

Penalty: 5 penalty units.

- (4) Subsection (3) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

Defence—card lost or destroyed

- (5) Subsection (3) does not apply if the identity card was lost or destroyed.

Note: A defendant bears an evidential burden in relation to the matter in this subsection (see subsection 13.3(3) of the *Criminal Code*).

Defence security official must carry card

- (6) A defence security official must carry the identity card at all times when performing functions or exercising powers as a defence security official.

71F Delegations relating to training and qualification requirements

Contracted defence security guards and defence security screening employees

- (1) The Minister may, by writing, delegate the Minister's power under subsection 71B(4) or 71D(4) (training and qualification requirements for contracted defence security guards and defence security screening employees) to:
- (a) the Secretary; or
 - (b) an APS employee who holds or performs the duties of an SES Band 3 position, or an equivalent or higher position, in the Department.

Section 71G

Security authorised members of the Defence Force

- (2) The Minister may, by writing, delegate the Minister's power under subsection 71C(4) (training and qualification requirements for security authorised members of the Defence Force) to:
- (a) an officer of the Army who holds the rank of Brigadier or a higher rank; or
 - (b) an officer of the Navy who holds the rank of Commodore or a higher rank; or
 - (c) an officer of the Air Force who holds the rank of Air Commodore or a higher rank.

71G Delegations relating to identity cards

Issue of identity cards

- (1) The Secretary may, by writing, delegate the Secretary's power under subsection 71E(1) (issue of identity cards) to:
- (a) an APS employee who holds or performs the duties of an Executive Level 2 position, or an equivalent or higher position, in the Department; or
 - (b) an officer of the Army who holds the rank of Colonel or a higher rank; or
 - (c) an officer of the Navy who holds the rank of Captain or a higher rank; or
 - (d) an officer of the Air Force who holds the rank of Group Captain or a higher rank.

Return of identity cards

- (2) The Secretary may, by writing, delegate the Secretary's function under paragraph 71E(3)(c) (return of identity cards) to:
- (a) an APS employee who holds or performs the duties of an APS 5 position, or an equivalent or higher position, in the Department; or
 - (b) an officer of the Army who holds the rank of Captain or a higher rank; or

Section 71G

- (c) an officer of the Navy who holds the rank of Lieutenant or a higher rank; or
- (d) an officer of the Air Force who holds the rank of Flight Lieutenant or a higher rank.

Division 3—Powers exercisable with consent at defence access control points and on defence premises

Subdivision A—General provisions

71H Consensual identification and limited search—person about to pass a defence access control point

Power to request identification etc.

- (1) A defence security official may request a person who is about to pass a defence access control point to provide evidence of the following:
 - (a) the person's name;
 - (b) the person's residential address;
 - (c) the person's authority to pass the defence access control point.

Power to request limited search

- (2) A defence security official may request a person who is about to pass a defence access control point to undergo a limited search.

Power to refuse access etc.

- (3) A defence security official may refuse to allow a person to pass a defence access control point if:
 - (a) the person refuses a request by a defence security official under subsection (1) or (2); or
 - (b) as a result of the person complying with such a request, a defence security official reasonably believes that the person:
 - (i) is not authorised to pass the defence access control point; or
 - (ii) constitutes a threat to the safety of persons on the defence premises; or

Section 71J

- (iii) has committed, or may commit, a criminal offence on, or in relation to, the defence premises.

Additional powers if person is on defence premises

- (4) If a defence security official refuses to allow a person to pass a defence access control point under subsection (3), a defence security official may, if the person is on defence premises, restrain and detain the person.

71J Consensual search—vehicle, vessel or aircraft about to pass a defence access control point

- (1) A defence security official may request a person apparently in control of a vehicle, vessel or aircraft that is about to pass a defence access control point to permit a search of the vehicle, vessel or aircraft.
- (2) A defence security official may refuse to allow a vehicle, vessel or aircraft to pass a defence access control point if:
 - (a) a person refuses to permit a search of a vehicle, vessel or aircraft requested by a defence security official under subsection (1); or
 - (b) as a result of the person complying with such a request, a defence security official reasonably believes that the vehicle, vessel or aircraft, or a thing in it:
 - (i) is not authorised to pass the defence access control point; or
 - (ii) constitutes a threat to the safety of persons on the defence premises; or
 - (iii) relates to a criminal offence committed, or that may be committed, on or in relation to the defence premises.

Additional powers if vehicle, vessel or aircraft is on defence premises

- (3) If a defence security official refuses to allow a vehicle, vessel or aircraft to pass a defence access control point under subsection (2),

Part VIA Security of defence premises

Division 3 Powers exercisable with consent at defence access control points and on defence premises

Section 71K

a defence security official may, if the vehicle, vessel or aircraft is on defence premises, restrain or detain any person in the vehicle, vessel or aircraft.

71K Consensual identification—person on defence premises

- (1) This section applies if:
 - (a) a person is on defence premises; and
 - (b) a defence security official reasonably believes that the person is not authorised to be on the premises.
- (2) The defence security official may request the person to provide evidence of the following:
 - (a) the person's name;
 - (b) the person's residential address;
 - (c) the person's authority to be on the defence premises.
- (3) A defence security official may restrain and detain a person if:
 - (a) the person refuses a request by a defence security official under subsection (2); or
 - (b) as a result of the person complying with such a request, a defence security official reasonably believes that the person:
 - (i) is not authorised to be on the defence premises; or
 - (ii) constitutes a threat to the safety of persons on the defence premises; or
 - (iii) has committed, or may commit, a criminal offence on, or in relation to, the defence premises.

Subdivision B—Special provisions for declared explosive ordnance depots

71L Declared explosive ordnance depots

- (1) A specified area of land or any other place (whether or not it is enclosed or built on), or a building or other structure, is a ***declared explosive ordnance depot*** if:

Section 71L

- (a) the area of land or the place, building or structure is specified in an instrument in force under subsection (2); and
 - (b) signs stating that it is a condition of entry to the area of land or the place, building or structure that a person consent to undergo searches as provided by this Subdivision are prominently displayed:
 - (i) at the entrance to the area of land or the place, building or structure; and
 - (ii) at regular intervals around the perimeter of the area of land or the place, building or structure.
- (2) The Minister may, by legislative instrument, specify an area of land or any other place (whether or not it is enclosed or built on), or a building or other structure if:
 - (a) the area of land or the place, building or structure is defence premises used wholly or partly for the storage of explosive ordnance; and
 - (b) members of the Defence Force are not normally present at the area of land or the place, building or structure.
- (3) An instrument under subsection (2) may specify more than one area of land, place, building or structure.
- (4) Each area of land, place, building or structure specified in an instrument under subsection (2) must be specified by reference to one of the following:
 - (a) its geographical location;
 - (b) a unique code or number.
- (5) If an area of land or a place, building or structure is specified by a unique code or number as mentioned in paragraph (4)(b), the code or number must correspond with a code or number that is held in the records of the Department as a code or number applicable to that area of land or that place, building or structure.

Section 71M

71M Consensual search—person on a declared explosive ordnance depot

- (1) A contracted defence security guard may request a person who is on a declared explosive ordnance depot to undergo a limited search.
- (2) A contracted defence security guard may restrain and detain a person if:
 - (a) the person refuses a request by a contracted defence security guard under subsection (1); or
 - (b) as a result of the person complying with such a request, a contracted defence security guard reasonably believes that the person:
 - (i) is not authorised to be on the declared explosive ordnance depot; or
 - (ii) constitutes a threat to the safety of persons on the defence explosive ordnance depot; or
 - (iii) has committed, or may commit, a criminal offence on, or in relation to, the defence explosive ordnance depot.

71N Consensual search—vehicle, vessel or aircraft on a declared explosive ordnance depot

- (1) A contracted defence security guard may request a person apparently in control of a vehicle, vessel or aircraft that is on a declared explosive ordnance depot to permit a search of the vehicle, vessel or aircraft.
- (2) A contracted defence security guard may restrain and detain any person in the vehicle, vessel or aircraft if:
 - (a) a person refuses to permit a search of the vehicle, vessel or aircraft requested under subsection (1); or
 - (b) as a result of a person complying with such a request, a contracted defence security guard reasonably believes that the vehicle, vessel or aircraft, or a thing in it:

- (i) is not authorised to be on the declared explosive ordnance depot; or
- (ii) constitutes a threat to the safety of persons on the declared explosive ordnance depot; or
- (iii) relates to a criminal offence committed, or that may be committed, on or in relation to the declared explosive ordnance depot.

71P Powers additional to other powers

To avoid doubt, this Subdivision does not limit any other power of a contracted defence security guard under this Part.

Subdivision C—Offences

71Q Offences—search powers exercised without consent

- (1) A defence security official commits an offence if:
 - (a) the defence security official conducts a limited search of a person purportedly under this Division; and
 - (b) the person did not consent to the search.

Penalty: 50 penalty units.

- (2) A defence security official commits an offence if:
 - (a) the defence security official conducts a search of a vehicle, vessel or aircraft purportedly under this Division; and
 - (b) the person apparently in control of the vehicle, vessel or aircraft did not consent to the search.

Penalty: 30 penalty units.

Division 4—Powers exercisable without consent at defence access control points and on defence premises

71R Non-consensual identification and search—person about to pass a defence access control point

Power to require identification etc.

- (1) A special defence security official may require a person who is about to pass a defence access control point to provide evidence of the following:
 - (a) the person's name;
 - (b) the person's residential address;
 - (c) the person's authority to pass the defence access control point.

Power to search at defence access control point on defence premises

- (2) A special defence security official may search a person who is about to pass a defence access control point on defence premises.

Note: If the defence access control point is not on defence premises, a defence security official may request the person to undergo a search under Division 3.

Power to refuse access etc.

- (3) A special defence security official may refuse to allow a person to pass a defence access control point if:
 - (a) the person refuses to comply with a requirement imposed by a special defence security official under subsection (1); or
 - (b) the person hinders or obstructs a search of the person by a special defence security official under subsection (2); or
 - (c) as a result of the person complying with such a requirement or undergoing such a search, a special defence security official reasonably believes that the person:

Section 71S

- (i) is not authorised to pass the defence access control point; or
- (ii) constitutes a threat to the safety of persons on the defence premises; or
- (iii) has committed, or may commit, a criminal offence on, or in relation to, the defence premises.

Additional powers if person is on defence premises

- (4) If a special defence security official refuses to allow a person to pass a defence access control point under subsection (3), a special defence security official may, if the person is on defence premises:
 - (a) restrain and detain the person; or
 - (b) request the person to leave the defence premises and, if he or she refuses, remove the person from the defence premises.

71S Non-consensual search—vehicle, vessel or aircraft about to pass a defence access control point

Power to search vehicles, vessels or aircraft

- (1) A special defence security official may search a vehicle, vessel or aircraft that is about to pass a defence access control point on defence premises.

Note: If the defence access control point is not on defence premises, a defence security official may request a search under Division 3.
- (2) A special defence security official may refuse to allow a vehicle, vessel or aircraft to pass a defence access control point if:
 - (a) a person hinders or obstructs a search of the vehicle, vessel or aircraft conducted by a special defence security official under subsection (1); or
 - (b) as a result of a search conducted under subsection (1), the official reasonably believes that the vehicle, vessel or aircraft, or a thing in it:
 - (i) is not authorised to pass the defence access control point; or

Part VIA Security of defence premises

Division 4 Powers exercisable without consent at defence access control points and on defence premises

Section 71T

- (ii) constitutes a threat to the safety of persons on the defence premises; or
- (iii) relates to a criminal offence committed, or that may be committed, on or in relation to the defence premises.

Additional powers if vehicle, vessel or aircraft is on defence premises

- (3) If a special defence security official refuses to allow a vehicle, vessel or aircraft to pass a defence access control point under subsection (2), a special defence security official may, if the vehicle, vessel or aircraft is on defence premises, restrain and detain any person in the vehicle, vessel or aircraft.

Note: For other powers in relation to persons in a vehicle, vessel or aircraft see section 71R.

71T Non-consensual identification and search—person on defence premises

When section applies

- (1) This section applies if:
 - (a) a person is on defence premises; and
 - (b) a special defence security official reasonably believes that the person:
 - (i) is not authorised to be on the premises; or
 - (ii) constitutes a threat to the safety of persons on the defence premises; or
 - (iii) has committed, or may commit, a criminal offence on, or in relation to, the premises.

Power to require identification etc.

- (2) A special defence security official may require the person to provide evidence of the following:
 - (a) the person's name;
 - (b) the person's residential address;

Section 71U

- (c) the person's authority to be on the defence premises.

Power to search

- (3) A special defence security official may search the person.

Power to restrain and detain, remove etc.

- (4) A special defence security official may:
- (a) restrain and detain the person; or
 - (b) request the person to leave the defence premises and if he or she refuses, remove the person from the defence premises.

71U Non-consensual search—vehicle, vessel or aircraft on defence premises

When section applies

- (1) This section applies if:
- (a) a vehicle, vessel or aircraft is on defence premises; and
 - (b) a special defence security official reasonably believes that the vehicle, vessel or aircraft:
 - (i) is not authorised to be on the premises; or
 - (ii) constitutes a threat to the safety of persons on the defence premises; or
 - (iii) relates to a criminal offence committed, or that may be committed, on or in relation to the defence premises.

Power to search

- (2) A special defence security official may search the vehicle, vessel or aircraft.

Power to restrain and detain

- (3) A special defence security official may restrain and detain any person in the vehicle, vessel or aircraft.

Part VIA Security of defence premises

Division 4 Powers exercisable without consent at defence access control points and on defence premises

Section 71V

71V Offence—refusing to provide evidence etc. required under this Division

A person commits an offence if:

- (a) a special defence security official requires the person to provide evidence under this Division; and
- (b) section 72B (which deals with the production of identity cards, etc.) was complied with in relation to the requirement; and
- (c) the person refuses or fails to provide the evidence, or gives a name or address that is false in a material particular; and
- (d) the person is on defence premises.

Penalty: 20 penalty units.

Note: An offence under this section is a *protective service offence* for the purposes of the *Australian Federal Police Act 1979*.

71W Offence—hindering or obstructing a search under this Division

A person commits an offence if the person hinders or obstructs a search under this Division, and:

- (a) if paragraphs 72B(3)(a) and (b) apply in relation to the search—at the time the person hindered or obstructed the search, the special defence security official who conducted the search had done the things referred to in subparagraphs 72B(3)(c)(i) and (ii); or
- (b) otherwise—subsection 72B(2) was complied with in relation to the search.

Penalty: 50 penalty units.

Note 1: An offence under this section is a *protective service offence* for the purposes of the *Australian Federal Police Act 1979*.

Note 2: Subsections 72B(2) and (3) deal with the production of identity cards before conducting a search.

Section 71X

71X Security authorised members of the Defence Force may respond to attack

- (1) This section applies if:
- (a) an attack on defence premises is occurring or is imminent;
and
 - (b) the attack is likely to, or is intended to, result in the death of or serious injury to one or more persons on the defence premises.
- (2) Subject to sections 72G and 72H, a security authorised member of the Defence Force may take action on defence premises to protect persons from the attack.

Note: Section 72G provides that defence security officials may use reasonable and necessary force in exercising powers under this Part. Section 72H provides that security authorised members of the Defence Force may, in limited circumstances involving an attack, do a thing that is likely to cause the death of, or grievous bodily harm to, another person. Other defence security officials are not so authorised (see subsection 72G(2)).

71Y Power to stop and detain

A special defence security official may stop and detain a person, or a vehicle, vessel or aircraft, for the purposes of exercising a power under this Division:

- (a) to require the person to provide evidence of particular matters; or
- (b) to search the person or the vehicle, vessel or aircraft.

71Z Powers are in addition to powers under this Part

To avoid doubt, a power conferred upon a special defence security official under this Division may be exercised in addition to a power conferred on the special defence security official under another Division of this Part.

Division 5—Seizure

72 Power to seize things on defence premises

- (1) A special defence security official may seize a thing (including a vehicle, vessel or aircraft or an unattended thing) on defence premises, or a thing found as a result of a search (including a limited search) under this Part, if the official believes on reasonable grounds that the thing may:
 - (a) constitute a threat to the safety of a person on the defence premises; or
 - (b) relate to a criminal offence committed, or that may be committed, on or in relation to the defence premises.
- (2) If a special defence security official seizes a thing under subsection (1):
 - (a) a security authorised member of the Defence Force may take such action as is reasonable and necessary to make the thing safe or prevent the thing being used; and
 - (b) if the official seized the thing from a person—a special defence security official must, if it is practicable to do so, give the person a receipt for the thing; and
 - (c) if the official believes on reasonable grounds that the thing has been used or otherwise involved in the commission of a criminal offence—a special defence security official must give the thing to a member or special member of the Australian Federal Police or a member of the police force of a State or Territory at the earliest practicable time; and
 - (d) if paragraph (c) does not apply:
 - (i) if the official seized the thing from a person and it is practicable to do so—a special defence security official must return the thing to the person within 7 days; or
 - (ii) otherwise—a special defence security official must give it to a member or special member of the Australian Federal Police or a member of the police force of a State or Territory at the earliest practicable time.

Division 6—Matters relating to exercise of powers under Part

72A Certain powers to be exercised only by security authorised members of the Defence Force unless not reasonably practicable

A power conferred upon a special defence security official under Division 4 (powers exercisable without consent) or Division 5 (seizure powers) may be exercised by a defence security screening employee only if it is not reasonably practicable in all the circumstances for the power to be exercised by a security authorised member of the Defence Force.

72B Defence security officials must produce identity cards, etc.

Production of identity card before making request or requirement

- (1) A defence security official is not entitled to make a request or requirement of a person under this Part unless, before making the request or requirement:
 - (a) the defence security official produces his or her identity card for inspection by the person; and
 - (b) the person is informed of the effect of refusal by the person to comply with the request or requirement.

Production of identity card before search

- (2) Subject to subsection (3), a defence security official is not entitled to conduct a search (including a limited search) of a person, or a vehicle, vessel or aircraft apparently under the control of a person, under this Part unless, before conducting the search:
 - (a) the defence security official produces his or her identity card for inspection by the person; and

Section 72B

- (b) if the search is under Division 4 (powers exercisable without consent)—the person is informed of the effect of hindering or obstructing the search.
- (3) A defence security official is not required to comply with subsection (2) before conducting a search of a person, or of a vehicle, vessel or aircraft apparently under the control of a person, if:
 - (a) the search is conducted under subsection 71R(2), 71S(1), 71T(3) or 71U(2); and
 - (b) a defence security official reasonably believes that the person, or the vehicle, vessel or aircraft, constitutes a threat to the safety of persons on the defence premises concerned; and
 - (c) as soon as practicable while conducting, or after conducting, the search:
 - (i) the defence security official who is conducting, or has conducted, the search produces his or her identity card for inspection by the person; and
 - (ii) the person is informed of the effect of hindering or obstructing the search.

Production of identity card before removal of a person

- (4) A defence security official is not entitled to exercise powers under this Part to remove a person from defence premises unless, before exercising the power, the official produces his or her identity card for inspection by the person.

Production of identity card as soon as practicable after detaining a person

- (5) A defence security official is not entitled to restrain and detain, or stop and detain, a person under this Part unless, as soon as practicable after restraining and detaining, or stopping and detaining, the person, the official produces his or her identity card for inspection by the person.

72C Persons to be informed of offence

- (1) A defence security official who, in accordance with this Part, exercises a power on the basis that the official reasonably believes that a person has committed, or may commit, a criminal offence must inform the person of the offence.
- (2) It is sufficient if the person is informed of the substance of the offence, and it is not necessary that this be done in language of a precise or technical nature.
- (3) Subsection (1) does not apply if:
 - (a) the person should, in the circumstances, know the substance of the offence; or
 - (b) the person's actions make it impracticable for the defence security official to inform the person of the offence.

72D Conduct of searches and limited searches

A search or a limited search of a person under this Part must, if practicable, be conducted by a person of the same sex as the person being searched.

72E Use of equipment to examine things etc.

For the purposes of conducting a search or a limited search of a person, or a search of a thing, under this Part or determining whether a thing may be seized under this Part, a defence security official may do one or more of the following:

- (a) use any equipment, including electronic equipment, reasonably necessary for the search or the limited search, or the examination or processing of the thing;
- (b) in the case of a thing that is on defence premises, and that a defence security official suspects on reasonable grounds:
 - (i) constitutes a threat to the safety of persons on the defence premises; or
 - (ii) relates to a criminal offence committed, or that may be committed, on or in relation to the defence premises;

Section 72F

move the thing to another part of the defence premises for immediate examination or processing;

- (c) use any equipment, including electronic equipment, to gain access to data stored on the thing;
- (d) obtain expert assistance to do a thing referred to in paragraph (a), (b) or (c).

72F Power to move certain unattended things on defence premises

If a thing is left unattended on defence premises as a result of, or in connection with, the exercise of a power under this Part, a defence security official may move the thing to another place if the defence security official reasonably believes that it is necessary or desirable to do so.

72G Use of reasonable and necessary force, etc. by defence security officials

Use of force—general rule

- (1) A defence security official may, subject to this section and section 72H, use such force against persons and things as is reasonable and necessary in the circumstances in exercising powers under this Part.

Limit on use of force—defence security guards and defence security screening employees

- (2) Despite subsection (1), a contracted defence security guard or a defence security screening employee must not, in using force against a person in exercising powers under this Part, do anything that is likely to cause the death of, or grievous bodily harm to, the person.

Note 1: For security authorised members of the Defence Force, see section 72H.

Note 2: This provision does not affect a person's rights under other laws: see section 72S.

Indignity

- (3) A defence security official must not, in exercising powers under this Part, subject the person to greater indignity than is reasonable and necessary in the circumstances.

72H Use of force involving death or grievous bodily harm by security authorised members of the Defence Force in responding to an attack

- (1) Despite subsection 72G(1), a security authorised member of the Defence Force must not, in using force against a person in exercising powers under this Part, do anything that is likely to cause the death of, or grievous bodily harm to, the person, unless the member believes on reasonable grounds that:
 - (a) doing that thing is necessary to prevent the death of, or serious injury to, another person (including the official); and
 - (b) the threat of death or injury is caused by an attack on defence premises, or on people on defence premises, that is occurring or is imminent.
- (2) In addition to the limitations in paragraphs (1)(a) and (b), if a person is attempting to escape being detained by fleeing, a security authorised member of the Defence Force must not, in exercising powers under this Part, do anything that is likely to cause the death of, or grievous bodily harm to, the person unless:
 - (a) the person has, if practicable, been called on to surrender; and
 - (b) the official believes on reasonable grounds that the person cannot be apprehended in any other manner.

72J Limit on power to restrain and detain

A provision of this Part that confers a power on a defence security official to restrain and detain a person is limited to a power to restrain and detain the person for the purpose of placing the person, at the earliest practicable time, in the custody of:

Section 72K

- (a) a member or special member of the Australian Federal Police; or
- (b) a member of the police force of a State or Territory; or
- (c) a protective service officer.

72K Limit on power to arrest

If a member of the Defence Force arrests a person under section 72P (which deals with trespass), he or she must, as soon as practicable after the arrest, bring the person, or cause the person to be brought, before:

- (a) a member or special member of the Australian Federal Police; or
- (b) a member of the police force of a State or Territory.

Note 1: The *Crimes Act 1914* provides for arrest powers of police officers and how arrested persons are to be dealt with.

Note 2: The *Australian Federal Police Act 1979* provides for arrest powers of protective service officers and how arrested persons are to be dealt with.

72L Powers not to be used to stop protests etc.

In exercising powers under this Part, a defence security official must not stop or restrict any protest, dissent, assembly or industrial action, unless there is a reasonable likelihood of:

- (a) death of, or serious injury to, persons; or
- (b) the commission of a criminal offence.

72M Security authorised members of the Defence Force may use dogs

A security authorised member of the Defence Force may, if the security authorised member considers it is reasonably necessary to do so, use a dog:

- (a) to assist a defence security official to conduct a search (including a limited search) under this Part; or

- (b) to assist a defence security official to restrain or detain, or remove, a person under this Part; or
- (c) to assist a member of the Defence Force to arrest a person under section 72P (which deals with trespass); or
- (d) to assist a defence security official to perform a function or exercise a power under this Part.

72N Persons assisting defence security officials

- (1) A defence security official may, in exercising powers under any of the following provisions, be assisted by other persons if that assistance is necessary and reasonable:
 - (a) subsection 71J(1) (search of a vehicle, etc. with consent);
 - (b) subsection 71N(1) (search of a vehicle, etc. on declared explosive ordnance depot);
 - (c) subsection 71S(1) (search of a vehicle, etc. without consent);
 - (d) subsection 71U(2) (search of a vehicle, etc. without consent);
 - (e) section 72E (use of equipment, etc.);
 - (f) section 72F (moving things, etc.).
- (2) A person giving such assistance is a *person assisting* the defence security official.
- (3) A person assisting the defence security official may exercise the powers of the defence security official, but only in accordance with a direction given to the person by the defence security official.
- (4) A power exercised by a person assisting the defence security official as mentioned in subsection (3) is taken for all purposes to have been exercised by a defence security official.
- (5) If a direction is given under subsection (3) in writing, the direction is not a legislative instrument.

Division 7—Other matters

72P Unauthorised entry etc. on defence premises or defence accommodation

- (1) A person commits an offence if:
 - (a) the person enters or is on:
 - (i) defence premises; or
 - (ii) defence accommodation; and
 - (b) the person is not authorised to be on the premises or accommodation.

Penalty: 50 penalty units.

Note: An offence under this section is a *protective service offence* for the purposes of the *Australian Federal Police Act 1979*.

- (2) A member of the Defence Force, a member or special member of the Australian Federal Police, a protective service officer or a member of the police force of a State or Territory may, without warrant, arrest any person if the member reasonably believes that the person has committed an offence against subsection (1).
- (3) Nothing in this section prevents the arrest of a person in accordance with any other law.

72Q Certain information may be collected and provided to law enforcement agencies etc.

- (1) The Department, the Defence Force or a contracted security guard may, on defence premises, collect information, including personal information, by means of an optical surveillance device.
- (2) The Department or the Defence Force may disclose information collected under subsection (1) to one or more of the following persons or bodies, for the purposes of the performance of the functions of the person or body:
 - (a) an intelligence or security agency;

Section 72R

- (b) the Australian Federal Police or the police force of a State or Territory;
 - (c) the Director of Public Prosecutions of the Commonwealth or a State or Territory.
- (3) A disclosure of personal information under subsection (2) is taken to be authorised by this Act for the purposes of Australian Privacy Principle 6.
- Note: Australian Privacy Principle 6 applies to further disclosures of the personal information.
- (4) This provision has effect despite any law of the Commonwealth or of a State or Territory.

72R Compensation for acquisition of property

- (1) If, apart from this section, the operation of this Part would result in the acquisition of property from a person otherwise than on just terms, the Commonwealth is liable to pay reasonable compensation to the person.
- (2) If the Commonwealth and the person do not agree on the amount of the compensation, the person may apply to the Federal Court to determine a reasonable amount of compensation.
- (3) The jurisdiction of the Federal Court is exclusive of the jurisdiction of all other courts except that of the High Court.
- (4) In this section:

acquisition of property and *just terms* have the same meaning as in paragraph 51(xxxi) of the Constitution.

72S Other powers not affected

- (1) This Part does not, by implication, limit the exercise of the powers, or the rights, of a defence security official, a member of the Defence Force or any other person:
 - (a) under this Act; or

Part VIA Security of defence premises

Division 7 Other matters

Section 72S

- (b) under any other law (including the common law); or
 - (c) otherwise in the performance of his or her duties as a defence security official, a member of the Defence Force or otherwise.
- (2) Without limiting subsection (1), this Part does not affect any right of an owner or occupier of premises to refuse to allow a person to enter, or remain on, the premises.
- (3) Without limiting subsection (1), this Part does not affect any right of a person to defend himself or herself or another person.

Part VIB—The Woomera Prohibited Area

72T Definitions

In this Part:

Aboriginal person means a person of the Aboriginal race of Australia.

acquisition of property has the same meaning as in paragraph 51(xxxi) of the Constitution.

Anangu Pitjantjatjara Yankunytjatjara lands means the lands within the meaning of the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981* (SA).

Industry Minister means the Minister administering the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.

just terms has the same meaning as in paragraph 51(xxxi) of the Constitution.

Maralinga Tjarutja lands means the lands within the meaning of the *Maralinga Tjarutja Land Rights Act 1984* (SA).

Minister's permission means permission under section 72TF.

pastoral lease means a lease over land in the Woomera Prohibited Area held under the *Pastoral Land Management and Conservation Act 1989* (SA).

permission has the meaning given by subsection 72TC(3).

permit means a permit under the Rules.

Rules means the Woomera Prohibited Area Rules made under section 72TP.

Section 72TA

standing permission means permission provided by the Rules under section 72TD.

this Part includes the Rules.

traditional owner:

- (a) in relation to the Maralinga Tjarutja lands, means a traditional owner within the meaning of the *Maralinga Tjarutja Land Rights Act 1984* (SA); and
- (b) in relation to the Anangu Pitjantjatjara Yankunytjatjara lands, means a traditional owner within the meaning of the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981* (SA).

Woomera Prohibited Area means the area prescribed under subsection 72TA(1).

72TA The Woomera Prohibited Area

- (1) The Rules may prescribe an area as the Woomera Prohibited Area.
- (2) The area:
 - (a) must be intended for use for the purposes of testing war materiel; and
 - (b) may be used for those purposes.
- (3) The Rules may, for the purposes of this Part:
 - (a) prescribe zones within the Woomera Prohibited Area; and
 - (b) make provision for exclusion periods within those zones.

72TB Application of this Part and Part VII of the *Defence Force Regulations 1952*

- (1) After the commencement of this Part, Part VII of the *Defence Force Regulations 1952* applies only to the following:
 - (a) an Aboriginal person in the Woomera Prohibited Area exercising native title rights or rights under the *Native Title Act 1993*;
 - (b) an Aboriginal person in the Woomera Prohibited Area:

Section 72TB

- (i) exercising rights under section 47 of the *Pastoral Land Management and Conservation Act 1989* (SA); or
 - (ii) exercising rights under the *Aboriginal Heritage Act 1988* (SA), or involved in the protection of sites, objects or remains protected under that Act;
- (c) a traditional owner in the Woomera Prohibited Area for purposes related to the Maralinga Tjarutja lands;
- (d) a traditional owner in the Woomera Prohibited Area for purposes related to the Anangu Pitjantjatjara Yankunytjatjara lands;
- (e) a person in the Woomera Prohibited Area who is employed or engaged by, or is acting for, or on behalf of, a person covered by paragraphs (a) to (d);
- (f) a person in the Woomera Prohibited Area who is accompanied by a person covered by paragraphs (a) to (e);
- (g) an Aboriginal person who:
 - (i) has been invited onto the Maralinga Tjarutja lands or Anangu Pitjantjatjara Yankunytjatjara lands; and
 - (ii) is in the Woomera Prohibited Area for purposes related to the invitation;
- (h) a person in the Woomera Prohibited Area who is acting for, or on behalf of, South Australia;
- (i) a person in the Woomera Prohibited Area who is accompanied by a person covered by paragraph (h);
- (j) a person who:
 - (i) holds a pastoral lease (whether the person's interest in the lease was acquired before or after the commencement of this Part); and
 - (ii) is in the Woomera Prohibited Area for purposes related to the lease;
- (k) a person who:
 - (i) is employed or engaged by, or is acting for, or on behalf of, a person who holds a pastoral lease; and
 - (ii) is in the Woomera Prohibited Area for purposes related to the lease;

Section 72TC

- (l) a person in the Woomera Prohibited Area who is accompanied by a person covered by paragraph (j) or (k);
 - (m) a person who:
 - (i) is the owner or operator of the Tarcoola to Darwin railway; and
 - (ii) is in the Woomera Prohibited Area for purposes related to the operation of the railway;
 - (n) a person who:
 - (i) is employed or engaged by, or is acting for, or on behalf of, a person who is the owner or operator of the Tarcoola to Darwin railway; and
 - (ii) is in the Woomera Prohibited Area for purposes related to the operation of the railway;
 - (o) a person in the Woomera Prohibited Area who is accompanied by a person covered by paragraph (m) or (n);
 - (p) a person who has authority for the purposes of Part VII of the *Defence Force Regulations 1952* to be at a place in the Woomera Prohibited Area and the authority was given before the commencement of this Part.
- (2) If Part VII of the *Defence Force Regulations 1952* applies to the person, this Part does not apply to the person.

Effect of permit on existing authority

- (3) Subsections (1) and (2) do not prevent a person from applying for a permit.
- (4) Authority for the purposes of Part VII of the *Defence Force Regulations 1952* for a person to be at a place in the Woomera Prohibited Area is revoked to the extent that a permit provides (or provided) permission for the person to be at the place.

72TC Offence—being in the Woomera Prohibited Area without permission

- (1) A person commits an offence if:
- (a) the person is not:

Section 72TD

- (i) a member of the Defence Force; or
- (ii) the Secretary; or
- (iii) an APS employee in the Department; and
- (b) the person is at a place in the Woomera Prohibited Area.

Penalty: Imprisonment for 2 years or 120 penalty units, or both.

- (2) Subsection (1) does not apply if the person has permission to be at the place.
- (3) The person has *permission* to be at the place if:
 - (a) a standing permission provides permission for the person to be at the place; or
 - (b) a permit provides permission for the person to be at the place; or
 - (c) the person has the Minister's permission to be at the place.

72TD Standing permission

- (1) The Rules may provide permission for a person to be at a place in the Woomera Prohibited Area.
- (2) The permission may be subject to conditions set out in the Rules.
- (3) The Rules may make provision for, and in relation to, other matters in relation to standing permission.

72TE Permits

- (1) The Rules may make provision for, and in relation to, permits that provide permission for persons to be at places in the Woomera Prohibited Area.
- (2) The Rules may make provision in relation to the following:
 - (a) the purposes for which permits may be issued;
 - (b) applying for permits;
 - (c) issuing and renewing permits;
 - (d) suspending and cancelling permits;

Section 72TF

- (e) conditions to which permits are subject.
- (3) Subsection (2) does not limit subsection (1).

72TF Minister's permission

- (1) The Minister may, on request, give written permission for a person to be at a place in the Woomera Prohibited Area.
- (2) The permission must:
 - (a) specify the person by name; and
 - (b) be given in accordance with any requirements set out in the Rules.
- (3) The permission may be subject to one or more of the following:
 - (a) conditions imposed by the Minister and set out in the permission;
 - (b) conditions set out in the Rules.
- (4) The Rules may make provision for, and in relation to, other matters in relation to Minister's permission.

72TG Offence—failing to comply with conditions

- (1) A person commits an offence if:
 - (a) the person has permission to be at a place in the Woomera Prohibited Area; and
 - (b) the person does, or refuses or fails to do, an act or thing; and
 - (c) doing, or refusing or failing to do, the act or thing results in a failure to comply with a condition of the permission.

Penalty: 60 penalty units.

- (2) Subsection (1) is an offence of strict liability.

Note: See also section 72TO (about infringement notices for a contravention of this section).

72TH Minister may suspend permission

- (1) The Minister may suspend a permission if the Minister considers it necessary for the purposes of the defence of Australia.
- (2) The suspension must be:
 - (a) in writing; and
 - (b) in accordance with any requirements set out in the Rules.
- (3) A suspension under subsection (1) is not a legislative instrument.

72TJ Minister may give directions

- (1) The Minister may direct a person to do, or not to do, one or more specified acts or things in relation to the Woomera Prohibited Area if the Minister considers it necessary:
 - (a) for the purposes of the defence of Australia; or
 - (b) to protect human life.
- (2) The direction may include one or more of the following:
 - (a) a direction to leave a place or an area;
 - (b) a direction to move, or remove, property or livestock;
 - (c) a direction to secure buildings.
- (3) Subsection (2) does not limit subsection (1).
- (4) A direction made in writing under subsection (1) is not a legislative instrument.

Offence—failing to comply with direction

- (5) A person commits an offence if:
 - (a) the person is given a direction under subsection (1); and
 - (b) the person refuses or fails to comply with the direction.

Penalty: Imprisonment for 5 years or 300 penalty units, or both.

Section 72TK

72TK Compensation for acquisition of property

- (1) If the operation of this Part would result in an acquisition of property from a person otherwise than on just terms, the Commonwealth is liable to pay a reasonable amount of compensation to the person.
- (2) If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in a court of competent jurisdiction for the recovery from the Commonwealth of such reasonable amount of compensation as the court determines.

72TL Compensation for loss or damage

The Rules may limit amounts payable by the Commonwealth in respect of loss or damage in the Woomera Prohibited Area arising from a breach of a common law or statutory duty of care in relation to the use of the Woomera Prohibited Area for the purposes of testing war materiel.

72TM Review of decisions

Internal review

- (1) A person whose interests are affected by any of the following decisions may, by writing, apply to the Minister for a review of the decision:
 - (a) a decision under section 72TF to give, or not to give, written permission for a person to be at a place in the Woomera Prohibited Area;
 - (b) a decision to suspend a permission under section 72TH;
 - (c) a decision to give a direction under section 72TJ.
- (2) On application for review of the decision, the Minister must:
 - (a) review the decision; and
 - (b) confirm, vary or revoke the decision.

Section 72TN

- (3) Within 20 business days after receiving the application, the Minister must give the person written notice of the decision on the review.

AAT review

- (4) Applications may be made to the Administrative Appeals Tribunal for review of decisions of the Minister on the review of a decision under section 72TF to give, or not to give, written permission for a person to be at a place in the Woomera Prohibited Area.
- (5) To avoid doubt, a decision under section 72TF to give written permission for a person to be at a place in the Woomera Prohibited Area includes a decision to give such permission subject to conditions imposed by the Minister.

72TN Delegation

- (1) The Minister, by writing, may delegate his or her power under section 72TF (Minister's permission) to:
- (a) an APS employee who holds or performs the duties of an APS 6 position, or an equivalent or higher position, in the Department; or
 - (b) an officer of the Navy who holds the rank of Commander or a higher rank; or
 - (c) an officer of the Army who holds the rank of Lieutenant-Colonel or a higher rank; or
 - (d) an officer of the Air Force who holds the rank of Wing Commander or a higher rank.
- (2) The Minister, by writing, may delegate his or her power under paragraph 72TJ(1)(b) (direction to protect human life) to:
- (a) an APS employee who holds or performs the duties of an Executive Level 2 position, or an equivalent or higher position, in the Department; or
 - (b) an officer of the Navy who holds the rank of Captain or a higher rank; or

Section 72TO

- (c) an officer of the Army who holds the rank of Colonel or a higher rank; or
 - (d) an officer of the Air Force who holds the rank of Group Captain or a higher rank.
- (3) The Minister, by writing, may delegate his or her power under section 72TM to review the following decisions to an APS employee who holds or performs the duties of an SES Band 2 position, or an equivalent or higher position, in the Department:
 - (a) a decision under section 72TF to give, or not to give, written permission for a person to be at a place in the Woomera Prohibited Area;
 - (b) a decision to give a direction under paragraph 72TJ(1)(b) (direction to protect human life).

72TO Infringement notices

Provisions subject to an infringement notice

- (1) A strict liability offence against subsection 72TG(1) is subject to an infringement notice under Part 5 of the Regulatory Powers Act.

Note: Part 5 of the Regulatory Powers Act creates a framework for using infringement notices in relation to provisions.

Infringement officer

- (2) The Secretary may, by written instrument, appoint one or more of the following persons to be an infringement officer:
 - (a) a member of the Defence Force;
 - (b) an APS employee in the Department.

For the purposes of Part 5 of the Regulatory Powers Act, a person so appointed is an infringement officer in relation to the provision mentioned in subsection (1).

Section 72TO

Relevant chief executive

- (3) For the purposes of Part 5 of the Regulatory Powers Act, the Secretary is the relevant chief executive in relation to the provision mentioned in subsection (1).
- (4) The Secretary may, in writing, delegate his or her powers and functions as the relevant chief executive in relation to the provision mentioned in subsection (1) to:
 - (a) an APS employee who holds or performs the duties of an Executive Level 1 position, or an equivalent or higher position, in the Department; or
 - (b) an officer of the Navy who holds the rank of Commander or a higher rank; or
 - (c) an officer of the Army who holds the rank of Lieutenant-Colonel or a higher rank; or
 - (d) an officer of the Air Force who holds the rank of Wing Commander or a higher rank.

Additional matters to be included in infringement notices

- (5) In addition to the matters mentioned in subsection 104(1) of the Regulatory Powers Act, an infringement notice given in relation to an alleged contravention of the provision mentioned in subsection (1) of this section must also state that demerit points may be incurred if:
 - (a) the amount payable under the notice is paid; or
 - (b) the person is convicted or found guilty of the alleged contravention.

Withdrawal of an infringement notice

- (6) Despite subparagraph 106(3)(b)(i) of the Regulatory Powers Act, when deciding whether or not to withdraw an infringement notice given to a person, the Secretary may take into account whether a court has previously imposed a penalty on the person for a contravention of section 72TC, 72TG or 72TJ of this Act.

Section 72TP

Effect of payment of amount

- (7) In addition to the matters mentioned in subsection 107(1) of the Regulatory Powers Act, if the person to whom an infringement notice is given for an alleged contravention of the provision mentioned in subsection (1) of this section pays the amount stated in the notice before the end of the period referred to in paragraph 104(1)(h) of that Act, demerit points may be incurred in accordance with Part 7 of the Rules.

Extension to external Territories

- (8) Part 5 of the Regulatory Powers Act, as it applies in relation to the provision mentioned in subsection (1), extends to every external Territory.

72TP The Woomera Prohibited Area Rules

- (1) The Minister may, by legislative instrument and with the agreement of the Industry Minister, make Woomera Prohibited Area Rules prescribing matters:
- (a) required or permitted by this Part to be prescribed by the Rules; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Part.
- (2) Without limiting subsection (1), the Rules may:
- (a) prescribe fees for doing any act or providing any service for the purposes of this Part and prescribe the circumstances and ways in which fees can be refunded, waived or reduced; and
 - (b) make provision for, and in relation to, the review of decisions made under this Part or the Rules.
- (3) A fee prescribed under paragraph (2)(a) must not be such as to amount to taxation.

Demerit points

- (6) The Rules may establish a demerit points system under which a permit may be suspended or cancelled if the holder of the permit accrues a prescribed number of demerit points.

Part VII—Offences

73A Unlawfully giving or obtaining information as to defences

- (1) A person who is a member of the Defence Force or a person appointed or engaged under the *Public Service Act 1999* commits an offence if:
 - (a) the person communicates to any other person any plan, document, or information relating to any fort, battery, field work, fortification, or defence work, or to any defences of the Commonwealth, or to any factory, or air force aerodrome or establishment or any other naval, military or air force information; and
 - (b) the communication is not in the course of the first-mentioned person's official duty.
- (2) A person commits an offence if:
 - (a) the person obtains any plan, document, or information relating to any fort, battery, field work, fortification, or defence work, or air force aerodrome or establishment, or to any of the defences of the Commonwealth or any other naval, military or air force information; and
 - (b) that conduct is unlawful.

73F Penalty

- (1) An offence under section 73A may be prosecuted either summarily or upon indictment, but an offender shall not be liable to be punished more than once in respect of the same offence.
- (2) The punishment for an offence under section 73A shall be:
 - (a) if the offence is prosecuted summarily—imprisonment for a period not exceeding 6 months or a fine not exceeding 2 penalty units, or both; or, in the case of a body corporate, a fine not exceeding 20 penalty units; or

- (b) if the offence is prosecuted upon indictment—a fine of any amount or imprisonment for any term, or both.

79 Unlawfully disposing of arms etc.

- (1) Any person who:

- (a) unlawfully disposes of or removes or
- (b) fails to deliver up when lawfully required so to do or
- (c) has in his or her possession;

any arms accoutrements or other naval, military or air-force articles belonging to the Commonwealth or to any corps, unit or station, shall be liable to a penalty not exceeding \$40, and may be ordered by the Court by which he or she is tried to be imprisoned for a period not exceeding 3 months unless in the meantime he or she delivers up the article or pays its value.

- (1AA) An offence under subsection (1) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (1AB) Paragraph (1)(c) does not apply if the person proves that he or she had lawful cause for possessing the thing in question.

Note: The defendant bears a legal burden in relation to the matter in subsection (1AB). See section 13.4 of the *Criminal Code*.

- (1A) In any prosecution under this section for failure to deliver up when lawfully required so to do any arms, accoutrements or other naval, military or air-force articles belonging to the Commonwealth or to any corps, unit or station:

- (a) if it is proved to the satisfaction of the Court that any such article was in the possession of the defendant at any time prior to the time at which he or she was required to deliver up the article, he or she shall be deemed, in the absence of proof by him or her of the lawful disposal of the article, to have continued in possession of the article up to the time when he or she was required to deliver up the article; and
- (b) inability to deliver up the article shall not be a defence unless the defendant proves to the satisfaction of the Court that such

Section 80A

inability did not arise from any negligence or wrongful act or omission on his or her part.

Note: The defendant bears a legal burden in relation to the matter in paragraph (1A)(b). See section 13.4 of the *Criminal Code*.

- (2) When an order has been made under this section the Court may by warrant in writing authorize any member or special member of the Australian Federal Police or member of the Police Force of a State or Territory to take possession of the article and to deliver it to an officer or as the Court thinks fit to direct.
- (3) Any member or special member of the Australian Federal Police or member of the Police Force of a State or Territory having any warrant under this section may in the day time enter any building, premises, or place where the article is or is supposed to be, and may break open any part of the building, premises, or place, or any chest, receptacle, or thing therein, and may seize or take possession of the article and deliver it in accordance with the warrant.

80A Falsely representing to be returned soldier, sailor or airman

- (1) A person commits an offence if:
 - (a) the person represents himself or herself to be a returned soldier, sailor or airman; and
 - (b) the representation is false.
- Penalty: 30 penalty units or imprisonment for 6 months, or both.
- (2) For the purposes of this section:
 - (a) **returned soldier** means a person who has served abroad during any war as a member of any Military Force raised in Australia or in any other part of the British Empire, or as a member of the Military Forces of any Ally of Great Britain;
 - (b) **returned sailor** means a person who has served abroad during any war as a member of any Naval Force raised in Australia or in any other part of the British Empire, or as a member of the Naval Forces of any Ally of Great Britain; and

Section 80B

- (c) ***returned airman*** means a person who has served abroad during any war as a member of any Air Force, air service or flying corps raised in Australia or in any other part of the British Empire or as a member of the air forces of any Ally of Great Britain.

80B Improper use of service decorations

- (1) A person commits an offence if:
- (a) the person wears a service decoration; and
 - (b) the person is not the person on whom the decoration was conferred.

Penalty: 30 penalty units or imprisonment for 6 months, or both.

- (2) Where the person upon whom a service decoration was conferred has died, it is not an offence against subsection (1) for a member of the family of that person to wear the service decoration if the member of the family does not represent himself or herself as being the person upon whom the decoration was conferred.

Note: The defendant bears an evidential burden in relation to the matter in subsection (2). See subsection 13.3(3) of the *Criminal Code*.

- (3) It is not an offence against subsection (1) for a person to wear a service decoration in the course of a dramatic or other visual representation (including such a representation to be televised) or in the making of a cinematograph film.

Note: The defendant bears an evidential burden in relation to the matter in subsection (3). See subsection 13.3(3) of the *Criminal Code*.

- (4) A person shall not falsely represent himself or herself as being the person upon whom a service decoration has been conferred.

Penalty: 30 penalty units or imprisonment for 6 months, or both.

- (5) A person shall not deface or destroy, by melting or otherwise, a service decoration.

Penalty: 60 penalty units or imprisonment for 12 months, or both.

Section 82

82 Sketching etc. of fortifications prohibited

(1) If:

- (a) a person makes a sketch, drawing, photograph, picture or painting of any defence installation in Australia or of any part of one; and
- (b) the person has no lawful authority to do so;

then:

- (c) the person commits an offence; and
- (d) all sketches, drawings, photographs, pictures, and paintings, and all tools and all materials or apparatus for sketching, drawing, photographing or painting found in his or her possession are forfeited and may be destroyed, sold, or otherwise disposed of, as the Governor-General directs.

(1A) The maximum penalty for an offence under subsection (1) is imprisonment for 6 months or a fine of 2 penalty units, or both.

(2) If:

- (a) a person enters or approaches any defence installation with sketching, drawing, photographing, or painting materials or apparatus in his or her possession; and
- (b) the person has no lawful authority for that conduct; and
- (c) the person intends to contravene subsection (1);

then:

- (d) the person commits an offence; and
- (e) all tools and all materials or apparatus for sketching, drawing, photographing or painting found in his or her possession are forfeited and may be destroyed, sold, or otherwise disposed of, as the Governor-General directs.

(2A) The maximum penalty for an offence under subsection (2) is a fine of 1 penalty unit.

(4) Any member of the Defence Force, member or special member of the Australian Federal Police or member of the Police Force of a State or Territory, may, without warrant, arrest any person who he or she has reasonable ground to believe has committed an offence

against this section, and take the person before a Court of summary jurisdiction to be dealt with according to law.

(5) In this section:

defence installation means any fort, battery, fieldwork, fortification, aircraft, air force establishment or aircraft material or any naval, military or air force work of defence.

83 Unauthorised use, possession or supply of emblems or flags

- (1) A person who is not a member of the Defence Force commits an offence if:
- (a) the person uses or wears a defence emblem or an emblem so nearly resembling a defence emblem as to be capable of being mistaken for such an emblem; and
 - (b) the person does not have the written authority of the Minister, or of a person authorised in writing by the Minister, to do so.

Penalty: 2 penalty units.

- (2) A person commits an offence if:
- (a) the person makes, supplies or offers to supply a defence emblem or an emblem so nearly resembling a defence emblem as to be capable of being mistaken for such an emblem; and
 - (b) the person does not have the written authority of the Minister, or of a person authorised in writing by the Minister, to do so.

Penalty: 5 penalty units.

- (3) A person commits an offence if:
- (a) the person flies or displays a defence flag; and
 - (b) the person is not a member of the Defence Force acting in the course of his or her duties; and

Section 83

- (c) the person does not have the written authority of the Minister, or of a person authorised in writing by the Minister, to do so.

Penalty: 2 penalty units.

- (3A) An authority under subsection (1), (2) or (3) shall be subject to such limitations (if any) as are specified in the authority.
- (4) A person on whose behalf or at whose place of business an article is supplied or offered in contravention of this section, whether contrary to the instructions of that person or not, commits an offence, and shall, on conviction, be liable to a fine not exceeding 2 penalty units.
- (4A) An offence under subsection (4) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (5) It is not an offence against this section for a person to use or wear a defence emblem or fly a defence flag in the course of a dramatic or other visual representation (including such a representation to be televised) or in the making of a cinematograph film.

Note: The defendant bears an evidential burden in relation to the matter in subsection (5). See subsection 13.3(3) of the *Criminal Code*.

- (6) Where an offence against this section has been committed, the court may, if it thinks fit, order the forfeiture of any emblem or flag in respect of which that offence was committed.
- (7) In this section:

defence emblem means an emblem of the Defence Force or an arm of the Defence Force.

defence flag means a flag of the Defence Force or an arm of the Defence Force.

emblem includes a badge, a regimental or other similar distinctive mark, an armlet or an accoutrement.

flag includes an ensign or a standard.

84 Penalty for bringing contempt on uniform

- (1) Any person who wears any uniform of the Defence Force, or any dress having the appearance or bearing any of the regimental or other distinctive marks of any such uniform, in such a manner or under such circumstances as to be likely to bring contempt upon that uniform, shall be liable to a penalty not exceeding 2 penalty units.
- (2) An offence under this section is an offence of strict liability.

Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

Part VIII—Offences in relation to service tribunals

86 Failure of witness to appear

- (1) A person commits an offence if:
- (a) the person has been served with a summons under the *Defence Force Discipline Act 1982* to appear as a witness before a service tribunal; and
 - (b) the person:
 - (i) fails to appear as required by the summons; or
 - (ii) fails to appear and report himself or herself from day to day and has not been excused or released by the tribunal from further attendance.

Penalty: Imprisonment for 6 months or 10 penalty units, or both.

- (2) An offence under this section is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (3) Subsection (1) does not apply if the person has a reasonable excuse.

Note: The defendant bears an evidential burden in relation to the matter in subsection (3). See subsection 13.3(3) of the *Criminal Code*.

88 False or misleading evidence

A person who is appearing as a witness before a service tribunal commits an offence if:

- (a) the person gives evidence; and
- (b) the evidence is false or misleading; and
- (c) the person knows that the evidence is false or misleading.

Penalty: Imprisonment for 6 months or 10 penalty units, or both.

89 Contempt of service tribunals etc.

- (1) A person shall not:
- (a) insult a member of a court martial, a judge advocate, a Defence Force magistrate or a summary authority in or in relation to the exercise of his or her powers or functions as such a member, judge advocate, magistrate or authority, as the case may be;
 - (b) interrupt the proceedings of a service tribunal;
 - (c) create a disturbance or take part in creating or continuing a disturbance in or near a place where a service tribunal is sitting; or
 - (d) do any other act or thing that would, if a service tribunal were a court of record, constitute a contempt of that court.

Penalty: Imprisonment for 6 months or 10 penalty units.

- (1A) An offence under this section is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (2) In this section:

judge advocate has the same meaning as in the *Defence Force Discipline Act 1982*.

summary authority has the same meaning as in the *Defence Force Discipline Act 1982*.

90 Failure to comply with order under section 140 of the *Defence Force Discipline Act 1982*

- (1) A person commits an offence if:
- (a) an order under section 140 of the *Defence Force Discipline Act 1982* applies to the person; and
 - (b) the person contravenes or fails to comply with the order.

Penalty: Imprisonment for 6 months or 10 penalty units, or both.

Section 90

- (2) In paragraph (1)(a), strict liability applies to the physical element of circumstance, that the order is under section 140 of the *Defence Force Discipline Act 1982*.

Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

Part VIIIA—Testing for prohibited substances

Division 1—Preliminary

91 Application of Part

This Part applies to the following persons:

- (a) defence members;
- (b) defence civilians.

92 Object of Part

The object of this Part is to make provision for the testing of persons to whom this Part applies to determine whether they have used any prohibited substance.

93 Definitions

In this Part, unless the contrary intention appears:

accredited laboratory means a laboratory or other body, or a person, specified in the Defence Instructions to be an accredited laboratory for the purposes of this Part.

authorised person means a person determined under section 93A to be an authorised person for the purposes of the provision of this Part in which the expression occurs.

defence civilian has the same meaning as in the *Defence Force Discipline Act 1982*.

defence member has the same meaning as in the *Defence Force Discipline Act 1982*.

positive test result, in relation to a prohibited substance test in respect of a person, means a finding by an accredited laboratory that the test in respect of the person reveals:

Section 93A

- (a) the presence of a prohibited substance in a sample provided by the person, or otherwise reveals the use by the person of a prohibited substance; and
- (b) if a permitted level for that substance is specified in the Defence Instructions—that the permitted level has been exceeded.

prohibited substance means a substance that is a prohibited substance because of a determination under subsection 93B(1).

prohibited substance test means:

- (a) urinalysis; or
- (b) another test that:
 - (i) is for the purpose of determining whether a person has used a prohibited substance, whether by means of testing a sample provided by the person or by other means; and
 - (ii) is a prohibited substance test because of a determination under subsection 93B(2).

sample means:

- (a) any human biological fluid; or
- (b) any human biological tissue (whether alive or otherwise); or
- (c) any human breath.

terminate the service of a person to whom this Part applies means:

- (a) if the person is a defence member—terminate the service of the member; or
- (b) if the person is a defence civilian—terminate the arrangement under which the person is a defence civilian.

93A Authorised person

The Chief of the Defence Force may, by written instrument, determine that a person is an authorised person for the purposes of a provision of this Part.

93B Determinations about prohibited substances and prohibited substance tests

- (1) The Chief of the Defence Force may, by legislative instrument, determine that a substance, or a substance included in a class of substances, is a prohibited substance for the purposes of this Part.
- (2) The Chief of the Defence Force may, by legislative instrument, determine that a test, or a test included in a class of tests, is a prohibited substance test for the purposes of this Part.

Division 2—Testing for prohibited substances

94 Requirement to undergo a prohibited substance test

An authorised person may require a person to whom this Part applies:

- (a) to undergo a prohibited substance test; and
- (b) if the prohibited substance test involves testing a sample—to provide a sample for the purposes of the test.

95 Conduct of testing

- (1) The conduct of a prohibited substance test under section 94 must be supervised by an authorised person.
- (2) A prohibited substance test:
 - (a) must be conducted in circumstances affording reasonable privacy to the person being tested; and
 - (b) must not, subject to subsection (4), be conducted in the presence of a person whose presence is not necessary for the purposes of conducting or supervising the test; and
 - (c) must not involve:
 - (i) the removal of more clothing; or
 - (ii) more visual inspection;than is necessary for the purposes of conducting the test.
- (3) The person being tested may request that the test be conducted in the presence of one particular person (in addition to any person whose presence is necessary for the purposes of conducting or supervising the test).
- (4) If the person being tested makes such a request, the test may be conducted in the presence of the person requested.
- (5) To avoid doubt, the test may be conducted even if the requested person is not present.

96 Notice to person required to provide a sample

If a person is required to provide a sample for the purposes of a prohibited substance test under section 94, the authorised person supervising the test must, before the sample is provided, give to the person a written notice explaining such matters relating to dealing with the sample as are specified in the Defence Instructions.

Division 3—Return of a positive test result

98 Application

- (1) This Division applies if a prohibited substance test in respect of a person returns a positive test result, unless the result must be disregarded under subsection (2).
- (2) A positive test result must be disregarded in the circumstances (if any) specified in the Defence Instructions.

100 Notice to be given of a positive test result

- (1) If a prohibited substance test in respect of a person returns a positive test result, the Chief of the Defence Force must:
 - (a) give the person written notice of the positive test result; and
 - (b) invite the person to give to the Chief of the Defence Force a written statement of reasons as to why the person's service should not be terminated.

Note: Subsection 98(2) provides that a positive test result is to be disregarded in specified circumstances, so in such circumstances a notice under this section would not be given.

- (2) A notice under subsection (1) must specify a period ending not less than 28 days after the day on which the notice is given as the period within which a statement of reasons must be given to the Chief of the Defence Force.

101 Termination

- (1) The Chief of the Defence Force must terminate the service of a person if:
 - (a) the person is given a notice under section 100; and
 - (b) either:
 - (i) the person does not give to the Chief of the Defence Force, within the period specified in the notice, a

Section 101

statement of reasons why the service should not be terminated; or

- (ii) having considered such a statement given by the person, the Chief of the Defence Force is of the opinion that the service should be terminated.
- (2) The termination must be in writing, and a copy given to the person.
 - (3) The termination takes effect on the day specified in it, which must be a day occurring:
 - (a) on or after the day a copy of the termination is given to the person; and
 - (b) no later than 3 months after the day referred to in paragraph (a).

Delegates

- (4) If a delegate of the Chief of the Defence Force gives a notice to a person under section 100, the same delegate must not terminate the service of the person under this section.

Note 1: The Chief of the Defence Force or another delegate may terminate the service instead of the first delegate.

Note 2: For delegations, see subsection 120A(3D).

Division 4—Miscellaneous

106 Failure to provide sample

- (1) A defence member or defence civilian commits an offence if:
 - (a) an authorised person has required the defence member or defence civilian under section 94 to provide a sample; and
 - (b) the defence member or defence civilian refuses or fails to provide the sample.

Penalty: Imprisonment for 6 months.

- (2) In paragraph (1)(a), strict liability applies to the physical element of circumstance, that the requirement is under section 94.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

107 Unauthorised acts in relation to sample

- (1) A person commits an offence if:
 - (a) a sample is provided by a defence member or defence civilian pursuant to a requirement made by an authorised person under section 94; and
 - (aa) the person interferes with, or otherwise deals with, the sample; and
 - (b) the person is not authorised under this Part or the Defence Instructions to do so.

Penalty: Imprisonment for 6 months.

- (2) In paragraph (1)(a), strict liability applies to the physical element of circumstance, that the requirement is under section 94.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

108 Finding made as a result of testing not admissible in certain criminal proceedings

A finding made by an accredited laboratory by means of testing a sample provided by a defence member or defence civilian under this Part is not admissible in evidence in any proceeding against the defence member or defence civilian for:

- (a) an offence under the *Defence Force Discipline Act 1982*; or
- (b) an offence against section 6 of the *Crimes Act 1914*, or against section 11.1, 11.4 or 11.5 of the *Criminal Code*, in relation to an offence under the *Defence Force Discipline Act 1982*.

109 Defence Instructions

- (1) Without limiting section 11, the Defence Instructions may make provision, not inconsistent with this Part, in relation to the following:
 - (a) the persons or classes of persons who may be required to undergo prohibited substance tests under section 94;
 - (b) laboratories, bodies or persons that are accredited laboratories for the purposes of this Part;
 - (c) the provision of samples for the purpose of prohibited substance tests under section 94;
 - (d) the conduct of, and procedures relating to, prohibited substance tests under section 94;
 - (e) the devices used in conducting prohibited substance tests under section 94, including the calibration, inspection and testing of those devices;
 - (f) levels of prohibited substances that are permitted levels for the purposes of this Part;
 - (g) the procedures for the handling and analysis of the following:
 - (i) samples taken in connection with prohibited substance tests under section 94;
 - (ii) the giving of prohibited substance test results in certificates or other documents and the evidentiary

Section 110

- effect of such certificates or other documents;
 - (h) the confidentiality of prohibited substance test results;
 - (i) notices to be given to persons who are to undergo, or who have undergone, prohibited substance tests;
 - (ia) the circumstances in which a positive test result must be disregarded;
 - (j) any other matter or thing that relates to, or is for the purposes of, this Part.
- (2) The Defence Instructions may provide that strict compliance with procedures specified in the Defence Instructions is not required and substantial compliance is sufficient, other than in respect of procedures relating to the following matters:
- (a) ensuring that a sample is not interfered with;
 - (b) ensuring that a sample is securely contained and identified.

110 Other administrative action not precluded

Nothing in this Part precludes the taking, in relation to a defence member, of any administrative action that could, if this Part had not been enacted, be lawfully taken because he or she is a defence member.

Part VIIIB—Inspector-General of the Australian Defence Force

Division 1—Establishment and functions of the Inspector-General of the Australian Defence Force

110A Object of Part

The main object of this Part is to provide the Chief of the Defence Force with:

- (a) a mechanism for internal audit and review of the military justice system independent of the ordinary chain of command; and
- (b) an avenue, independent of the ordinary chain of command, by which failures and flaws in the military justice system can be exposed and examined so that the cause of any injustice (whether systemic or otherwise) may be remedied.

110B Inspector-General of the Australian Defence Force

There is to be an Inspector-General of the Australian Defence Force, to be known as the Inspector-General ADF.

110C Functions of the Inspector-General ADF

- (1) The Inspector-General ADF has the following functions:
 - (a) to inquire into or investigate matters concerning the military justice system;
 - (b) to conduct performance reviews of the military justice system, including internal audits, at the times and in the manner the Inspector-General ADF considers appropriate;
 - (c) to advise on matters concerning the military justice system, including making recommendations for improvements;

Section 110C

- (d) to promote military justice values across the Defence Force;
- (e) if directed by the Minister to do so—to inquire into or investigate a matter concerning the Defence Force;
- (f) if directed by the Chief of the Defence Force to do so—to inquire into or investigate a matter concerning the Defence Force;
- (g) such functions as are prescribed by the regulations;
- (h) such functions as are conferred on the Inspector-General ADF by or under this Act;
- (i) such functions as are conferred on the Inspector-General ADF by or under any other law of the Commonwealth;
- (j) to do anything incidental or conducive to the performance of any of the above functions.

Note: Subsection (4) limits the functions that may be prescribed by regulations made for the purposes of paragraph (g).

- (3) The function referred to in paragraph (1)(a) includes the following:
 - (a) carrying out preliminary assessments as to whether an inquiry or investigation should be conducted by the Inspector-General ADF;
 - (b) referring matters to other appropriate authorities to be dealt with.
- (4) Regulations made for the purposes of paragraph (1)(g) must not prescribe a function unless the function relates to:
 - (a) the military justice system; or
 - (b) complaints made by members of the Defence Force, where the relevant complaint is about a decision, act or omission in relation to the member's service in the Defence Force; or
 - (c) deaths of members of the Defence Force, where the relevant death appears to have arisen out of, or in the course of, the member's service in the Defence Force.
- (5) To avoid doubt, a function prescribed by regulations made for the purposes of paragraph (1)(g) may be to inquire into or investigate a matter mentioned in paragraph (4)(b) or (c).

Section 110DA

- (6) Subsection (5) does not limit paragraph (1)(g).

Note: The regulations may make provision in relation to the procedures and powers of the Inspector-General ADF in respect of the performance of the Inspector-General ADF's functions (see paragraph 124(1)(h)).

110DA Conduct of inquiry or investigation

Scope

- (1) This section applies to an inquiry or investigation by the Inspector-General ADF under:
- (a) paragraph 110C(1)(a); or
 - (b) regulations made for the purposes of paragraph 110C(1)(g).

When inquiry or investigation may be conducted

- (2) The Inspector-General ADF may conduct an inquiry or investigation:
- (a) on his or her own initiative; or
 - (c) at the request of an individual.

110DB Inspector-General ADF may end an inquiry or investigation

- (1) The Inspector-General ADF may end an inquiry or investigation conducted by the Inspector-General ADF if the Inspector-General ADF is satisfied that the inquiry or investigation, or the continuation of the inquiry or investigation, is not warranted having regard to all the circumstances.
- (2) Subsection (1) does not apply to an inquiry or investigation under paragraph 110C(1)(e).

Note: Paragraph 110C(1)(e) is about inquiries and investigations directed by the Minister.

Section 110E

**Division 2—Administrative provisions about the
Inspector-General of the Australian Defence
Force**

110E Appointment

- (1) The Inspector-General ADF is to be appointed by the Minister by written instrument.
- (2) In making an appointment under subsection (1), the Minister must have regard to any recommendations made by the Chief of the Defence Force.
- (3) The Inspector-General ADF holds office on a full-time basis.
- (4) A person holding office as the Inspector-General ADF holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined by the Minister.

110F Qualifications for appointment

A person must not be appointed as the Inspector-General ADF unless the person has knowledge of and experience in relation to military justice issues and an understanding of their relevance to the role of the Defence Force.

110G Tenure

- (1) The Inspector-General ADF holds office for the period specified in the instrument of appointment. The period must not exceed 5 years.
- (2) The Inspector-General ADF is eligible for reappointment.

110H Resignation

The Inspector-General ADF may resign his or her appointment by giving the Minister a written resignation.

110I Remuneration

- (1) The Inspector-General ADF is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, he or she is to be paid the remuneration that is prescribed.
- (2) The Inspector-General ADF is to be paid the allowances that are prescribed.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

110J Leave of absence

- (1) The Inspector-General ADF has the recreation leave entitlements that are determined by the Remuneration Tribunal.
- (2) The Chief of the Defence Force may grant the Inspector-General ADF leave of absence, other than recreation leave, on the terms and conditions as to remuneration or otherwise that the Chief of the Defence Force determines.

110K Engaging in other paid work

The Inspector-General ADF must not engage in paid employment outside the duties of his or her office without the Minister's consent.

110L Termination of appointment

- (1) The Minister must terminate the appointment of the Inspector-General ADF if the Inspector-General ADF:
 - (a) becomes bankrupt; or
 - (b) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
 - (c) compounds with his or her creditors; or

Section 110M

- (d) assigns his or her remuneration for the benefit of his or her creditors; or
 - (e) is absent from duty, except on leave of absence, for 14 consecutive days or for 28 days in any 12 months; or
 - (f) fails, without reasonable excuse, to comply with section 110M.
- (2) The Minister may terminate the appointment of the Inspector-General ADF on the ground of:
 - (a) misbehaviour; or
 - (b) physical or mental incapacity.
- (3) The Minister may terminate the appointment of the Inspector-General ADF if the Inspector-General ADF engages in paid employment outside the duties of his or her office other than with the Minister's consent.

110M Disclosure of interests

The Inspector-General ADF must give written notice to the Minister of all interests (financial or otherwise) that the Inspector-General ADF has or acquires that could conflict with the proper performance of the functions of his or her office.

110N Acting appointments

- (1) The Minister may appoint a person to act as the Inspector-General ADF:
 - (a) during a vacancy in the office of Inspector-General ADF (whether or not an appointment has previously been made to that office); or
 - (b) during any period, or during all periods, when the Inspector-General ADF is absent from duty or from Australia, or is, for any other reason, unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

Section 110O

- (3) The Minister must not appoint a person to act as the Inspector-General ADF unless the person has knowledge of and experience in relation to military justice issues and an understanding of their relevance to the role of the Defence Force.
- (4) In making an appointment under subsection (1), the Minister must have regard to any recommendations made by the Chief of the Defence Force.

110O Staff

- (1) The staff necessary to assist the Inspector-General ADF are to be the following:
 - (a) members of the Defence Force made available for the purpose by the Chief of the Defence Force;
 - (b) persons engaged under the *Public Service Act 1999* and made available for the purpose by the Secretary of the Department.
- (2) The Inspector-General ADF may engage persons having suitable qualifications and experience as consultants to, or to perform services for, the Inspector-General ADF.
- (3) An engagement under subsection (2) is to be made:
 - (a) on behalf of the Commonwealth; and
 - (b) by written agreement.

110P Inquiry officers, inquiry assistants and Assistants IGADF

- (1) The Inspector-General ADF may appoint a person as:
 - (a) an inquiry officer; or
 - (b) an inquiry assistant; or
 - (c) an Assistant IGADF.
- (2) The Inspector-General ADF must not appoint a person under subsection (1) unless the person is eligible to be so appointed under the regulations.

Part VIIIB Inspector-General of the Australian Defence Force

Division 2 Administrative provisions about the Inspector-General of the Australian Defence Force

Section 110P

- (3) The regulations may prescribe matters relating to the roles, functions and powers of a person appointed under subsection (1).

Division 3—Other matters

110Q Protection from civil actions

- (1) This section applies to the following persons (*protected persons*):
 - (a) the Inspector-General ADF;
 - (b) a person acting under the authority of the Inspector-General ADF.
- (2) A protected person is not liable to civil proceedings for loss, damage or injury of any kind suffered by another person as a result of the performance or exercise, in good faith, of the protected person's functions, powers or duties under or in relation to this Act.

110R Annual report by Inspector-General ADF

- (1) As soon as practicable after the end of each financial year, the Inspector-General ADF must prepare and give to the Minister, for presentation to the Parliament, a report on the operations of the Inspector-General ADF during the financial year.

Note: See also section 34C of the *Acts Interpretation Act 1901*, which contains extra rules about periodic reports.

- (2) For this purpose, the operations of the Inspector-General ADF include the operations of persons appointed under section 110P.

110S Delegation

The Inspector-General ADF may, by instrument in writing, delegate his or her power under section 110P to an officer holding a rank not lower than the naval rank of captain or the rank of colonel or group captain.

Part VIIC—Defence Honours and Awards Appeals Tribunal

Division 1—Preliminary

110T Definitions

In this Part:

Chair means the Chair of the Tribunal.

defence award has the meaning given by the regulations.

defence honour has the meaning given by the regulations.

eligible service means:

- (a) service in the Defence Force; or
- (b) service under the control, or at the direction, of the Defence Force or a member of the Defence Force.

foreign award means an honour or award given by a government of a foreign country, or by an international organisation.

inquiry means an inquiry under Division 4.

procedural rules means the procedural rules made under section 110XH.

reviewable decision has the meaning given by section 110V.

review of a reviewable decision means a review under Division 3.

Tribunal means the Defence Honours and Awards Appeals Tribunal established by section 110U.

Tribunal member means a member of the Tribunal, including the Chair.

Section 110T

Tribunal proceeding means:

- (a) a review of a reviewable decision; or
- (b) an inquiry.

Division 2—Establishment and functions of Defence Honours and Awards Appeals Tribunal

110U Establishment of Tribunal

- (1) The Defence Honours and Awards Appeals Tribunal is established by this section.
- (2) The Tribunal has the privileges and immunities of the Crown.

110UA Functions of Tribunal

The functions of the Tribunal are:

- (a) to review reviewable decisions in accordance with Division 3; and
- (b) to inquire into matters concerning honours or awards for eligible service in accordance with Division 4.

110UB Tribunal and Tribunal members not subject to direction

Except as provided by this Part (including the procedural rules) or another law of the Commonwealth, neither the Tribunal, nor any Tribunal member, is subject to direction from anyone in relation to the performance or exercise of the Tribunal's or member's functions or powers.

Division 3—Review of decisions by the Tribunal

110V What decisions are reviewable?

- (1) A **reviewable decision** is a decision (whether made before or after the commencement of this Part) in relation to which the following conditions are satisfied:
 - (a) the decision is or was a refusal to recommend a person or group of persons for any of the following in relation to eligible service:
 - (i) a defence honour;
 - (ii) a defence award;
 - (iii) a foreign award;
 - (b) the decision is or was made:
 - (i) by or on behalf of the Minister, or a former Minister (a **former Defence Minister**) whose ministerial responsibilities included defence or matters related to defence; or
 - (ii) by a person within the Department, or a former Department of State of the Commonwealth that was administered by a former Defence Minister; or
 - (iii) by a person within the Defence Force, or an arm of the Defence Force;
 - (c) the decision is or was made in response to an application.
- (2) However, a decision is not a **reviewable decision** if the decision:
 - (a) was made before 3 September 1939; or
 - (b) relates to service rendered before 3 September 1939.

110VA Who can apply for review?

An application for review of a reviewable decision can only be made by the person, or one or more of the persons, who made the application referred to in paragraph 110V(1)(c).

Section 110VB

110VB Review of decisions by the Tribunal

Decisions relating to defence honours

- (1) If an application is properly made to the Tribunal for review of a reviewable decision relating to a defence honour, the Tribunal:
- (a) must review the decision; and
 - (b) may make any recommendations to the Minister that the Tribunal considers appropriate.

Note 1: The Tribunal does not have power to affirm or set aside the decision.

Note 2: Formal requirements relating to decisions etc. of the Tribunal are dealt with in section 110XE.

Decisions relating to defence awards and foreign awards

- (2) If an application is properly made to the Tribunal for review of a reviewable decision relating to a defence award or a foreign award, the Tribunal must review the decision and:
- (a) affirm the decision; or
 - (b) set the decision aside and:
 - (i) substitute a new decision (being a decision to recommend a person or group of persons for a defence award or a foreign award); or
 - (ii) refer the matter to a person determined by the Tribunal, for reconsideration in accordance with any directions of the Tribunal.

Note: Formal requirements relating to decisions etc. of the Tribunal are dealt with in section 110XE.

- (3) The Tribunal may also make any recommendations to the Minister that the Tribunal considers appropriate and that arise out of, or relate to, the Tribunal's review under subsection (2) of a reviewable decision.
- (4) If, under subsection (2), the Tribunal sets aside a reviewable decision and substitutes a new decision then, unless the Tribunal determines otherwise, the substituted decision:

Section 110VC

- (a) is taken to be a decision of the person who made the reviewable decision (except for the purpose of any review of the substituted decision, whether by the Tribunal or otherwise); and
 - (b) has effect, or is taken to have had effect, on and from the date determined by the Tribunal.
- (5) If, under subsection (2), the Tribunal sets aside a reviewable decision and refers the matter to a person determined by the Tribunal, for reconsideration in accordance with any directions of the Tribunal:
 - (a) the person must reconsider the matter accordingly; and
 - (b) if the person's decision on the reconsideration is a refusal of a kind described in paragraph 110V(1)(a)—the decision is taken to be a reviewable decision made by that person in response to an application made by the person or persons who made the application referred to in subsection (2) of this section.

Tribunal is bound by eligibility criteria that governed making of reviewable decision

- (6) In reviewing a reviewable decision, the Tribunal is bound by the eligibility criteria that governed the making of the reviewable decision.
- (7) The regulations may define or otherwise clarify the meaning of ***eligibility criteria*** for the purpose of subsection (6).

110VC Power to dismiss review applications

- (1) Despite section 110VB, the Chair may, in writing, dismiss an application for review of a reviewable decision if the Chair considers that:
 - (a) there is another process for review, by the Commonwealth, of the decision, and it would be preferable for the decision to first be reviewed by that process; or

Section 110VC

- (b) the question whether the person, or group of persons, concerned should be recommended for the defence honour, defence award or foreign award concerned has already been adequately reviewed (whether by the Tribunal or otherwise);
or
 - (c) the application is frivolous or vexatious.
- (2) The Chair's power under subsection (1) to dismiss an application for review of a reviewable decision may be exercised at any time, whether before or after the Tribunal has started to review the decision.
- (3) A dismissal under subsection (1) is not a legislative instrument.

Division 4—Inquiries by the Tribunal

110W Minister may direct Tribunal to hold inquiry

- (1) The Minister may, in writing, give the Tribunal a direction to hold an inquiry into a specified matter concerning honours or awards for eligible service.
- (2) If the Minister gives the Tribunal a direction under subsection (1), the Tribunal:
 - (a) must hold an inquiry into the specified matter; and
 - (b) must report to the Minister on the outcomes of the inquiry.

Note: Formal requirements relating to decisions etc. of the Tribunal are dealt with in section 110XE.

- (3) The report to the Minister may include any recommendations that the Tribunal considers appropriate and that arise out of, or relate to, the inquiry.
- (4) A direction under subsection (1) is not a legislative instrument.

Section 110X

Division 5—General provisions relating to operation of the Tribunal

110X Role of the Chair

- (1) The Chair is the executive officer of the Tribunal and is responsible for its overall operation and administration.
- (2) The Chair may, in writing, delegate all or any of his or her functions or powers to another Tribunal member.
- (3) In performing functions or exercising powers under a delegation, the delegate must comply with any directions of the Chair.

Note: See also sections 34AA and 34AB of the *Acts Interpretation Act 1901*.

110XA Constitution of Tribunal for Tribunal proceedings

How the Tribunal is to be constituted

- (1) Subject to this section, for a particular Tribunal proceeding, the Tribunal is to be constituted by one or more Tribunal members determined by the Chair.
- (2) If the Tribunal proceeding is an inquiry, the Tribunal must be constituted by 3 or more Tribunal members.
- (3) The Chair must also comply with any requirements of the procedural rules relating to the constitution of the Tribunal for Tribunal proceedings.

What happens if the Tribunal is constituted by more than one Tribunal member

- (4) If the Tribunal is constituted by more than one Tribunal member, the following provisions have effect:
 - (a) the presiding Tribunal member is:
 - (i) if the Chair is a member of the Tribunal as so constituted—the Chair; or

- (ii) otherwise—the Tribunal member who is directed by the Chair to preside;
- (b) a decision of the majority of the Tribunal members who constitute the Tribunal prevails;
- (c) if there is no majority, the decision of the presiding Tribunal member prevails.

Formal requirements for determinations and directions

- (5) A determination or direction by the Chair under this section must be in writing.
- (6) A determination or direction by the Chair under this section is not a legislative instrument.

110XB What happens if a Tribunal member stops being available

When this section applies

- (1) This section applies if:
 - (a) a Tribunal member (the **unavailable member**) constitutes, or is one of the Tribunal members who constitute, the Tribunal for the purpose of a Tribunal proceeding; and
 - (b) before the proceeding is completed:
 - (i) the Tribunal member stops being a Tribunal member for any reason; or
 - (ii) the Tribunal member is not available for the purpose of the proceeding for any reason; or
 - (iii) the Tribunal member is prohibited by section 110XG from continuing to take part in the proceeding; or
 - (iv) the Tribunal member is directed by the Chair not to continue to take part in the proceeding.

Chair to direct course of action

- (2) The Chair must either:
 - (a) direct that the Tribunal proceeding be started afresh; or
 - (b) direct that the Tribunal proceeding be completed.

Section 110XB

If Chair directs that proceeding be started afresh

- (3) If the Chair directs that the Tribunal proceeding be started afresh:
- (a) the Chair must, in accordance with section 110XA, determine the Tribunal member or members who are to constitute the Tribunal for that purpose; and
 - (b) subject to paragraph (c) of this subsection, the Tribunal, as so constituted, must start to deal with the proceeding afresh; and
 - (c) the Tribunal, as so constituted, may have regard to any record of the proceeding before the Tribunal as previously constituted (including a record of any evidence given or submissions made).

If Chair directs that proceeding be completed

- (4) If the Chair directs that the Tribunal proceeding be completed:
- (a) if the unavailable member constituted the Tribunal—the Chair must direct another Tribunal member or Tribunal members to constitute the Tribunal for the purpose of completing the proceeding; or
 - (b) if the unavailable member is one of the Tribunal members who constituted the Tribunal—the Chair must:
 - (i) direct the remaining Tribunal member or Tribunal members to constitute the Tribunal for the purpose of completing the Tribunal proceeding; or
 - (ii) direct a Tribunal member or Tribunal members to constitute the Tribunal for the purpose of completing the Tribunal proceeding.
- (5) If subsection (4) applies in relation to a Tribunal proceeding:
- (a) if the Tribunal proceeding is an inquiry—the requirement in subsection 110XA(2) that the Tribunal must be constituted by 3 or more Tribunal members does not apply; and
 - (b) a direction under subparagraph (4)(b)(ii) of this section may be given to any Tribunal member (including the remaining Tribunal member or one of the remaining Tribunal members); and

- (c) the Tribunal, as constituted in accordance with a direction under subsection (4) of this section, must complete the Tribunal proceeding; and
- (d) for the purpose of completing the Tribunal proceeding, the Tribunal, as so constituted, may have regard to any record of the proceeding before the Tribunal as previously constituted (including a record of any evidence given or submissions made).

Formal requirements for directions

- (6) A direction by the Chair under this section must be in writing.
- (7) A direction by the Chair under this section is not a legislative instrument.

110XC Summoning persons to give evidence or produce documents

- (1) The Tribunal may summon a person to attend before the Tribunal to give evidence or produce documents for the purpose of a Tribunal proceeding.
- (2) A person commits an offence if:
 - (a) the person has been given a summons under subsection (1); and
 - (b) the person fails to comply with the summons.

Penalty: Imprisonment for 6 months or 30 penalty units, or both.

- (3) Subsection (2) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3) (see subsection 13.3(3) of the *Criminal Code*).

- (4) Without limiting subsection (3), it is a reasonable excuse for a person to refuse or fail to give evidence or produce a document if giving the evidence, or producing the document, would tend to incriminate the person.

Section 110XD

- (5) A person summoned under subsection (1) is entitled to be paid the same fees or allowances as apply under section 67 of the *Administrative Appeals Tribunal Act 1975* in relation to persons summoned under that Act. The fees and allowances are payable by the Commonwealth.

110XD Protection of confidential or sensitive evidence or submissions etc.

- (1) The Tribunal may make an order prohibiting or restricting the publication of any of the following if the Tribunal is satisfied that it is desirable to do so, whether for reasons of confidentiality or sensitivity:
- (a) evidence given, documents produced or submissions made to the Tribunal in relation to a Tribunal proceeding;
 - (b) the names and addresses of persons giving evidence, producing documents, or making submissions to the Tribunal in relation to a Tribunal proceeding;
 - (c) the whole or any part of any decision or report made or given by the Tribunal, or the Tribunal's reasons for any such decision or report.

Note: Formal requirements relating to decisions etc. of the Tribunal are dealt with in section 110XE.

- (2) A person commits an offence if:
- (a) the person engages in conduct; and
 - (b) the person's conduct contravenes an order made under subsection (1).

Penalty: Imprisonment for 2 years or 120 penalty units, or both.

110XE Formal requirements relating to decisions etc. of the Tribunal

Decisions etc. to be in writing

- (1) Decisions, orders, determinations, reports and recommendations of the Tribunal must be in writing.

Review decisions

- (2) The Tribunal's decision on the review of a reviewable decision must include a statement of the Tribunal's reasons for its decision.
- (3) Subject to any orders under section 110XD:
 - (a) the Tribunal must cause a copy of its decision on the review of a reviewable decision to be given to the person or persons who applied for the review; and
 - (b) the Tribunal may also give a copy of its decision on the review of a reviewable decision to any other person that the Tribunal considers appropriate.

Inquiry reports

- (4) Subject to any orders under section 110XD, the Tribunal must cause a copy of its report on an inquiry to be published on the Tribunal's website or by another means that the Tribunal considers appropriate.

110XF Protection of Tribunal members and other persons

- (1) A Tribunal member has, in performing his or her functions or exercising his or her powers as a Tribunal member, the same protection and immunity as a Justice of the High Court.
- (2) A person representing another person before the Tribunal has the same protection and immunity as a barrister has in appearing for a party in proceedings in the High Court.
- (3) A person summoned to attend, or appearing, before the Tribunal to give evidence or make submissions has the same protection, and is (in addition to the penalties provided by this Part) subject to the same liabilities, as a witness in proceedings in the High Court.

Section 110XG

110XG Disclosure of interests by Tribunal members

When this section applies

- (1) This section applies if a Tribunal member who constitutes, or is one of the Tribunal members who constitute, the Tribunal for the purpose of a Tribunal proceeding has or acquires any interest (the **potential conflict**) that conflicts or could conflict with the proper performance of the member's functions in relation to the proceeding.

Note: Failure to comply with the requirements of this section is a ground for termination: see section 110YH.

If the Tribunal member is the Chair

- (2) If the Tribunal member is the Chair:
- (a) the Chair must disclose the potential conflict to the Minister, and to all persons who appear or have appeared before the Tribunal in the Tribunal proceeding; and
 - (b) the Chair must not continue to take part in the proceeding unless the Minister consents in writing.

If the Tribunal member is not the Chair

- (3) If the Tribunal member is not the Chair:
- (a) the Tribunal member must disclose the potential conflict to the Chair, and to all persons who appear or have appeared before the Tribunal in the Tribunal proceeding; and
 - (b) the Tribunal member must not continue to take part in the proceeding unless the Chair consents in writing.

Consent is not a legislative instrument

- (4) A consent by the Minister or the Chair under subsection (2) or (3) is not a legislative instrument.

110XH Procedural rules

- (1) After consulting the other Tribunal members, the Chair may, by legislative instrument, make procedural rules (not inconsistent with this Part) in relation to the practice and procedure to be followed by or in relation to the Tribunal.
- (2) Without limiting subsection (1), the procedural rules may provide for the following:
 - (a) the constitution of the Tribunal for Tribunal proceedings;
 - (b) how the work of the Tribunal is to be allocated between the Tribunal members;
 - (c) the nature or form of Tribunal proceedings (for example, whether proceedings are to take the form of a hearing, and whether a hearing is to be in public or private);
 - (d) the circumstances in which a person may be represented by a legal practitioner or other person in a Tribunal proceeding;
 - (e) how applications are to be made to the Tribunal;
 - (f) requiring lodgment with the Tribunal of material relating to the making of reviewable decisions that are the subject of applications to the Tribunal;
 - (g) how evidence is to be given, or submissions are to be made, to the Tribunal;
 - (h) how people are to be summoned to attend before the Tribunal;
 - (i) any other matters that the Chair considers necessary or convenient.
- (3) The procedural rules must be complied with in relation to Tribunal proceedings.

Division 6—Tribunal members

110Y Constitution of Tribunal

The Tribunal consists of the following Tribunal members:

- (a) the Chair of the Tribunal;
- (b) a minimum of 6, and maximum of 10, other Tribunal members.

110YA Appointment of Tribunal members

- (1) The Tribunal members are to be appointed by the Minister, in writing, on a part-time basis.
- (2) The instrument of appointment of a Tribunal member must specify whether the member is appointed as the Chair of the Tribunal, or as one of the other Tribunal members.
- (3) In making appointments, the Minister must have regard to the desirability of:
 - (a) reflecting a diversity of expertise, experience and gender among the Tribunal members; and
 - (b) the Tribunal members being independent of those who usually make reviewable decisions.
- (4) A person is not eligible to be appointed as the Chair if:
 - (a) the person is, or has at any time been, a member of the Defence Force rendering continuous full-time service; or
 - (b) in the Minister's opinion, the person does not have an appropriate level of security clearance.
- (5) A person is not eligible to be appointed as one of the other Tribunal members if:
 - (a) the person is, or has at any time within the previous 12 months been, a member of the Defence Force rendering continuous full-time service; or

Section 110YB

- (b) in the Minister's opinion, the person does not have an appropriate level of security clearance.

110YB Period of appointment

- (1) A Tribunal member holds office for the period specified in the instrument of appointment. The period must not exceed 3 years.
- (2) Subject to subsections (3) and (4), a Tribunal member is eligible for reappointment as a Tribunal member.
- (3) A person must not hold office as Chair for more than 6 consecutive years.
- (4) A person must not hold office as one of the other Tribunal members for more than 6 consecutive years.

110YC Acting appointments

Appointment of acting Chair

- (1) The Minister may, in writing, appoint a Tribunal member to act as the Chair:
 - (a) during a vacancy in the office of Chair (whether or not an appointment has previously been made to the office); or
 - (b) during any period, or during all periods, when the Chair:
 - (i) is absent from duty or from Australia; or
 - (ii) is, for any reason, unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

Appointment of other acting Tribunal members

- (2) The Chair may, in writing, appoint a person to act as a Tribunal member (other than the Chair):
 - (a) during a vacancy in an office of Tribunal member (other than the Chair), whether or not an appointment has previously been made to the office; or

Section 110YD

- (b) during any period, or during all periods, when a Tribunal member (other than the Chair):
 - (i) is acting as the Chair; or
 - (ii) is absent from duty or from Australia; or
 - (iii) is, for any reason, unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

- (3) In appointing a person to act as a Tribunal member, the Chair must have regard to the desirability of:
 - (a) reflecting a diversity of expertise, experience and gender among the Tribunal members; and
 - (b) the Tribunal members being independent of those who usually make reviewable decisions.

Determining whether there is a vacancy in an office of Tribunal member

- (5) For the purpose of:
 - (a) a reference in this section to a vacancy in an office of Tribunal member; or
 - (b) a reference in the *Acts Interpretation Act 1901* to a vacancy in the membership of a body;there are taken to be 10 offices of Tribunal members in addition to the Chair.

110YD Other employment

A Tribunal member must not engage in any paid employment that, in the Minister's opinion, conflicts or may conflict with the proper performance of the member's functions.

110YE Remuneration

- (1) A Tribunal member is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of

Section 110YF

that remuneration by the Tribunal is in operation, the Tribunal member is to be paid the remuneration that is prescribed by the regulations.

- (2) A Tribunal member is to be paid the allowances that are prescribed by the regulations.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

110YF Leave

- (1) The Minister may grant leave of absence to the Chair on the terms and conditions that the Minister determines.
- (2) The Chair may grant leave of absence to any other Tribunal member on the terms and conditions that the Chair determines.

110YG Resignation

- (1) A Tribunal member may resign his or her appointment by giving the Minister a written resignation.
- (2) The resignation takes effect on the day it is received by the Minister or, if a later day is specified in the resignation, on that later day.

110YH Termination

- (1) The Minister may terminate the appointment of a Tribunal member for misbehaviour or physical or mental incapacity.
- (2) The Minister may terminate the appointment of a Tribunal member if:
 - (a) the Tribunal member:
 - (i) becomes bankrupt; or
 - (ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
 - (iii) compounds with his or her creditors; or

Section 110YI

- (iv) makes an assignment of his or her remuneration for the benefit of his or her creditors; or
 - (b) the Tribunal member fails, without reasonable excuse, to comply with section 110XG (disclosure of interests by Tribunal members); or
 - (c) the Tribunal member engages in paid employment that, in the Minister's opinion, conflicts or may conflict with the proper performance of the member's functions.
- (3) If the Chair ceases to be eligible for appointment (see subsection 110YA(4)), the Minister must terminate the appointment of the Chair.
- (4) If a Tribunal member (other than the Chair) ceases to be eligible for appointment (see subsection 110YA(5)), the Minister must terminate the appointment of the Tribunal member.

110YI Other terms and conditions

A Tribunal member holds office on the terms and conditions (if any) in relation to matters not covered by this Part that are determined by the Minister.

Division 7—Miscellaneous

110Z Regulations

Without limiting the generality of section 124, the regulations may make provision for or in relation to any of the following:

- (a) any fees that are to be payable in relation to applications to the Tribunal;
- (b) prohibiting the disclosure of information obtained by the Tribunal, a member of the Tribunal or a person assisting the Tribunal;
- (c) proof of decisions or orders of the Tribunal.

Part VIIID—Director of Defence Counsel Services

110ZA Director of Defence Counsel Services

- (1) There is to be a Director of Defence Counsel Services.
- (2) The Director of Defence Counsel Services is to be appointed by the Chief of the Defence Force by written instrument.
- (3) The Chief of the Defence Force must not appoint a person to be the Director of Defence Counsel Services unless the person:
 - (a) is enrolled as a legal practitioner and has been so enrolled for not less than 5 years; and
 - (b) is a member of the Permanent Forces or is a member of the Reserves who is rendering continuous full-time service; and
 - (c) holds a rank not lower than the naval rank of captain or the rank of colonel or group captain.

110ZB Functions and powers of the Director of Defence Counsel Services

- (1) The Director of Defence Counsel Services has the following functions:
 - (a) to manage the provision of legal representation and advice by legal officers to accused persons, for the purposes of a trial by a court martial or a Defence Force magistrate, to the extent that the exigencies of service permit;
 - (b) to arrange for the attendance of witnesses, to the extent that the exigencies of service permit, on behalf of an accused person referred to in paragraph (a);
 - (c) to establish and maintain, in accordance with subsection 101F(2) of the *Defence Force Discipline Act 1982*, lists of legal officers willing to assist persons in custody;

Section 110ZC

- (d) to manage the provision of legal representation and advice by legal officers to persons entitled to such representation or advice, for the purposes of an inquiry conducted under regulations made under paragraph 124(1)(gc);
 - (e) such other functions as the Chief of the Defence Force directs in writing;
 - (f) such other functions as are conferred on the Director of Defence Counsel Services by or under this Act or any other law of the Commonwealth;
 - (g) to do anything incidental or conducive to the performance of any of the preceding functions.
- (2) The Director of Defence Counsel Services has power to do all things necessary or convenient to be done for or in connection with the performance of his or her functions.
- (3) A direction given under paragraph (1)(e) is not a legislative instrument.

110ZC Delegation

The Director of Defence Counsel Services may delegate all or any of his or her powers and functions to:

- (a) a defence member holding a rank not lower than lieutenant commander, major or squadron leader; or
- (b) a person whose classification level appears in Group 7 or a higher Group of Schedule 1 to the Classification Rules under the *Public Service Act 1999*; or
- (c) a person who is acting in a position usually occupied by a person with a classification level of the kind mentioned in paragraph (b).

110ZD Protection from action

An action, suit or proceeding does not lie against:

- (a) the Director of Defence Counsel Services; or
- (b) a person assisting the Director;

Section 110ZD

in relation to an act done, or omitted to be done, in good faith in the performance or purported performance of a function, or the exercise or purported exercise of a power, conferred on the Director by or under this Act or any other law of the Commonwealth.

Part IX—Legal procedure

111 Subscription, arms etc. vested in commanding officer

- (1) For the purposes of legal proceedings, all moneys subscribed by or for or otherwise appropriated to the use of any corps or part thereof, or ship's company or part thereof, or air-force unit or station or part thereof, and all arms, ammunition, accoutrements, clothing, musical instruments, or other things, belonging to or used by any corps or part thereof, or ship's company or part thereof, or air-force unit or station or part thereof, and not being the private property of a member of the corps or ship's company or air-force unit or station, as the case may be, shall be deemed to be the property of the commanding officer of the corps or ship's company or air-force unit or station, as the case may be.
- (2) For the purposes of this section, *corps* includes unit.

111A Property of Rifle Club vested in Captain

For the purposes of legal proceedings, all arms, ammunition, or other military articles, belonging to or used by any Rifle Club, shall be deemed to be the property of the Captain of the Rifle Club.

Part IXA—Provisions relating to the forces of other countries

Division 1—Interpretation

116A Interpretation

- (1) In this Part, unless the contrary intention appears:

forces, in relation to a country, means the naval, military or air forces of that country.

service authorities, in relation to a country, means the naval, military or air force authorities of that country.

- (2) A reference in this Part to a country in relation to which a provision of this Part applies shall be read as a reference to a country declared by the regulations to be a country in relation to which that provision applies.
- (3) For the purposes of this Part, a member of a force of a country that (by whatever name called) is in the nature of a reserve or auxiliary force shall be deemed to be a member of the forces of that country so long as, but only so long as, he or she is called into actual service (by whatever expression described) with those forces or is called out for training with those forces.

Division 2—Attachment of personnel and mutual powers of command

116B Attachment to the Defence Force of members of the forces of another country and vice versa

- (1) The Chief of the Defence Force may, by order in writing:
 - (a) attach temporarily to any part of the Defence Force a specified member, or a member included in a specified class of members, of the forces of a country in relation to which this section applies who is placed at his or her disposal by the service authorities of that country for the purpose of being so attached; and
 - (b) subject to anything to the contrary in the conditions applicable to his or her service, place a specified member, or a member included in a specified class of members, of any part of the Defence Force at the disposal of the service authorities of a country in relation to which this section applies in order that he or she may be attached temporarily by those authorities to the forces of that country.
- (2) Where a member of the forces of a country in relation to which this section applies is attached temporarily to a part of the Defence Force, he or she shall, for the period for which he or she is so attached, be regarded as a member of that part of the Defence Force, as holding the rank in that part of the Defence Force that corresponds with the rank that he or she holds in those forces and as having, for the purposes of command and discipline, the same status and powers, including the power to arrest and to impose punishments, as:
 - (a) a member of that rank in that part of the Defence Force; and
 - (b) if he or she is given an appointment in that part of the Defence Force—a member of that part of the Defence Force holding the like appointment.

Section 116C

- (3) The application of the law governing the Defence Force to a person to whom subsection (2) applies is subject to such exceptions, modifications and adaptations as are specified by the Minister by order in writing.
- (4) A member of the Defence Force referred to in paragraph (1)(b) does not cease to be subject to the law governing that part of the Defence Force to which he or she belongs by reason only of his or her being temporarily attached as provided by that paragraph.
- (5) This section applies to and in relation to a part of the Defence Force serving either within or beyond the territorial limits of Australia.

116C Forces serving together

- (1) Whenever a part of the Defence Force and a part of the forces of a country in relation to which this subsection applies are serving together, either within or beyond the territorial limits of Australia, and either alone or together with any other force, a member of the force of that country has the same powers of command over members of that part of the Defence Force as a member of the Defence Force holding the rank in that Force that corresponds with the rank that he or she holds in the force of the country to which he or she belongs.
- (2) Whenever a part of the Defence Force and a part of the forces of another country to which this subsection applies are acting in combination, either within or beyond the territorial limits of Australia, an officer of the forces of that other country may be appointed by the Governor-General, by order in writing, to command the combined force, or any part of the combined force, and an officer so appointed:
 - (a) has, subject to such restrictions and limitations as are specified by the Chief of the Defence Force by order in writing, over members of the Defence Force serving in that combined force or part of that force, the same powers of command and discipline, including the power to impose punishments; and

- (b) may be invested by the Governor-General, by order in writing, with the same power to convene, and confirm the findings and sentences of, courts-martial;
as if he or she were an officer of the Defence Force holding that appointment and the rank in that Force corresponding with the rank that he or she holds in the force to which he or she belongs.
- (3) Where a part of the Defence Force and a part of the forces of a country in relation to which subsection (1) applies are serving together beyond the territorial limits of Australia, the officer in command of that part of the Defence Force, or an officer authorized in writing by the Chief of the Defence Force for the purposes of this subsection, may request the appropriate service authority of that country to direct, by general or special orders, members of the forces of that country to arrest any member of that part of the Defence Force who is alleged to have committed, or is reasonably suspected of having committed, an offence punishable under Australian service law and to deliver him or her into the custody of such service authority of the Defence Force as is designated by or under the orders.
- (4) A member of the Defence Force arrested and held in custody in pursuance of subsection (3) shall be deemed to have been arrested and held in custody in accordance with Australian service law.
- (5) The Governor-General may declare that specified parts of the Defence Force and specified parts of the forces of specified countries are to be taken for the purposes of this section to be serving together or acting in combination.
- (5A) The Governor-General may declare that, whenever specified parts of the Defence Force and specified parts of the forces of specified countries are in fact serving together or acting in combination, the forces are to be taken for the purposes of this section to be serving together or acting in combination.
- (5B) A declaration under subsection (5) or (5A) has effect accordingly. Except as provided in such a declaration, forces are not taken for

Section 116D

the purposes of this section to be serving together or acting in combination.

(5C) A declaration under subsection (5) or (5A) must be in writing.

(6) In this section, *Australian service law* means the law (including any instrument having the force of law) governing the Defence Force or a part of the Defence Force.

116D Corresponding ranks

- (1) For the purposes of this division, the Chief of the Defence Force may, by order in writing, determine the ranks in the several parts of the Defence Force that are to be regarded as corresponding with specified ranks in the forces of any other specified country.
- (2) Where, in the course of preparing an order under subsection (1) in relation to a country, the Chief of the Defence Force determines that there is no rank in a part of the Defence Force that can reasonably be regarded as corresponding with a particular rank in the forces of that country, he or she may specify in the order, for the purposes of this Division or any specified provision of this Division and either generally or for any other specified purposes:
 - (a) a rank in that part of the Defence Force that is to be regarded as corresponding with that particular rank; or
 - (b) the relationship that is to be regarded as existing between a member of those forces holding that particular rank and the members of that part of the Defence Force.
- (3) References in this section to ranks shall be read as including references to ratings in naval forces and, generally, as not restricted to the ranks of officers.

Division 3—Absentees without leave**116E Interpretation**

- (1) In this Division, ***authorized officer*** means an officer authorized by the Chief of the Defence Force, by order in writing, for the purposes of this Division.
- (2) A reference in this Division to the designated authority of a country is a reference to an authority designated for the purposes of this Division by the appropriate authority or officer of that country.
- (3) A reference in this Division to the country to which a person belongs is a reference to the country from whose forces he or she is suspected of being, or, where he or she has surrendered himself or herself, appears from his or her confession to be, an absentee without leave.
- (4) For the purposes of the application of this Division in relation to the forces of a country, it is immaterial whether or not any body, contingent or detachment of those forces is present in Australia.

116F Apprehension of absentees without leave

Where the designated authority of a country in relation to which this section applies, by writing signed by him or her, requests an authorized officer for assistance in the apprehension of a member of the forces of that country, not being an Australian citizen, who is an absentee without leave from those forces, the authorized officer may, in his or her discretion, issue a warrant in accordance with the prescribed form authorizing a member or special member of the Australian Federal Police or a member of the police force of a State or Territory or any member of the Defence Force to arrest that absentee.

Section 116G

116G Detention of illegal absentee

- (1) A person who is arrested under section 116F or who surrenders himself or herself as being illegally absent from the forces of a country in relation to which this section applies may be detained:
 - (a) by a member or special member of the Australian Federal Police or a member of a police force of a State or Territory at a police station or at a place provided for the confinement of persons in lawful custody; or
 - (b) by a member of the Defence Force at a place provided for the confinement of members of the Defence Force who are accused or convicted of offences;for such time as is reasonably necessary to enable the person to be dealt with in accordance with section 116H.
- (2) As soon as practicable after a person is taken into custody under subsection (1), the person holding him or her in custody shall:
 - (a) cause an authorized officer to be notified that the person has been taken into custody; and
 - (b) take all reasonable steps to ensure that the person in custody understands his or her right to make a request under subsection (3).
- (3) A person in custody under this section may, on grounds specified by him or her, request that he or she be released from that custody.
- (4) Where a person makes a request under subsection (3), the person holding him or her in custody shall cause the request to be referred to an authorized officer.

116H Disposal of person in custody

- (1) Where an authorized officer is notified under paragraph 116G(2)(a) that a person has been taken into custody under subsection 116G(1), he or she shall, after such investigation of the matter as he or she thinks necessary:
 - (a) if he or she is satisfied that there is a good and sufficient reason why the person held in custody should be released—

Section 116J

- direct that the person be released from custody under this Division; or
- (b) if he or she is not so satisfied—refer the matter to the Minister.
- (2) For the purposes of the carrying out of an investigation referred to in subsection (1), the authorized officer shall have due regard to any request made by a person under subsection 116G(3).
- (3) Where the matter is referred to the Minister under subsection (1), the Minister shall:
- (a) direct that the person held in custody be released from custody under this Division; or
- (b) issue a warrant for the delivery of the person held in custody under this Division into the custody of a specified service authority of the country to which the person belongs at a place in Australia:
- (i) specified in the warrant; or
- (ii) determined by the authorized officer.
- (4) A service authority into whose custody a person is delivered in pursuance of a warrant issued under paragraph (3)(b) may remove the person from Australia, but nothing in this subsection shall be taken to limit any other powers that the authority may have with respect to the person.
- (5) Where under this section the Minister or an authorized officer directs that a person be released from custody under this Division, that person shall be so released.

116J Evidence for the purposes of this Division

For the purposes of any proceedings in a court or otherwise arising in connection with any action taken in pursuance of the provisions of this Division, where the designated authority of a country in relation to which section 116F applies certifies in writing that a person named and described in that certificate was, on a specified

Section 116K

date, an absentee without leave from the forces of that country, that certificate is prima facie evidence of the facts so certified.

116K Proof of facts by certificate

- (1) Where in a certificate given for the purposes of this Division reference is made to a person by name and that certificate includes a description of the person named by reference to his or her physical characteristics and a court is satisfied that a person before it is a person having that name and answering to the description in the certificate, the certificate shall be deemed to refer to that person, unless the contrary is proved.
- (2) A document purporting to be a certificate, request or notification given or made for the purposes of a provision of this Division, and to be signed by an authority or person specified in the document, shall, upon mere production in any proceedings in a court, be received in evidence and, unless the contrary is proved, be deemed to be a certificate, request or notification given or made by that authority or person.
- (3) Where under a provision of this Division a certificate or request is given or made by the designated authority of a country, and a certificate or request purports to be signed by a person described in that document as the designated authority of that country, that person shall, in any proceedings in a court, be deemed to be the designated authority of that country for the purposes of that provision, unless the contrary is proved.

Division 4—Miscellaneous

116M Delegation

- (1) Subject to subsection (2), the Chief of the Defence Force may, in relation to a matter or a class of matters, or to a State, Territory, or other part of Australia, another country or part of another country, by writing signed by him or her, delegate to an officer who holds a rank not below the rank of Captain in the Australian Navy, Colonel in the Australian Army or Group Captain in the Australian Air Force, all or any of his or her powers under this Part.
- (2) The Chief of the Defence Force shall not delegate:
 - (a) his or her power to authorize an officer for the purposes of subsection 116C (3); or
 - (b) his or her power to authorize an officer for the purposes of Division 3;except to an officer who holds a rank not below the rank of Rear-Admiral in the Australian Navy, Major-General in the Australian Army or Air Vice-Marshal in the Australian Air Force.
- (5) A delegation under this section continues in force notwithstanding a change in the occupancy of, or a vacancy in, the office of the Chief of the Defence Force.
- (6) A document purporting to be a copy of a delegation by the Chief of the Defence Force, or an order or written authority made or given by the Chief of the Defence Force or by a delegate of the Chief of the Defence Force, and purporting to bear the signature or a facsimile of the signature of the Chief of the Defence Force or of the delegate, as the case may be, with an endorsement in writing that the delegation, order or written authority is, or was on a specified date, in force, is, upon mere production in a court or otherwise for any purpose arising under this Part, *prima facie* evidence that the delegation, order or written authority was duly given or made in the terms set out in the document and is, or was on the date specified, in force.

Part IXB—Public areas of defence land

116P Interpretation

- (1) In this Part, unless the contrary intention appears:

by-laws means by-laws under this Part.

public area means a public area declared under section 116Q.

ranger means:

- (a) a person appointed under section 116S; and
 - (b) a person referred to in section 116T.
- (2) A reference in this Part to a member of the Australian Federal Police or to a member of a police force includes a reference to a special member of the Australian Federal Police.

116Q Public areas of defence land

- (1) The Minister may, by notice published in the *Gazette*, declare an area specified in the notice to be a public area and assign a name to that area.
- (2) In subsection (1), *area* means an area of land that is owned or held under lease by the Commonwealth and used, or intended for use, for the purposes of defence.

116R Delegation

- (1) The Minister may by writing signed by him or her, delegate to an officer of the Defence Force or an officer of the Department all or any of his or her powers under this Part or the by-laws, other than his or her powers under section 116ZD to make by-laws.
- (4) Subsections 120A(8) and (9) apply in relation to a delegation under this section as if it were a delegation under section 120A.

Section 116S

116S Appointment of rangers

The Minister may, by instrument in writing, appoint a person as a ranger.

116T Rangers ex officio

By force of this section, any member of the Australian Federal Police or member of the police force of a Territory is a ranger.

116U Identity cards

- (1) The Minister may cause to be issued to a ranger, other than a member of a police force, an identity card in a form approved by the Minister.
- (2) A person who ceases to be a ranger shall forthwith return his or her identity card to the Minister.
- (3) A person who contravenes subsection (2) commits an offence punishable on conviction by a fine not exceeding 1 penalty unit.

116V Powers of arrest

- (1) A ranger may, without warrant, arrest any person, if the ranger believes on reasonable grounds:
 - (a) that the person is committing or has committed an offence against this Part or the by-laws; and
 - (b) that proceedings against the person by summons would not be effective.
- (2) Where a ranger (other than a member of a police force who is in uniform) arrests a person under subsection (1), he or she shall:
 - (a) in the case of a member of a police force—produce, for inspection by that person, written evidence of the fact that he or she is a member of a police force; or
 - (b) in any other case—produce his or her identity card for inspection by that person.

Section 116W

- (3) Where a person is arrested under subsection (1), a ranger shall forthwith bring the person, or cause him or her to be brought, before a Justice of the Peace or other proper authority to be dealt with in accordance with law.
- (4) Nothing in this section prevents the arrest of a person in accordance with any other law.

116W General powers of rangers

- (1) A ranger may search any vehicle, aircraft or vessel if he or she believes on reasonable grounds that there is in or on that vehicle, aircraft or vessel anything that will afford evidence as to the commission of an offence against this Part or the by-laws, and for that purpose stop or detain that vehicle, aircraft or vessel.
- (2) A ranger may:
 - (a) require any person whom he or she finds committing or whom he or she suspects on reasonable grounds of having committed an offence against this Part or the by-laws to state his or her full name and usual place of residence; and
 - (b) require any person in a public area whom he or she finds committing, or whom he or she suspects on reasonable grounds of having committed, an offence against this Part or the by-laws to leave the public area.
- (3) Where a ranger (other than a member of a police force who is in uniform) stops, or proposes to search or detain, a vehicle, aircraft or vessel, he or she shall:
 - (a) in the case of a member of a police force—produce, for inspection by the person in charge of that vehicle, aircraft or vessel, written evidence of the fact that he or she is a member of a police force; or
 - (b) in any other case—produce his or her identity card for inspection by that person;and, if he or she fails to do so, he or she is not authorized to search or detain that aircraft, vehicle or vessel.

Section 116X

- (4) Where a ranger (other than a member of a police force who is in uniform) makes a requirement of a person under this section, he or she shall:
- (a) in the case of a member of a police force—produce, for inspection by that person, written evidence of the fact that he or she is a member of a police force; or
 - (b) in any other case—produce his or her identity card for inspection by that person;
- and, if he or she fails to do so, that person is not obliged to comply with the requirement.
- (5) A person commits an offence if:
- (a) a ranger makes a requirement of the person under this section; and
 - (b) the person fails to comply with the requirement.

Penalty: 10 penalty units.

- (6) An offence under subsection (5) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (7) Subsection (5) does not apply if the person has a reasonable excuse.

Note: The defendant bears an evidential burden in relation to the matter in subsection (7). See subsection 13.3(3) of the *Criminal Code*.

116X Seizure and forfeiture

- (1) Where a court convicts a person of an offence against this Part or the by-laws, the court may order the forfeiture to the Commonwealth of any vehicle, aircraft, vessel or article used or otherwise involved in the commission of the offence.
- (2) A ranger may seize any vehicle, aircraft, vessel or article that he or she believes on reasonable grounds to have been used or otherwise involved in the commission of an offence against this Part or the by-laws and may retain it until the expiration of a period of 60 days after the seizure, or, if proceedings for an offence against this Part

Section 116Y

or the by-laws in the commission of which it may have been used or otherwise involved are instituted within that period, until the proceedings are terminated.

- (3) The Minister may authorize a vehicle, aircraft, vessel or article seized under subsection (2) or anything on, in or attached to such a vehicle, aircraft or vessel to be released to its owner, or to the person from whose possession it was seized, either unconditionally or on such conditions as he or she thinks fit, including conditions as to the giving of security for payment of its value if it is forfeited.
- (4) A vehicle, aircraft, vessel or article forfeited under this section may be sold or otherwise disposed of as the Minister thinks fit.

116Y Assaulting etc. rangers

- (1) A person commits an offence if:
 - (a) the person assaults or threatens another person; and
 - (b) that other person is a ranger performing his or her duties under this Part or the by-laws.

Penalty: Imprisonment for 2 years or 50 penalty units, or both.

- (2) In paragraph (1)(b), strict liability applies to the physical element of circumstance, that the performance of the duties is under this Part or the by-laws.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

116ZA Officers and employees of governments and authorities

The Minister may make arrangements with a Minister of a State or Territory for the performance of functions and the exercise of powers under this Part or the by-laws by officers or employees of that State or Territory or of an authority of that State or Territory, as the case may be.

116ZB Prosecution of offences

- (1) Notwithstanding that an offence against this Part is expressed to be an indictable offence, a court of summary jurisdiction may hear and determine proceedings in respect of such an offence if the court is satisfied that it is proper to do so and the defendant and the prosecutor consent.
- (2) Where, in accordance with subsection (1), a court of summary jurisdiction convicts a person of an offence, the penalty that the court may impose is imprisonment for a period not exceeding 6 months or a fine not exceeding 10 penalty units, or both.

116ZC Concurrent operation of State and Territory laws

- (1) This Part and the by-laws, in so far as they apply in relation to public areas, are not intended to exclude or limit the concurrent operation of a law of a State or Territory.
- (2) In interpreting whether, in relation to land owned or held under lease by the Commonwealth, any provision of this Act (other than this Part) is intended to exclude or limit the concurrent operation of a law of a State or Territory, subsection (1) shall be disregarded.

116ZCA Infringement notices*Provisions subject to an infringement notice*

- (1) A strict liability offence against the by-laws is subject to an infringement notice under Part 5 of the Regulatory Powers Act if the by-laws specify the offence for the purposes of this subsection.

Note: Part 5 of the Regulatory Powers Act creates a framework for using infringement notices in relation to provisions.

Infringement officer

- (2) For the purposes of Part 5 of the Regulatory Powers Act, a ranger is an infringement officer in relation to an offence specified for the purposes of subsection (1).

Section 116ZCA

Relevant chief executive

- (3) For the purposes of Part 5 of the Regulatory Powers Act, each of the following is a relevant chief executive in relation to an offence specified for the purposes of subsection (1):
 - (a) the Secretary;
 - (b) the Chief of the Defence Force.
- (4) A relevant chief executive may, in writing, delegate the powers and functions of the relevant chief executive under that Part to any of the following:
 - (a) an SES employee, or an acting SES employee, in the Department;
 - (b) an officer of the Navy who holds the rank of Commodore or a higher rank;
 - (c) an officer of the Army who holds the rank of Brigadier or a higher rank;
 - (d) an officer of the Air Force who holds the rank of Air Commodore or a higher rank.
- (5) A person exercising powers or performing functions under a delegation under subsection (4) must comply with any directions of the relevant chief executive.

Additional matters to be included in infringement notices

- (6) In addition to the matters included in subsection 104(1) of the Regulatory Powers Act, an infringement notice given in relation to an alleged contravention of an offence specified for the purposes of subsection (1) of this section must also state who is the relevant chief executive in relation to the offence.

Note: The relevant chief executive may be the Secretary or the Chief of the Defence Force (see subsection (3)).

116ZD By-laws

- (1) The Minister may, by legislative instrument, make by-laws, not inconsistent with this Act, for and in relation to the control and management of public areas.
- (2) Without limiting the generality of subsection (1), by-laws may be made:
 - (a) providing for functions and powers to be conferred, and duties to be imposed, upon rangers;
 - (b) regulating or prohibiting the pollution of soil, air or water in a manner that is, or is likely to be, harmful to people or wildlife in, or to the natural features of, public areas;
 - (c) regulating or prohibiting tourism in public areas;
 - (d) providing for the protection and preservation of public areas and property and things in public areas;
 - (e) regulating or prohibiting access to public areas by persons or classes of persons;
 - (f) providing for the removal of trespassers from public areas;
 - (g) regulating or prohibiting camping in public areas;
 - (h) providing for the safety of persons in public areas;
 - (j) regulating or prohibiting the use of fire in public areas;
 - (k) regulating the conduct of persons in public areas;
 - (m) regulating or prohibiting the carrying on of any trade or commerce in a public area;
 - (n) regulating or prohibiting the use of vehicles in public areas and providing for signs and road markings for those purposes;
 - (p) providing for the removal of vehicles, aircraft or vessels from places in public areas where they have been left in contravention of the by-laws or have been abandoned and for the impounding of such vehicles, aircraft or vessels;
 - (q) making provision to the effect that, where a contravention of a provision of the by-laws relating to the parking or stopping of vehicles in a public area occurs in respect of a motor vehicle, the person who is to be regarded as the owner of the

Section 116ZD

motor vehicle for the purposes of the by-laws (who may, in accordance with the by-laws, be or include a person in whose name the motor vehicle is registered under the law of a State or Territory) is to be, except as provided otherwise, deemed to have committed an offence against the provision so contravened, whether or not he or she in fact contravened that provision;

- (r) specifying strict liability offences against the by-laws for the purposes of subsection 116ZCA(1);
- (s) regulating or prohibiting the use of vessels, and the landing and use of aircraft, in public areas;
- (t) regulating or prohibiting the taking of animals or plants into, or out of, public areas;
- (u) providing for the impounding, removal, destruction or disposal of animals found straying in public areas;
- (v) regulating or prohibiting the taking into public areas, and the use in public areas, of weapons, traps, nets, snares, fishing apparatus and other devices;
- (w) regulating or prohibiting the laying of baits and the use of explosives and poisons in public areas;
- (x) providing for the collection of specimens and the pursuit of research in public areas for scientific purposes;
- (y) providing for the issue of licences, permits and authorities, the conditions subject to which they are issued and the charging of fees by the Minister in respect of such licences, permits and authorities;
- (z) the imposition of charges for:
 - (i) the parking or stopping of vehicles;
 - (ii) the landing of aircraft; and
 - (iii) the use of vehicles and vessels;in public areas;
- (za) providing for penalties, not exceeding a fine of 10 penalty units, for offences against the by-laws; and
- (zb) providing for any matter incidental to or connected with any of the foregoing.

Part IXC—Salvage claims

117 Interpretation

- (1) In this Part, unless the contrary intention appears:

member of the crew, in relation to a Naval ship, means any member of the Defence Force, whether an officer or a sailor, who belonged to, and was on board, the ship at the time the salvage services were rendered and includes any other member of the Defence Force who was on board the ship at that time and who took part in the rendering of such services.

Naval ship means a ship belonging to the Defence Force.

officer means an officer of the Defence Force.

salvage includes all expenses properly incurred by a Naval ship in the performance of salvage services.

salvage services means any act or activity undertaken to assist a vessel or property in danger in whatever waters the act or activity takes place.

vessel means any ship, craft or structure capable of navigating the high seas.

- (2) Where, before a claim for salvage in respect of salvage services rendered by a Naval ship is commenced or settled, a person who was the commanding officer of that ship at the time when the ship rendered salvage services:
- (a) dies; or
 - (b) is absent from duty or from Australia or is, for any other reason, unable to act or continue to act on behalf of the members of the crew in accordance with subsection 117A(3);

Section 117A

the Chief of the Defence Force shall, by instrument in writing, appoint a member of the crew of that ship to act on that person's behalf.

- (3) Where, before a claim for salvage in respect of salvage services rendered by a Naval ship is commenced or settled, a person who was the commanding officer of that ship at the time when the ship rendered salvage services:
- (a) ceases (otherwise than by reason of death) to be the commanding officer of that ship; or
 - (b) ceases (otherwise than by reason of death) to be a member of the Defence Force;
- that person shall, for the purposes of this Part, be taken to be the commanding officer of that ship until the claim for salvage is settled.

117A Salvage claims by crew of Naval ships

- (1) Without, by implication, affecting the right of the Commonwealth to claim salvage in respect of salvage services rendered by a Naval ship, the members of the crew of that ship may, subject to subsection (2), also claim salvage in respect of those services.
- (2) A claim for salvage on behalf of the members of the crew of a Naval ship:
- (a) shall not be made without the prior written approval of the Chief of the Defence Force; and
 - (b) shall be commenced and prosecuted only by the Australian Government Solicitor.
- (3) Where the Chief of the Defence Force approves the making of a claim for salvage in respect of salvage services rendered by a Naval ship on behalf of the members of the crew of that ship, the commanding officer of that ship is authorised, on behalf of each member of the crew of that ship:
- (a) to instruct the Australian Government Solicitor to act for the members of the crew in relation to the claim; and
 - (b) to accept an offer in settlement of the claim.

Section 117AA

- (4) An acceptance of an offer by the commanding officer is binding on each member of the crew.

117AA Apportionment of salvage between the Commonwealth and crew members

- (1) Where salvage is payable in respect of salvage services rendered by a Naval ship and a part of that salvage has been claimed on behalf of the members of the crew of that ship, the salvage so payable:
- (a) shall be applied in meeting the expenses incurred by the Commonwealth in providing such salvage services; and
 - (b) to the extent that it is not so applied shall be apportioned between the Commonwealth and the members of the crew of the ship:
 - (i) if the apportionment between the Commonwealth and the members of the crew forms part of the terms of settlement between the owners of the vessel or property saved, the Commonwealth and the members of the crew—in accordance with those terms;
 - (ii) if a court or other tribunal has determined the apportionment between the Commonwealth and the members of the crew—in accordance with that determination; or
 - (iii) in any other case—on the basis that the Commonwealth shall be entitled to receive 80% of the salvage not so applied and the members of the crew shall be entitled to receive 20% of the amount of salvage not so applied.
- (2) Where an amount of salvage would, but for this subsection, be apportioned between the Commonwealth and the members of the crew of a Naval ship in accordance with subparagraph (1)(b)(iii), but the Minister is of the opinion that the members of the crew have rendered exceptional services in the course of rendering the salvage services concerned, the Minister may, by instrument in writing, determine that the amount payable under that subparagraph to members of the crew shall be increased to an amount not exceeding 25% of the amount of salvage not applied in

Section 117AB

accordance with paragraph (1)(a) and the amount payable to the Commonwealth shall be decreased accordingly.

117AB Apportionment of salvage amongst crew members

Where salvage payable in respect of salvage services rendered by a Naval ship is, in accordance with section 117AA, to be apportioned between the Commonwealth and the members of the crew of that ship, the amount of salvage apportioned to the members of the crew:

- (a) shall be applied in meeting the costs of the Commonwealth in conducting the salvage claim on behalf of the members of the crew; and
- (b) to the extent that it is not so applied, shall be apportioned amongst the members of the crew in accordance with the regulations.

Part IXD—Defence aviation areas

117AC Defence aviation areas

- (1) The Minister may, by legislative instrument, declare an area of land, sea or airspace in or adjacent to Australia to be a ***defence aviation area***.
- (2) The Minister must not declare an area unless the Minister is satisfied that:
 - (a) it is necessary for the defence of Australia for any of the matters mentioned in paragraphs 117AD(a) to (c) to apply in relation to the area; and
 - (b) in particular, the matters are necessary for the purpose of preventing or reducing hazards to the following as they relate to the defence of Australia:
 - (i) aircraft;
 - (ii) aviation-related communications, navigation or surveillance.
- (3) Without limiting section 117AD, a declaration of an area may also specify height restrictions that apply in relation to buildings, structures and objects (including trees and other natural obstacles) within the area.
- (4) A declaration of an area may apply, adopt or incorporate, with or without modification:
 - (a) a map, or a matter contained in a map, as in force or existing from time to time; or
 - (b) a matter contained in an instrument or other writing as in force or existing from time to time, to the extent that the matter relates to a map.

Section 117AD

117AD Regulations in relation to defence aviation areas

Without limiting section 124, the regulations may prescribe matters providing for and in relation to the following:

- (a) the regulation or prohibition of the construction or use of buildings, structures or objects within defence aviation areas;
- (b) the regulation or prohibition of the bringing of objects into, or having objects within, defence aviation areas;
- (c) the removal (in whole or in part), marking, lighting, screening, modification or relocation of buildings, structures or objects (including trees or other natural obstacles) within defence aviation areas.

Note: The regulations may also provide for and in relation to the payment by the Commonwealth of compensation, and may provide for penalties for offences against the regulations (see paragraphs 124(1)(r) and (w)).

117AE Monitoring powers

Provisions subject to monitoring

- (1) A provision of the regulations made for the purposes of section 117AD is subject to monitoring under Part 2 of the Regulatory Powers Act if the regulations prescribe the provision for the purposes of this subsection.

Note: Part 2 of the Regulatory Powers Act creates a framework for monitoring whether provisions of the regulations have been complied with. It includes powers of entry and inspection.

Information subject to monitoring

- (2) Information given in compliance or purported compliance with a provision of the regulations made for the purposes of section 117AD is subject to monitoring under Part 2 of the Regulatory Powers Act if the regulations prescribe the provision for the purposes of this subsection.

Note: Part 2 of the Regulatory Powers Act creates a framework for monitoring whether the information is correct. It includes powers of entry and inspection.

Section 117AF

Authorised applicant, authorised person, issuing officer, relevant chief executive and relevant court

- (3) For the purposes of Part 2 of the Regulatory Powers Act, as it applies in relation to a provision prescribed for the purposes of subsection (1) and the information mentioned in subsection (2):
- (a) a defence aviation area inspector is an authorised applicant; and
 - (b) a defence aviation area inspector is an authorised person; and
 - (c) a magistrate is an issuing officer; and
 - (d) each of the following is a relevant chief executive:
 - (i) the Secretary;
 - (ii) the Chief of the Defence Force; and
 - (e) each of the following is a relevant court:
 - (i) the Federal Court of Australia;
 - (ii) the Federal Circuit and Family Court of Australia (Division 2);
 - (iii) a court of a State or Territory that has jurisdiction in relation to matters arising under this Act.

Person assisting

- (4) An authorised person may be assisted by other persons in exercising powers or performing functions or duties under Part 2 of the Regulatory Powers Act in relation to a provision prescribed for the purposes of subsection (1) and the information mentioned in subsection (2).

117AF Modifications of Part 2 of the Regulatory Powers Act

Additional purpose and monitoring powers

- (1) Part 2 of the Regulatory Powers Act, subsections 117AE(3) and (4) of this Act, and section 117AH of this Act (as that section relates to that Part), also apply in relation to a provision prescribed for the purposes of subsection 117AE(1) (the ***monitored provision***) as if:

Section 117AG

- (a) the powers under that Part may be exercised for the purpose of ensuring compliance with the monitored provision; and
- (b) the monitoring powers in that Part included the taking of any action that is reasonably necessary to ensure compliance with the monitored provision.

Note 1: A warrant may be issued under subsection 32(2) of the Regulatory Powers Act if the issuing officer is satisfied, by information on oath or affirmation, that it is reasonably necessary that one or more authorised persons should have access to a premises for that purpose.

Note 2: The regulations may provide for and in relation to the payment by the Commonwealth of compensation (see paragraph 124(1)(r)).

- (2) Without limiting paragraph (1)(b), the taking of action may include the removal (in whole or in part), destruction or modification of a building, structure or object.

Use of force in executing a warrant

- (3) In executing a monitoring warrant for the purpose mentioned in paragraph (1)(a):
 - (a) an authorised person may use such force against persons and things as is necessary and reasonable in the circumstances; and
 - (b) a person assisting the authorised person may use such force against things as is necessary and reasonable in the circumstances.

117AG Appointment of inspectors for defence aviation areas

- (1) The Secretary, or the Chief of the Defence Force, (the ***appointer***) may, in writing, appoint any of the following as an inspector (a ***defence aviation area inspector***) for the purposes of this Part:
 - (a) an APS employee in the Department;
 - (b) a member of the Defence Force.
- (2) The appointer must not appoint a person as a defence aviation area inspector unless the appointer is satisfied that the person has the

Section 117AH

knowledge, training or experience necessary to properly exercise the powers of a defence aviation area inspector.

- (3) A defence aviation area inspector must, in exercising powers as such, comply with any directions of the appointer.
- (4) If a direction is given under subsection (3) in writing, the direction is not a legislative instrument.

117AH Delegation of powers of Secretary or Chief of Defence Force

- (1) The Secretary, or the Chief of the Defence Force, (the *delegator*) may, in writing, delegate the powers and functions mentioned in subsection (2) to any of the following:
 - (a) an SES employee, or an acting SES employee, in the Department;
 - (b) an officer of the Navy who holds the rank of Commodore or a higher rank;
 - (c) an officer of the Army who holds the rank of Brigadier or a higher rank;
 - (d) an officer of the Air Force who holds the rank of Air Commodore or a higher rank.
- (2) The powers and functions that may be delegated are the following:
 - (a) the powers and functions of the relevant chief executive under Part 2 of the Regulatory Powers Act in relation to a provision prescribed for the purposes of subsection 117AE(1) and the information mentioned in subsection 117AE(2);
 - (b) the powers and functions of the appointer under section 117AG.
- (3) A person exercising powers or performing functions under a delegation under subsection (1) must comply with any directions of the delegator.

Part X—Miscellaneous

117B Members and former members may bring actions for money due in respect of service

A person who is or has been a member of the Defence Force may recover from the Commonwealth, by action in a court of competent jurisdiction, money due to the person by the Commonwealth in respect of the person's service as a member of the Defence Force.

118 Penalty against raising forces without authority

A person commits an offence if:

- (a) the person induces another person to enlist or engage to serve in any naval, military or air force; and
- (b) the raising of that force has not been authorised by or under this Act or another Act.

Penalty: Imprisonment for 6 months.

118A Employer not to prevent employee from serving

- (1) An employer shall not prevent any employee and a parent or guardian shall not prevent any son or ward from rendering the personal service required of him or her under Part IV.

Penalty: 2 penalty units.

- (2) An employer shall not in any way penalize or prejudice in his or her employment any employee for rendering or being liable to render the personal service required of him the employee under Part IV, either by reducing his or her wages or dismissing him or her from his or her employment or in any other way.

Penalty: 2 penalty units.

Section 118B

- (3) The rendering of the personal service or the enlistment referred to in this section shall not terminate a contract of employment, but the contract shall be suspended during the absence of the employee for the purposes referred to in this section; but nothing in this section shall render the employer liable to pay an employee for any time when he or she is absent from employment for the purposes referred to in this section.
- (4) In any proceedings for an offence against this section it shall lie upon the employer to show that any employee proved to have been dismissed or to have been prejudiced or penalized in his or her employment or to have suffered a reduction of wages, was so dismissed penalized or prejudiced in his or her employment or reduced for some reason other than that of having rendered the personal service required of him or her under Part IV, either within or without the limits of Australia.
- (5) The Court may direct that the whole or any part of the penalty recovered from an employer for an offence against this section shall be paid to the employee.

118B Enlistment of apprentices in time of war

In time of war, a person who is employed under articles of apprenticeship may volunteer to serve as a sailor, soldier or airman, and may enlist in the Australian Navy, the Australian Army or the Australian Air Force, notwithstanding anything contained in, or any obligation arising out of, those articles of apprenticeship.

119 Forfeiture or suspension of salary in certain circumstances

- (1) The regulations may make provision for and in relation to the forfeiture, in whole or in part, or the suspension of the whole, of the salary of, and of the allowances of, a member of the Defence Force.
- (2) Subsection (1) does not prevent the Minister making a determination under section 58B that deals with matters covered by that subsection.

Section 120

120 Notice etc. need not be in writing unless required herein

It shall not be necessary for any order or notice under this Act to be in writing, unless by this Act required to be so, provided it be communicated to the person who is to obey or be bound by it, either directly by the officer or person making or giving it, or by some other person by his or her order.

120A Delegation

Delegations by the Governor-General

- (2) The Governor-General may, by instrument in writing, delegate all or any of his or her powers under subsections 116C(5) and 116C(5A) to:
- (a) an officer of the Army who holds the rank of Major-General or a higher rank; or
 - (b) an officer of the Navy who holds the rank of Rear-Admiral or a higher rank; or
 - (c) an officer of the Air Force who holds the rank of Air Vice-Marshal or a higher rank.

Delegations of jointly held powers by the Secretary and Chief of the Defence Force

- (3A) The Secretary and the Chief of the Defence Force may, by instrument in writing signed by each of them, delegate all or any of the powers that they hold jointly under section 11 to issue Defence Instructions to:
- (a) an officer of the Army who holds the rank of Major-General or a higher rank; or
 - (b) an officer of the Navy who holds the rank of Rear-Admiral or a higher rank; or
 - (c) an officer of the Air Force who holds the rank of Air Vice-Marshal or a higher rank; or
 - (d) an SES employee who holds an SES Band 2 position, or an equivalent or higher position, in the Department.

Section 120A

- (3B) The Secretary and the Chief of the Defence Force may, by instrument in writing signed by each of them, delegate all or any of the powers that they hold jointly under section 11 to issue Defence Instructions to 2 persons to exercise jointly.
- (3C) Each person to whom a power is delegated under subsection (3B) must be a person specified in paragraph (3A)(a), (b), (c) or (d).

Delegations by the Chief of the Defence Force

- (3D) The Chief of the Defence Force may, by instrument in writing, delegate his or her powers as follows:
- (a) the power under subsection 26(2) to accept volunteer service by members of the Reserves—to an officer of the Defence Force;
 - (b) the power under subsection 29(1) to specify periods of service for members of the Reserves covered by a call out order—to an officer of the Defence Force;
 - (c) powers in relation to flexible service determinations under subsections 23(2) and (3)—to an officer of the Defence Force;
 - (d) the power under section 93A to determine authorised persons for the purposes of Part VIIIA (testing for prohibited substances)—to:
 - (i) an officer of the Navy who holds a rank not below the rank of Commodore; or
 - (ii) an officer of the Army who holds a rank not below the rank of Brigadier; or
 - (iii) an officer of the Air Force who holds a rank not below the rank of Air Commodore;
 - (e) powers under sections 100 and 101 relating to testing for prohibited substances—to:
 - (i) an officer of the Navy who holds a rank not below the rank of Commander; or
 - (ii) an officer of the Army who holds a rank not below the rank of Lieutenant-Colonel; or

Section 120A

- (iii) an officer of the Air Force who holds a rank not below the rank of Wing Commander; or
- (iv) an APS employee who holds, or performs the duties of, a position not below an Executive Level 1 position, or equivalent, in the Department;
- (ea) the power under subsection 123AA(4) to authorise persons to perform duties in respect of the provision of assistance mentioned in subsection 123AA(1)—to:
 - (i) an officer of the Navy who holds a rank not below the rank of Commodore; or
 - (ii) an officer of the Army who holds a rank not below the rank of Brigadier; or
 - (iii) an officer of the Air Force who holds a rank not below the rank of Air Commodore;
- (f) powers under section 123A—to an officer of the Defence Force.

Delegation by Secretary

- (4) The Secretary may, by instrument in writing, delegate the Secretary's power under subsection 123AA(4) to authorise persons to perform duties in respect of the provision of assistance mentioned in subsection 123AA(1) to an SES employee in the Department.

General provisions about delegations

- (6A) The delegate is, in the exercise of a power delegated under this section, subject to the directions of the person who made the delegation.
- (8) A delegation under this section continues in force notwithstanding a change in the occupancy of, or a vacancy in, the office of the person who made the delegation.
- (9) A document purporting to be a copy of an instrument of delegation under this section and purporting to bear the signature, or a facsimile of the signature, of the person who made the delegation

Section 120B

and an endorsement in writing that the delegation is, or was on a specified date, in force, is, upon mere production in a court or otherwise for any purpose arising under this Act, prima facie evidence that the delegation was duly made in the terms set out in the document and is, or was on the date specified, in force.

120B Attachment of salaries of members

- (1) Where judgment has been given by a court against a member for the payment of a sum of money, the person in whose favour judgment was given (in this section referred to as the *judgment creditor*) may serve on a paying officer:
 - (a) a copy of the judgment, certified under the hand of the Registrar or other appropriate officer of the court; and
 - (b) a statutory declaration that:
 - (i) states that the judgment has not been satisfied by the member; and
 - (ii) sets out the amount then due by the member under the judgment.
- (2) The paying officer shall, as soon as practicable after service of the copy of the judgment and the statutory declaration, by notice in writing given to the member:
 - (a) inform the member of the service on the paying officer of the copy of the judgment and the statutory declaration; and
 - (b) require the member:
 - (i) to inform the paying officer, in writing, within the time specified for the purpose in the notice, whether the judgment has been satisfied; and
 - (ii) if:
 - (A) the member claims the judgment has been satisfied, to furnish evidence in support of the claim; or
 - (B) the member admits that the judgment has not been satisfied, to state the amount then due under the judgment.

Section 120B

- (3) If the member:
 - (a) fails, within the time specified for the purpose in the notice, to satisfy the paying officer that the judgment has been satisfied; or
 - (b) admits that the judgment has not been satisfied;the paying officer shall, subject to subsection (13), in relation to each pay-day of the member, cause to be deducted from the salary payable to the member on the pay-day an amount equal to the normal deduction in relation to the member in relation to the pay-day or such lesser amount as is, in the opinion of the paying officer, sufficient to satisfy the amount then due under the judgment.
- (4) There is payable to the Commonwealth, by the judgment creditor, an administration fee, at the prescribed rate, in respect of each amount deducted pursuant to subsection (3).
- (5) The paying officer shall, subject to subsection (6), cause an amount equal to each amount deducted pursuant to subsection (3) to be paid to the judgment creditor.
- (6) Where an amount is deducted pursuant to subsection (3) and the whole or part of the administration fee payable in respect of the amount has not been paid by the judgment creditor, the paying officer shall:
 - (a) apply, in or towards payment of the administration fee, the amount of the deduction or so much of the amount of the deduction as is equal to the administration fee; and
 - (b) if the whole of the amount of the deduction is not applied in accordance with paragraph (a), pay an amount equal to the balance to the judgment creditor.
- (7) Upon the application under subsection (6) of an amount (in this subsection referred to as the **relevant amount**) in or towards payment of the administration fee payable in respect of an amount deducted pursuant to subsection (3) from the salary payable to the member on a pay-day:

Section 120B

- (a) the judgment creditor shall be deemed to have paid the relevant amount to the Commonwealth in satisfaction or partial satisfaction, as the case requires, of the administration fee;
 - (b) an amount equal to the relevant amount shall be deemed to have been paid by the Commonwealth to the member on account of the salary payable to the member on the pay-day; and
 - (c) an amount equal to the relevant amount shall also be deemed to have been paid by the member to the judgment creditor in relation to the judgment.
- (8) Upon payment being made to the judgment creditor pursuant to subsection (5) or (6) of an amount (in this subsection referred to as the **relevant amount**) in relation to an amount deducted pursuant to subsection (3) from the salary payable to the member on a pay-day:
 - (a) an amount equal to the relevant amount shall be deemed to have been paid by the Commonwealth to the member on account of the salary payable to the member on the pay-day; and
 - (b) an amount equal to the relevant amount shall also be deemed to have been paid by the member to the judgment creditor in relation to the judgment.
- (9) When the judgment has been satisfied, the judgment creditor shall forthwith notify the paying officer accordingly.

Penalty: Imprisonment for 3 months or 5 penalty units.
- (10) If the amounts deemed, by virtue of paragraphs (7)(c) and (8)(b), to have been paid by the member to the judgment creditor exceed, in the aggregate, the amount due under the judgment, the excess is repayable by the judgment creditor to the member, and, in default of repayment, may be recovered, by action in a court of competent jurisdiction, as a debt due by the judgment creditor to the member.
- (11) Where, in relation to an amount deducted pursuant to subsection (3) from the salary payable to the member on a pay-day, an amount is, by virtue of paragraph (7)(c), deemed to have been

Section 120B

paid by the member to the judgment creditor and an amount is, by virtue of paragraph (8)(b), deemed to have been paid by the member to the judgment creditor, then, for the purposes of subsection (10), the last-mentioned amount shall be deemed to have been paid after the second-mentioned amount.

- (12) If the member ceases to be a member before the paying officer is notified that the judgment has been satisfied, the paying officer shall forthwith inform the judgment creditor, in writing, of the fact that the member has ceased to be a member and the date on which the member ceased to be a member.
- (13) If the paying officer is satisfied that the deduction of the amount that the paying officer would, but for this subsection, be required to deduct from the salary payable to the member on a pay-day would cause severe hardship to the member, the paying officer may deduct a lesser amount in relation to the pay-day.
- (14) Where copies of more than one judgment, and statutory declarations in relation to those judgments, are served under subsection (1) in relation to a member, the judgments shall be dealt with under this section in the order in which copies of the judgments are served under that subsection.
- (15) Subsections (1) to (14) (inclusive) do not apply to a member:
 - (a) who is a bankrupt; or
 - (b) in relation to whom a personal insolvency agreement is in force under the *Bankruptcy Act 1966*.
- (16) In this section:

member means a member of the Defence Force rendering continuous full-time service.

net salary, in relation to a member in relation to a pay-day, means the amount of salary payable by the Commonwealth to the member on the pay-day after deductions have been made:

- (a) pursuant to Part 2-5 in Schedule 1 to the *Taxation Administration Act 1953*; and

Section 121

- (b) pursuant to Part III of the *Defence Force Retirement and Death Benefits Act 1973*; and
- (c) for purposes prescribed for the purpose of this paragraph.

normal deduction, in relation to a member in relation to a pay-day, means an amount equal to 20% of the net salary of the member in relation to the pay-day or such greater amount as the member notifies a paying officer, in writing, should be the normal deduction for the purposes of this section in relation to the pay-day.

pay-day, in relation to a member, means a day on which salary is payable to the member.

paying officer means a person engaged under the *Public Service Act 1999* performing duties in the Department who is appointed by the Secretary, in writing, to be a paying officer for the purposes of this section.

salary, in relation to a member, means any money payable by the Commonwealth to the member by way of salary, and includes any money payable by the Commonwealth to the member by way of an allowance prescribed for the purposes of this definition, but does not include any money payable to the member by way of a weekly payment of compensation under the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988* or the *Military Rehabilitation and Compensation Act 2004*.

121 Proof of order

The production of an appointment, or order in writing purporting to be granted or made according to the provisions of this Act shall be prima facie evidence of the appointment, or order, without proving the signature or seal thereto, or the authority of the person granting or making the appointment, or order.

121A Validation of declaration and past acts in relation to the Woomera Prohibited Area

- (1) This section applies in relation to:

Section 122

- (a) the declaration of the Woomera Prohibited Area under regulation 35 of the *Defence Force Regulations 1952* by notice published in the Gazette on 12 July 1989; and
 - (b) things done (the *past acts*) by the Commonwealth under regulation 35 of the *Defence Force Regulations 1952* as a result of the declaration.
- (2) The declaration and past acts are taken always to have been valid.
- (3) To the extent that, apart from subsection (2) and this subsection, the declaration and past acts would be invalid because they would result in an acquisition of property (within the meaning of paragraph 51(xxxi) of the Constitution) from a person otherwise than on just terms (within the meaning of that paragraph), the Commonwealth is liable to pay a reasonable amount of compensation to the person.
- (4) If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in the Federal Court of Australia or another court of competent jurisdiction for the recovery from the Commonwealth of such reasonable amount of compensation as the court determines.
- (5) In this section:
 - valid* includes having full force and effect.

122 Appointments etc. not invalid because of defect etc. in connection with appointment

The appointment of an officer or enlistment of a member of the Defence Force and any extension of such an appointment or enlistment is not invalid because of a defect or irregularity in connection with the appointment, enlistment or extension, as the case may be.

122AA Taxation consequences of disposals of assets to defence companies

- (1) This section applies where a CGT event (within the meaning of the *Income Tax Assessment Act 1997*) happens in relation to a CGT asset (within the meaning of that Act) of the Commonwealth and all of the following conditions are satisfied:
 - (aa) the event involves a company acquiring the asset;
 - (a) the company is:
 - (i) Australian Defence Industries Pty Ltd; or
 - (ii) Aerospace Technologies of Australia Pty Ltd;
 - (b) the event happens under a scheme:
 - (i) for the reorganisation of defence-related activities; and
 - (ii) associated with the establishment of the company;
 - (c) for the purposes of the *Income Tax Assessment Act 1997*, the asset was acquired by the Commonwealth before 20 September 1985;
 - (d) before 20 September 1985, the asset was used, or intended for use, for defence-related purposes;
 - (2) For the purposes of Parts 3-1 and 3-3 of the *Income Tax Assessment Act 1997*, the company is taken to have acquired the asset before 20 September 1985.
 - (4) In calculating the deductions (if any) allowable to the company under Subdivision 40-B of the *Income Tax Assessment Act 1997* in respect of the asset, the adjustable value of the asset to the company at the time of the acquisition of the asset is the amount that would have been its adjustable value to the Commonwealth just before that time if:
 - (a) the Commonwealth had been a taxpayer; and
 - (b) the asset had been used by the Commonwealth exclusively for the purpose of producing assessable income.
 - (5) Section 170 of the *Income Tax Assessment Act 1936* does not prevent the amendment of an assessment for the purpose of giving effect to this section.

Section 122B

122B Exercise of rights and discharge of duties and obligations by legal officers

A legal officer acting in that capacity is entitled to exercise his or her professional rights, and discharge his or her professional duties and obligations, in accordance with the generally accepted rights, duties and obligations applying to legal practitioners.

123 Immunity from certain State and Territory laws

- (1) A member of the Defence Force is not bound by any law of a State or Territory:
 - (a) that would require the member to have permission (whether in the form of a licence or otherwise) to use or to have in his or her possession, or would require the member to register, a vehicle, vessel, animal, firearm or other thing belonging to the Commonwealth; or
 - (b) that would require the member to have permission (whether in the form of a licence or otherwise) to do anything in the course of his or her duties as a member of the Defence Force.
- (2) The Secretary, or an APS employee authorised in writing by the Secretary, may, by instrument in writing, declare:
 - (a) a person:
 - (i) who is an APS employee; and
 - (ii) who is employed in the Department in, or in connection with, the manufacture of firearms; or
 - (b) a person who is employed by a body corporate concerned with the manufacture of firearms, being a body corporate declared by the regulations to be a body corporate in relation to which this subsection applies;

to be an authorised employee for the purposes of this subsection and, where such a declaration is made in relation to a person, the person continues to be an authorised employee for the purposes of this subsection while the person continues to be so employed.
- (2A) A declaration under subsection (2) may be made by declaring the person holding a particular office or occupying a particular

Section 123AA

position to be an authorised employee for the purposes of that subsection.

- (3) A person who is an authorised employee for the purposes of subsection (2) does not contravene any law of a State or Territory that would require the person to have permission (whether in the form of a licence or otherwise) to have in his or her possession a firearm by reason only of having such a firearm in his or her possession, without such permission, in the performance of his or her duties.

123AA Immunity in relation to certain assistance

- (1) A protected person (see subsection (3)) is not subject to any liability (whether civil or criminal) in respect of anything the protected person does or omits to do, in good faith, in the performance or purported performance of the protected person's duties, if:
- (a) the duties are in respect of the provision of assistance, by or on behalf of the ADF or the Department, to:
 - (i) the Commonwealth or a State or Territory, or a Commonwealth, State or Territory authority or agency; or
 - (ii) members of the community; and
 - (b) the assistance is provided to prepare for a natural disaster or other emergency that is imminent, or to respond to one that is occurring or recover from one that occurred recently; and
 - (c) the assistance is provided at the direction of the Minister under subsection (2).
- (2) The Minister may, in writing, direct the provision of assistance in relation to a natural disaster or other emergency if the Minister is satisfied of either or both of the following:
- (a) the nature or scale of the natural disaster or other emergency makes it necessary, for the benefit of the nation, for the Commonwealth, through use of the ADF's or Department's special capabilities or available resources, to provide the assistance;

Section 123AA

- (b) the assistance is necessary for the protection of Commonwealth agencies, Commonwealth personnel or Commonwealth property.
- (3) Each of the following is a ***protected person***:
 - (a) a member of the Defence Force;
 - (b) an APS employee in the Department;
 - (c) a person authorised under subsection (4) to perform duties in respect of the provision of assistance mentioned in subsection (1).
- (4) The Chief of the Defence Force, or the Secretary, may, in writing, authorise a person, or each person in a class of persons, to perform duties in respect of the provision of assistance mentioned in subsection (1), if the person, or each person in the class of persons, is any of the following:
 - (a) an APS employee or other employee of the Commonwealth or a Commonwealth authority or agency;
 - (b) a member of the naval, military or air force of a foreign country, or a member of a foreign police force (however described).
- (5) The Minister may, in writing, delegate the Minister's power to make a direction under subsection (2) to the Chief of the Defence Force or the Secretary.

Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations.
- (6) In performing a delegated function or exercising a delegated power, the delegate must comply with any written directions of the Minister.
- (7) A direction made under subsection (2) is not a legislative instrument.
- (8) This section does not prevent assistance being provided by or on behalf of the ADF or the Department in circumstances where a direction has not been made under subsection (2).

Section 123A

123A Intoxicating liquor

It is lawful for a person:

- (a) in or at an establishment, camp, unit, mess or canteen of the Defence Force;
 - (b) on board a vessel of the Defence Force; or
 - (c) at a gathering of members of the Defence Force (with or without guests) approved by the Chief of the Defence Force;
- notwithstanding any provision of the law of a State or Territory:
- (d) if the person is a member of the Defence Force or of a mess, or is a guest of such a member—to have in his or her possession, sell, supply, consume or buy intoxicating liquor; or
 - (e) in any other case—to have in his or her possession, sell or supply intoxicating liquor;

in accordance with conditions determined by the Chief of the Defence Force.

123B Religion

No member of the Defence Force who has conscientious objection shall be compelled to answer any question as to his or her religion, nor shall any regulation or other order compel attendance at any religious service.

123F Certain persons not permitted to serve in Defence Force

A person shall not be permitted to serve in the Defence Force if:

- (a) that person has been convicted of a crime that, in the opinion of the Chief of the Defence Force, is such as to render that person unsuitable for service in the Defence Force; or
- (b) the service of that person in the Defence Force might, in the opinion of the Chief of the Defence Force, be prejudicial to the security of Australia.

Section 123G

123G Orders in relation to rifle ranges

- (1) The Minister may, by legislative instrument, make orders, not inconsistent with this Act, for and in relation to the control and administration of rifle ranges.
- (2) Without limiting the generality of subsection (1), orders may be made for or in relation to:
 - (a) the location and acquisition of property for use as a rifle range;
 - (b) the design, construction and use of a rifle range and any equipment or facilities for use in connection with a rifle range, including the setting of safety standards for such design, construction and use; and
 - (c) the regulation or prohibition of the carriage, possession or use of firearms on, or in connection with, a rifle range.
- (5) Subject to subsection (6), orders made under this section for the regulation or prohibition of the carriage, possession or use of firearms on, or in connection with, a rifle range have effect notwithstanding any provision of a law of a State or Territory.
- (6) Subsection (5) is not intended to affect the operation of a law of a State or Territory to the extent that that law is capable of operating concurrently with orders referred to in that subsection.

123H Tactical payment scheme for activities of the Defence Force outside Australia

- (1) The Minister may authorise the making of one or more payments to a person (even though the payments would not otherwise be authorised by law or required to meet a legal liability) if:
 - (a) the person suffers loss, damage or injury outside Australia because of an incident that occurs in the course of an activity of the Defence Force outside Australia; and
 - (b) the person is not an Australian citizen; and
 - (c) the Minister considers it appropriate to authorise the payments.

Section 123J

- (2) A payment cannot be made to the person more than 12 months after the relevant incident.
- (3) The total amount of the payments to the person must not be more than the amount specified in rules made for the purposes of section 65 of the *Public Governance, Performance and Accountability Act 2013* (which deals with act of grace payments by the Commonwealth).
- (4) This section does not limit, and is not limited by, section 65 of the *Public Governance, Performance and Accountability Act 2013*.

Note: Payments under this section must be made from money appropriated by the Parliament.

123J Delegations in relation to the tactical payment scheme

- (1) The Minister may, in writing, delegate his or her powers under section 123H to any of the following persons:
 - (a) the Secretary;
 - (b) the Chief of the Defence Force;
 - (c) an officer in command of an activity of the Defence Force outside Australia;
 - (d) an APS employee who holds, or performs the duties of, an APS 6 position, or an equivalent or higher position, in the Department.
- (2) In exercising powers under a delegation, the delegate must comply with any directions of the Minister.

Part XI—Regulations

124 Regulations

- (1) The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for securing the good government of the Defence Force, or for carrying out or giving effect to this Act, and in particular prescribing matters providing for and in relation to:
- (a) The enlistment, appointment, promotion, reduction in rank, retirement and discharge of members of the Defence Force; and
 - (aa) the transfer of members between different arms, or parts of arms, of the Defence Force; and
 - (ab) the training of members and;
 - (ac) conditions of service of members; and
 - (ad) the appointment of the Chief of Navy, the Chief of Army and the Chief of Air Force; and
 - (b) forfeiture, or assignment, of the whole or part of the remuneration of a member or of allowances or other pecuniary benefits referred to in paragraph 58B(1)(b) or (c); and
 - (c) deductions from the remuneration of a member or from allowances or other pecuniary benefits referred to in paragraph 58B(1)(b) or (c); and
 - (e) the liability of a member, or a member of the family of a member, to pay an amount to the Commonwealth and the manner of recovery of an amount so payable; and
 - (gc) inquiries concerning the Defence Force, other than inquiries conducted by:
 - (i) the Defence Force Remuneration Tribunal under Part IIIA; or
 - (ii) the Inspector-General ADF under Part VIIIB; or

- (iii) the Defence Honours and Awards Appeals Tribunal under Part VIIC; and
- (h) the procedures, powers and reporting obligations of the Inspector-General ADF in respect of the performance of the Inspector-General ADF's functions, including in relation to any matter connected with inquiries, investigations and performance reviews; and
- (i) medical or dental treatment of a member, or a member of the family of a member; and
- (ia) the administration, management, supervision and training of cadets; and
- (j) The formation, incorporation and management of:
 - (i) full-bore or small-bore rifle clubs;
 - (ii) full-bore or small-bore rifle associations;
 - (iii) a national body for the control and administration of full-bore rifle shooting; and
 - (iv) a national body for the control and administration of small-bore rifle shooting; and
- (k) The empowering of clubs, associations or national bodies referred to in paragraph (j) to make, alter and repeal rules, not inconsistent with this Act, for the conduct of their affairs and for the conduct of any rifle competitions promoted by them; and
- (ka) The establishment, management, operation and control of canteens on rifle ranges or on the premises of rifle clubs, including the possession, supply, sale, purchase and consumption of intoxicating liquor at any such range or club; and
- (m) The furnishing of means of conveyance and transport in time of war; and
- (n) The regulation of the quartering or billeting of members of the Defence Force in time of war; and
- (nb) The declaration as a prohibited area of a place (including a place owned by, or held in right of, the Commonwealth or a State) used or intended to be used for a purpose of defence, the prohibition of a person entering, being in or remaining in

Section 124

- the prohibited area without permission and the removal of any such person from the area; and
- (nc) The prohibition of the use, except as prescribed, of a word, group of letters, object or device which is descriptive or indicative of:
- (i) a part of the Naval Forces, Military Forces or Air Forces of a part of the King's dominions; or
 - (ii) a service or body of persons associated with the defence of Australia; and
- (nd) The establishment, maintenance and operation of any factory or undertaking under section 63; and
- (o) The establishment, management, operation and control of canteens and the establishment, management, operation and control of messes including, but without limiting the generality of the foregoing, the subjection of:
- (i) a specified canteen or mess;
 - (ii) a canteen or mess included in a class of specified canteens or messes; or
 - (iii) a specified organization established under the regulations that establishes, manages, operates or controls canteens, to taxation (other than income tax) under a law of the Commonwealth or of a State or Territory; and
- (oa) The management and disposal of the funds and property of units of the Defence Force; and
- (p) The regulation of any naval, military or air-force operation or practice, including any naval, military or air-force operation or practice in or adjacent to Australia of a country other than Australia; and
- (pa) The regulation or prohibition of the emission of smoke from factories or other buildings within the prescribed distance from any gun, fort, searchlight, signal station, observation post, or other work of defence during, or immediately before any naval, military or air force practice; and
- (q) The preservation of the public safety in or at any naval, military or air-force operation or practice; and

Section 124

- (qa) The entry upon and survey of lands for defence purposes; and
- (qaa) The declaration and use of any area (by whomever owned or held) as a practice area for any naval, military or air force operation or practice and the regulation or prohibition of any entry upon or use of a practice area, including the prohibition of a person entering, being in or remaining in a practice area and the removal of any such person from the area; and
- (qb) The post mortem examination and disposal of the bodies of members of the Defence Force who die while on service; and
- (qba) The provision and maintenance of, and the execution of work in connexion with, the following:
 - (i) the graves of persons who have died while on service as members of the Defence Force;
 - (ii) the graves of persons who have died as a result of service as members of the Defence Force;
 - (iii) the grave of a person who, immediately before his or her death, was a dependant of a member of the Defence Force on service, where the grave is located in the Terendak Military Cemetery in Malaysia; and
- (qc) Prisoners of war; and
- (qe) The administration of oaths to, the taking of affidavits of, and the attestation of the execution of documents by, members of the Defence Force while on service outside Australia; and
- (qf) The execution and revocation of powers of attorney by persons under the age of 21 years who are members of the Defence Force and the validity and effect of powers of attorney executed by such persons; and
- (r) the payment by the Commonwealth of compensation for any loss, injury or damage suffered by reason of anything done in pursuance of this Act; and
- (u) The disposal of unclaimed property of members of the Defence Force and of other persons held in the custody or control of the Commonwealth; and
- (w) Providing for penalties, of imprisonment for a period not exceeding 12 months or a fine not exceeding 20 penalty units, or both, for offences against the regulations; and

Section 124

(x) Providing for penalties, not exceeding a fine of 5 penalty units, for offences against orders made under section 123G.

(1A) The regulations may make provision for or in relation to a matter by applying, adopting or incorporating, with or without modification, the provisions of a determination, as in force at a particular time or as in force from time to time, made under section 58H of this Act or under section 24 of the *Public Service Act 1999*.

Note: In addition, section 14 of the *Legislation Act 2003* allows regulations to prescribe matters by reference to disallowable legislative instruments as in force at a particular time or from time to time. That section would, for example, allow a regulation to prescribe matters by reference to a determination under section 58B as in force at a particular time or from time to time.

(1AA) Regulations under subsection (1) may make provision in relation to:

- (a) the appointment or reappointment of a member; or
- (b) the enlistment or re-enlistment of a member; or
- (c) the service of a member;

on the basis that, after a specified time or on a specified event occurring, the member may or must transfer to a different arm, or part of an arm, of the Defence Force, or in relation to other similar arrangements.

Example: The regulations might allow for a soldier to enlist for a total of 8 years, with the first 4 years to be served in the Regular Army and the last 4 years in the Army Reserve, or vice versa, or any other combination of service.

(1AB) Subsection (1AA) does not limit the scope of subsection (1).

(1B) In paragraphs (1)(b), (c), (e) and (i), ***member*** and ***member of the family*** have the same respective meanings as in Part IIIA.

(1C) In paragraph (1)(i), ***medical or dental treatment*** includes the provision of services or goods (including pharmaceuticals) related to medical or dental treatment.

- (2) The regulations may make provision for or in relation to the certification or proof of the death:
- (a) of a member of the Defence Force who died, or is presumed to have died, while on service; and
 - (b) of a person, not being a member of the Defence Force, who died, or is presumed to have died, while in the hands of an enemy or in other circumstances which make proof of death difficult, being circumstances arising out of:
 - (i) a war in which Australia has been or is engaged;
 - (ii) the war-like operations in Korea after 26 June 1950, or in Malaya after 28 June 1950; or
 - (iii) such other war or war-like operations as are prescribed.
- (2A) Subject to subsection (2B), the power to make regulations by virtue of paragraph (1)(gc) includes the power to make regulations requiring a person appearing as a witness before an inquiry to answer a question notwithstanding that the answer to the question may tend to incriminate the person.
- (2AA) Subject to subsection (2B), the power to make regulations for the purposes of paragraph (1)(h) includes the power to make regulations requiring a person appearing as a witness before the Inspector-General ADF to answer a question even if the answer to the question may tend to incriminate the person.
- (2AB) Subject to subsection (2B), the power to make regulations for the purposes of subsection 110P(3) includes the power to make regulations requiring a person appearing as a witness before a person appointed under section 110P to answer a question even if the answer to the question may tend to incriminate the first-mentioned person.
- (2B) Subsection (2A) does not authorise the making of a regulation containing a requirement referred to in the subsection concerned where the answer to the question may tend to incriminate the person in respect of an offence with which the person has been charged and in respect of which the charge has not been finally dealt with by a court or otherwise disposed of.
-

Section 124

- (2C) A statement or disclosure made by a witness in the course of giving evidence before an inquiry, established (however described) under regulations made for the purposes of paragraph (1)(gc), is not admissible in evidence against that witness in:
- (a) any civil or criminal proceedings in any federal court or court of a State or Territory; or
 - (b) proceedings before a service tribunal;
- otherwise than in proceedings by way of a prosecution for giving false testimony at the hearing before the inquiry.
- (2CA) If a witness makes a statement or disclosure in the course of giving evidence before the Inspector-General ADF or a person appointed under section 110P:
- (a) the statement or disclosure; and
 - (b) the making of the statement or disclosure; and
 - (c) any information, document or thing obtained as a direct or indirect consequence of making the statement or disclosure;
- are not admissible in evidence against the witness in:
- (d) any civil or criminal proceedings in any federal court or court of a State or Territory; or
 - (e) proceedings before a service tribunal;
- other than in proceedings by way of a prosecution for giving false testimony at the hearing before the Inspector-General ADF or person appointed under section 110P.
- (3) For the purposes of paragraphs (1)(qb), (qba), (qe) and (qf) and for the purposes of subsection (2):
- (a) a member of the Defence Force shall be deemed to be on service while he or she is a prisoner of war or interned in a place outside Australia; and
 - (b) a person, not being a member of the Defence Force, who accompanies a part of the Defence Force shall be deemed to be a member of, and on service with, that part of the Defence Force.
- (3A) Subject to subsection (3B), regulations made by virtue of paragraph 124(1)(ka) in relation to the possession, supply, sale,

purchase and consumption of intoxicating liquor have effect notwithstanding any provision of a law of a State or Territory.

- (3B) Subsection (3A) is not intended to affect the operation of a law of a State or Territory to the extent that that law is capable of operating concurrently with the regulations referred to in that subsection.
- (3C) Regulations made by virtue of paragraph (1)(qa) or (qaa) shall include provision for and in relation to the payment of reasonable compensation for any loss or damage caused by anything done in pursuance of those regulations or otherwise caused by the operation of those regulations.
- (4) In this section, **remuneration** means remuneration by way of salary, pay, allowances or otherwise.

Schedule 1—Ranks and corresponding ranks

Note: See section 21.

1 Ranks and corresponding ranks

- (1) The ranks of members of the Defence Force (other than chaplains) in the Navy, Army and Air Force are set out in the following table.

Ranks and corresponding ranks			
Item	Column 1 Navy	Column 2 Army	Column 3 Air Force
1	Admiral of the Fleet	Field Marshal	Marshal of the Royal Australian Air Force
2	Admiral	General	Air Chief Marshal
3	Vice Admiral	Lieutenant General	Air Marshal
4	Rear Admiral	Major General	Air Vice Marshal
5	Commodore	Brigadier	Air Commodore
6	Captain	Colonel	Group Captain
7	Commander	Lieutenant Colonel	Wing Commander
8	Lieutenant Commander	Major	Squadron Leader
9	Lieutenant	Captain	Flight Lieutenant
10	Sub Lieutenant	Lieutenant	Flying Officer
11	Acting Sub Lieutenant	Second Lieutenant	Pilot Officer
12	Midshipman	Staff Cadet or Officer Cadet	Officer Cadet
13	Warrant Officer of the Navy	Regimental Sergeant Major of the Army	Warrant Officer of the Air Force
14	Warrant Officer	Warrant Officer Class 1	Warrant Officer
15	Chief Petty Officer	Warrant Officer Class 2	Flight Sergeant
16		Staff Sergeant	

Ranks and corresponding ranks			
Item	Column 1	Column 2	Column 3
	Navy	Army	Air Force
17	Petty Officer	Sergeant	Sergeant
18	Leading Seaman	Corporal	Corporal
19		Lance Corporal	
20	Able Seaman		Leading Aircraftman
21	Seaman	Private	Aircraftman

- (2) A rank specified in an item in the table in subclause (1) is a corresponding rank in relation to any other rank specified in that item.
- (3) A reference in an item in the table in subclause (1) to a rank is taken to include a reference to any other rank, not specified in that table, that is equivalent to the rank specified in that item.

Endnotes

Endnote 1—About the endnotes

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can

Endnote 1—About the endnotes

be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnotes

Endnote 2—Abbreviation key

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnote 3—Legislation history

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Defence Act 1903	20, 1903	22 Oct 1903	1 Mar 1904 (s 3 and gaz 1904, No 11, p 119)	
Defence Act 1904	12, 1904	9 Dec 1904	9 Dec 1904	s. 12
Defence Act 1909	15, 1909	13 Dec 1909	1 Jan 1911 (s 2 and gaz 1910, No 60, p 1571)	—
Naval Defence Act 1910	30, 1910	25 Nov 1910	25 Nov 1910	—
Defence Act 1910	37, 1910	1 Dec 1910	1 Dec 1910	—
Defence Act 1911	15, 1911	22 Dec 1911	22 Dec 1911	—
Defence Act 1912	5, 1912	4 Sept 1912	4 Sept 1912	—
Defence Act 1914	36, 1914	21 Dec 1914	21 Dec 1914	Act No 3, 1915 (s 2)
Defence Act 1915	3, 1915	30 Apr 1915	ss. 4 and 7: 1 Aug 1914 Remainder: Royal Assent	—
Defence Act 1917	36, 1917	25 Sept 1917	s. 6: 1 Aug 1914 Remainder: Royal Assent	—
Defence Act 1918	16, 1918	19 June 1918	s. 8: 1 Aug 1914 Remainder: Royal Assent	—
Defence Act (No. 2) 1918	47, 1918	25 Dec 1918	25 Dec 1918	—
Defence Act 1927	1, 1927	8 Apr 1927	8 Apr 1927	—

Endnotes

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Defence Act 1932	50, 1932	21 Nov 1932	21 Nov 1932	—
Statute Law Revision Act 1934	45, 1934	6 Aug 1934	6 Aug 1934	—
Defence Act 1939	13, 1939	21 June 1939	6 July 1939 (<i>see Gazette</i> 1939, p. 1263)	s. 5(2)
Defence Act (No. 2) 1939	38, 1939	26 Sept 1939	26 Sept 1939	—
Defence Act (No. 3) 1939	70, 1939	15 Dec 1939	15 Dec 1939	—
Air Force Act 1939	74, 1939	15 Dec 1939	15 Dec 1939	s. 7
Defence Act 1941	4, 1941	4 Apr 1941	ss. 3 and 4: 3 Sept 1939 Remainder: Royal Assent	—
Re-establishment and Employment Act 1945	11, 1945	28 June 1945	27 Aug 1945 (<i>see Gazette</i> 1945, p. 1859)	—
Defence (Transitional Provisions) Act 1947	78, 1947	11 Dec 1947	ss. 1–3: Royal Assent Remainder: 1 Jan 1948	—
Commonwealth Public Service Act 1948	35, 1948	26 June 1948	1 Sept 1948 (<i>see Gazette</i> 1948, p. 3115)	—
Defence Act 1949	71, 1949	28 Oct 1949	1 Jan 1950	s. 20
Statute Law Revision Act 1950	80, 1950	16 Dec 1950	31 Dec 1950	ss. 16 and 17
Defence Act 1951	19, 1951	19 July 1951	19 July 1951	—

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Defence Act (No. 2) 1951	59, 1951	11 Dec 1951	s. 6: 1 Jan 1950 Remainder: Royal Assent	—
Defence Act 1952	98, 1952	18 Nov 1952	16 Dec 1952	ss. 3 and 4
Defence Act 1953	20, 1953	9 Apr 1953	9 Apr 1953	—
Defence Act 1956	72, 1956	29 Oct 1956	29 Oct 1956	—
Defence Act 1964	92, 1964	6 Nov 1964	6 Nov 1964	s 33(2), 40 and 41
Defence Act 1965	51, 1965	7 June 1965	s 3(b), 20 and 23: 5 Nov 1965 (s 2(2) and gaz 1965, No 88, p 4841) s 12: 17 Sept 1970 (s 2(2) and gaz 1970, No 73, p 5842) Remainder: 7 June 1965 (s 2(1))	s 25
Statute Law Revision (Decimal Currency) Act 1966	93, 1966	29 Oct 1966	1 Dec 1966	—
Defence Act 1970	33, 1970	23 June 1970	s 3: 1 Oct 1970 (s 2(2) and gaz 1970, No 82, p 6551) s 4: 23 June 1970 (s 2(1))	s 4
Statute Law Revision Act 1973	216, 1973	19 Dec 1973	31 Dec 1973	ss. 9(1) and 10

Endnotes

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Defence Force Re-organization Act 1975	96, 1975	9 Sept 1975	s 4(a), (b), (d), (e), 5, 7, 8, 10–17, 19–24, 27, 28, 41, 55, 58 and Sch 1: 9 Feb 1976 (s 2 and gaz 1975, No G42, p 2) s 4(c), 6, 9, 18, 25, 29–34, 36, 37, 39, 40, 42–44, 46–52, 54, 57, 59 and 60: 28 Oct 1975 (s 2 and gaz 1975, No G42, p 2) s 26: 8 Sept 1980 (s 2 and gaz 1980, No G34, p 2) s 35: 24 Sept 1976 (s 2 and gaz 1976, No S167) s 38: 1 July 1985 (s 2 and gaz 1985, No S195) s 45: 9 Feb 1976 (s 2 and gaz 1976, No S24) s 53: 3 July 1985 (s 2 and gaz 1985, No S255) s 56: 29 July 1977 (s 2 and gaz 1977, No S151)	s 14(2), (3), 16(2), 23(2)–(5), 24(2), 28(2), 35(2), 36(2), 41(2), 55(2) and 59(2)
as amended by				
Defence Legislation Amendment Act 1984	164, 1984	25 Oct 1984	Sch 4: 25 Oct 1984 (s 2(2))	—
Defence Amendment Act 1976	4, 1977	28 Feb 1977	28 Feb 1977	s. 3(2) and (3)
Defence Amendment Act (No. 2) 1977	20, 1977	14 Apr 1977	14 Apr 1977	—

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Jurisdiction of Courts (Miscellaneous Amendments) Act 1979	19, 1979	28 Mar 1979	Parts II–XVII (ss. 3–123): 15 May 1979 (<i>see Gazette</i> 1979, No. S86) Remainder: Royal Assent	s. 124
Defence Amendment Act 1979	132, 1979	23 Nov 1979	s 6(1), 9 and 15–17: 1 Jan 1985 (s 2(2) and gaz 1981, No S273) Remainder: 23 Nov 1979 (s 2(1), (3))	s 3(2) and 11–17
as amended by				
Statute Law (Miscellaneous Amendments) Act (No. 2) 1982	80, 1982	22 Sept 1982	s 83: 20 Oct 1982 (s 2(16))	—
Defence Legislation Amendment Act 1984	164, 1984	25 Oct 1984	s 109: 1 Jan 1985 (s 2(7))	—
Australian Federal Police (Consequential Amendments) Act 1979	155, 1979	28 Nov 1979	19 Oct 1979 (<i>see</i> s. 2 and <i>Gazette</i> 1979, No. S206)	—
Australian Federal Police (Consequential Amendments) Act 1980	70, 1980	28 May 1980	28 May 1980	—
Statute Law Revision Act 1981	61, 1981	12 June 1981	s 27–51: 30 Sept 1983 (s 2(2) and gaz 1983, No S222) Sch 1: 12 June 1981 (s 2(1))	s 51

Endnotes

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Defence Acts Amendment Act 1981	178, 1981	8 Dec 1981	s. 6(2): 30 Sept 1983 (see s. 2(2) and <i>Gazette</i> 1983, No. S222) s. 8 and Part III (ss. 12–18): 15 Aug 1983 (see <i>Gazette</i> 1983, No. S169) s. 10: 3 July 1985 (see s. 2(4) and <i>Gazette</i> 1985, No. S255) Remainder: Royal Assent	ss. 4(2) and 7(2)
Statute Law (Miscellaneous Amendments) Act (No. 2) 1982	80, 1982	22 Sept 1982	s 80 and 81: 20 Oct 1982 (s 2(16))	—
Defence Force (Miscellaneous Provisions) Act 1982	153, 1982	31 Dec 1982	3 July 1985 (see s. 2 and <i>Gazette</i> 1985, No. S255)	ss. 86, 90 and 96
as amended by				
Defence Legislation Amendment Act 1984	164, 1984	25 Oct 1984	s 80: 22 Nov 1984 (s 2(1))	—

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Statute Law (Miscellaneous Provisions) Act (No. 1) 1983	39, 1983	20 June 1983	s 7(1), (2) and Sch 1 (amdt to s 10, 10A, 10C, 17, 26, 27, 32C, 36, 44, 87, 116R, 120A, 123G, 124 Defence Act 1903): 18 July 1983 (s 2(1), (7)(c)) Sch 1 (amdt to s 69 Defence Act 1903: 1 July 1985 (s 2(7)(a) and gaz 1985, No S195) Sch 1 (amdt to s 116D Defence Act 1903): 15 Aug 1983 (s 2(7)(b) and gaz 1983, No S169)	s 7(1) and (2)
Defence Legislation Amendment Act 1984	164, 1984	25 Oct 1984	s 9–15, 20–22 and 122: 22 Nov 1984 (s 2(1) s 16–19, 120(2), (3) and Sch 4: 25 Oct 1984 (s 2(2))	s 120(2), (3) and 122
Statute Law (Miscellaneous Provisions) Act (No. 2) 1984	165, 1984	25 Oct 1984	s 6(1) and Sch 1: 22 Nov 1984 (s 2(1))	s 6(1)

Endnotes

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Statute Law (Miscellaneous Provisions) Act (No. 1) 1985	65, 1985	5 June 1985	Sch 1 (amdt to s 12, 116ZA, 117B, 120A(4), (4A), (4B), 123A, 147A, 148A Defence Act 1903): 3 July 1985 (s 2(1)) Sch 1 (amdt to s 58B(1)(ca) Defence Act 1903): repealed before commencing (s 2(15)) Sch 1 (amdt to s 58B(3), 124 Defence Act 1903): 30 June 1990 (s 2(15) and gaz 1990, No S152) Sch 1 (amdt to s 120B Defence Act 1903): 1 Oct 1985 (s 2(15) and gaz 1985, No S400)	—
as amended by				
Defence Legislation Amendment Act 1990	75, 1990	22 Oct 1990	Sch 1: 22 Oct 1990 (s 2(1))	—
Statute Law (Miscellaneous Provisions) Act (No. 2) 1985	193, 1985	16 Dec 1985	s 16 and Sch 1: 16 Dec 1985 (s 2(1))	s 16
Statute Law (Miscellaneous Provisions) Act (No. 1) 1986	76, 1986	24 June 1986	s 9 and Sch 1: 24 June 1986 (s 2(1))	s 9
Sex Discrimination (Consequential Amendments) Act 1986	163, 1986	18 Dec 1986	15 Jan 1987	—

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Defence Legislation Amendment Act 1987	65, 1987	5 June 1987	ss. 1–3, 9, 10, 13(1), 23–25, 26(1), 27, 29, 31, 33–36, 42–45, 48, 49, 52–58, 61(1), 62, 69(1), Parts IX and X (ss. 71–78): Royal Assent ss. 37(1) and Part VI (ss. 50, 51): 10 Nov 1977 (<i>see</i> s. 2(3)) ss. 37(2) and 38–41: 3 July 1985 ss. 46 and 47: 19 June 1973 (<i>see</i> s. 2(2)) Remainder: 1 July 1988 (<i>see Gazette</i> 1988, No. S173)	s. 16(2)–(5)
Defence (Superannuation Interim Arrangement) Amendment Act 1988	67, 1988	15 June 1988	15 June 1988	—
Commonwealth Employees' Rehabilitation and Compensation Act 1988	75, 1988	24 June 1988	ss. 1 and 2: Royal Assent ss. 4(1), 68–97, 99 and 100: 1 July 1988 (<i>see Gazette</i> 1988, No. S196) Remainder: 1 Dec 1988 (<i>see Gazette</i> 1988, No. S196)	—
Industrial Relations (Consequential Provisions) Act 1988	87, 1988	8 Nov 1988	ss. 1 and 2: Royal Assent Remainder: 1 Mar 1989 (<i>see</i> s. 2(2) and <i>Gazette</i> 1989, No. S53)	—

Endnotes

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Statutory Instruments (Tabling and Disallowance) Legislation Amendment Act 1988	99, 1988	2 Dec 1988	2 Dec 1988	—
Defence Legislation Amendment Act 1988	100, 1988	2 Dec 1988	s. 5: 1 July 1988 (<i>see</i> s. 2(2) and <i>Gazette</i> 1988, No. S173) s. 16: 1 July 1988 (<i>see</i> s. 2(3) and <i>Gazette</i> 1988, No. S173) Remainder: Royal Assent	—
Defence Legislation Amendment Act (No. 2) 1988	104, 1988	6 Dec 1988	s. 18: 1 Sept 1989 (<i>see</i> <i>Gazette</i> 1989, No. S268) s. 25: 1 Oct 1972 ss. 29 and 36: 1 July 1978 Part IX (ss. 52, 53): 18 Dec 1987 Remainder: Royal Assent	ss. 9(2) and 16(2)
as amended by				
Defence Legislation Amendment Act 1989	41, 1989	2 June 1989	(<i>see</i> 41, 1989 below)	—
Defence Legislation Amendment Act 1989	41, 1989	2 June 1989	ss. 4 and 5: 2 May 1989 s. 7: 6 Dec 1988 s. 8: 1 Sept 1989 (<i>see</i> s. 2(4) and <i>Gazette</i> 1989, No. S268) Remainder: Royal Assent	—

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Defence Legislation Amendment Act 1990	75, 1990	22 Oct 1990	Sch 1 (amdt to s 9(4), 32C, 33 Defence Act 1903): 15 Dec 1990 (s 2(2) and gaz 1990, No S312) Sch 1 (amdt to s 19, 39(2), (4A), (4B), (7), (8), 120A(4) Defence Act 1903): 22 Oct 1990 (s 2(1))	—
Industrial Relations Legislation Amendment Act (No. 2) 1990	108, 1990	18 Dec 1990	s 4 and 5: 18 Dec 1990 (s 2(1))	—
Defence Legislation Amendment Act (No. 2) 1990	21, 1991	5 Feb 1991	s 6–8: 5 Feb 1991 (s 2(1))	—
Industrial Relations Legislation Amendment Act (No. 2) 1991	62, 1991	30 May 1991	Sch (amdt to s 58F (definition of <i>presidential member of the Commission</i>) Defence Act 1903): 30 Nov 1991 (s 2(3)) Sch (amdt to s 58F (definition of <i>single member</i>), 58K(10), 58KA–58KD Defence Force Act 1903): 2 July 1991 (s 2(2) and gaz 1991, No S182)	—
Defence Legislation Amendment Act 1992	91, 1992	30 June 1992	s 4–11: 30 June 1992 (s 2(1))	—

Endnotes

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Superannuation Guarantee (Consequential Amendments) Act 1992	92, 1992	30 June 1992	Sch: 1 July 1992 (s 2)	—
Defence Legislation Amendment Act 1993	95, 1993	22 Dec 1993	s 4–9: 22 Dec 1993 (s 2)	s 5(2)
Industrial Relations and Other Legislation Amendment Act 1993	109, 1993	22 Dec 1993	s 4–12: 19 Jan 1994 (s 2(5))	—
Evidence (Transitional Provisions and Consequential Amendments) Act 1995	3, 1995	23 Feb 1995	s 14: 23 Feb 1995 (s 2(1)) Sch: 18 Apr 1995 (s 2(13)(a))	s 14
Defence Legislation Amendment Act 1995	43, 1995	15 June 1995	s 3(2) and Sch 1 (items 3, 11.3): 15 June 1995 (s 2(1)) Sch 1 (items 1, 2, 4–10, 11.1, 11.2): 1 Nov 1995 (s 2(2) and gaz 1995, No S361)	s 3(2) and Sch 1 (item 11)
Industrial Relations and other Legislation Amendment Act 1995	168, 1995	16 Dec 1995	Sch 1: 15 Jan 1996 (s 2(2) and gaz 1996, No S16)	—
Statute Law Revision Act 1996	43, 1996	25 Oct 1996	Sch 4 (items 1, 58–62): 25 Oct 1996 (s 2(1))	—
Workplace Relations and Other Legislation Amendment Act 1996	60, 1996	25 Nov 1996	Sch 19 (item 17): 25 Nov 1996 (s 2(1))	—
as amended by				
Workplace Relations and Other Legislation Amendment Act (No. 2) 1996	77, 1996	19 Dec 1996	Sch 3 (items 1, 2): 25 Nov 1996 (s 2(4))	—

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Defence Legislation Amendment Act (No. 1) 1997	1, 1997	19 Feb 1997	Schedules 1 and 3: 30 Apr 1997 (<i>see Gazette</i> 1997, No. S91) Remainder: Royal Assent	—
Superannuation Legislation Amendment (Superannuation Contributions Tax) Act 1997	187, 1997	7 Dec 1997	Sch 8: 7 Dec 1997 (s 2(1))	—
Tax Law Improvement Act (No. 1) 1998	46, 1998	22 June 1998	Sch 2 (items 532–538): 22 June 1998 (s 2(1), (2))	—
Defence Legislation Amendment Act (No. 1) 1999	116, 1999	22 Sept 1999	Sch 1 and Sch 2 (items 1–12): 22 Mar 2000 (s 2(3)) Sch 3 (item 1): 22 Sept 1999 (s 2(1))	Sch 2 (item 12)
Human Rights Legislation Amendment Act (No. 1) 1999	133, 1999	13 Oct 1999	ss. 1–3 and 21: Royal Assent s. 22 and Schedule 1 (items 53 and 60): 10 Dec 1999 (<i>see Gazette</i> 1999, S598) Remainder: 13 Apr 2000	ss. 4–22
Public Employment (Consequential and Transitional) Amendment Act 1999	146, 1999	11 Nov 1999	Sch 1 (items 362–367): 5 Dec 1999 (s 2(1), (2))	—
A New Tax System (Tax Administration) Act 1999	179, 1999	22 Dec 1999	Sch 11 (items 11, 12): 1 July 2000 (s 2(9)(b))	Sch 11 (item 12)

Endnotes

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Defence Legislation Amendment (Flexible Career Practices) Act 2000	113, 2000	5 Sept 2000	5 Mar 2001	s. 4
Defence Legislation Amendment (Aid to Civilian Authorities) Act 2000	119, 2000	12 Sept 2000	12 Sept 2000	—
Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000	137, 2000	24 Nov 2000	ss. 1–3 and Schedule 1 (items 1, 4, 6, 7, 9–11, 32): Royal Assent Remainder: 24 May 2001	Sch. 2 (items 418, 419)
Defence Legislation Amendment (Enhancement of the Reserves and Modernisation) Act 2001	10, 2001	22 Mar 2001	Schedule 2 (items 12–15, 19, 27–31, 67, 68, 75–77): 22 Mar 2002 Schedule 3: 19 Apr 2001 (<i>see</i> s. 2(4)) Schedule 4: Royal Assent Remainder: 19 Apr 2001	Sch. 1 (item 3), Sch. 2 (items 88–90, 93–95), Sch. 3 (item 7) and Sch. 4 (item 3)
New Business Tax System (Capital Allowances—Transitional and Consequential) Act 2001	77, 2001	30 June 2001	Sch 2 (items 19, 488(1)): 30 June 2001 (s 2(1))	Sch 2 (item 488(1))
as amended by Taxation Laws Amendment Act (No. 5) 2002	119, 2002	2 Dec 2002	Sch 3 (item 97): 30 June 2001 (s 2(1) item 9)	—

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Defence Legislation Amendment (Application of Criminal Code) Act 2001	141, 2001	1 Oct 2001	s 4: 1 Oct 2001 (s 2(1)) Sch 1 (items 5–36): 15 Dec 2001 (s 2(2))	s 4 and Sch 1 (item 36)
as amended by				
Defence Legislation Amendment Act 2003	135, 2003	17 Dec 2003	Sch 2 (item 28): 1 Oct 2001 (s 2(1) item 9)	—
Taxation Laws Amendment (Superannuation) Act (No. 2) 2002	51, 2002	29 June 2002	Schedule 1 (item 169): 1 July 2003 Schedule 1 (item 202(1)): Royal Assent	Sch. 1 (item 202(1))
Workplace Relations Legislation Amendment Act 2002	127, 2002	11 Dec 2002	Schedule 3 (items 1–14): Royal Assent	—
Defence Legislation Amendment Act 2003	135, 2003	17 Dec 2003	Sch 2 (items 12–15, 20, 25): 17 June 2004 (s 2(1) items 3, 5, 7) Sch 2 (items 16–19): 14 Jan 2004 (s 2(1) item 4) Sch 2 (items 21–24): 17 Dec 2003 (s 2(1) item 6)	Sch 2 (item 25)
Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Act 2004	52, 2004	27 Apr 2004	Schedule 3 (item 14): 1 July 2004 (<i>see</i> s. 2)	—
Superannuation Legislation Amendment (Family Law and Other Matters) Act 2004	58, 2004	4 May 2004	Schedule 1: 18 May 2004 Remainder: Royal Assent	s. 4

Endnotes

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Bankruptcy Legislation Amendment Act 2004	80, 2004	23 June 2004	Schedule 1 (items 195, 212, 213, 215): 1 Dec 2004 (<i>see Gazette</i> 2004, No. GN34)	Sch. 1 (items 212, 213, 215)
Defence Amendment Act 2005	26, 2005	21 Mar 2005	21 Mar 2005	—
Defence Legislation Amendment Act (No. 1) 2005	121, 2005	6 Oct 2005	Sch 2: 6 Oct 2005 (s 2(1) item 2) Sch 5 (items 1–9): 1 Jan 2005 (s 2(1) item 3)	—
Defence Legislation Amendment Act (No. 2) 2005	142, 2005	12 Dec 2005	Sch 2 (items 1, 2, 5–7): 12 Dec 2006 (s 2(1) items 10, 12) Sch 2 (items 3, 4): 12 June 2006 (s 2(1) item 11)	Sch 2 (items 6, 7)
Defence Legislation Amendment (Aid to Civilian Authorities) Act 2006	3, 2006	1 Mar 2006	2 Mar 2006 (s 2)	—
Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006	101, 2006	14 Sept 2006	Sch 2 (item 46) and Sch 6 (items 1, 6–11): 14 Sept 2006 (s 2(1) 2, 4)	Sch 6 (items 1, 6–11)
Defence Legislation Amendment Act 2006	159, 2006	11 Dec 2006	Sch 1: 1 Oct 2007 (s 2(1) item 2) Remainder: 11 Dec 2006 (s 2(1) item 3)	Sch 1 (item 256)
Statute Law Revision Act 2007	8, 2007	15 Mar 2007	Sch 1 (item 4): 15 Dec 2001 (s 2(1) item 5)	—
Defence Legislation Amendment Act 2008	6, 2008	20 Mar 2008	Sch 7 (item 37): 20 Mar 2008 (s 2(1) item 8) Sch 7 (item 38): 11 Dec 2006 (s 2(1) item 9)	—

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Defence Legislation (Miscellaneous Amendments) Act 2009	18, 2009	26 Mar 2009	Sch 2: 26 Sept 2009 (s 2(1) item 3)	—
Defence Legislation Amendment Act (No. 1) 2009	46, 2009	24 June 2009	Sch 1: 1 July 2009 (s 2(1) item 2)	—
Fair Work (State Referral and Consequential and Other Amendments) Act 2009	54, 2009	25 June 2009	Sch 8 (items 91–97, 159): 1 July 2009 (s 2(1) items 24, 30)	Sch 8 (item 159)
Disability Discrimination and Other Human Rights Legislation Amendment Act 2009	70, 2009	8 July 2009	Sch 3 (items 19–21): 5 Aug 2009 (s 2(1) item 7)	—
Military Justice (Interim Measures) Act (No. 1) 2009	91, 2009	22 Sept 2009	Sch 1 (items 177–181): 22 Sept 2009 (s 2)	Sch 1 (item 181)
as amended by				
Military Justice (Interim Measures) Amendment Act 2011	82, 2011	25 July 2011	25 July 2011 (s 2)	—
Military Justice (Interim Measures) Amendment Act 2013	130, 2013	1 July 2013	Sch 1 (items 3, 7 and 8): 22 Sept 2009 (s 2(1) items 3, 5) Remainder: 1 July 2009 (s 2(1) items 1, 2, 4, 6)	—
Defence Legislation (Enhancement of Military Justice) Act 2015	106, 2015	30 June 2015	Sch 3 (items 1–9): 1 July 2015 (s 2)	—

Endnotes

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Crimes Legislation Amendment (Serious and Organised Crime) Act (No. 2) 2010	4, 2010	19 Feb 2010	Sch 11 (item 7): 20 Feb 2010 (s 2(1) item 13)	—
Defence Legislation Amendment Act (No. 1) 2010	95, 2010	5 July 2010	Sch 1: 5 Jan 2011 (s 2(1) item 2) Sch 2: 5 July 2010 (s 2(1) item 3) Sch 3: 2 Aug 2010 (s 2(1) item 4)	Sch 1 (items 2–5), Sch 2 (item 9) and Sch 3 (item 5)
Statute Law Revision Act 2011	5, 2011	22 Mar 2011	Sch 5 (items 90, 91), Sch 6 (item 33) and Sch 7 (item 47): 19 Apr 2011 (s 2(1) items 13, 15, 18)	—
Defence Legislation Amendment (Security of Defence Premises) Act 2011	19, 2011	12 Apr 2011	Sch 1 (items 1–3, 5): 12 Oct 2011 (s 2(1) item 2)	—
Acts Interpretation Amendment Act 2011	46, 2011	27 June 2011	Sch 2 (items 487–509) and Sch 3 (items 10, 11): 27 Dec 2011 (s 2(1) items 2, 3, 12)	Sch 3 (items 10, 11)
Superannuation Legislation (Consequential Amendments and Transitional Provisions) Act 2011	58, 2011	28 June 2011	Sch 1 (item 35): 1 July 2011 (s 2(1) item 2)	—
Defence Legislation Amendment Act 2011	183, 2011	6 Dec 2011	Sch 1 (items 17–35): 1 Mar 2012 (s 2(1) item 2)	—

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Fair Work Amendment Act 2012	174, 2012	4 Dec 2012	Sch 9 (items 1268–1278): 1 Jan 2013 (s 2(1) item 5)	—
Privacy Amendment (Enhancing Privacy Protection) Act 2012	197, 2012	12 Dec 2012	Sch 5 (items 28, 29): 12 Mar 2014 (s 2(1) item 3)	Sch 6 (items 1, 15–19)
Statute Law Revision Act (No. 1) 2014	31, 2014	27 May 2014	Sch 1 (item 20): 24 June 2014 (s 2(1) item 2)	—
Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014	62, 2014	30 June 2014	Sch 8 (items 99, 100) and Sch 14: 1 July 2014 (s 2(1) items 6, 14)	Sch 14
as amended by				
Public Governance and Resources Legislation Amendment Act (No. 1) 2015	36, 2015	13 Apr 2015	Sch 2 (items 7–9) and Sch 7: 14 Apr 2015 (s 2)	Sch 7
as amended by				
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 486): 5 Mar 2016 (s 2(1) item 2)	—
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 495): 5 Mar 2016 (s 2(1) item 2)	—

Endnotes

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Defence Legislation Amendment (Woomera Prohibited Area) Act 2014	95, 2014	8 Aug 2014	Sch 1 (items 1–4): 9 Aug 2014 (s 2)	—
Statute Law Revision Act (No. 1) 2015	5, 2015	25 Feb 2015	Sch 3 (items 217–295): 25 Mar 2015 (s 2(1) item 10)	—
Acts and Instruments (Framework Reform) Act 2015	10, 2015	5 Mar 2015	Sch 1 (items 118–123, 166–179): 5 Mar 2016 (s 2(1) item 2)	Sch 1 (items 166–179)
as amended by				
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 3 (item 1): 5 Mar 2016 (s 2(1) item 8)	—
Defence Legislation Amendment (Military Justice Enhancements—Inspector-General ADF) Act 2015	46, 2015	20 May 2015	Sch 1: 17 June 2015 (s 2(1) item 2) Remainder: 20 May 2015 (s 2(1) item 1)	Sch 1 (items 13–15)
Norfolk Island Legislation Amendment Act 2015	59, 2015	26 May 2015	Sch 1 (item 96): 18 June 2015 (s 2(1) item 2) Sch 1 (items 184–203): 27 May 2015 (s 2(1) item 3)	Sch 1 (items 184–203)
Tribunals Amalgamation Act 2015	60, 2015	26 May 2015	Sch 8 (item 19) and Sch 9: 1 July 2015 (s 2(1) items 19, 22)	Sch 9
Defence Legislation (Enhancement of Military Justice) Act 2015	106, 2015	30 June 2015	Sch 2 (items 1–8): 1 July 2015 (s 2)	—

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Defence Legislation Amendment (Superannuation and ADF Cover) Act 2015	120, 2015	10 Sept 2015	Sch 1 (items 1, 2, 64–66): 11 Sept 2015 (s 2(1) item 2) Sch 2 (items 3, 4): 1 July 2016 (s 2(1) item 3)	Sch 1 (items 64–66)
Defence Legislation Amendment (First Principles) Act 2015	164, 2015	2 Dec 2015	Sch 1: 1 July 2016 (s 2(1) item 2)	Sch 1 (items 63–68)
Veterans' Affairs Legislation Amendment (2015 Budget Measures) Act 2015	174, 2015	11 Dec 2015	Sch 3: 12 Dec 2015 (s 2(1) item 4)	—
Statute Law Revision Act (No. 1) 2016	4, 2016	11 Feb 2016	Sch 1 (item 19) and Sch 4 (items 1, 113–119, 363, 364): 10 Mar 2016 (s 2(1) items 2, 6)	—
Statute Update Act 2016	61, 2016	23 Sept 2016	Sch 1 (items 194–213) and Sch 2 (item 19): 21 Oct 2016 (s 2(1) item 1)	—
Statute Update (Winter 2017) Act 2017	93, 2017	23 Aug 2017	Sch 3 (item 1): 20 Sept 2017 (s 2(1) item 4)	—
Safety, Rehabilitation and Compensation Legislation Amendment (Defence Force) Act 2017	108, 2017	14 Sept 2017	Sch 3 (items 4–7): 12 Oct 2017 (s 2(1) item 5)	Sch 3 (items 5, 7)
Defence Legislation Amendment (2017 Measures No. 1) Act 2017	117, 2017	30 Oct 2017	Sch 1: 30 Apr 2018 (s 2(1) item 2)	Sch 1 (items 5, 17)

Endnotes

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Regulatory Powers (Standardisation Reform) Act 2017	124, 2017	6 Nov 2017	Sch 5: 6 Nov 2018 (s 2(1) item 3)	Sch 5 (item 5)
Defence Legislation Amendment (Instrument Making) Act 2017	125, 2017	30 Nov 2017	Sch 1 (items 1–12): 26 Mar 2018 (s 2(1) items 2, 3) Sch 1 (item 13): 6 Nov 2018 (s 2(1) item 4)	—
Intelligence Services Amendment (Establishment of the Australian Signals Directorate) Act 2018	25, 2018	11 Apr 2018	Sch 1 (items 59, 100–108): 1 July 2018 (s 2(1) item 2)	Sch 1 (items 100–108)
Office of National Intelligence (Consequential and Transitional Provisions) Act 2018	156, 2018	10 Dec 2018	Sch 2 (item 46) and Sch 4: 20 Dec 2018 (s 2(1) items 2, 4)	Sch 4
Defence Amendment (Call Out of the Australian Defence Force) Act 2018	158, 2018	10 Dec 2018	Sch 1 (items 1–4, 6): 10 June 2019 (s 2(1) item 1)	Sch 1 (item 6)
Defence Legislation Amendment (Enhancement of Defence Force Response to Emergencies) Act 2020	146, 2020	17 Dec 2020	Sch 1 (items 1–8, 18) and Sch 2: 18 Dec 2020 (s 2(1) item 1)	Sch 1 (item 18)

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Federal Circuit and Family Court of Australia (Consequential Amendments and Transitional Provisions) Act 2021	13, 2021	1 Mar 2021	Sch 2 (item 296): 1 Sept 2021 (s 2(1) item 5)	—

Name	Registration	Commencement	Application, saving and transitional provisions
Workplace Relations Amendment (Work Choices) (Consequential Amendments) Regulations 2006 (No. 1) (SLI No. 50, 2006)	17 Mar 2006 (F2006L00820)	Sch 5: 27 Mar 2006 (r 2(b))	—

Endnotes

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Title	am. No. 96, 1975; No. 4, 1977
Part I	
s. 2	am. No. 15, 1909; No. 37, 1910; No. 5, 1912; No. 74, 1939; No. 19, 1951 rs. No. 92, 1964 am. No. 51, 1965 rep. No. 216, 1973
s. 4	am. No. 12, 1904; No. 30, 1910; No. 36, 1917; No. 16, 1918; Nos. 13 and 74, 1939; No. 71, 1949; No. 59, 1951; No. 72, 1956; No. 92, 1964; No. 51, 1965; No. 216, 1973; No. 96, 1975; No. 4, 1977; No. 132, 1979; No. 61, 1981; Nos. 80 and 153, 1982; No. 164, 1984; No. 65, 1987; No. 104, 1988; No. 91, 1992; No. 1, 1997; No. 10, 2001; No. 142, 2005; Nos. 5 and 183, 2011; No 106, 2015; No 164, 2015; No 124, 2017; No 125, 2017; No 158, 2018; No 146, 2020
s. 5	rs. No. 19, 1951 am. No. 92, 1964; No. 216, 1973; No. 96, 1975; No. 132, 1979; No. 153, 1982; No 164, 2015
s. 5A.....	ad. No. 13, 1939 am. No. 80, 1950; No. 59, 1951; No. 216, 1973 rs. No. 96, 1975
s. 6	am. No. 96, 1975 rep. No. 153, 1982 ad. No. 141, 2001
Part II	
Part II.....	rs No 164, 2015
Division 1 heading.....	rep. No. 37, 1910 ad. No. 43, 1995 rep. No. 10, 2001
s. 8	am. No. 12, 1904; No. 30, 1910 rs. No. 13, 1939 am. No. 92, 1964

Endnote 4—Amendment history

Provision affected	How affected
	rs. No. 96, 1975
	am. No. 164, 1984; No. 1, 1997
	rs No 164, 2015
s. 8A.....	ad. No. 36, 1917
	rep. No. 92, 1964
s. 9	rs. No. 12, 1904
	am. No. 30, 1910
	rs. No. 96, 1975
	am. No. 164, 1984; No. 75, 1990; No. 1, 1997; No 5, 2015
	rs No 164, 2015
s. 9A.....	ad. No. 33, 1970
	rs. No. 96, 1975
	am. No. 4, 1977; No. 153, 1982; No. 164, 1984; No. 1, 1997; No. 26, 2005
	rep No 164, 2015
s. 9AA.....	ad. No. 104, 1988
	rep No 164, 2015
s. 9B.....	ad. No. 96, 1975
	am. No. 132, 1979; No. 164, 1984; No. 104, 1988; No. 43, 1996; No. 1, 1997
	rep No 164, 2015
s. 9BA.....	ad. No. 43, 1995
	am. No. 10, 2001
	rep No 164, 2015
s. 9C.....	ad. No. 132, 1979
	am. No. 164, 1984; No. 104, 1988; No. 43, 1995; No. 1, 1997; No. 46, 2011; No 5, 2015
	rep No 164, 2015
Division 2 heading.....	rep. No. 37, 1910
	ad. No. 43, 1995
	rep. No. 10, 2001

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
Division 2	rep. No. 10, 2001
s. 10	rs. No. 92, 1964
	am. No. 96, 1975; No. 132, 1979; No. 39, 1983
	rep. No. 10, 2001
	ad No 164, 2015
s. 10A.....	ad. No. 92, 1964
	rs. No. 51, 1965
	am. No. 96, 1975; No. 61, 1981; No. 39, 1983; No. 65, 1987; No. 43, 1995
	rep. No. 10, 2001
s. 10B.....	ad. No. 92, 1964
	am. No. 96, 1975
	rep. No. 153, 1982
	ad. No. 43, 1995
	am. No. 1, 1997; No. 116, 1999; No. 113, 2000
	rep. No. 10, 2001
s. 10C.....	ad. No. 92, 1964
	am. No. 96, 1975; No. 178, 1981; No. 153, 1982 (as am. by No. 164, 1984)
	rs. No. 39, 1983
	am. No. 1, 1997; No. 113, 2000
	rep. No. 10, 2001
s. 11	am. No. 132, 1979
	rep. No. 153, 1982
	ad No 164, 2015
s. 11A.....	ad. No. 15, 1909
	am. No. 30, 1910; No. 36, 1914; No. 59, 1951
	rep. No. 92, 1964
s. 12	am. No. 96, 1975; No. 4, 1977
	rep. No. 65, 1985
	ad No 164, 2015

Endnote 4—Amendment history

Provision affected	How affected
s. 13	am. No. 96, 1975; No. 4, 1977; No. 153, 1982 rep. No. 10, 2001 ad No 164, 2015
s. 14	am. No. 30, 1910 rep. No. 92, 1964 ad No 164, 2015
s. 15	am. No. 36, 1914; No. 36, 1917 rep. No. 92, 1964 ad No 164, 2015
s. 16	am. No. 96, 1975; No. 132, 1979; No. 76, 1986; No. 43, 1995; No. 1, 1997 rep. No. 10, 2001 ad No 164, 2015
s. 16A.....	ad. No. 36, 1914 rs. No. 71, 1949 am. No. 96, 1975 rep. No. 153, 1982
Part III	
Part III.....	rs No 164, 2015
Division 1	
s. 17	am. No. 37, 1910; No. 71, 1949; No. 19, 1951 rs. No. 92, 1964 am. No. 51, 1965 rs. No. 96, 1975 am. No. 4, 1977; No. 39, 1983; No. 65, 1987; Nos. 100 and 104, 1988; No. 1, 1997; No. 113, 2000 rep. No. 10, 2001 ad No 164, 2015
s. 18	rs. No. 12, 1904 am. No. 30, 1910; No. 96, 1975 rep. No. 10, 2001

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
	ad No 164, 2015
Division 3 heading.....	ad. No. 43, 1995
	rep. No. 10, 2001
Division 3	rep. No. 10, 2001
s. 19	rs. No. 12, 1904
	am. No. 30, 1910
	rs. No. 92, 1964
	am. No. 96, 1975
	rep. No. 75, 1990
	ad. No. 43, 1995
	am. No. 1, 1997
	rep. No. 10, 2001
	ad No 164, 2015
s. 20	am. No. 30, 1910; No. 47, 1918
	rep. No. 92, 1964
	ad. No. 43, 1995
	am. No. 116, 1999
	rep. No. 10, 2001
	ad No 164, 2015
s. 20A.....	ad. No. 47, 1918
	am. No. 96, 1975
	rep. No. 153, 1982
s. 21	am. No. 30, 1910; No. 71, 1949
	rep. No. 92, 1964
	ad. No. 43, 1995
	rep. No. 10, 2001
	ad No 164, 2015
s. 21A.....	ad. No. 37, 1910
	am. No. 5, 1912; No. 36, 1914; No. 71, 1949
	rep. No. 92, 1964
s. 21B.....	ad. No. 37, 1910

Endnote 4—Amendment history

Provision affected	How affected
	am. No. 36, 1914
	rep. No. 92, 1964
Division 2	
s. 22	rs. No. 36, 1917
	rep. No. 92, 1964
	ad. No. 43, 1995
	rep. No. 10, 2001
	ad No 164, 2015
s. 23	am. No. 30, 1910
	rep. No. 96, 1975
	ad. No. 43, 1995
	am. No. 116, 1999
	rep. No. 10, 2001
	ad No 164, 2015
s. 24	am No 92, 1964; No 96, 1975
	rep No 61, 1981
	ad No 43, 1995
	rep No 10, 2001
	ad No 164, 2015
	am No 146, 2020
s. 25	am. No. 96, 1975
	rep. No. 61, 1981
	ad. No. 43, 1995
	am. No. 1, 1997
	rep. No. 10, 2001
	ad No 164, 2015
s. 25A.....	ad. No. 43, 1995
	rep. No. 10, 2001
s. 25B.....	ad. No. 43, 1995
	am. No. 1, 1997; No. 116, 1999
	rep. No. 10, 2001

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
s. 25C.....	ad. No. 43, 1995 am. No. 1, 1997; No. 116, 1999 rep. No. 10, 2001
s. 25D.....	ad. No. 43, 1995 am. No. 1, 1997 rs. No. 116, 1999 rep. No. 10, 2001
s. 25E.....	ad. No. 43, 1995 rep. No. 10, 2001
s. 26	am. No. 96, 1975; No. 61, 1981; No. 39, 1983; No. 1, 1997 rep. No. 10, 2001 ad No 164, 2015
s. 27	am. No. 96, 1975; No. 132, 1979; No. 39, 1983; No. 43, 1995 rep. No. 10, 2001 ad No 164, 2015
Division 3A.....	ad. No. 1, 1997 rep. No. 10, 2001
s. 27AA.....	ad. No. 1, 1997 am. No. 113, 2000 rep. No. 10, 2001
Division 4 heading.....	ad. No. 43, 1995 rep. No. 10, 2001
s. 27A.....	ad. No. 43, 1995 rep. No. 10, 2001
Division 3	
s 28	rs No 12, 1904 am No 30, 1910; No 96, 1975 rs No 164, 2015 am No 146, 2020
s 29	rep No 37, 1910 ad No 164, 2015

Endnote 4—Amendment history

Provision affected	How affected
	am No 146, 2020
Part IIIAAA	
Part IIIAAA heading.....	rs. No. 3, 2006; No 158, 2018
Part IIIAAA	ad. No. 119, 2000
	rs No 158, 2018
Division 1	
s. 30	am. No. 74, 1939
	rs. No. 92, 1964; No. 96, 1975
	rep No 164, 2015
	ad No 158, 2018
s. 31	am. No. 15, 1909; Nos. 30 and 37, 1910; No. 5, 1912; No. 36, 1914; No. 3, 1915; No. 36, 1917; No. 16, 1918; Nos. 70 and 74, 1939
	rs. No. 71, 1949
	am. No. 80, 1950; No. 59, 1951
	rs. No. 92, 1964
	am. No. 96, 1975; No. 132, 1979; No. 61, 1981
	rs. No. 10, 2001
	rep No 164, 2015
	ad No 158, 2018
Division 2	
Division 2 heading.....	rs. No. 3, 2006; No 158, 2018
Subdivision A	
s. 32	rs. No. 15, 1909
	rep. No. 30, 1910
	ad. No. 92, 1964
	am. No. 51, 1965; No. 96, 1975; No. 132, 1979; No. 61, 1981; No. 65, 1987; No. 1, 1997
	rs. No. 10, 2001
	rep No 164, 2015
	ad No 158, 2018
s. 32A.....	ad. No. 15, 1909

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
	am. No. 71, 1949; Nos. 19 and 59, 1951
	rs. No. 51, 1965
	am. No. 96, 1975; No. 132, 1979
	rs. No. 61, 1981
	am. No. 65, 1987; No. 1, 1997
	rs. No. 10, 2001
	rep No 164, 2015
s. 32B.....	ad. No. 96, 1975
	rep No 164, 2015
s. 32C.....	ad. No. 39, 1983
	am. No. 164, 1984
	rep. No. 75, 1990
Division 2 heading.....	am. No. 96, 1975
	rs. No. 10, 2001
	rep No 164, 2015
Subdivision B	
s. 33	rs. No. 92, 1964
	am. No. 96, 1975; No. 4, 1977
	rep. No. 75, 1990
	ad No 158, 2018
s. 34	rep. No. 45, 1934
	ad. No. 92, 1964
	am. No. 96, 1975
	rep No 164, 2015
	ad No 158, 2018
s. 35	am. No. 5, 1912; No. 19, 1951
	rs. No. 92, 1964
	rep. No. 104, 1988
	ad No 158, 2018
s. 35A.....	ad. No. 59, 1951
	am. No. 216, 1973

Endnote 4—Amendment history

Provision affected	How affected
	rep. No. 96, 1975
s. 36	am. No. 15, 1909; No. 30, 1910; No. 36, 1917; No. 72, 1956; No. 92, 1964; No. 96, 1975; No. 39, 1983
	rs. No. 65, 1987
	rep. No. 10, 2001
	ad No 158, 2018
Subdivision C	
s. 37	am. No. 30, 1910
	rs. No. 92, 1964
	am. No. 96, 1975
	rs. No. 65, 1987
	rep. No. 10, 2001
	ad No 158, 2018
s. 37A.....	ad. No. 113, 2000
	rep. No. 10, 2001
s. 38	rep. No. 92, 1964
	ad. No. 65, 1987
	rep. No. 10, 2001
	ad No 158, 2018
Subdivision D	
s. 39	rs. No. 16, 1918
	am. No. 71, 1949; Nos. 19 and 59, 1951; No. 92, 1964
	rs. No. 51, 1965
	am. No. 96, 1975; No. 4, 1977; No. 61, 1981
	rs. No. 65, 1987
	am. No. 100, 1988; No. 75, 1990; No. 1, 1997
	rep. No. 10, 2001
	ad No 158, 2018
s. 40	am. No. 30, 1910; No. 16, 1918
	rs. No. 71, 1949; No. 92, 1964
	am. No. 132, 1979; No. 61, 1981

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
	rs. No. 65, 1987
	rep. No. 10, 2001
	ad No 158, 2018
s. 40A.....	ad. No. 47, 1918
	am. No. 11, 1945; No. 96, 1975
	rep. No. 65, 1987
s. 40B.....	ad. No. 47, 1918
	am. No. 45, 1934
	rep. No. 11, 1945
Division 3	
Subdivision A	
s. 41	am. No. 30, 1910; No. 16, 1918
	rs. No. 71, 1949; No. 92, 1964
	am. No. 51, 1965; No. 96, 1975; No. 132, 1979; No. 61, 1981
	rs. No. 65, 1987
	rep. No. 10, 2001
	ad No 158, 2018
s. 42	am. No. 30, 1910
	rs. No. 92, 1964
	am. No. 96, 1975
	rep. No. 61, 1981
	ad No 158, 2018
s. 42A.....	ad. No. 36, 1917
	am. No. 51, 1965; No. 96, 1975
	rep. No. 65, 1987
s. 43	am. No. 78, 1947
	rs. No. 71, 1949; No. 92, 1964
	rep. No. 51, 1965
	ad No 158, 2018
s. 44	am. No. 30, 1910
	rs. No. 36, 1917; No. 51, 1965

Endnote 4—Amendment history

Provision affected	How affected
	am. No. 96, 1975; No. 39, 1983; No. 65, 1987; No. 1, 1997
	rep. No. 10, 2001
	ad No 158, 2018
s. 44A.....	ad. No. 1, 1997
	rep. No. 10, 2001
Division 3 heading.....	am. No. 96, 1975
	rep No 164, 2015
s. 45	am. No. 36, 1917
	rs. No. 92, 1964
	am. No. 51, 1965; No. 132, 1979; No. 61, 1981; No. 164, 1984; No. 65, 1987; No. 1, 1997; No. 119, 2000
	rs. No. 10, 2001
	rep No 164, 2015
	ad No 158, 2018
Subdivision B	
s. 46	am. No. 15, 1909; No. 36, 1917
	rs. No. 92, 1964
	am. No. 51, 1965; No. 132, 1979; No. 61, 1981; No. 164, 1984
	rep. No. 65, 1987
	ad No 120, 2015
	rep No 164, 2015
	ad No 158, 2018
Division 4	
Division 4 heading.....	rs. No. 3, 2006; No 158, 2018
Subdivision A	
s. 47	am. No. 36, 1917
	rs. No. 92, 1964
	am. No. 132, 1979
	rep. No. 61, 1981
	ad No 158, 2018
s. 48	rep. No. 30, 1910

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
	ad. No. 92, 1964
	am. No. 132, 1979; No. 61, 1981; No. 164, 1984
	rep. No. 65, 1987
	ad No 158, 2018
s. 48A.....	ad. No. 164, 1984
	am. No. 1, 1997
	rep. No. 10, 2001
s. 49	rs. No. 92, 1964
	am. No. 96, 1975; No. 61, 1981
	rep. No. 153, 1982
	ad No 158, 2018
s. 50	am. No. 36, 1917
	rs. No. 92, 1964
	am. No. 132, 1979; No. 61, 1981; No. 164, 1984; No. 65, 1987; No. 1, 1997; No. 119, 2000; No. 10, 2001; No. 3, 2006; No 5, 2015
	rep No 164, 2015
	ad No 158, 2018
s. 50A.....	ad. No. 92, 1964
	am. No. 132, 1979; No. 61, 1981
	rep. No. 65, 1987
s. 50B.....	ad. No. 92, 1964
	am. No. 132, 1979; No. 61, 1981; No. 164, 1984
	rep. No. 65, 1987
s. 50C.....	ad. No. 92, 1964
	rs. No. 51, 1965
	am. No. 96, 1975
	rep No 164, 2015
Division 4 heading.....	ad. No. 65, 1987
	rep No 164, 2015
Division 4	rep. No. 153, 1982
s. 50D.....	ad. No. 92, 1964

Endnote 4—Amendment history

Provision affected	How affected
	rep. No. 61, 1981
	ad. No. 65, 1987
	am. No. 1, 1997
	rs. No. 10, 2001
	rep No 164, 2015
s. 50E.....	ad. No. 65, 1987
	am. No. 1, 1997
	rs. No. 10, 2001
	rep No 164, 2015
s. 50F.....	ad. No. 65, 1987
	am. No. 1, 1997
	rep. No. 10, 2001
s. 50G.....	ad. No. 65, 1987
	rep. No. 10, 2001
Subdivision B	
s. 51.....	am. No. 36, 1914; No. 59, 1951; No. 92, 1964; No. 61, 1981; No. 119, 2000
Renumbered s. 51B.....	No. 119, 2000
s. 51.....	ad. No. 119, 2000
	am. No. 3, 2006; No. 46, 2011; No 59, 2015
	rs No 158, 2018
Subdivision C	
s. 51A.....	ad. No. 119, 2000
	am. No. 3, 2006; No 164, 2015
	rs No 158, 2018
s 51AA.....	ad. No. 3, 2006
	rep No 158, 2018
s 51AB.....	ad. No. 3, 2006
	rep No 158, 2018
s 51B (prev s 51).....	am. No. 119, 2000; No. 3, 2006; No 164, 2015
	rs No 158, 2018

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
s. 51C.....	ad. No. 119, 2000 am. No. 3, 2006; No 164, 2015 rs No 158, 2018
s. 51CA.....	ad. No. 3, 2006 am. No. 5, 2011 rep No 158, 2018
s. 51CB.....	ad. No. 3, 2006 rep No 158, 2018
Subdivision D	
s. 51D.....	ad. No. 119, 2000 am. No. 3, 2006 rs No 158, 2018
s. 51E.....	ad. No. 119, 2000 rs No 158, 2018
Division 5	
Subdivision A	
s. 51F.....	ad. No. 119, 2000 am. No. 3, 2006 rs No 158, 2018
s. 51G.....	ad. No. 119, 2000 am. No. 10, 2001 rs. No. 3, 2006; No 158, 2018
Subdivision B	
s. 51H.....	ad. No. 119, 2000 rs No 158, 2018
s. 51I.....	ad. No. 119, 2000 am. No. 3, 2006 rep No 158, 2018
Division 2A.....	ad. No. 3, 2006 rep No 158, 2018
s 51IA.....	ad. No. 3, 2006

Endnote 4—Amendment history

Provision affected	How affected
	rep No 158, 2018
s 51IB	ad. No. 3, 2006
	rep No 158, 2018
Subdivision C	
s. 51J	ad. No. 119, 2000
	rs No 158, 2018
s. 51K	ad. No. 119, 2000
	am. No. 3, 2006
	rs No 158, 2018
s 51L	ad No 119, 2000
	rs No 158, 2018
Division 6	
s 51M	ad No 119, 2000
	rs No 158, 2018
s 51N	ad No 119, 2000
	rs No 158, 2018
s 51O	ad No 119, 2000
	rep No 158, 2018
s 51P	ad No 119, 2000
	rs No 158, 2018
s. 51Q	ad. No. 119, 2000
	am. No. 3, 2006
	rs No 158, 2018
s. 51R	ad. No. 119, 2000
	rs No 158, 2018
s. 51S	ad. No. 119, 2000
	am. No. 141, 2001; No. 3, 2006; No 4, 2016
	rs No 158, 2018
Division 3A	ad. No. 3, 2006
	rep No 158, 2018
s 51SA	ad. No. 3, 2006

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
	rep No 158, 2018
s 51SB.....	ad. No. 3, 2006
	rep No 158, 2018
s 51SC.....	ad. No. 3, 2006
	rep No 158, 2018
s 51SD	ad. No. 3, 2006
	rep No 158, 2018
s 51SE.....	ad. No. 3, 2006
	rep No 158, 2018
s 51SF	ad. No. 3, 2006
	rep No 158, 2018
s 51SG	ad. No. 3, 2006
	rep No 158, 2018
s 51SH	ad. No. 3, 2006
	rep No 158, 2018
s 51SI.....	ad. No. 3, 2006
	rep No 158, 2018
s 51SJ.....	ad. No. 3, 2006
	rep No 158, 2018
s 51SK	ad. No. 3, 2006
	rep No 158, 2018
s 51SL.....	ad. No. 3, 2006
	rep No 158, 2018
s 51SM.....	ad. No. 3, 2006
	rep No 158, 2018
s 51SN	ad. No. 3, 2006
	am No 4, 2016
	rep No 158, 2018
s 51SO	ad. No. 3, 2006
	rep No 158, 2018
s 51SP.....	ad. No. 3, 2006

Endnote 4—Amendment history

Provision affected	How affected
	rep No 158, 2018
s 51SQ	ad. No. 3, 2006
	rep No 158, 2018
Division 3B.....	ad. No. 3, 2006
	rep No 158, 2018
s 51SR.....	ad. No. 3, 2006
	rep No 158, 2018
s 51SS.....	ad. No. 3, 2006
	rep No 158, 2018
s 51ST.....	ad. No. 3, 2006
	rep No 158, 2018
Division 7	
s. 51T.....	ad. No. 119, 2000
	am. No. 3, 2006; No. 19, 2011
	rs No 158, 2018
s. 51U.....	ad. No. 119, 2000
	am. No. 3, 2006
	rs No 158, 2018
Subdivision B heading.....	rs. No. 3, 2006
	rep No 158, 2018
s. 51V.....	ad. No. 119, 2000
	am. No. 3, 2006
	rs No 158, 2018
s. 51W.....	ad. No. 119, 2000
	am. No. 3, 2006
	rs No 158, 2018
Division 4A.....	ad. No. 3, 2006
	rep No 158, 2018
s 51WA.....	ad. No. 3, 2006
	rep No 158, 2018
s 51WB.....	ad. No. 3, 2006

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
	rep No 158, 2018
Division 8	
Subdivision A	
s. 51X.....	ad. No. 119, 2000 am. No. 3, 2006 rs No 158, 2018
s. 51XA.....	ad. No. 119, 2000 am. No. 3, 2006 rep No 158, 2018
s. 51XB.....	ad. No. 3, 2006 rep No 158, 2018
Subdivision B	
s. 51Y.....	ad. No. 119, 2000 rs No 158, 2018
s. 51Z.....	ad No 158, 2018
Subdivision C	
s. 51ZA.....	ad No 158, 2018
s. 51ZB.....	ad No 158, 2018
s. 51ZC.....	ad No 158, 2018
s. 51ZD.....	ad No 158, 2018
Part IIIAA	
Part IIIAA heading.....	am. No. 95, 1993 rs No 120, 2015
Part IIIAA.....	ad. No. 67, 1988
s. 52.....	rep. No. 92, 1964 ad. No. 67, 1988 am. No. 92, 1992; No. 95, 1993; No. 10, 2001; No. 51, 2002; No. 58, 2004; No. 121, 2005; No 10, 2015; No 164, 2015
s. 52A.....	ad No 120, 2015
s. 52B.....	ad No 120, 2015
s. 53.....	am. No. 74, 1939

Endnote 4—Amendment history

Provision affected	How affected
	rep. No. 92, 1964
	ad. No. 187, 1997
	am. No. 58, 2011; No 164, 2015
s. 54	rep. No. 30, 1910
	ad. No. 92, 1964
	am. No. 96, 1975
	rep. No. 153, 1982
s. 54A.....	ad. No. 15, 1909
	rs. No. 36, 1917
	rep. No. 92, 1964
s. 55	am. No. 3, 1915
	rs. No. 36, 1917
	am. No. 93, 1966; No. 96, 1975; No. 132, 1979
	rep. No. 153, 1982
s. 56	rep. No. 30, 1910
s. 57	am. No. 30, 1910; No. 36, 1917; No. 96, 1975
	rep. No. 178, 1981
s. 58	am. No. 74, 1939; No. 216, 1973; No. 96, 1975; No. 4, 1977
	rep. No. 153, 1982
Part IIIA	
Part IIIA.....	ad. No. 132, 1979
Division 1	
Division 1 heading.....	ad. No. 164, 1984
s. 58A.....	ad. No. 132, 1979
	am. No. 164, 1984; No. 104, 1988; No. 135, 2003; No 164, 2015
s. 58B.....	ad. No. 132, 1979
	am. No. 178, 1981; No. 164, 1984; No. 65, 1985 (as am by No. 75, 1990); No. 75, 1988; No. 146, 1999; No. 10, 2001; No. 95, 2010; No. 10, 2015; No. 164, 2015; No. 108, 2017
s. 58C.....	ad. No. 132, 1979
	am. No. 80, 1982; No. 99, 1988

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
	rep. No. 95, 2010
s. 58D.....	ad. No. 132, 1979
	rep. No. 3, 1995
s. 58E.....	ad. No. 132, 1979
	am No 5, 2015
	rs No 164, 2015
Division 2	
Division 2	ad. No. 164, 1984
s. 58F	ad. No. 164, 1984
	am. No. 87, 1988; No. 62, 1991; No. 109, 1993; Nos. 43 and 60, 1996; No. 127, 2002; SLI 2006 No. 50; No. 54, 2009; No. 174, 2012
s. 58G.....	ad. No. 164, 1984
	am. No. 108, 1990; No. 109, 1993; No. 127, 2002; No. 54, 2009; No. 174, 2012; No 164, 2015
s. 58H.....	ad. No. 164, 1984
	am. No. 109, 1993; No. 127, 2002; No 164, 2015
ss. 58HA, 58HB.....	ad. No. 168, 1995
	am. No. 133, 1999; No. 70, 2009
s. 58J.....	ad. No. 164, 1984
	am. No. 109, 1993
s. 58K.....	ad. No. 164, 1984
	am. No. 62, 1991; No. 109, 1993; No. 127, 2002; No. 54, 2009; No. 174, 2012
s. 58KA.....	ad. No. 62, 1991
	am. No. 109, 1993; No 31, 2014
s. 58KB.....	ad. No. 62, 1991
	am. No. 54, 2009; No. 174, 2012
s. 58KC.....	ad. No. 62, 1991
	am. No. 109, 1993
s. 58KD.....	ad. No. 62, 1991
s. 58L.....	ad. No. 164, 1984

Endnote 4—Amendment history

Provision affected	How affected
	am. No. 108, 1990; No. 109, 1993; No. 127, 2002; No. 54, 2009; No. 174, 2012; No 164, 2015
s. 58M.....	ad. No. 164, 1984
	am. No. 127, 2002
s. 58N.....	ad. No. 164, 1984
s. 58P.....	ad. No. 164, 1984
	am. No. 109, 1993; No. 127, 2002; No. 46, 2011
s. 58Q.....	ad. No. 164, 1984
	am. No. 43, 1996; No. 127, 2002; No 4, 2016
Division 3	
Division 3	ad. No. 164, 1984
s. 58R.....	ad. No. 164, 1984
	am. No. 43, 1996
s 58S	ad No 164, 1984
s 58T	ad No 164, 1984
s 58U.....	ad No 164, 1984
	am No 5, 2015
s 58V.....	ad No 164, 1984
	am No 5, 2015
s 58W.....	ad No 164, 1984
s. 58X.....	ad. No. 164, 1984
	am. No. 46, 2011; No 5, 2015
s. 58Y.....	ad. No. 164, 1984
	am. No. 43, 1996
Part IV	
Part IV heading.....	am. No. 15, 1909
Part IV	rs. No. 51, 1965
Division 1	
Division 1 heading.....	ad. No. 91, 1992
s. 59	am. No. 15, 1909
	rs. No. 51, 1965

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
	am. No. 132, 1979; No. 91, 1992
s. 60	rs. No. 15, 1909
	am. No. 47, 1918
	rs. No. 51, 1965
	am. No. 132, 1979; No. 91, 1992
s. 61	rs. No. 37, 1910
	am. No. 47, 1918; Nos. 38 and 74, 1939
	rs. No. 51, 1965
	am. No. 216, 1973; No. 96, 1975; No. 132, 1979; No. 91, 1992
s. 61A.....	ad. No. 37, 1910
	am. No. 38, 1939
	rs. No. 51, 1965
	am. No. 93, 1966; No. 96, 1975; No. 4, 1977; No. 132, 1979; No. 91, 1992; No 61, 2016
s. 61B.....	ad. No. 59, 1951
	rs. No. 51, 1965
	am No 96, 1975; No 5, 2015
s. 61C.....	ad. No. 51, 1965
	am. No. 96, 1975; No. 132, 1979
	rs. No. 91, 1992
Division 2	
Division 2	ad. No. 91, 1992
ss. 61CA–61CE.....	ad. No. 91, 1992
Division 3	
Division 3	ad. No. 91, 1992
ss. 61CF–61CN.....	ad. No. 91, 1992
s. 61CO	ad. No. 91, 1992
	am. No. 46, 2011
Division 4	
Division 4	ad. No. 91, 1992
s 61CP.....	ad. No. 91, 1992

Endnote 4—Amendment history

Provision affected	How affected
s 61CQ.....	ad. No. 91, 1992
s 61CR.....	ad. No. 91, 1992
s 61CS.....	ad. No. 91, 1992
s 61CT.....	ad. No. 91, 1992
s 61CU.....	ad. No. 91, 1992
	am No 106, 2015
s 61CV.....	ad. No. 91, 1992
s 61C.....	ad. No. 91, 1992
s. 61CX.....	ad. No. 91, 1992
	am. No. 121, 2005
s 61CY.....	ad. No. 91, 1992
	rs. No. 141, 2001
	am No 4, 2016
s 61CZ.....	ad No 91, 1992
	rs No 141, 2001
	am No 4, 2016
s. 61CZA.....	ad. No. 91, 1992
Division 5	
Division 5.....	ad. No. 91, 1992
ss. 61CZB, 61CZC.....	ad. No. 91, 1992
s. 61CZD.....	ad. No. 91, 1992
	am. No. 95, 1993
s. 61CZE.....	ad. No. 91, 1992
Part V	
Part V.....	rs No 164, 2015
s. 62.....	rs. No. 15, 1909
	am. No. 37, 1910; No. 5, 1912; No. 3, 1915; No. 47, 1918; No. 74, 1939
	rs. No. 59, 1951
	am. No. 96, 1975; No. 132, 1979; No. 104, 1988; No. 1, 1997; No. 135, 2003; No. 183, 2011
	rs No 164, 2015

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
	ed C67
s. 62A.....	ad. No. 71, 1949
	rep. No. 59, 1951
	ad No 164, 2015
s 62B.....	ad No 164, 2015
s 62C.....	ad No 164, 2015
s 62D.....	ad No 164, 2015
s 62E.....	ad No 164, 2015
Part VI	
s. 63	am. No. 15, 1909; Nos. 30 and 37, 1910; No. 36, 1917; No. 74, 1939; No. 35, 1948; No. 216, 1973; No. 96, 1975; No. 4, 1977; No. 21, 1991; No 5, 2015
s. 64	am. No. 12, 1904; No. 74, 1939
s. 65	am. No. 74, 1939
s. 66	am. No. 96, 1975; No. 4, 1977; No. 104, 1988 (as am. by No. 41, 1989)
s. 67	rs. No. 15, 1909
	am. No. 5, 1912; No. 74, 1939
s. 69	rs. No. 15, 1909
	am. No. 3, 1915; No. 74, 1939; No. 93, 1966; No. 96, 1975; No. 132, 1979
	rep. No. 39, 1983
s. 70	am. No. 74, 1939; No. 80, 1950; No 5, 2015
Part VIA	
Part VIA.....	ad. No. 19, 2011
Division 1	
s 71	rep No 96, 1975
	ad No 19, 2011
s 71A.....	ad No 19, 2011
	am No 95, 2014; No 25, 2018; No 156, 2018; No 158, 2018
Division 2	
ss. 71B–71G.....	ad. No. 19, 2011

Endnote 4—Amendment history

Provision affected	How affected
Division 3	
Subdivision A	
s. 71H.....	ad. No. 19, 2011
ss. 71J, 71K.....	ad. No. 19, 2011
Subdivision B	
ss. 71L–71N.....	ad. No. 19, 2011
s. 71P	ad. No. 19, 2011
Subdivision C	
s. 71Q.....	ad. No. 19, 2011
Division 4	
ss. 71R–71Z.....	ad. No. 19, 2011
Division 5	
s. 72	am. No. 15, 1909; No. 93, 1966; No. 132, 1979
	rep. No. 96, 1975
	ad. No. 19, 2011
Division 6	
ss. 72A–72H	ad. No. 19, 2011
ss. 72J–72N.....	ad. No. 19, 2011
Division 7	
s. 72P	ad. No. 19, 2011
s. 72Q.....	ad. No. 19, 2011
	am No. 197, 2012
s. 72R.....	ad. No. 19, 2011
s. 72S	ad. No. 19, 2011
Part VIB	
Part VIB.....	ad No 95, 2014
s 72T	ad No 95, 2014
s 72TA	ad No 95, 2014
s 72TB	ad No 95, 2014
s 72TC	ad No 95, 2014
s 72TD	ad No 95, 2014

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
s 72TE.....	ad No 95, 2014
s 72TF.....	ad No 95, 2014
s 72TG.....	ad No 95, 2014
	am No 124, 2017
s 72TH.....	ad No 95, 2014
s 72TJ.....	ad No 95, 2014
s 72TK.....	ad No 95, 2014
s 72TL.....	ad No 95, 2014
s 72TM.....	ad No 95, 2014
s 72TN.....	ad No 95, 2014
s 72TO.....	ad No 124, 2017
s 72TP.....	ad No 95, 2014
	am No 124, 2017
s. 73.....	am. No. 30, 1910
	rs. No. 36, 1917; No. 153, 1982
	rep. No. 141, 2001
Part VII	
s. 73A.....	ad. No. 36, 1917
	am. No. 74, 1939; No. 96, 1975; No. 4, 1977; No. 146, 1999
	rs. No. 141, 2001
	am No 4, 2016
s. 73B.....	ad. No. 36, 1917
	rs. No. 153, 1982
	rep. No. 137, 2000
s. 73C.....	ad. No. 36, 1917
	am. No. 4, 1941; No. 96, 1975
	rep. No. 141, 2001
s. 73D.....	ad. No. 36, 1917
	rs. No. 4, 1941
	am. No. 96, 1975; No. 4, 1977
	rep. No. 141, 2001

Endnote 4—Amendment history

Provision affected	How affected
s. 73E.....	ad. No. 4, 1941 am. No. 96, 1975 rep. No. 141, 2001
s. 73F.....	ad. No. 4, 1941 am. No. 93, 1966; No. 132, 1979; No. 153, 1982; No. 137, 2000; No. 141, 2001; No 61, 2016
s. 74.....	am. No. 36, 1917; No. 93, 1966; No. 132, 1979 rep. No. 153, 1982
s. 75.....	am. No. 15, 1909 rs. No. 47, 1918 am. No. 93, 1966; No. 132, 1979 rep. No. 153, 1982
s. 76.....	am. No. 47, 1918 rs. No. 92, 1964 rep. No. 51, 1965
s. 77.....	am. No. 47, 1918; No. 93, 1966; No. 132, 1979 rep. No. 153, 1982
s. 78.....	rs. No. 36, 1917 am. No. 74, 1939 rs. No. 92, 1964 am. No. 96, 1975; No. 132, 1979; No. 61, 1981 rep. No. 153, 1982
s. 79.....	am. No. 15, 1909; No. 36, 1914; No. 50, 1932; No. 74, 1939; No. 93, 1966; No. 216, 1973; No. 96, 1975; No. 4, 1977; Nos. 132 and 155, 1979; No. 70, 1980; No. 141, 2001; No 5, 2015
s. 80.....	am. No. 93, 1966; No. 132, 1979 rep. No. 137, 2000
s. 80A.....	ad. No. 36, 1917 am. No. 74, 1939; No. 80, 1950; No. 93, 1966; No. 132, 1979; No. 141, 2001; No. 135, 2003; No 4, 2016
s. 80B.....	ad. No. 36, 1917 rs. No. 51, 1965

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
	am. No. 93, 1966; No. 96, 1975; No. 4, 1977
	rs. No. 20, 1977
	am. No. 104, 1988; No. 141, 2001; No. 135, 2003; No. 8, 2007; No 5, 2015; No 4, 2016
ss. 80C–80I.....	ad. No. 36, 1917
	rep. No. 51, 1965
s. 81	am. No. 74, 1939; No. 93, 1966; No. 132, 1979
	rep. No. 137, 2000
s. 82	am. No. 36, 1917; No. 74, 1939; No. 93, 1966; No. 216, 1973; No. 96, 1975; Nos. 132 and 155, 1979; No. 70, 1980; No. 141, 2001; No. 19, 2011; No 5, 2015; No 4, 2016; No 61, 2016
s. 83	rs. No. 71, 1949
	am. No. 92, 1964; No. 93, 1966; No. 96, 1975; No. 20, 1977; No. 132, 1979; No. 164, 1984; No. 104, 1988; No. 141, 2001; No 4, 2016; No 61, 2016
s. 84	am. No. 93, 1966; No. 132, 1979; No. 104, 1988; No. 141, 2001; No 61, 2016
s. 85	am. No. 47, 1918; No. 93, 1966
	rs. No. 96, 1975
	rep. No. 65, 1987
Part VIII	
Part VIII.....	rs. No. 153, 1982
s. 86	am. No. 36, 1917; No. 74, 1939; No. 96, 1975; No 61, 2016
	rs. No. 153, 1982; No. 141, 2001
	am No 4, 2016
s. 87	am. Nos. 13 and 74, 1939; No. 132, 1979; No. 178, 1981
	rs. No. 153, 1982
	rep. No. 39, 1983
s. 88	rs. No. 36, 1917
	am. No. 74, 1939
	rs. No. 72, 1956
	am. No. 96, 1975

Endnote 4—Amendment history

Provision affected	How affected
	rs. No. 153, 1982; No. 141, 2001
	am No 4, 2016; No 61, 2016
s. 89	rs. No. 153, 1982
	am. No. 141, 2001; No. 159, 2006; No. 91, 2009; No 106, 2015; No 61, 2016
s. 90	rs. No. 36, 1917
	am. No. 74, 1939; No. 96, 1975
	rs. No. 153, 1982; No. 141, 2001
	am No 4, 2016; No 61, 2016
Part VIIIA	
Part VIIIA heading.....	rs. No. 26, 2005
Part VIIIA	ad. No. 116, 1999
Division 1	
s. 91	am. No. 36, 1917; No. 93, 1966; No. 216, 1973; Nos. 19 and 132, 1979
	rep. No. 153, 1982
	ad. No. 116, 1999
	rs. No. 26, 2005
s. 92	rs. No. 36, 1917
	am. No. 216, 1973; No. 132, 1979
	rep. No. 153, 1982
	ad. No. 116, 1999
	am. No. 26, 2005
s 93	rep. No. 153, 1982
	ad. No. 116, 1999
	am. No. 26, 2005; No. 95, 2010; No 164, 2015; No 117, 2017
s 93A.....	ad. No. 26, 2005
	am No 164, 2015
s 93B.....	ad No 26, 2005
Division 2	
Division 2 heading.....	rs. No. 26, 2005
s. 94	rep. No. 153, 1982

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
	ad. No. 116, 1999
	rs. No. 26, 2005
s 95	am. No. 93, 1966; No. 96, 1975; No. 132, 1979
	rep. No. 153, 1982
	ad. No. 116, 1999
	rs. No. 26, 2005
	am No 117, 2017
s. 96	am. No. 36, 1917; No. 74, 1939; No. 96, 1975
	rep. No. 153, 1982
	ad. No. 116, 1999
	rs. No. 26, 2005
s. 97	am. No. 36, 1917; No. 74, 1939; No. 96, 1975; No. 4, 1977
	rep. No. 153, 1982
	ad. No. 116, 1999
	rep. No. 26, 2005
Division 3	
s 98	am. No. 74, 1939; No. 96, 1975
	rep. No. 153, 1982
	ad. No. 116, 1999
	am. No. 26, 2005; No 117, 2017
s. 99	am. No. 12, 1904; No. 45, 1934; No. 132, 1979
	rep. No. 153, 1982
	ad. No. 116, 1999
	rep. No. 26, 2005
s 100	am. No. 96, 1975
	rep. No. 153, 1982
	ad. No. 116, 1999
	rs. No. 26, 2005
	am No 117, 2017
s 101	rep. No. 153, 1982
	ad. No. 116, 1999

Endnote 4—Amendment history

Provision affected	How affected
	am. No. 26, 2005; No. 95, 2010
	rs No 117, 2017
s 102	am. No. 36, 1917
	rep. No. 153, 1982
	ad. No. 116, 1999
	am. No. 26, 2005
	rep No 117, 2017
s 103	rs. No. 36, 1917
	am. No. 74, 1939; No. 132, 1979
	rep. No. 153, 1982
	ad. No. 116, 1999
	am. No. 26, 2005; No 164, 2015
	rep No 117, 2017
s 104	rep. No. 36, 1917
	ad. No. 116, 1999
	rs. No. 26, 2005
	rep No 117, 2017
s. 105	rep. No. 153, 1982
	ad. No. 116, 1999
	rep. No. 26, 2005
Division 4	
s. 106	am. No. 74, 1939; No. 216, 1973
	rep. No. 153, 1982
	ad. No. 116, 1999
	am. No. 141, 2001; No. 26, 2005; No 4, 2016; No 61, 2016
s. 107	am. No. 74, 1939; No. 96, 1975
	rep. No. 153, 1982
	ad. No. 116, 1999
	am. No. 141, 2001; No. 26, 2005; No 4, 2016; No 61, 2016
s 108	am. No. 36, 1914; No. 36, 1917; No. 74, 1939; No. 59, 1951; No. 92, 1964; No. 93, 1966; No. 132, 1979

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
	rep. No. 153, 1982
	ad. No. 116, 1999
	am. No. 26, 2005; No. 4, 2010; No 117, 2017
s 109	rs. No. 36, 1914
	am. No. 36, 1917; No. 74, 1939; No. 96, 1975; No. 4, 1977; No. 132, 1979
	rep. No. 153, 1982
	ad. No. 26, 2005
	am No 164, 2015; No 117, 2017
s. 110	am. No. 12, 1904
	rs. No. 5, 1912
	am. No. 36, 1917; No. 74, 1939; Nos. 19 and 59, 1951; No. 216, 1973
	rep. No. 96, 1975
	ad. No. 26, 2005
s. 110A.....	ad. No. 47, 1918
	am. No. 74, 1939
	rep. No. 153, 1982
Part VIIIB	
Part VIIIB	ad. No. 142, 2005
Division 1	
s 110A.....	ad No 142, 2005
	am No 46, 2015
s 110B.....	ad No 142, 2005
s 110C.....	ad No 142, 2005
	am No 46, 2015
s 110D.....	ad No 142, 2005
	rep No 46, 2015
s 110DA.....	ad No 46, 2015
	am No 164, 2015
s 110DB.....	ad No 46, 2015

Endnote 4—Amendment history

Provision affected	How affected
Division 2	
ss. 110E–110M	ad. No. 142, 2005
s. 110N	ad. No. 142, 2005
	am. No. 46, 2011
s. 110O	ad. No. 142, 2005
	am No 164, 2015
s. 110P	ad No 142, 2005
Division 3	
s. 110Q	ad No 142, 2005
s. 110R	ad No 142, 2005
	rs No 46, 2015
s. 110S	ad No 142, 2005
Part VIIIC	
Part VIIIC	ad. No. 95, 2010
Division 1	
s. 110T	ad. No. 95, 2010
	am No 106, 2015
Division 2	
s. 110U	ad. No. 95, 2010
ss. 110UA, 110UB	ad. No. 95, 2010
Division 3	
s. 110V	ad. No. 95, 2010
ss. 110VA–110VC	ad. No. 95, 2010
Division 4	
s. 110W	ad. No. 95, 2010
Division 5	
s. 110X	ad. No. 95, 2010
s. 110XA	ad No 95, 2010
s. 110XB	ad No 95, 2010
s. 110XC	ad No 95, 2010
	am No 60, 2015

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
s 110XD.....	ad No 95, 2010
s 110XE	ad No 95, 2010
s 110XF	ad No 95, 2010
s 110XG.....	ad No 95, 2010
s 110XH.....	ad No 95, 2010
	am No 106, 2015
Division 6	
s. 110Y.....	ad. No. 95, 2010
ss. 110YA, 110YB	ad. No. 95, 2010
s. 110YC.....	ad. No. 95, 2010
	am. No. 46, 2011
ss. 110YD–110YI	ad. No. 95, 2010
Division 7	
s. 110Z.....	ad. No. 95, 2010
Part VIIID	
s 110ZA	ad No 106, 2015
s 110ZB	ad No 106, 2015
	am No 125, 2017
s 110ZC	ad No 106, 2015
s 110ZD	ad No 106, 2015
Part IX	
s. 111	am. No. 12, 1904; No. 36, 1917; No. 74, 1939; No. 71, 1949; No. 96, 1975
s. 111A.....	ad. No. 37, 1910
s. 112	am. No. 30, 1910; No. 36, 1917; No. 74, 1939; Nos. 19 and 59, 1951; No. 216, 1973; No. 96, 1975; No. 61, 1981
	rep. No. 153, 1982
s. 113	am. No. 36, 1917; No. 74, 1939; No. 92, 1964; No. 96, 1975; No. 61, 1981
	rep. No. 153, 1982
s. 114	am. No. 5, 1912

Endnote 4—Amendment history

Provision affected	How affected
	rs. No. 36, 1917
	am. No. 216, 1973; No. 96, 1975; No. 155, 1979; No. 70, 1980
	rep. No. 153, 1982
ss. 115, 116.....	am. No. 36, 1917; No. 74, 1939; No. 216, 1973
	rep. No. 153, 1982
Part IXA	
Part IXA.....	ad. No. 178, 1981
Division 1	
s 116A.....	ad. No. 178, 1981
	am No 5, 2015
Division 2	
s 116B.....	ad. No. 178, 1981
	am No 1, 1997; No 5, 2015; No 164, 2015
s 116C.....	ad. No. 178, 1981
	am No. 164, 1984; No. 95, 1993; No. 1, 1997; No. 159, 2006; No. 91, 2009; No 5, 2015; No 164, 2015
s 116D.....	ad. No. 178, 1981
	am No. 39, 1983; No. 164, 1984; No 5, 2015
Division 3	
s. 116E.....	ad. No. 178, 1981
	am. No. 1, 1997; No 5, 2015; No 164, 2015
s 116F.....	ad No 178, 1981
	am No 5, 2015
s 116G.....	ad No 178, 1981
	am No 5, 2015
s 116H.....	ad No 178, 1981
	am No 5, 2015
s 116J.....	ad No 178, 1981
	ed C70
s 116K.....	ad No 178, 1981
	am No 5, 2015

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
Division 4	
s 116M.....	ad No 178, 1981 am No 1, 1997; No 5, 2015; No 164, 2015 ed C70
s. 116N.....	ad. No. 178, 1981 rep. No. 121, 2005
Part IXB	
Part IXB.....	ad. No. 178, 1981
ss. 116P, 116Q.....	ad. No. 178, 1981
s 116R.....	ad. No. 178, 1981 am. No. 39, 1983; No. 5, 2011; No 5, 2015; No 164, 2015
s 116S.....	ad No 178, 1981
s 116T.....	ad No 178, 1981 ed C70
s 116U.....	ad No 178, 1981 am No 5, 2015; No 4, 2016; No 61, 2016
s 116V.....	ad No 178, 1981 am No 5, 2015
s. 116W.....	ad. No. 178, 1981 am. No. 141, 2001; No 5, 2015; No 4, 2016; No 61, 2016
s 116X.....	ad. No. 178, 1981 am No 5, 2015
s. 116Y.....	ad. No. 178, 1981 rs. No. 141, 2001 am No 4, 2016; No 61, 2016
s. 116Z.....	ad. No. 178, 1981 rep. No. 137, 2000
s. 116ZA.....	ad. No. 178, 1981 am. No. 65, 1985
s 116ZB.....	ad No 178, 1981 am No 61, 2016

Endnote 4—Amendment history

Provision affected	How affected
s 116ZC	ad No 178, 1981
s 116ZCA.....	ad No 125, 2017
s 116ZD	ad No 178, 1981
	am No 99, 1988; No 121, 2005; No 5, 2015; No 61, 2016; No 125, 2017
Part IXC	
Part IXC.....	ad. No. 104, 1988 (as am. by No. 41, 1989)
s. 117	am. No. 96, 1975; No. 4, 1977
	rep. No. 153, 1982
	ad. No. 104, 1988 (as am. by No. 41, 1989)
	am. No. 1, 1997; No 164, 2015
s. 117A.....	ad. No. 36, 1917
	am. No. 71, 1949; No. 96, 1975
	rep. No. 153, 1982
	ad. No. 104, 1988 (as am. by No. 41, 1989)
	am. No. 21, 1991; No. 95, 1993; No. 1, 1997; No 164, 2015
ss. 117AA, 117AB.....	ad. No. 104, 1988 (as am. by No. 41, 1989)
Part IXD	
Part IXD.....	ad No 125, 2017
s 117AC.....	ad No 125, 2017
s 117AD.....	ad No 125, 2017
s 117AE	ad No 125, 2017
	am No 13, 2021
s 117AF	ad No 125, 2017
s 117AG.....	ad No 125, 2017
s 117AH.....	ad No 125, 2017
Part X	
s. 117B.....	ad. No. 65, 1985
s. 118	am. No. 74, 1939; No. 216, 1973; No. 132, 1979; No. 65, 1987
	rs. No. 141, 2001
	am No 4, 2016
s. 118A.....	ad. No. 36, 1917

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
	am. No. 80, 1950; No. 92, 1964; No. 51, 1965; No. 93, 1966; No. 96, 1975; No. 132, 1979; No. 153, 1982; No. 10, 2001; No 5, 2015; No 61, 2016
s. 118B.....	ad. No. 65, 1987
s. 119	rs. No. 36, 1917
	am. No. 47, 1918; No. 216, 1973
	rs. No. 96, 1975
	am. No. 132, 1979; No. 178, 1981; No 164, 2015
s 120	am No 5, 2015
s 120A.....	ad No 36, 1917
	rs No 39, 1983
	am No 164, 1984; No 65, 1985; No 76, 1986; No 65, 1987; No 75, 1990; No 95, 1993; No 1, 1997; No 116, 1999; No 10, 2001; No 26, 2005; No 95, 2010; No 183, 2011; No 120, 2015; No 164, 2015
	ed C70
	am No 117, 2017; No 146, 2020
s 120B.....	ad No 65, 1985
	am No 75, 1988; No 146, 1999; No 179, 1999; No 52, 2004; No 80, 2004; No 61, 2016; No 108, 2017
	ed C76
s 121	am No 96, 1975; No 153, 1982
	ed C70
s 121A.....	ad No 95, 2014
s. 122	am. No. 5, 1912; No. 36, 1917; No. 216, 1973; No. 96, 1975; No. 155, 1979; No. 70, 1980
	rep. No. 153, 1982
	ad. No. 65, 1987
	am No 164, 2015
s. 122AA.....	ad. No. 21, 1991
	am. No. 46, 1998; No. 77, 2001; No. 101, 2006
s. 122A.....	ad. No. 41, 1989
	exp 2 May 1995 (s 122A(5))

Endnote 4—Amendment history

Provision affected	How affected
	rep No 93, 2017
s. 122B.....	ad. No. 6, 2008
	am No 106, 2015
s. 123	rep. No. 216, 1973
	ad. No. 65, 1987
	am. No. 104, 1988; No. 41, 1989; No. 146, 1999
s 123AA.....	ad No 146, 2020
s. 123A.....	ad. No. 15, 1909
	am. No. 74, 1939
	rs. No. 59, 1951; No. 51, 1965
	am. No. 216, 1973; No. 96, 1975
	rs. No. 165, 1984
	am. No. 65, 1985; No. 1, 1997; No 164, 2015
s. 123AA.....	ad. No. 5, 1912
	rs. No. 59, 1951
	am. No. 93, 1966; No. 96, 1975; No. 132, 1979
	rs. No. 141, 2001
	am. No. 135, 2003; No 4, 2016
	rep No 164, 2015
s 123B.....	ad. No. 15, 1909
	am No 216, 1973; No 5, 2015
s. 123BA	ad. No. 92, 1964
	am. No. 96, 1975
	rep. No. 65, 1987
s. 123BB	ad. No. 92, 1964
	am. No. 96, 1975
	rep. No. 153, 1982
s. 123BC	ad. No. 92, 1964
	rep. No. 153, 1982
s. 123C.....	ad. No. 15, 1909
	rep. No. 216, 1973

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
s. 123D.....	ad. No. 37, 1910 rep. No. 59, 1951
s. 123E.....	ad. No. 37, 1910 am. No. 74, 1939; No. 216, 1973 rep. No. 132, 1979
s. 123F.....	ad. No. 59, 1951 rs. No. 96, 1975 am. No. 1, 1997; No 164, 2015
s. 123G.....	ad. No. 39, 1983 am. No. 99, 1988; No. 121, 2005
s. 123H.....	ad. No. 46, 2009 am No 62, 2014
s. 123J.....	ad. No. 46, 2009
Part XI	
s. 124.....	am. No. 12, 1904; No. 15, 1909; No. 37, 1910; No. 3, 1915; No. 36, 1917; No. 47, 1918; No. 1, 1927; No. 74, 1939; No. 71, 1949; Nos. 19 and 59, 1951; No. 98, 1952; No. 20, 1953; No. 92, 1964; No. 51, 1965; No. 93, 1966; No. 216, 1973; No. 96, 1975; No. 4, 1977; No. 132, 1979 (as am. by No. 164, 1984); Nos. 61 and 178, 1981; No. 153, 1982; No. 39, 1983; Nos. 164 and 165, 1984; Nos. 65 and 193, 1985; No. 163, 1986; No. 146, 1999; No. 10, 2001; No. 135, 2003; Nos. 121 and 142, 2005; No 159, 2006; No 6, 2008; No 18, 2009; No 5, 2015; No 10, 2015; No 46, 2015; No 164, 2015; No 174, 2015; No 61, 2016; No 125, 2017
Part XII heading.....	am. No. 74, 1939 rep. No. 19, 1951
Part XII.....	ad. No. 15, 1909 rep. No. 19, 1951 ad. No. 92, 1964 rep. No. 51, 1965
s. 125.....	ad. No. 15, 1909 am. No. 37, 1910 rep. No. 19, 1951

Endnote 4—Amendment history

Provision affected	How affected
	ad. No. 92, 1964
	rep. No. 51, 1965
s. 126	ad. No. 15, 1909
	am. No. 37, 1910; No. 45, 1934
	rep. No. 19, 1951
	ad. No. 92, 1964
	rep. No. 51, 1965
s. 127	ad. No. 15, 1909
	am. No. 37, 1910; No. 15, 1911; No. 5, 1912; No. 74, 1939
	rep. No. 19, 1951
	ad. No. 92, 1964
	rep. No. 51, 1965
s. 128	ad. No. 15, 1909
	rs. No. 37, 1910
	rep. No. 19, 1951
	ad. No. 92, 1964
	rep. No. 51, 1965
s. 129	ad. No. 15, 1909
	rep. No. 37, 1910
	ad. No. 36, 1917
	rep. No. 19, 1951
	ad. No. 92, 1964
	rep. No. 51, 1965
s. 130	ad. No. 15, 1909
	rep. No. 19, 1951
	ad. No. 92, 1964
	rep. No. 51, 1965
s. 131	ad. No. 15, 1909
	rep. No. 45, 1934
	ad. No. 92, 1964
	rep. No. 51, 1965

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
s. 132	ad. No. 15, 1909 rep. No. 19, 1951 ad. No. 92, 1964 rep. No. 51, 1965
s. 132A.....	ad. No. 36, 1917 rep. No. 19, 1951
s. 133	ad. No. 15, 1909 rep. No. 19, 1951 ad. No. 92, 1964 rep. No. 51, 1965
s. 134	ad. No. 15, 1909 am. No. 15, 1911; No. 3, 1915; No. 36, 1917; No. 16, 1918; No. 74, 1939 rep. No. 19, 1951 ad. No. 92, 1964 rep. No. 51, 1965
s. 135	ad. No. 15, 1909 am. No. 15, 1911; No. 5, 1912; No. 36, 1914; No. 47, 1918 rep. No. 19, 1951 ad. No. 92, 1964 rep. No. 51, 1965
s. 135A.....	ad. No. 36, 1914 rep. No. 19, 1951
s. 135B.....	ad. No. 36, 1914 rs. No. 47, 1918 rep. No. 19, 1951
s. 135C.....	ad. No. 36, 1914 rep. No. 19, 1951
s. 136	ad. No. 15, 1909 rep. No. 19, 1951 ad. No. 92, 1964 rep. No. 51, 1965

Endnote 4—Amendment history

Provision affected	How affected
s. 137	ad. No. 15, 1909 am. No. 74, 1939 rep. No. 19, 1951
Part XIII	ad. No. 15, 1909 rep. No. 19, 1951
s. 138	ad. No. 15, 1909 am. No. 37, 1910; No. 36, 1914; No. 36, 1917; No. 47, 1918; No. 74, 1939 rep. No. 19, 1951
s. 139	ad. No. 15, 1909 rep. No. 19, 1951
s. 140	ad. No. 15, 1909 am. No. 37, 1910 rep. No. 36, 1914 ad. No. 36, 1917 rep. No. 19, 1951
s. 140A	ad. No. 37, 1910 rep. No. 36, 1914
s. 141	ad. No. 15, 1909 rep. No. 19, 1951
Part XIV heading	am. No. 74, 1939 rep. No. 19, 1951
Part XIV	ad. No. 15, 1909 rep. No. 19, 1951
s. 142	ad. No. 15, 1909 am. No. 15, 1911; No. 5, 1912; No. 36, 1914; No. 47, 1918; No. 45, 1934 rep. No. 19, 1951
s. 142A	ad. No. 47, 1918 am. No. 74, 1939 rep. No. 19, 1951
s. 143	ad. No. 15, 1909

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
	am. No. 74, 1939
	rep. No. 19, 1951
ss. 144, 145	ad. No. 15, 1909
	rep. No. 19, 1951
s. 146	ad. No. 15, 1909
	rs. No. 5, 1912; No. 47, 1918
	rep. No. 19, 1951
Part XV	ad. No. 15, 1909
	rep. No. 65, 1987
s. 147	ad. No. 15, 1909
	rs. No. 37, 1910
	am. No. 92, 1964; No. 96, 1975
	rep. No. 65, 1987
s. 147A	ad. No. 37, 1910
	rs. No. 92, 1964
	am. No. 153, 1982; No. 65, 1985
	rep. No. 65, 1987
s. 147B	ad. No. 37, 1910
	rep. No. 92, 1964
s. 148	ad. No. 15, 1909
	rs. No. 37, 1910
	am. No. 36, 1917; No. 16, 1918; No. 45, 1934
	rs. No. 71, 1949
	am. No. 92, 1964
	rep. No. 51, 1965
s. 148A	ad. No. 71, 1949
	am. No. 132, 1979
	rep. No. 65, 1985
ss. 149, 150	ad. No. 15, 1909
	rep. No. 37, 1910
s. 151	ad. No. 15, 1909

Endnote 4—Amendment history

Provision affected	How affected
	rep. No. 96, 1975
s. 152	ad. No. 15, 1909
	rep. No. 37, 1910
First Schedule heading.....	rep. No. 96, 1975
Schedule 1	
Schedule 1 heading	ad. No. 96, 1975
	rep. No. 153, 1982
	ad No 164, 2015
Schedule 1.....	rep. No. 153, 1982
	ad No 164, 2015
c 1	ad No 164, 2015
Second Schedule heading.....	rep. No. 96, 1975
Second Schedule.....	rs. No. 92, 1964
Schedule 2 heading	ad. No. 96, 1975
	rep. No. 65, 1987
Schedule 2.....	rep. No. 65, 1987
Third Schedule.....	rep. No. 92, 1964