



# **Defence Act 1903**

**No. 20, 1903**

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Prepared by the Office of Parliamentary Counsel, Canberra

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## 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 29 September 2025 (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.

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The effect of uncommenced amendments is not shown in the text of the compiled law. The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. Any uncommenced amendments affecting the law are accessible on the Register ([www.legislation.gov.au](http://www.legislation.gov.au)).

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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.

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If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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# **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:

***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.

***Air Force Reserve***: see subsection 20(3).

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

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***Army*** means the Australian Army.

***Army Reserve***: see subsection 19(3).

***ART*** means the Administrative Review Tribunal.

***ART Act*** means the *Administrative Review Tribunal Act 2024*.

***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).

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**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 Sovereign'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

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- (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.

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- (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.

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### 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

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- (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.

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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*.

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### 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.

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***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).

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***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

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- (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

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- (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.

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**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:
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- (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.

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### *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.

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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

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- (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.

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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:

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- (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).

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- (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

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- (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

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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

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- (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.

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## **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

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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

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| (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. |
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## 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

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- (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.

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- (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;

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- (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:

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| <ul style="list-style-type: none"><li>(a) confers powers and imposes obligations if persons are detained or things are seized; and</li><li>(b) contains an offence for failing to comply with a direction; and</li><li>(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.</li></ul> |
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**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.

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**Division 4** Powers exercised in specified areas

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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.

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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).

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*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

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- (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.

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### *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.

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*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

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- (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

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- (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

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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

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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

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*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.

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**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:

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- (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

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

**Division 5** Powers to protect declared infrastructure

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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)

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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

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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.

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- (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.
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**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

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- (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:

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- (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

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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

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- (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).

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**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:

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- (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

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- (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

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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

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**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

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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.

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*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:

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- (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

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- (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*.

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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**

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- (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.

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***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:

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- (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.

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- (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.

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(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

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- (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).

- (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.

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- (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:

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- (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);

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- (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;

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- (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.

**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.

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**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.

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- (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:

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- (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.

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- (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.

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**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:

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- (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

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(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 ART for review of that determination.

### **61CZC ART Act to apply subject to modification**

- (1) The ART 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) Despite section 22 of the ART Act, the parties to a proceeding before the ART 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) Paragraph 22(1)(c), section 59 and sections 172 to 178 of the ART Act do not apply in relation to such a review.
- (4) Division 6 of Part 7 of the ART Act applies in relation to such a review in the circumstances specified in paragraph 186(b) of that Act, but not in the circumstances specified in paragraph 186(a) of that Act.

### **61CZD Appeals from ART**

- (1) A party to a proceeding before the ART may appeal to the Federal Court, on a question of law only, from any decision of the ART 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 ART is given to the

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- 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).
- (4) The Federal Court:
- (a) must hear and determine the appeal; and
  - (b) may affirm, vary or set aside the order of the ART; 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 ART.

**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 ART 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 ART, the Federal Court or a Judge of the Federal Court may make 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 ART or a part of that decision;
  - (b) the decision to which the proceeding before the ART related or a part of that decision.

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- (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.

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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.

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- (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;

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- (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.

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***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

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- (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

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- (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.

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### *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

- (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

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- (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),
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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:

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- (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.

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**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:

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- (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:

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- (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

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- (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;

- (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

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**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.

**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

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- (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;

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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:

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- (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;

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- (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

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- (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.

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***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:

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- (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;

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- (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:
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- (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;

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- (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).

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**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.

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### **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.

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

*ART review*

- (4) Applications may be made to the ART 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

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- (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).

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*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.

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*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

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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

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- (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.

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**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

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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

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- (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.

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- (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:

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- (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

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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

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- 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;

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- (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).

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- (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.

## **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

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- (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*.

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- (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.

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- (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 VIIIC—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.

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***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).

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**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:

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- (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

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- (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.

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**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

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- (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.

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*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.

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- (5) A person summoned under subsection (1) is entitled to be paid the same fees or allowances as apply under section 77 of the ART Act 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.

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**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

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- (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

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- (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

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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

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- (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 VIID—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;

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- (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;

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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 VIIIE—Defence and Veterans' Services Commission**

### **Division 1—Preliminary**

#### **110ZEA Objects of this Part**

The object of this Part is to improve suicide prevention and wellbeing outcomes for serving and ex-serving Australian Defence Force members through the provision of independent, evidence-based advice on system reform to the Australian Government.

#### **110ZEB Simplified outline of this Part**

The Defence and Veterans' Services Commissioner conducts inquiries and reports (including with evidence-based findings and recommendations) on matters relating to systemic reform to:

- (a) improve suicide prevention for serving and ex-serving Australian Defence Force members; or
- (b) improve wellbeing outcomes for serving and ex-serving Australian Defence Force members.

The Commissioner may determine that an inquiry is a special inquiry if certain requirements are met, including that to do so is in the public interest. A range of additional powers are available to the Commissioner for the purposes of conducting special inquiries (see Division 3).

The Defence and Veterans' Services Commission assists the Commissioner in the performance of the Commissioner's functions under this Part. The Commission consists of the Commissioner and the staff of the Commission.

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**110ZEC This Part binds the Crown**

- (1) This Part binds the Crown in each of its capacities.
- (2) However, this Part does not make the Crown liable to a pecuniary penalty or to be prosecuted for an offence.

**110ZED This Part extends to things outside Australia**

This Part extends to acts, omissions, matters and things outside Australia.

**110ZEE Definitions**

In this Part:

***accountable authority***, of a Commonwealth entity, has the same meaning as in the *Public Governance, Performance and Accountability Act 2013*.

***Australian intelligence entity*** means:

- (a) the Australian Security Intelligence Organisation; or
- (b) the Australian Secret Intelligence Service; or
- (c) the Australian Signals Directorate; or
- (d) the Office of National Intelligence; or
- (e) the part of the Department known as the Australian Geospatial-Intelligence Organisation; or
- (f) the part of the Department known as the Defence Intelligence Organisation.

***authorised member***: see subsection 110ZGJ(2).

***Commonwealth body*** means a Commonwealth entity or a Commonwealth company.

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

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

**Defence and Veteran Suicide Royal Commission** means the Royal Commission into Defence and Veteran Suicide, issued by the Governor-General by Letters Patent on 8 July 2021 (and including any later variations of those Letters Patent).

**defence member** means a member of the Defence Force.

**eligible Judge**: see subsection 110ZLB(1).

**engage in conduct** means:

- (a) do an act; or
- (b) omit to perform an act.

**entrusted person** means:

- (a) the Defence and Veterans' Services Commissioner; or
- (b) a member of staff assisting the Commissioner as mentioned in section 110ZKD; or
- (c) persons assisting referred to in section 110ZKE; or
- (d) consultants engaged under section 110ZKF.

**head**, of an Australian intelligence entity, means:

- (a) in relation to the Australian Security Intelligence Organisation—the Director-General of Security; or
- (b) in relation to the Australian Secret Intelligence Service—the Director-General of the Australian Secret Intelligence Service; or
- (c) in relation to the Australian Signals Directorate—the Director-General of the Australian Signals Directorate; or
- (d) in relation to the part of the Department known as the Australian Geospatial-Intelligence Organisation—the Director of that part of the Department; or
- (e) in relation to the part of the Department known as the Defence Intelligence Organisation—the Director of that part of the Department; or

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- (f) in relation to the Office of National Intelligence—the Director-General of National Intelligence.

**Home Affairs Department** means the Department administered by the Minister administering the *Australian Border Force Act 2015*.

**IGIS official** means:

- (a) the Inspector-General of Intelligence and Security; or
- (b) any other person covered by subsection 32(1) of the *Inspector-General of Intelligence and Security Act 1986*.

**intelligence information** means information:

- (a) that was acquired or prepared by or on behalf of an Australian intelligence entity in connection with its functions; or
- (b) that relates to the performance by an Australian intelligence entity of its functions; or
- (c) that identifies a person as being, or having been, a staff member (within the meaning of the *Intelligence Services Act 2001*) or agent of the Australian Secret Intelligence Service or the Australian Security Intelligence Organisation.

Example: For paragraph (a)—information provided to an Australian intelligence entity by a foreign government or an agency of a foreign government.

**Judge**: see subsection 110ZLB(1).

**law enforcement or security agency** means any of the following agencies:

- (a) the Australian Defence Force;
- (b) the Australian Federal Police;
- (c) the Australian Crime Commission;
- (d) the Home Affairs Department;
- (e) the police force of a State or Territory;
- (f) any other agency prescribed by the rules for the purposes of this definition.

**official**, of a Commonwealth entity, has the same meaning as in the *Public Governance, Performance and Accountability Act 2013*.

***operationally sensitive information*** means:

- (a) information about information sources or operational activities or methods available to a law enforcement or security agency; or
- (b) information about particular operations that have been, are being or are proposed to be undertaken by a law enforcement or security agency, or about proceedings relating to those operations; or
- (c) information provided by a foreign government, or by an agency of a foreign government, where that government does not consent to the public disclosure of the information.

***paid work*** means work for financial gain or reward (whether as an employee, a self-employed person or otherwise).

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

***protected information*** means information (including personal information) made or obtained by an entrusted person for the purposes of this Part.

***reasonable excuse*** means:

- (a) in relation to any act or omission by a witness before the Defence and Veterans' Services Commissioner—an excuse which would excuse an act or omission of a similar nature by a witness before a court of law; or
- (b) in relation to any act or omission by a person summoned as a witness before the Commissioner—an excuse which would excuse an act or omission of a similar nature by a person summoned as a witness before a court of law; or
- (c) in relation to any act or omission by a person given a notice under section 110ZGE or subsection 110ZHD(3)—an excuse which would excuse an act or omission of a similar nature by a person served with a subpoena in connection with a proceeding before a court of law.

***rules*** means rules made under section 110ZLD.

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***secrecy provision*** means:

- (a) a provision of a law of the Commonwealth that purports to prohibit; or
- (b) anything done, under a provision of a law of the Commonwealth, to prohibit;

the communication, divulging or publication of information, the production of, or the publication of the contents of, a document, or the production of a thing.

***State body*** means a department or authority of a State.

***Territory body*** means a department or authority of a Territory.

***use***, in relation to information, includes make a record of.

***veteran*** has the same meaning as in the *Australian Veterans' Recognition (Putting Veterans and Their Families First) Act 2019*.

## **Division 2—Investigations by the Defence and Veterans' Services Commissioner**

### **110ZFA Investigation on own initiative**

- (1) The Defence and Veterans' Services Commissioner may conduct research and inquire into matters relating to systemic reform to:
  - (a) improve suicide prevention for serving and ex-serving ADF members; or
  - (b) improve wellbeing outcomes for serving and ex-serving ADF members.
- (2) The Commissioner may, after conducting research and inquiry under this section, report to the Minister on the outcomes of the research and inquiry (including any recommendations).
- (3) A report given under subsection (2) must be given to the Minister, published and tabled in each House of the Parliament in accordance with any requirements of the rules.

### **110ZFB Inquiry into or advice on specific matter on request by Minister**

- (1) The Minister may request the Defence and Veterans' Services Commissioner:
  - (a) to conduct research and inquire into, and report on, a specific matter relating to systemic reform to:
    - (i) improve suicide prevention for serving and ex-serving ADF members; or
    - (ii) improve wellbeing outcomes for serving and ex-serving ADF members; or
  - (b) to advise on a specific matter relating to systemic reform to:
    - (i) improve suicide prevention for serving and ex-serving ADF members; or
    - (ii) improve wellbeing outcomes for serving and ex-serving ADF members.

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- (2) The Minister may include in such a request terms of reference (including time frames) for the report or advice.
- (3) The Commissioner must comply with such a request.
- (4) If such a request is made in writing, the request is not a legislative instrument.
- (5) The Minister may withdraw or amend such a request at any time before the Commissioner gives the report or advice to the Minister.

**110ZFC Inquiries into implementation of Defence and Veteran Suicide Royal Commission recommendations**

- (1) The Defence and Veterans' Services Commissioner must conduct at least 2 inquiries into the Commonwealth's implementation of the Government's response to the recommendations of the Defence and Veteran Suicide Royal Commission.
- (2) An inquiry under subsection (1) must evaluate the implementation of the Government's response including:
  - (a) the measures and actions taken by the Commonwealth to implement the response; and
  - (b) the effectiveness of those measures and actions in implementing the Government's response.
- (3) Reports on an inquiry under subsection (1) must:
  - (a) be completed no later than the period prescribed by the rules for the inquiry; and
  - (b) be given to the Minister, published and tabled in each House of the Parliament in accordance with any requirements of the rules.

**110ZFD Hearings**

- (1) The Defence and Veterans' Services Commissioner may hold a hearing for the purposes of performing the Commissioner's functions.

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- (2) A hearing is to be held in public and the procedure for a hearing may be such as the Commissioner thinks fit.

Note: For circumstances where hearings may not be held in public, see subsections 110ZFE(1) and (2), and 110ZGQ(6).

- (3) The Commissioner may issue written guidelines relating to the procedure for hearings.

Note: The rules may make provision in relation to the procedure for hearings: see section 110ZFG.

- (4) Guidelines issued under subsection (3) are not a legislative instrument.

- (5) The Commissioner is not bound by the rules of evidence.

- (6) The Commissioner must ensure that a record of a hearing is made.

### **110ZFE Private hearings**

#### *Disclosure of information that is personal*

- (1) Despite subsection 110ZFD(2), a hearing, or part of a hearing, may be held in private if the Defence and Veterans' Services Commissioner is satisfied that:

- (a) information relating to:

(i) a deceased person or the family, friends or associates of a deceased person; or

(ii) a defence member or veteran's lived experience with a suicide risk;

may be disclosed at a hearing; and

- (b) the information is personal and private.

#### *Disclosure of operationally sensitive information*

- (2) Despite subsection 110ZFD(2), a hearing, or part of a hearing, may be held in private if the Commissioner is satisfied that a person appearing at the hearing may give evidence that discloses operationally sensitive information.

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Note: See also section 110ZGG, which requires a person to give notice of likely disclosure of operationally sensitive information to the Commissioner.

*Commissioner must have regard to certain matters when considering whether to hold private hearings*

- (3) When considering whether to hold a hearing, or part of a hearing, in private because of subsections (1) and (2), the Commissioner must have regard to:
- (a) the potential risk of prejudice to national security (within the meaning of the *National Security Information (Criminal and Civil Proceedings) Act 2004*), or to the operations of a law enforcement or security agency; and
  - (b) whether holding the hearing in private would have a substantial adverse effect on the exercise or performance of the Commissioner's functions or powers; and
  - (c) if the Commissioner invites submissions—any submissions received in response; and
  - (d) the safety and security of any person; and
  - (e) whether legal professional privilege, or any other immunity, privilege or restriction may apply to the disclosure of the information; and
  - (f) any other matters the Commissioner thinks relevant.

*Other circumstances*

- (4) Despite subsection 110ZFD(2), a hearing, or part of a hearing, may be held in private in any other circumstances prescribed by the rules.

**110ZFF Consultation in relation to certain private hearing evidence**

- (1) If a witness gives evidence at a private hearing because of subsection 110ZFE(2) (disclosure of operationally sensitive information), the Defence and Veterans' Services Commissioner must, before disclosing or using any evidence the witness has given at, or in relation to, the private hearing:

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- (a) consult any law enforcement or security agency to which the evidence relates and consider any information received from the agency following the consultation; and
  - (b) consider any potential risk of prejudice to national security (within the meaning of the *National Security Information (Criminal and Civil Proceedings) Act 2004*); and
  - (c) consider the safety and security of any person.
- (2) If a witness gives evidence at a private hearing because of subsection 110ZFE(1) or (2) (disclosure of personal or operationally sensitive information), the Commissioner must, before disclosing or using any evidence the witness has given at, or in relation to, the private hearing:
  - (a) consider consulting the witness, and any other person whose interests are affected by the evidence; and
  - (b) consider any potential risk of prejudice to a person if the person is not consulted before using or disclosing information given at, or in relation to, a private hearing; and
  - (c) consider any preference the witness communicates (whether before, during or after a private hearing) to the Commissioner in relation to consultation.
- (3) The rules may make provision for or in relation to the disclosure or use of evidence given at a private hearing by a witness because of subsection 110ZFE(4).

### **110ZFG Other powers relating to inquiries**

Subject this Part and any requirements prescribed by the rules, the Defence and Veterans' Services Commissioner may conduct research and inquire into matters under this Part as the Commissioner sees fit, including in relation to the following:

- (a) giving notice of an inquiry;
- (b) inviting submissions;
- (c) making submissions publicly available;
- (d) procedures for hearings (public or private);
- (e) providing draft reports for comment.

## Division 3—Special inquiries

### Subdivision A—Determining inquiry is a special inquiry

#### 110ZGA Special inquiry

- (1) The Defence and Veterans' Services Commissioner may make a determination, in writing, that an inquiry being conducted under Division 2 is a special inquiry if:
  - (a) public notice has been given of the inquiry; and
  - (b) the Commissioner is satisfied that it is in the public interest that the powers in this Division may be exercised in relation to the inquiry; and
  - (c) any other requirements prescribed by the rules are satisfied.
- (2) The Commissioner may, at any time, revoke such a determination.
- (3) A determination under subsection (1) is in force during the period:
  - (a) beginning immediately after the determination is made; and
  - (b) ending at the earliest of the following:
    - (i) the end of the period of 2 years beginning immediately after the determination is made;
    - (ii) the end of the day on which the determination is revoked under subsection (2).
- (4) Paragraph (3)(b) does not prevent the making of another determination under subsection (1) in the same terms as the expired or revoked determination.
- (5) A determination made under subsection (1) is not a legislative instrument.

## **Subdivision B—Powers that can be used in relation to a special inquiry**

### **110ZGB Application of this Subdivision**

This Subdivision applies in relation to an inquiry if there is a determination in force under section 110ZGA that the inquiry is a special inquiry.

### **110ZGC Summons**

- (1) The Defence and Veterans' Services Commissioner may, by notice in writing, summon a person to attend a hearing at a time and place specified in the notice:
  - (a) to give evidence relevant to the special inquiry; or
  - (b) to produce documents or things specified in the notice that are relevant to the special inquiry.

Note: Failure to comply with a notice is an offence: see section 110ZHA.

- (2) The notice must:
  - (a) be in writing and be signed by the Commissioner; and
  - (b) be served on the person required to attend the hearing.
- (3) A time specified in a notice must be at least 14 days after the day on which the notice is given.
- (4) However, subsection (3) does not apply if the Commissioner reasonably believes that the circumstances to which the notice relates are urgent or serious.
- (5) For the purposes of sections 110ZHA (failure to produce), 110ZHD and 110ZHE (legal professional privilege), the power of the Commissioner under this section to require a person to give evidence, or produce a document or thing, includes the power to require the person to give evidence, or produce a document or thing, that is subject to legal professional privilege.

Note: Under section 110ZHD, legal professional privilege might still be a reasonable excuse for failing to produce the document etc.

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- (6) Before giving a notice under subsection (1) to a person, in the person's capacity as someone who is or has been a coroner or an officer or employee of a coroners' court, the Commissioner must consider requesting the coroner or the coroners' court to disclose information in accordance with section 110ZGP.
- (7) If the Commissioner gives a notice under subsection (1) to an official of a Commonwealth entity, the Commissioner must give a copy of the notice to:
  - (a) if the official performs duties in, or services for, an Australian intelligence entity—the head of the Australian intelligence entity; or
  - (b) in any other case—the accountable authority of the Commonwealth entity.
- (8) If the Commissioner gives a notice under subsection (1) to an officer or employee of a State body or a Territory body, the Commissioner must give a copy of the notice to the head (however described) of the body.

**110ZGD Evidence on oath or by affirmation**

- (1) At a hearing for the inquiry, the Defence and Veterans' Services Commissioner may:
  - (a) require a witness to either take an oath or make an affirmation; and
  - (b) administer an oath or affirmation to the witness.

Note 1: Refusal to take an oath or make an affirmation is an offence: see section 110ZHB.

Note 2: This means that a hearing is a *judicial proceeding* for the purposes of Part III of the *Crimes Act 1914*, which creates various offences in relation to judicial proceedings.

- (2) The oath or affirmation is an oath or affirmation that the evidence the person will give will be true.
- (3) The Commissioner may allow a person attending a hearing who has been sworn, or who has made an affirmation, to give evidence

by tendering a written statement and verifying it by oath or affirmation.

**110ZGE Defence and Veterans' Services Commissioner may require information etc.**

- (1) For the purposes of performing the Defence and Veterans' Services Commissioner's functions, the Commissioner may, by written notice, require a person:
  - (a) to give the Commissioner information relevant to the special inquiry, or a statement setting out information relevant to the special inquiry, in writing referred to in the notice; or
  - (b) to produce to the Commissioner the documents or things relevant to the special inquiry that are referred to in the notice.
- Note: Failure to give the information or statement, or to produce the documents or things, is an offence: see section 110ZHA.
- (2) The notice must:
  - (a) be in writing; and
  - (b) specify the period within which the person must comply with the notice.
- (3) A time specified in a notice must be at least 14 days after the day on which the notice is given.
- (4) However, subsection (3) does not apply if the Commissioner reasonably believes that the circumstances to which the notice relates are urgent or serious.
- (5) For the purposes of sections 110ZHA (failure to produce), 110ZHD and 110ZHE (legal professional privilege), the power of the Commissioner under this section to require a person to give information or a statement, or produce a document or thing includes the power to require the person to give information or a statement, or produce a document or thing, that is subject to legal professional privilege.

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Note: Under section 110ZHD, legal professional privilege might still be a reasonable excuse for failing to produce the document etc.

- (6) Before giving a notice under subsection (1) to a person, in the person's capacity as someone who is or has been a coroner or an officer or employee of a coroners' court, the Commissioner must consider requesting the coroner or the coroners' court to disclose information in accordance with section 110ZGP.
- (7) If the Commissioner gives a notice under subsection (1) to an official of a Commonwealth entity, the Commissioner must give a copy of the notice to:
  - (a) if the official performs duties in, or services for, an Australian intelligence entity—the head of the Australian intelligence entity; or
  - (b) in any other case—the accountable authority of the Commonwealth entity.
- (8) If the Commissioner gives a notice under subsection (1) to an officer or employee of a State body or Territory body, the Commissioner must give a copy of the notice to the head (however described) of the body.

**110ZGF Notice of likely disclosure of operationally sensitive information**

*Notice requirement*

- (1) If:
  - (a) a person either:
    - (i) intends to give evidence, or give or produce to the Defence and Veterans' Services Commissioner information or a statement, document or thing in relation to the special inquiry (including as authorised under section 110ZGN or 110ZGP); or
    - (ii) is required under section 110ZGC or 110ZGE to give evidence at a hearing, to give or produce to the Commissioner information or a statement, document or thing, in relation to the special inquiry; and

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- (b) the person considers that giving the evidence, or giving or producing the information or statement, document or thing, may involve the person disclosing operationally sensitive information;

the person must give written notice to the Commissioner before giving or producing the evidence, information or statement, document or thing.

Note: Failure to give written notice is an offence if the person holds or has held an Australian Government security clearance: see subsection 110ZHC(1).

- (2) The notice must describe the evidence, information or statement, document or thing that the person considers to be operationally sensitive information.

*Call for submissions*

- (3) If the Commissioner is given a notice under subsection (1), the Commissioner may invite submissions from persons or bodies (including law enforcement or security agencies) whose interests may be affected by disclosure of the information.
- (4) If the Commissioner invites submissions, the Commissioner must ensure that the information is not disclosed inappropriately in the course of inviting submissions.

**110ZGG Notice of likely disclosure of intelligence information**

If:

- (a) a person either:
- (i) intends to give evidence, or give or produce to the Defence and Veterans' Services Commissioner information or a statement, document or thing in relation to the special inquiry (including as authorised under section 110ZGN or 110ZGP); or
  - (ii) is required under section 110ZGC or 110ZGE to give evidence at a hearing, to give or produce to the

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Commissioner information or a statement, document or thing, in relation to the special inquiry; and

- (b) the person considers that giving the evidence, or giving or producing the information or statement, document or thing, may involve the person disclosing intelligence information;

the person must give written notice to the Commissioner before giving or producing the evidence, information, statement, document or thing.

**Note:** Failure to give written notice is an offence if the person holds or has held an Australian Government security clearance: see subsection 110ZHC(2).

**110ZGH Powers of Commissioner in relation to documents or other thing**

The Defence and Veterans' Services Commissioner may for the purposes of the special inquiry:

- (a) inspect any document or other thing:
  - (i) produced or given to the Commissioner; or
  - (ii) produced or given under a notice under section 110ZGC or 110ZGE; and
- (b) retain the documents or other thing for so long as is reasonably necessary for the purposes of performing the Commissioner's functions; and
- (c) in the case of documents:
  - (i) produced or given to the Commissioner; or
  - (ii) produced or given under a notice under section 110ZGC or 110ZGE;

make copies of any documents that contain matter that is relevant to the Commissioner's functions or powers.

**110ZGJ Search warrants**

- (1) The Defence and Veterans' Services Commissioner or an authorised member may apply for a search warrant under subsection (4) in relation to the special inquiry.

- (2) The Commissioner may, in writing, authorise a person, or each person in a class of persons, to be an **authorised member** for the purposes of this Part, if the person, or each person in the class of persons, is a member of the Australian Federal Police, or of the police force of a State or Territory, or is a police member (within the meaning of the *Defence Force Discipline Act 1982*).
- (3) If:
- (a) the Commissioner, or an authorised member, has reasonable grounds for suspecting that there may be, at that time or within the next following 24 hours, on any land or on or in any premises, vessel, aircraft or vehicle, a thing or things of a particular kind connected with a matter into which the Commissioner is inquiring (**things of the relevant kind**); and
  - (b) the Commissioner, or the authorised member, believes on reasonable grounds that, if a summons were issued for the production of the thing or things, the thing or things might be concealed, lost, mutilated or destroyed;
- the Commissioner, or the authorised member, may apply to an eligible Judge for the issue of a search warrant under subsection (4).
- (4) If an application is made under subsection (1) to an eligible Judge, the eligible Judge may, if satisfied that there are reasonable grounds for issuing the warrant, issue a search warrant authorising a member of the Australian Federal Police or of the police force of a State or Territory, or any other person named in the warrant (the **authorised person**), with such assistance as the authorised person thinks necessary, and if necessary by reasonable force:
- (a) to enter onto the land or on or into the premises, vessel, aircraft or vehicle; and
  - (b) to search the land, premises vessel aircraft or vehicle for things of the relevant kind; and
  - (c) to seize any things of the relevant kind found on the land or in the premises, vessel, aircraft or vehicle and deliver things so seized to the Commissioner.

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- (5) A warrant issued under this section must include the following information:
- (a) a statement of the purpose for which the warrant is issued, which must include a reference to the matter into which the Commissioner is inquiring and with which the things of the relevant kind are connected;
  - (b) whether entry is authorised to be made at any time of the day or night or during specified hours of the day or night;
  - (c) a description of the kind of things authorised to be seized;
  - (d) a date, not being later than 1 month after the date of issue of the warrant, on which the warrant ceases to have effect.
- (6) If, in the course of searching, in accordance with a warrant issued under this section, for things of a particular kind connected with a matter into which the Commissioner is inquiring, the person executing the warrant finds:
- (a) any thing of another kind that the person believes on reasonable grounds to be connected with that matter; or
  - (b) any thing that the person believes on reasonable grounds to be connected with another matter into which the Commissioner is inquiring;
- and the person believes on reasonable grounds that it is necessary to seize that thing in order to prevent its concealment, loss, mutilation or destruction, the warrant is taken to authorise the person to seize that thing.

**110ZGK Application by telephone for search warrants**

- (1) An application for a search warrant under subsection 110ZGJ(1) may be made by telephone if the applicant for the warrant considers it necessary to do so because of circumstances of urgency.
- (2) If an eligible Judge issues a search warrant on an application made by telephone, the eligible Judge must:
- (a) complete and sign that warrant; and

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- (b) inform the applicant of the terms of the warrant and the date on which and the time at which it was signed; and
  - (c) forward a copy of the warrant to the applicant.
- (3) If a search warrant is issued on an application made by telephone, the Defence and Veterans' Services Commissioner or a member of the Australian Federal Police or of the police force of a State or Territory may complete a form of warrant in the terms indicated by an eligible Judge under subsection (2).
- (4) A form of warrant completed in accordance with subsection (3) is taken to be a warrant issued under section 110ZGJ.

**110ZGL Witnesses subject to questioning**

- (1) Any of the following may, so far as the Defence and Veterans' Services Commissioner thinks proper, examine or cross-examine a witness on a matter relevant to a hearing for the purposes of the special inquiry:
- (a) a legal practitioner assisting the Commissioner;
  - (b) any legal practitioner authorised by the Commissioner to appear before it for the purpose of representing any person;
  - (c) any person authorised by the Commissioner to appear before the Commissioner.
- (2) Subject to this Part, a witness who is examined or cross-examined has the same protection and is subject to the same liabilities as if examined by the Commissioner.

Note: For other witness protections, see section 110ZLC.

**110ZGM Witness expenses and allowances**

- (1) A person may, on behalf of the Commonwealth, be paid the following in respect of the giving of evidence as a witness at a hearing for the purposes of the special inquiry, in accordance with a scale prescribed by the rules:
- (a) a reasonable amount for the person's expenses of attending at a place to give evidence;

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- (b) an allowance for the person's travelling expense and maintenance while absent from the person's usual place of residence.
- (2) In the absence of a prescribed scale, the amount or allowance the person may be paid is the amount or allowance the Commissioner considers reasonable.

**110ZGN Disclosure of information to the Commissioner—  
Commonwealth**

*Authorisation to disclose*

- (1) A Commonwealth body, or an individual who holds any office or appointment under a law of the Commonwealth, may, on their own initiative or at the request of the Commissioner, disclose information (including personal information) for the purpose of assisting in the performance or exercise of the Commissioner's functions or powers in for the purposes of the special inquiry.
- (2) A disclosure of information is taken not to have been made by a Commonwealth body for the purposes of subsection (1) if the individual making the disclosure is acting beyond the individual's authority in relation to the body.

*Authorisation for Commissioner to use*

- (3) The Commissioner is authorised to use information disclosed under this section for the purposes of performing or exercising any of the Commissioner's functions or powers for the purposes of the special inquiry.

*Authorisation not affected by State or Territory law or the general law*

- (4) The authorisation in subsection (1) has effect despite anything in a law of a State or Territory, or the general law, that restricts or prohibits disclosure of information.

Note: Penalties also do not apply under secrecy provisions: see section 110ZHQ.

## **110ZGP Disclosure of information to the Commissioner—States and Territories**

### *Authorisation to disclose*

- (1) Any of the following may, on their own initiative or at the request of the Commissioner, disclose information (including personal information) for the purpose of assisting in the performance or exercise of the Commissioner's functions or powers for the purposes of the special inquiry:
  - (a) a State body or Territory body;
  - (b) an individual who holds any office or appointment under a law of a State or Territory;
  - (c) a coroner or a coroners' court.
- (2) A disclosure of information is taken not to have been made by a State body or Territory body for the purposes of subsection (1) if the individual making the disclosure is acting beyond the individual's authority in relation to the body.

### *Authorisation for Commissioner to use*

- (3) The Commissioner is authorised to use information disclosed under this section for the purposes of performing or exercising any of the Commissioner's functions or powers.

### *Authorisation not affected by State or Territory law or the general law*

- (4) The authorisation in subsection (1) has effect despite anything in a law of a State or Territory, or the general law, that restricts or prohibits disclosure of information.

Note: Penalties also do not apply under secrecy provisions: see section 110ZHQ.

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**110ZGQ Arrangements for obtaining and protecting intelligence information**

*Arrangements*

- (1) The Commissioner must take all reasonable steps to ensure that entrusted persons obtain, store, access, use and disclose intelligence information relating to an Australian intelligence entity for the purposes of a special inquiry only in accordance with an arrangement, between the Commissioner and the head of the entity, that deals with:
  - (a) the manner in which entrusted persons obtain intelligence information relating to the entity; and
  - (b) the protection of intelligence information relating to the entity while in the possession of entrusted persons; and
  - (c) the disclosure by entrusted persons of intelligence information relating to the entity.
- (2) The Commissioner must take all reasonable steps to ensure that an arrangement is in force for the purposes of subsection (1) with the head of an Australian intelligence entity before obtaining intelligence information relating to the entity for the purposes of a special inquiry.
- (3) Subsections (1) and (2) apply despite any other provision of this Part.
- (4) Without limiting subsection (1), an arrangement may:
  - (a) limit the circumstances in which intelligence information may be disclosed in a report under this Division; and
  - (b) set out matters to which the Commissioner must have regard in disclosing intelligence information under section 110ZHP.
- (5) However, except as mentioned in paragraph (4)(a), an arrangement cannot prevent the exercise of the Commissioner's powers or the performance of the Commissioner's functions under any provision of this Part (including section 110ZHP).

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*Conduct of hearings*

- (6) Despite subsection 110ZFD(2), if the Commissioner is satisfied that a person appearing at a hearing might disclose intelligence information:
- (a) the Commissioner may, subject to paragraph (b) of this subsection, conduct the hearing in public or private; and
  - (b) the conduct of the hearing must be consistent with an arrangement entered into for the purposes of subsection (1) of this section with the Australian intelligence entity to which the information relates.

*Arrangement is not a legislative instrument*

- (7) If an arrangement is entered into for the purposes of subsection (1) in writing, the arrangement is not a legislative instrument.

**110ZGR Application of this Part in relation to current and former IGIS officials**

Despite anything else in this Part:

- (a) an entrusted person may obtain information from another person that the other person acquired as an IGIS official; and
  - (b) a person may disclose information, that the person acquired as an IGIS official, to an entrusted person;
- only in accordance with sections 34 and 34A of the *Inspector-General of Intelligence and Security Act 1986*.

## Division 4—Offences

### Subdivision A—Failure to attend hearing, give information or produce documents etc.

#### 110ZHA Failure to attend hearing, give information or produce documents etc.

##### *Failure to attend hearing*

- (1) A person commits an offence if:
- (a) the person is served with a notice under section 110ZGC to attend a hearing; and
  - (b) the person fails to comply with the notice.

Penalty: Imprisonment for 2 years.

##### *Failure to give information, or produce a document or thing*

- (2) A person commits an offence if:
- (a) the person is given a notice under section 110ZGC or 110ZGE to give information or a statement, or produce a document or thing, specified in the notice; and
  - (b) the person fails to comply with the notice.

Penalty: Imprisonment for 2 years.

##### *Reasonable excuse*

- (3) Subsections (1) and (2) do not apply if the person has a reasonable excuse.

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

*Defence of relevance*

- (4) Subsection (2) does not apply if the information, statement, document or thing is not relevant to the matters into which the Commissioner was inquiring.

Note: A defendant bears an evidential burden in relation to the matters in subsection (4): see subsection 13.3(3) of the *Criminal Code*.

*Subsections (1) and (2) not affected by State or Territory law or the general law*

- (5) Subsections (1) and (2) have effect despite anything in a law of a State or Territory, or the general law.

Note: Penalties also do not apply under secrecy provisions: see section 110ZHQ.

**110ZHB Refusal to take an oath, make an affirmation or answer a question**

A person commits an offence if:

- (a) the person is served with a notice under section 110ZGC to attend a hearing; and
- (b) either:
  - (i) the person refuses to be sworn or to make an affirmation at the hearing; or
  - (ii) the person refuses to answer a question at the hearing that the Defence and Veterans' Services Commissioner requires the person to answer.

Penalty: Imprisonment for 2 years.

**110ZHC Failure to give written notice to the Defence and Veterans' Services Commissioner**

*Operationally sensitive information*

- (1) A person commits an offence if:

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- (a) the person is required to give a written notice to the Commissioner under section 110ZGF; and
- (b) the person holds or has held an Australian Government security clearance (within the meaning of the *Criminal Code*) that allows, or had allowed, access to operationally sensitive information; and
- (c) the person fails to give the notice in accordance with section 110ZGF.

Penalty: Imprisonment for 3 years.

*Intelligence information*

- (2) A person commits an offence if:
- (a) the person is required to give a written notice to the Defence and Veterans' Services Commissioner under section 110ZGG; and
  - (b) the person holds or has held an Australian Government security clearance (within the meaning of the *Criminal Code*) that allows, or had allowed, access to intelligence information; and
  - (c) the person fails to give the notice in accordance with section 110ZGG.

Penalty: Imprisonment for 3 years.

**110ZHD Legal professional privilege**

- (1) It is not a reasonable excuse for the purposes of subsection 110ZHA(3) for a person to fail to give information or a statement, or produce a document or thing, that the information, statement, document or thing is subject to legal professional privilege, unless:
- (a) a court has found the information, statement, document or thing (or the relevant part of it) to be subject to legal professional privilege; or
  - (b) a claim that the information, statement, document or thing (or the relevant part of it) is subject to legal professional

privilege has been made to the Defence and Veterans' Services Commissioner:

- (i) within the time that the Commissioner, in requiring the information or statement to be given, or the document or thing to be produced, allowed for the giving of the information or statement, or the production of the document or thing; or
  - (ii) within such further time as the Commissioner allows for the giving of the information or statement, or the production of the document or thing.
- (2) If such a claim is made, the Commissioner may decide whether to accept or reject the claim.
- (3) The Commissioner may, by written notice served on a person, require the person to produce the information, statement, document or thing for inspection for the purpose of deciding whether to accept or reject the claim.
- (4) If the information, statement, document or thing has been produced for inspection and the Commissioner decides to accept the claim, the Commissioner must:
- (a) return the information, statement, document or thing to the person; and
  - (b) disregard, for the purposes of any report, recommendation or finding that the Commissioner makes:
    - (i) if the claim is accepted in relation to the whole of the information, statement, document or thing—the whole of the information, statement, document or thing; or
    - (ii) if the claim is accepted in relation to a part of the information, statement, document or thing—that part of the information, statement, document or thing.
- (5) If the information, statement, document or thing has been produced for inspection and the Commissioner decides to reject the claim, the Commissioner may use the information, statement, document or thing for the purposes of performing the Commissioner's function in relation to a special inquiry.

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**110ZHE Offences relating to claims for legal professional privilege**

*Offences*

- (1) A person commits an offence if:
- (a) the person has failed to give information or a statement, or produce a document or thing as required by the Commissioner under section 110ZGC; and
  - (b) the Commissioner has decided under subsection 110ZHD(2) to reject a claim that the information or statement, document or thing (or the relevant part of the information, statement, document or thing) is subject to legal professional privilege; and
  - (c) the person fails to give the information or statement, or produce the document or thing as the Commissioner requires, after that decision, under section 110ZGC.

Penalty: Imprisonment for 2 years.

- (2) A person commits an offence if:
- (a) the person is required under subsection 110ZHD(3) to give information or a statement, or produce a document or thing for inspection; and
  - (b) the person fails to comply with the notice.

Penalty: Imprisonment for 2 years.

*Reasonable excuse*

- (3) Subsections (1) and (2) do not apply if the person has a reasonable excuse.

*Legal professional privilege*

- (4) It is not a reasonable excuse for the purposes of subsection (3) for a person to fail to give information or a statement, or produce a document or thing, that the information, statement, document or thing is subject to legal professional privilege, unless a court has

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found the information, statement, document or thing to be subject to legal professional privilege.

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

*Defence of relevance*

- (5) It is a defence to a prosecution for an offence against this section constituted by a failure to give information or a statement, or produce a document or thing, if the information, statement, document or thing is not relevant to the matters into which the Commissioner is inquiring.

Note: A defendant bears an evidential burden in relation to the matters in subsection (5), see subsection 13.3(3) of the *Criminal Code*.

**110ZHF Self-incrimination**

- (1) An individual is not excused from giving information, evidence or a statement, or producing a document or thing, under section 110ZGC on the ground that giving the information, evidence or statement, or producing the document or thing, might tend to incriminate the individual in relation to an offence.

Note: A body corporate is not entitled to claim the privilege against self-incrimination.

- (2) Subsection (1) does not apply if:
- (a) giving the information, evidence or statement, or producing the document or thing, might tend to incriminate the individual in relation to an offence; and
  - (b) the individual has been charged with that offence; and
  - (c) the charge has not been finally dealt with by a court or otherwise disposed of.
- (3) However:
- (a) the information, evidence or statement given or document or thing produced; and
  - (b) the giving of the information, evidence or a statement, or the production of the document or thing;

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are not admissible in evidence against the individual in any criminal proceedings, other than:

- (c) proceedings for an offence against section 137.1 or 137.2 of the *Criminal Code* that relates to this Part; or
  - (d) proceedings for an offence against Part III of the *Crimes Act 1914* that relates to this Part; or
  - (e) proceedings for an offence against this Part.
- (4) If, at general law, an individual would otherwise be able to claim the privilege against self-exposure to a penalty (other than a penalty for an offence) in relation to giving information, evidence or a statement, or producing a document or thing under section 110ZGC or 110ZGE, the individual is not excused from giving the information, evidence or statement or producing the document or thing under those provisions on that ground.

Note: A body corporate is not entitled to claim the privilege against self-exposure to a penalty.

**Subdivision B—Witness protections etc.**

**110ZHG Dismissal etc. of witness**

- (1) A person commits an offence if the person:
- (a) dismisses an employee from employment or a defence member from the Defence Force; or
  - (b) prejudices an employee in the employee's employment by the person or disciplines a defence member in their capacity as a defence member;
- for or on account of the employee or the defence member having:
- (c) appeared as a witness before the Commissioner; or
  - (d) given evidence before the Commissioner; or
  - (e) given information or a statement, or produced a document or thing, in accordance with section 110ZGC.

Penalty: 10 penalty units or imprisonment for 1 year.

- (2) Subsection (1) does not apply if the employee or defence member was dismissed, prejudiced or disciplined for some reason other than the reasons mentioned in subsection (1).

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

### **110ZHJ Contempt of Commissioner**

- (1) A person commits an offence if:
- (a) the person engages in conduct; and
  - (b) the conduct obstructs or hinders the Defence and Veterans' Services Commissioner in the performance or exercise of the Commissioner's functions or powers.

Penalty: 2 penalty units or imprisonment for 3 months.

- (2) A person commits an offence if:
- (a) the person engages in conduct; and
  - (b) the conduct would, if the Defence and Veterans' Services Commissioner were a court of record, constitute a contempt of that court.

Penalty: 2 penalty units or imprisonment for 3 months.

### **Subdivision C—Unauthorised publication, use or disclosure of information etc.**

#### **110ZHK Non-publication direction**

- (1) The Defence and Veterans' Services Commissioner may, in writing, direct that any of the following material must not be published, produced or disclosed or must not be published, produced or disclosed except in the manner or to the persons that the Commissioner specifies:
- (a) evidence given before the Commissioner;
  - (b) the contents of a document, or a description of a thing, produced or given to the Commissioner;

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- (c) information that might enable a person who has given evidence before the Commissioner to be identified.

Note: Publication in contravention of a direction under this subsection is an offence: see section 110ZHL.

- (2) The Commissioner may, in writing, vary or revoke a direction under subsection (1).
- (3) Without limiting subsection (1), the Commissioner may direct that the material must not be published, produced, or disclosed to:
  - (a) a court; or
  - (b) a tribunal, authority or person having power to require the production of documents or the answering of questions.

**110ZHL Publication in contravention of non-publication direction**

A person commits an offence if:

- (a) the person publishes information; and
- (b) the publication contravenes a direction under subsection 110ZHK(1).

Penalty: Imprisonment for 3 years.

**110ZHM Unauthorised use or disclosure of protected information**

A person commits an offence if:

- (a) the person is, or has been an entrusted person; and
- (b) the person uses or discloses information; and
- (c) the information is protected information; and
- (d) neither of the following apply:
  - (i) the use or disclosure is for the purposes of performing or exercising the Commissioner's functions or powers;
  - (ii) the information is disclosed by the Commissioner in accordance with section 110ZHN.

Note: See Part 5.6 of the *Criminal Code* for offences relating to secrecy of information.

Penalty: Imprisonment for 2 years.

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**110ZHN Authorisation to disclose information (other than intelligence information)**

*Authorisation to disclose*

- (1) The Defence and Veterans' Services Commissioner may disclose information (including personal information) to an entity specified in subsection (2) if:
  - (a) the information was given to the Commissioner in accordance with a notice under section 110ZGC or 110ZGE, or in accordance with section 110ZGN or 110ZGP; and
  - (b) the Commissioner is satisfied that the information will assist the entity to perform any of its functions or exercise any of its powers; and
  - (c) in the case of an entity specified in any of paragraphs (2)(k) to (m) of this subsection—the Commissioner is satisfied that the function or power mentioned in paragraph (b) of this subsection is connected with defence member or veteran deaths by suicide; and
  - (d) in any case—the information is not intelligence information.
- (2) The entities are the following:
  - (a) the Attorney-General of the Commonwealth, a State or a Territory;
  - (b) the Australian Federal Police;
  - (c) the police force of a State or Territory;
  - (d) the Director of Public Prosecutions;
  - (e) a Special Prosecutor appointed under the *Special Prosecutors Act 1982*;
  - (f) a Royal Commission or a body with functions equivalent to a Royal Commission;
  - (g) if the information relates, or may relate, to the contravention, or evidence of a contravention, of a law of the Commonwealth, a State or a Territory—an entity responsible for the administration or enforcement of the law;
  - (h) the Australian Crime Commission;

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- (i) the National Anti-Corruption Commissioner (within the meaning of the *National Anti-Corruption Commission Act 2022*);
- (j) a coroner or a coroners' court;
- (k) any other Commonwealth body;
- (l) any other State body or Territory body;
- (m) any other individual who holds any office or appointment under a law of the Commonwealth, a State or a Territory.

*Coronial inquiries*

- (3) If the Commissioner believes that the disclosure of information under subsection (1) to an entity specified in any of paragraphs (2)(k) to (m) may prejudice a current or future coronial inquiry, the Commissioner must consider consulting:
  - (a) for a current coronial inquiry—the coroner conducting the inquiry; or
  - (b) for a future coronial inquiry—the head of the relevant coronial jurisdiction before disclosing the information.

*State or Territory police investigations*

- (4) If the Commissioner believes that the disclosure of information under subsection (1) to an entity specified in any of paragraphs (2)(k) to (m) may prejudice current or future investigations by a police force of a State or Territory, the Commissioner must consider consulting the head (however described) of the police force of the State or Territory before disclosing the information.

*Authorisation for agencies and bodies to use and disclose information*

- (5) An entity to which information is disclosed under subsection (1) may use and disclose the information for the purposes for which the information was disclosed under that subsection.

*Contravention of a law*

- (6) A reference in paragraph (2)(g) to a contravention of a law is a reference to a contravention for which a person may be liable to:
- (a) a criminal penalty; or
  - (b) a civil or administrative penalty.

**110ZHP Authorisation to disclose intelligence information**

*Authorisation to disclose*

- (1) The Defence and Veterans' Services Commissioner may disclose intelligence information (including personal information) to an entity specified in subsection (2) if:
- (a) the information was given to the Commissioner in accordance with a notice under section 110ZGC or 110ZGE, or in accordance with section 110ZGN or 110ZGP; and
  - (b) except in the case of a disclosure to the Inspector-General of Intelligence and Security—the information relates, or may relate, to the commission, or evidence of the commission, of an offence against a law of the Commonwealth, a State or a Territory; and
  - (c) in any case—the Commissioner is satisfied that the information will assist the entity to perform any of its functions or exercise any of its powers.
- (2) The entities are the following:
- (a) the Australian Federal Police;
  - (b) the police force of a State or Territory;
  - (c) the Australian Crime Commission;
  - (d) the National Anti-Corruption Commissioner (within the meaning of the *National Anti-Corruption Commission Act 2022*);
  - (e) the Inspector-General of Intelligence and Security;
  - (f) an agency or body, or the holder of an office that is prescribed by the rules for the purposes of this paragraph.

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*Consultation requirement*

- (3) Before disclosing intelligence information under subsection (1) to an entity other than the Inspector-General of Intelligence and Security, the Commissioner must consult the following:
  - (a) the person mentioned in subsection (4) for the entity;
  - (b) the head of the Australian intelligence entity to which the information relates.
- (4) For the purposes of paragraph (3)(a), the person for the entity is as follows:
  - (a) for the Australian Federal Police—the Commissioner of Police;
  - (b) for the police force of a State or Territory—the head (however described) of the police force of the State or Territory;
  - (c) for the Australian Crime Commission—the Chief Executive Officer of the Australian Crime Commission;
  - (d) for the National Anti-Corruption Commissioner (within the meaning of the *National Anti-Corruption Commission Act 2022*)—the National Anti-Corruption Commissioner;
  - (e) for an agency or body, or the holder of an office, that is prescribed by the rules for the purposes of paragraph (2)(f)—the person holding, or performing the duties of, the principal office in respect of the body or agency that is prescribed by the rules for the purposes of this paragraph.
- (5) For the purposes of paragraph (3)(a), the consultation must cover the protection of the intelligence information while it remains in the entity's possession.

*Matters to which Commissioner must have regard in disclosing information*

- (6) In disclosing intelligence information under subsection (1), the Commissioner:

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- (a) must have regard to any matter set out in an arrangement entered into with the head of the Australian intelligence entity to which the information relates; and
- (b) may have regard to any other matter the Commissioner considers relevant.

**110ZHQ No criminal or civil liability under secrecy provisions**

*Information provided in accordance with notices*

- (1) A person who is served with a notice under section 110ZGC (summons) or 110ZGE (Commissioner may require information etc.) does not commit an offence, and is not liable to any penalty, under a secrecy provision because the person:
  - (a) answers a question at a hearing that the Commissioner requires the person to answer; or
  - (b) gives information or a statement that the person is required to give in accordance with the notice; or
  - (c) produces a document or thing that the person is required to produce in accordance with the notice.

Note: A defendant bears an evidential burden in relation to the matter in subsection (1): see subsection 13.3(3) of the *Criminal Code*.

*Information disclosed under section 110ZGN or 110ZGP*

- (2) A person who discloses information under section 110ZGN or 110ZGP does not commit an offence, and is not liable to any penalty, under a secrecy provision because the person disclosed information in accordance with section 110ZGN or 110ZGP.

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

## **Division 5—Defence and Veterans' Services Commissioner**

### **110ZJA The Defence and Veterans' Services Commissioner**

There is to be a Defence and Veterans' Services Commissioner.

### **110ZJB Functions of the Defence and Veterans' Services Commissioner**

- (1) The Defence and Veterans' Services Commissioner has the following functions:
  - (a) to monitor, inquire and report on (including with evidence-based findings and recommendations) on the following:
    - (i) data and trends regarding suicide and suicidality among serving and ex-serving ADF members;
    - (ii) systemic factors relating to the Commonwealth's administration of policies, programs, systems and practices that contribute to suicide and suicidality among serving and ex-serving ADF members;
    - (iii) the state of the defence and veteran ecosystem, as it relates to the prevention of suicide and suicidality;
    - (iv) the Commonwealth's implementation of the recommendations of the Defence and Veteran Suicide Royal Commission, including progress, impact and outcomes;
  - (b) to conduct research and inquire into, and report and advise on, specific matters as requested by the Minister under section 110ZFB;
  - (c) to conduct inquiries into the Commonwealth's implementation of the Government's response to the recommendations of the Defence and Veteran Suicide Royal Commission under section 110ZFC;
  - (d) to improve supports for serving and ex-serving Australian Defence Force members;

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- (e) to collaborate with coroners to understand issues contributing to defence and veteran deaths by suicide;
  - (f) to promote understanding of suicide risks for defence members and veterans and factors that can improve the wellbeing of defence members and veterans, including through engaging with people with lived experiences and promoting that lived experience;
  - (g) any other function conferred on the Commissioner by this Act or any other law of the Commonwealth.
- (2) To avoid doubt, the following are not functions of the Commissioner:
- (a) to make findings of civil or criminal wrongdoing;
  - (b) to make findings on the manner or cause of death in relation to a death of a defence member or suspected suicide;
  - (c) to monitor or inquire into a single exercise of a power, or a single performance of a function or duty.
- (3) In performing the Commissioner's functions, the Commissioner must have regard to the need to avoid prejudicing current or future criminal or civil proceedings or other contemporaneous inquiries.
- Note: An example of a contemporaneous inquiry is a contemporaneous inquiry conducted by the Inspector-General ADF under section 110C of this Act.
- (4) The Commissioner has power to do all things necessary or convenient to be done for or in connection with the performance of the Commissioner's functions.

**110ZJC Powers of the Defence and Veterans' Services Commissioner**

The Defence and Veterans' Services Commissioner has power to do all things necessary or convenient to be done for or in connection with the performance of the Commissioner's functions under this Act or any other law of the Commonwealth.

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**110ZJD Independence**

Subject to this Act and to other laws of the Commonwealth, the Defence and Veterans' Services Commissioner:

- (a) has complete discretion in the performance of the Commissioner's functions and the exercise of the Commissioner's powers; and
- (b) is not subject to direction by any person in relation to the performance of those functions or the exercise of those powers.

Note: The Commissioner must comply with a request by the Minister under section 110ZFB to inquire into or advise on specific matters.

**110ZJE Appointment of Defence and Veterans' Services Commissioner**

- (1) The Defence and Veterans' Services Commissioner is to be appointed by the Minister by written instrument.

Note: The Commissioner may be reappointed: see section 33AA of the *Acts Interpretation Act 1901*.

- (2) The Commissioner is to be appointed on a full-time basis.
- (3) The Commissioner holds office for the period specified in the instrument of appointment. The period must not exceed 5 years.
- (4) Before appointing a person as the Commissioner, the Minister must be satisfied that the person has suitable qualifications, training or experience.

**110ZJF Remuneration of Defence and Veterans' Services Commissioner**

- (1) The Defence and Veterans' Services Commissioner 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, the Commissioner is to be paid the remuneration that is prescribed by the rules.

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- (2) The Commissioner is to be paid the allowances that are prescribed by the rules.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

**110ZJK Rules in relation to the Defence and Veterans' Services Commissioner**

The rules may make provision for, or in relation to the following:

- (a) acting appointments;
- (b) leave of absence;
- (c) engaging in paid work outside the duties of the Commissioner's office without the Minister's approval;
- (d) disclosure of interests;
- (e) resignation;
- (f) termination of appointment.

**110ZJL Other terms and conditions**

The Defence and Veterans' Services Commissioner holds office on the terms and conditions (if any) that are determined by the Minister in relation to matters not covered by this Act or the rules.

## Division 6—Defence and Veterans' Services Commission

### 110ZKA Defence and Veterans' Services Commission

- (1) The Defence and Veterans' Services Commission is established by this section.
- (2) The Commission consists of:
  - (a) the Defence and Veterans' Services Commissioner;
  - (b) the staff of the Commission referred to in section 110ZKD.

#### *Application of the Finance Law*

- (3) For the purposes of the finance law (within the meaning of the *Public Governance, Performance and Accountability Act 2013*):
  - (a) the Defence and Veterans' Services Commission is a listed entity; and
  - (b) the Defence and Veterans' Services Commissioner is the accountable authority of the Commission; and
  - (c) the following persons are officials of the Commission:
    - (i) the Defence and Veterans' Services Commissioner;
    - (ii) the staff of the Commission referred to in section 110ZKD;
    - (iii) the persons assisting referred to in section 110ZKE; and
    - (iv) consultants engaged under section 110ZKF; and
  - (d) the purposes of the Defence and Veterans' Services Commission include:
    - (i) the functions of the Commission referred to in section 110ZKB; and
    - (ii) the functions of the Defence and Veterans' Services Commissioner referred to in section 110ZJB.

**110ZKB Functions of the Defence and Veterans' Services Commission**

The Defence and Veterans' Services Commission's function is to assist the Defence and Veterans' Services Commissioner in the performance of the Commissioner's functions under this Act or any other law of the Commonwealth.

**110ZKC Powers of the Defence and Veterans' Services Commission**

The Defence and Veterans' Services Commissioner has power to do all things necessary or convenient to be done for or in connection with the performance of the Defence and Veterans' Services Commissioner's functions under this Act or any other law of the Commonwealth.

**110ZKD Staff**

- (1) The staff of the Defence and Veterans' Services Commission are to be persons engaged under the *Public Service Act 1999*.
- (2) For the purposes of the *Public Service Act 1999*:
  - (a) the Defence and Veterans' Services Commissioner and the staff of the Defence and Veterans' Services Commission together constitute a Statutory Agency; and
  - (b) the Defence and Veterans' Services Commissioner is the Head of that Statutory Agency.

**110ZKE Persons assisting**

- (1) The Commissioner may be assisted by:
  - (a) officers and employees of Agencies (within the meaning of the *Public Service Act 1999*), and of authorities of the Commonwealth, whose services are made available to the Commissioner in connection with the performance of any of the Commissioner's functions; and
  - (b) persons whose services are made available under arrangements made under subsection (2).

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- (2) The Commissioner may, on behalf of the Commonwealth, make an arrangement with the appropriate authority or officer of:
  - (a) a State or Territory government; or
  - (b) a State or Territory government authority;under which the government or authority makes officers or employees available to the Commissioner to perform services in connection with the performance of any of the Commissioner's functions.
- (3) An arrangement under subsection (2) may provide for the Commonwealth to reimburse a State or Territory with respect to the services of a person to whom the arrangement relates.
- (4) When performing services for the Commissioner under this section, a person is subject to the directions of the Commissioner.

**110ZKF Consultants**

- (1) The Defence and Veterans' Services Commissioner may, on behalf of the Commonwealth, engage consultants to assist in the performance of the Defence and Veterans' Services Commission's functions.
- (2) The consultants are to be engaged on the terms and conditions that the Commissioner determines in writing.

## **Division 7—Other provisions**

### **110ZLA Other matters**

The rules may make provision for, or in relation, to the following:

- (a) delegation by the Defence and Veterans' Services Commissioner of powers and functions under this Part;
- (b) reporting by the Defence and Veterans' Services Commissioner or the Defence and Veterans' Services Commission in relation to performance of functions and exercise of powers under this Part.

### **110ZLB Eligible judges**

- (1) In this Part:

***eligible Judge*** means a Judge in relation to whom a consent under subsection (2) and a declaration under subsection (3) are in force.

***Judge*** means a person who is a Judge of a court created by the Parliament.

- (2) A Judge may by writing consent to be nominated by the Attorney-General under subsection (3).
- (3) The Attorney-General may by writing declare Judges in relation to whom consents are in force under subsection (2) to be eligible Judges for the purposes of this Part.

### **110ZLC Protection of Commissioner, legal practitioners, eligible Judges and witnesses**

- (1) The Commissioner has, in the performance or exercise of functions or powers under this Part, the same protection and immunity as a Justice of the High Court.
- (2) A legal practitioner assisting the Commissioner or appearing on behalf of a person at a hearing before the Commissioner has the

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same protection and immunity as a barrister has in appearing for a party in proceedings in the High Court.

- (3) An eligible Judge has, in relation to the performance or exercise of a function or power conferred on an eligible Judge by this Part, the same protection and immunity as a Justice of the High Court has in relation to proceedings in the High Court.
- (4) Subject to this Part, a person appearing as a witness at a hearing, or giving or producing information, evidence, a statement, a document or thing under section 110ZGC or 110ZGE, has the same protection as a witness in proceedings in the High Court.

### **110ZLD Rules**

- (1) The Minister may, by legislative instrument, make 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) To avoid doubt, the rules may not do the following:
  - (a) create an offence or civil penalty;
  - (b) provide powers of:
    - (i) arrest or detention; or
    - (ii) entry, search or seizure;
  - (c) impose a tax;
  - (d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Part;
  - (e) directly amend the text of this Part.

### **110ZLE Review of the operation of this Part**

- (1) The Minister must cause an independent review of the operation of this Part to be undertaken as soon as practicable after the end of the period of 36 months after the commencement of this Part.

- (2) Without limiting subsection (1), the review must consider:
  - (a) the effectiveness of the functions and powers of the Defence and Veterans' Services Commissioner and the Defence and Veterans' Services Commission to achieve the objects of this Part; and
  - (b) whether it would be appropriate to provide for the future operation of the Defence and Veterans' Services Commissioner and the Defence and Veterans' Services Commission in standalone legislation.
- (3) The persons who undertake the review must give the Minister a written report of the review within 6 months of the commencement of the review.
- (4) The Minister must cause a copy of the report of the review to be tabled in each House of the Parliament within 15 sitting days of that House after the report is given to the Minister.

## 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 IXAA—Performing work for or providing training to a foreign military organisation or government body**

### **Division 1—Introduction**

#### **112 Simplified outline of this Part**

##### *Foreign work restricted individuals*

This Part regulates the work that former defence staff members may perform. They are called foreign work restricted individuals.

A foreign work restricted individual must not perform work for, or on behalf of, a military organisation, or government body, of a relevant foreign country if the individual does not hold a foreign work authorisation for the work and no other exception applies.

##### *Other individuals*

An individual, other than a foreign work restricted individual, must not provide training of the following kind to, or on behalf of, a military organisation, or government body, of a relevant foreign country if the individual does not hold a foreign work authorisation for the training and no other exception applies:

- (a) training relating to goods, software or technology within the scope of Part 1 of the Defence and Strategic Goods List;
- (b) training relating to military tactics, military techniques or military procedures.

##### *Relevant foreign countries*

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The Minister may make a legislative instrument to exclude a foreign country from being a relevant foreign country.

### *Foreign work authorisations*

An individual may request a foreign work authorisation. The Minister must grant or refuse the authorisation. The Minister must refuse the authorisation if the Minister reasonably believes that the work or training by the individual would prejudice the security, defence or international relations of Australia.

If a foreign work authorisation is granted to an individual, the authorisation may be granted subject to conditions and may be cancelled, suspended or varied.

An individual must be given an opportunity to make a written statement before the Minister makes certain adverse decisions about foreign work authorisations.

An individual may seek merits review of certain decisions made under this Part.

## 113 Definitions

In this Part:

***control***, over a company, body or association, includes control as a result of, or by means of, trusts, agreements, arrangements, understandings or practices, whether or not having legal or equitable force and whether or not based on legal or equitable rights.

***Defence and Strategic Goods List*** has the same meaning as in the *Defence Trade Controls Act 2012*.

***defence staff member*** means:

- (a) one of the following:

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- (i) the Chief of the Defence Force or the Vice Chief of the Defence Force;
- (ii) the Chief of Navy, the Chief of Army or the Chief of Air Force;
- (iii) a member of the Permanent Forces;
- (iv) a member of the Reserves who is rendering continuous full-time service; or
- (b) the Secretary of the Department or an APS employee in the Department; or
- (c) the Head of the Australian Submarine Agency or an APS employee in the Australian Submarine Agency.

***foreign work authorisation*** means an authorisation granted to an individual under section 115C.

***foreign work restricted individual*** has the meaning given by section 114.

***government*** of a foreign country or a part of a foreign country means the authority exercising effective governmental control in that foreign country or that part of that foreign country.

***government body*** of a foreign country means:

- (a) the government of the foreign country or of part of the foreign country; or
- (b) an authority of the government of the foreign country; or
- (c) an authority of the government of part of the foreign country; or
- (d) a local government body or regional government body of the foreign country; or
- (e) a public enterprise of the foreign country.

***military organisation*** of a foreign country means:

- (a) the armed forces of the government of the foreign country; or
- (b) the civilian component of:
  - (i) the Department of State of the foreign country; or
  - (ii) a government agency in the foreign country;

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that is responsible for the defence of that country.

***permanent resident of Australia*** means a person who is a permanent resident within the meaning of the *Australian Citizenship Act 2007*.

***public enterprise*** of a foreign country means a company or any other body or association where:

- (a) in the case of a company—one or more of the following apply:
  - (i) the government of the foreign country or of part of the foreign country holds more than 50% of the issued share capital of the company;
  - (ii) the government of the foreign country or of part of the foreign country holds more than 50% of the voting power in the company;
  - (iii) the government of the foreign country or of part of the foreign country is in a position to appoint more than 50% of the company's board of directors;
  - (iv) the directors (however described) of the company are accustomed or under an obligation (whether formal or informal) to act in accordance with the directions, instructions or wishes of the government of the foreign country or of part of the foreign country;
  - (v) the government of the foreign country or of part of the foreign country is in a position to exercise control over the company; and
- (b) in the case of any other body or association—either or both of the following apply:
  - (i) the members of the executive committee (however described) of the body or association are accustomed or under an obligation (whether formal or informal) to act in accordance with the directions, instructions or wishes of the government of the foreign country or of part of the foreign country;

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- (ii) the government of the foreign country or of part of the foreign country is in a position to exercise control over the body or association; and
- (c) the company, body or association:
  - (i) enjoys special legal rights or a special legal status under a law of the foreign country or of part of the foreign country; or
  - (ii) enjoys special benefits or privileges under a law of the foreign country or of part of the foreign country; because of the relationship of the company, body or association with the government of the foreign country or of the part of the foreign country, as the case may be.

**relevant foreign country** means a foreign country other than a foreign country covered by an instrument in force under subsection 115(3).

**reviewable decision**: see subsection 115K(9).

**training** means any training:

- (a) whether for reward or otherwise; and
- (b) whether provided in a personal capacity or in any other capacity, including:
  - (i) as an agent, officer or employee of a body corporate incorporated within or outside Australia; or
  - (ii) in, or with, any partnership, trust, association, organisation or other body established, formed or created within or outside Australia; and
- (c) whether regular or irregular training; and
- (d) whether formal or informal instruction.

**work** means any work (including the provision of training):

- (a) whether for reward or otherwise; and
- (b) whether performed in a personal capacity or in any other capacity, including:
  - (i) as an agent, officer or employee of a body corporate incorporated within or outside Australia; or

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- (ii) in, or with, any partnership, trust, association, organisation or other body established, formed or created within or outside Australia.

**114 Definition of *foreign work restricted individual***

- (1) A ***foreign work restricted individual*** is an individual who was, but is not currently, a defence staff member.
- (2) Despite subsection (1), an individual is not a foreign work restricted individual if the individual is included in a class of individuals covered by an instrument in force under subsection 115(1).

**115 Ministerial legislative instruments**

*Individuals who are not foreign work restricted individuals*

- (1) The Minister may, by legislative instrument, determine a class of individuals for the purposes of subsection 114(2).
- (2) Without limiting subsection (1), the class may be determined by reference to the following:
  - (a) particular kinds of work performed by defence staff members;
  - (b) the period of time that has elapsed since the performance of particular kinds of work by defence staff members.

*Countries that are not relevant foreign countries*

- (3) The Minister may, by legislative instrument, determine a foreign country not to be a relevant foreign country for the purposes of the definition of ***relevant foreign country*** in section 113.

## **Division 2—Foreign work restricted individuals working for a foreign military organisation or government body**

### **115A Offence—foreign work restricted individuals working for a foreign military organisation or government body**

#### *Offence*

- (1) An individual commits an offence if:
- (a) the individual is a foreign work restricted individual; and
  - (b) the individual performs work; and
  - (c) the work is performed for, or on behalf of:
    - (i) a military organisation of a foreign country; or
    - (ii) a government body of a foreign country; and
  - (d) the foreign country is a relevant foreign country.

Penalty: Imprisonment for 20 years.

#### *Exceptions*

- (2) Subsection (1) does not apply if a foreign work authorisation is in force that authorises the individual to perform the work for, or on behalf of, the military organisation, or the government body, of the relevant foreign country.

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

- (3) Subsection (1) does not apply if the work performed by the individual is authorised by a written agreement to which the Commonwealth is a party.

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

- (4) Subsection (1) does not apply if:

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- (a) the work performed by the individual is solely in the course of, and as part of, the individual's service in any capacity in or with any armed force; and
- (b) a declaration under subsection 119.8(1) of the *Criminal Code* covers the individual and the circumstances of the individual's service in or with the armed force.

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

- (5) Subsection (1) does not apply if the work performed by the individual is in the course of, and as part of, the individual's employment or engagement by the Commonwealth.

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

- (6) Subsection (1) does not apply if the work performed by the individual is solely or primarily for either or both of the following purposes:

- (a) providing aid of a humanitarian nature;
- (b) performing an official duty for:
  - (i) the United Nations or an agency of the United Nations; or
  - (ii) the International Committee of the Red Cross.

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

*Geographical jurisdiction*

- (7) Section 15.2 of the *Criminal Code* (extended geographical jurisdiction—category B) applies to an offence against this section.

## **Division 3—Other individuals providing training to a foreign military organisation or government body**

### **115B Offence—other individuals providing training to a foreign military organisation or government body**

#### *Offence*

- (1) An individual commits an offence if:
- (a) the individual is an Australian citizen or a permanent resident of Australia; and
  - (b) the individual is not a foreign work restricted individual; and
  - (c) the individual provides training to, or on behalf of:
    - (i) a military organisation of a foreign country; or
    - (ii) a government body of a foreign country; and
  - (d) either:
    - (i) the training relates to goods, software or technology within the scope of Part 1 of the Defence and Strategic Goods List; or
    - (ii) the training relates to military tactics, military techniques or military procedures; and
  - (e) the foreign country is a relevant foreign country.

Penalty: Imprisonment for 20 years.

#### *Exceptions*

- (2) Subsection (1) does not apply if a foreign work authorisation is in force that authorises the individual to provide the training to, or on behalf of, the military organisation, or the government body, of the relevant foreign country.

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

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- (3) Subsection (1) does not apply if the training provided by the individual is authorised by a written agreement to which the Commonwealth is a party.

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

- (4) Subsection (1) does not apply if:
- (a) the training provided by the individual is solely in the course of, and as part of, the individual's service in any capacity in or with any armed force; and
  - (b) a declaration under subsection 119.8(1) of the *Criminal Code* covers the individual and the circumstances of the individual's service in or with the armed force.

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

- (5) Subsection (1) does not apply if the training provided by the individual is in the course of, and as part of, the individual's employment or engagement by the Commonwealth.

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

- (6) Subsection (1) does not apply if the training provided by the individual is solely or primarily for either or both of the following purposes:
- (a) providing aid of a humanitarian nature;
  - (b) performing an official duty for:
    - (i) the United Nations or an agency of the United Nations; or
    - (ii) the International Committee of the Red Cross.

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

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*Geographical jurisdiction*

- (7) Section 15.2 of the *Criminal Code* (extended geographical jurisdiction—category B) applies to an offence against this section.

## **Division 4—Foreign work authorisations**

### **115C Grant of foreign work authorisation**

#### *Request for authorisation*

- (1) An individual may make a request to the Minister for an authorisation under this section.
- (2) However, an individual cannot make a request for an authorisation if:
  - (a) in relation to Division 2—the individual made, within the last 12 months, a request for an authorisation to perform the same work for, or on behalf of, the same military organisation, or government body, of a relevant foreign country; or
  - (b) in relation to Division 3—the individual made, within the last 12 months, a request for an authorisation to provide the same training to, or on behalf of, the same military organisation, or government body, of a relevant foreign country.
- (3) A request made under subsection (1) must:
  - (a) be in writing; and
  - (b) be in the form approved by the Secretary under subsection (13); and
  - (c) contain the information, and be accompanied by any documents, that the form requires.

**Note:** An individual may commit an offence if the individual provides false or misleading information or documents (see sections 137.1 and 137.2 of the *Criminal Code*).

#### *Granting, or refusing to grant, an authorisation*

- (4) The Minister must, in writing and as soon as reasonably practicable after an individual makes a request under subsection (1):
  - (a) grant the individual an authorisation (a ***foreign work authorisation***) to:

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- (i) perform specified work for, or on behalf of, a specified military organisation, or a specified government body, of a specified relevant foreign country; or
- (ii) provide specified training to, or on behalf of, a specified military organisation, or a specified government body, of a specified relevant foreign country; or
- (b) refuse to grant the individual an authorisation under this section.

Note: The Minister must give the individual written notice before refusing to grant the individual an authorisation or before granting an authorisation that is different from the authorisation requested (see section 115J).

- (5) In deciding whether to grant the individual a foreign work authorisation under this section for the purposes of Division 2, the Minister must consider the following:
  - (a) the kind of work, and the role, performed by the individual as a defence staff member;
  - (b) any other kind of work, that the Minister is aware of, performed by the individual other than as a defence staff member;
  - (c) the length of time that the individual was a defence staff member;
  - (d) the kind of information accessed by the individual while a defence staff member;
  - (e) the kind of work the individual would perform if the authorisation were granted;
  - (f) the military organisation, or the government body, of the foreign country for which, or on behalf of which, the individual would perform that work if the authorisation were granted.
- (6) In deciding whether to grant the individual a foreign work authorisation under this section for the purposes of Division 3, the Minister must consider the following:
  - (a) the kind of training the individual would provide if the authorisation were granted;

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- (b) the military organisation, or the government body, of the foreign country to which, or on behalf of which, the individual would provide that training if the authorisation were granted.
- (7) Subsection (5) or (6) does not limit the matters the Minister may consider in deciding whether to grant an authorisation under this section.
- (8) The Minister must refuse to grant the individual an authorisation under this section if the Minister reasonably believes that the performance of the work, or the provision of the training, by the individual would prejudice the security, defence or international relations of Australia.
- (9) Subsection (8) does not limit the grounds on which the Minister may refuse to grant an authorisation under this section.

*Notice*

- (10) If the Minister grants an individual an authorisation under this section:
  - (a) the Minister must give the individual a copy of the authorisation, which must specify the period the authorisation is in force (which must be no longer than 3 years); and
  - (b) if the authorisation is different from the authorisation requested by the individual or is granted subject to conditions—the Minister must give the individual written notice setting out the reasons for this and the individual's review rights under sections 115K and 115L.

Note: Section 115M deals with disclosing reasons for decisions.

- (11) If the Minister refuses to grant an individual an authorisation under this section, the Minister must give the individual written notice of the refusal. The notice must:
  - (a) include the reasons for the refusal; and
  - (b) set out the individual's review rights under sections 115K and 115L.

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Note: Section 115M deals with disclosing reasons for decisions.

*Conditions*

- (12) The Minister may grant an individual an authorisation under this section subject to any conditions specified in the authorisation.

Note: The Minister must give the individual written notice before granting an authorisation subject to conditions (see section 115J).

*Approved form*

- (13) The Secretary may, in writing, approve a form for the purposes of paragraph (3)(b). The Secretary must cause the form to be published on the Department's website.

**115D Offence for failing to comply with a condition of an authorisation**

*Offence*

- (1) An individual commits an offence if:
- (a) a foreign work authorisation granted to the individual is in force; and
  - (b) the authorisation is subject to a condition; and
  - (c) the individual does an act or omits to do an act; and
  - (d) the act or omission contravenes the condition.

Penalty: Imprisonment for 5 years.

*Geographical jurisdiction*

- (2) Section 15.2 of the *Criminal Code* (extended geographical jurisdiction—category B) applies to an offence against this section.

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**115E Cancellation of authorisation**

*Mandatory cancellation*

- (1) The Minister must, in writing, cancel a foreign work authorisation granted to an individual if:
  - (a) the Minister reasonably believes, as a result of a change in circumstances, that the individual's performance of work or provision of training, as specified in the authorisation, would prejudice the security, defence or international relations of Australia; or
  - (b) the individual requests the Minister to cancel the authorisation.
- (2) The Minister is not required to observe any requirements of the natural justice hearing rule in relation to cancelling a foreign work authorisation under subsection (1).

*Discretionary cancellation*

- (3) The Minister may, in writing, cancel a foreign work authorisation granted to an individual if the Minister is satisfied that:
  - (a) the individual has contravened a condition specified in the authorisation; or
  - (b) the individual knowingly provided information or a document that was false or misleading in a material particular:
    - (i) in making the request for the authorisation; or
    - (ii) in making a request for a variation of the authorisation; or
    - (iii) in providing a written statement in response to a notice of a proposed decision in relation to the authorisation; or
  - (c) it would be appropriate in all the circumstances to cancel the authorisation.

Note: The Minister must give the individual written notice before cancelling the authorisation under this subsection (see section 115J).

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*Notice*

- (4) The Minister must give written notice to the individual of the cancellation of the authorisation as soon as reasonably practicable after making the decision.
- (5) The notice must:
  - (a) include the reasons for the decision; and
  - (b) specify the day the cancellation takes effect (which must not be earlier than the day after the notice is given to the individual); and
  - (c) set out the individual's review rights under sections 115K and 115L.

Note: Section 115M deals with disclosing reasons for decisions.

## **115F Suspension of authorisation**

*Suspension*

- (1) The Minister may, in writing, suspend a foreign work authorisation granted to an individual if the Minister is satisfied that:
  - (a) the individual has contravened a condition specified in the authorisation; or
  - (b) it would be appropriate in all the circumstances to suspend the authorisation.

Note: The Minister must give the individual written notice before suspending the authorisation (see section 115J).

- (2) The Minister must give written notice to the individual of the suspension of the authorisation as soon as reasonably practicable after making the decision.
- (3) The notice must:
  - (a) include the reasons for the decision; and
  - (b) specify the period of suspension (which must not start earlier than the day after the notice is given to the individual); and

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- (c) set out the individual's review rights under sections 115K and 115L.

Note: Section 115M deals with disclosing reasons for decisions.

- (4) A foreign work authorisation granted to an individual is not in force while suspended, but the period specified in the authorisation continues to run despite the suspension.
- (5) The suspension of a foreign work authorisation under this section does not prevent the Minister from cancelling it under section 115E or varying it under section 115G or 115H.

### *Lifting of suspension*

- (6) If a foreign work authorisation granted to an individual is suspended under this section, the Minister may lift the suspension by written notice given to the individual if the Minister is satisfied that it would be appropriate in all the circumstances to do so.
- (7) The notice must specify the day the suspension is lifted.

## **115G Variation of authorisation—on Minister's own initiative**

### *Variation on own initiative*

- (1) The Minister may, on the Minister's own initiative and in writing, vary a foreign work authorisation granted to an individual if the Minister is satisfied that:
- (a) the individual has contravened a condition specified in the authorisation; or
  - (b) it would be appropriate in all the circumstances to vary the authorisation.

Note: The Minister must give the individual written notice before deciding to vary the authorisation (see section 115J).

### *Notice*

- (2) If the Minister varies the authorisation, the Minister must as soon as reasonably practicable after making the decision:
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- (a) give the individual a copy of the variation, which must specify the day the variation takes effect (which must not be earlier than the day after the copy is given to the individual); and
- (b) give the individual written notice setting out the reasons for the decision and the individual's review rights under sections 115K and 115L.

Note: Section 115M deals with disclosing reasons for decisions.

## **115H Variation of authorisation—on request**

### *Request for variation*

- (1) An individual may request the Minister to vary a foreign work authorisation granted to the individual.
- (2) The request must:
  - (a) be in writing; and
  - (b) be in the form approved by the Secretary under subsection (6); and
  - (c) contain the information, and be accompanied by any documents, that the form requires.

Note: An individual may commit an offence if the individual provides false or misleading information or documents (see sections 137.1 and 137.2 of the *Criminal Code*).

### *Decision to vary, or to refuse to vary, authorisation*

- (3) The Minister must, in writing and as soon as reasonably practicable after the request is made, vary the authorisation in a specified way or refuse to vary the authorisation.

Note: The Minister must give the individual written notice before varying the authorisation in a way that is different from the variation requested or before refusing to vary the authorisation (see section 115J).

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### *Notice*

- (4) If the Minister varies the authorisation, the Minister must, as soon as reasonably practicable after making the decision:
- (a) give the individual a copy of the variation, which must specify the day the variation takes effect (which must not be earlier than the day after the copy is given to the individual); and
  - (b) if the variation is different from the variation requested by the individual (including because one or more conditions for the authorisation are varied or imposed)—give the individual written notice setting out the reasons for the decision and the individual's review rights under sections 115K and 115L.

Note: Section 115M deals with disclosing reasons for decisions.

- (5) If the Minister refuses to vary the authorisation, the Minister must, as soon as reasonably practicable after making the decision, give written notice to the individual of the refusal. The notice must:
- (a) include the reasons for the refusal; and
  - (b) set out the individual's review rights under sections 115K and 115L.

Note: Section 115M deals with disclosing reasons for decisions.

### *Approved form*

- (6) The Secretary may, in writing, approve a form for the purposes of paragraph (2)(b). The Secretary must cause the form to be published on the Department's website.

## **115J Notice before decision about authorisation**

- (1) The Minister must not make a decision covered by subsection (5) in relation to an individual unless the Minister has given the individual written notice of the proposed decision.
- (2) The notice must:
- (a) state the proposed decision; and

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- (b) include the reasons for the proposed decision; and
- (c) invite the individual to give to the Minister, within the period specified in the notice, a written statement relating to the proposed decision.

Note: Section 115M deals with disclosing reasons for proposed decisions.

- (3) The period specified in the notice must not be less than 14 days beginning on the day the notice is given to the individual.
- (4) The Minister must, before making a decision covered by subsection (5), consider any written statement that is given to the Minister within the period specified in the notice.
- (5) The following decisions are covered by this subsection:
  - (a) a decision under section 115C to refuse to grant an individual an authorisation;
  - (b) a decision under section 115C to grant an individual a foreign work authorisation that is different from the authorisation requested;
  - (c) a decision under section 115C to grant an individual a foreign work authorisation subject to one or more conditions;
  - (d) a decision under subsection 115E(3) to cancel a foreign work authorisation;
  - (e) a decision under section 115F to suspend a foreign work authorisation;
  - (f) a decision under section 115G to vary a foreign work authorisation on the Minister's own initiative;
  - (g) a decision under section 115H to refuse to vary a foreign work authorisation;
  - (h) a decision under section 115H to vary a foreign work authorisation granted to an individual in a way that is different from the variation requested (including because one or more conditions for the authorisation are varied or imposed).

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- (6) This section is taken to be an exhaustive statement of the requirements of the natural justice hearing rule in relation to the matters it deals with.

### **115K Internal review of decisions**

#### *Application for internal review*

- (1) A person whose interests are affected by a reviewable decision may apply to the Minister for a review of the decision within 28 days after the person is notified of the decision.

Note: For **reviewable decision**, see subsection (9).

- (2) The application must:
- (a) be in writing; and
  - (b) be in the form approved by the Secretary under subsection (8); and
  - (c) contain the information, and be accompanied by any documents, that the form requires.
- (3) Subsection (1) does not apply to a reviewable decision that is made by the Minister personally.

#### *Review of decision*

- (4) On application for review of a reviewable decision, the Minister must:
- (a) review the decision; and
  - (b) affirm, vary or revoke the decision.
- (5) The Minister must give the applicant written notice of the Minister's decision to affirm, vary or revoke the reviewable decision within 90 days after receiving the application.
- (6) The notice must:
- (a) include the reasons for the decision; and
  - (b) set out the applicant's review rights under section 115L.

Note: Section 115M deals with disclosing reasons for decisions.

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- (7) The Minister is taken to have decided to affirm the reviewable decision if the Minister does not give the applicant such a notice within that period.

*Approved form*

- (8) The Secretary may, in writing, approve a form for the purposes of paragraph (2)(b). The Secretary must cause the form to be published on the Department's website.

*Reviewable decision*

- (9) Each of the following decisions is a **reviewable decision**:
- (a) a decision under section 115C to refuse to grant an individual an authorisation;
  - (b) a decision under section 115C to grant an individual a foreign work authorisation that is different from the authorisation requested;
  - (c) a decision under section 115C to grant an individual a foreign work authorisation subject to one or more conditions;
  - (d) a decision under section 115E to cancel a foreign work authorisation, except at the request of an individual;
  - (e) a decision under section 115F to suspend a foreign work authorisation;
  - (f) a decision under section 115G to vary a foreign work authorisation on the Minister's own initiative;
  - (g) a decision under section 115H to refuse to vary a foreign work authorisation;
  - (h) a decision under section 115H to vary a foreign work authorisation granted to an individual in a way that is different from the variation requested (including because one or more conditions for the authorisation are varied or imposed).

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### **115L ART review of decisions**

Applications may be made to the ART for review of the following decisions:

- (a) a reviewable decision that is made by the Minister personally;
- (b) a decision of the Minister made under section 115K to affirm, vary or revoke a reviewable decision.

Note: The Minister may be taken to have affirmed a reviewable decision: see subsection 115K(7).

### **115M Disclosure of reasons for decisions**

- (1) If:
  - (a) the Minister:
    - (i) proposes to make a decision covered by subsection 115J(5); or
    - (ii) makes a reviewable decision; or
    - (iii) makes a decision under section 115K to affirm, vary or revoke a reviewable decision; and
  - (b) reasons for the proposed decision, or the decision, must be given in a notice under this Part;the notice must not disclose any reasons whose disclosure the Minister reasonably believes would prejudice the security, defence or international relations of Australia.
- (2) If reasons are not disclosed in a notice under this Part because of subsection (1), that fact must be stated in the notice.

## **Division 5—Other matters**

### **115N Delegation by Minister**

- (1) The Minister may, in writing, delegate all or any of the Minister's functions or powers under this Part to:
  - (a) an SES employee in the Department; or
  - (b) an officer of the Navy who holds the rank of Commodore or a higher rank; or
  - (c) an officer of the Army who holds the rank of Brigadier or a higher rank; or
  - (d) an officer of the Air Force who holds the rank of Air Commodore or a higher rank.

Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations.

- (2) However, the Minister must not delegate the Minister's power to make an instrument under subsection 115(1) or (3).

### **115P Review of this Part**

- (1) The Minister must cause an independent review to be conducted of the operation of this Part and any legislative instrument in force under section 115.
- (2) The review must commence as soon as practicable after the end of 5 years after this Part commences.
- (3) The persons who conduct the review must give the Minister a written report of the review.
- (4) The Minister must cause a copy of the report of the review to be tabled in each House of the Parliament within 15 sitting days of that House after the report is given to the Minister.

## **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.

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- (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

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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.

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**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—

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- 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

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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.

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**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.

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- (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.

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- (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

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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).

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*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)).

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**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

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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);

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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.

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- (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

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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.

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### 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.

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*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:

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- (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

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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.

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- (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.

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**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.

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- (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

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- (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

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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.

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- (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:

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- (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

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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

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- (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:

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- (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.

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**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

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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;

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- (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).

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**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.

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### **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.

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- (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 VIIIC; 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

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- 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 Sovereign'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

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- (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

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(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.
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- (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,

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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.

| <b>Ranks and corresponding ranks</b> |                             |                                       |                                           |
|--------------------------------------|-----------------------------|---------------------------------------|-------------------------------------------|
| <b>Item</b>                          | <b>Column 1</b>             | <b>Column 2</b>                       | <b>Column 3</b>                           |
|                                      | <b>Navy</b>                 | <b>Army</b>                           | <b>Air Force</b>                          |
| 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                        |                                           |

## Schedule 1 Ranks and corresponding ranks

### Clause 1

| 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

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 how an amendment is to be made. If, despite the misdescription, the amendment

## Endnotes

### Endnote 1—About the endnotes

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can be given effect as intended, then the misdescribed amendment can be incorporated through an editorial change made under section 15V of the *Legislation Act 2003*.

If a misdescribed amendment cannot be given effect as intended, the amendment is not incorporated and “(md not incorp)” is added to the amendment history.

## Endnote 2—Abbreviation key

## Endnote 2—Abbreviation key

|                                                                    |                                                                          |
|--------------------------------------------------------------------|--------------------------------------------------------------------------|
| ad = added or inserted                                             | orig = original                                                          |
| am = amended                                                       | p = page(s)                                                              |
| amdt = amendment                                                   | para = paragraph(s)/subparagraph(s)<br>/sub-subparagraph(s)              |
| C[x] = Compilation No. x                                           | pres = present                                                           |
| ch = Chapter(s)                                                    | prev = previous                                                          |
| cl = clause(s)                                                     | (prev...) = previously                                                   |
| cont. = continued                                                  | pt = Part(s)                                                             |
| def = definition(s)                                                | r = regulation(s)/Court rule(s)                                          |
| Dict = Dictionary                                                  | reloc = relocated                                                        |
| disallowed = disallowed by Parliament                              | renum = renumbered                                                       |
| div = Division(s)                                                  | rep = repealed                                                           |
| ed = editorial change                                              | rs = repealed and substituted                                            |
| exp = expires/expired or ceases/ceased to have<br>effect           | s = section(s)/subsection(s)<br>/rule(s)/subrule(s)/order(s)/suborder(s) |
| gaz = gazette                                                      | sch = Schedule(s)                                                        |
| LA = <i>Legislation Act 2003</i>                                   | SLI = Select Legislative Instrument                                      |
| LIA = <i>Legislative Instruments Act 2003</i>                      | SR = Statutory Rules                                                     |
| (md) = misdescribed amendment can be given<br>effect               | sub ch = Sub-Chapter(s)                                                  |
| (md not incorp) = misdescribed amendment<br>cannot be given effect | sub div = Subdivision(s)                                                 |
| mod = modified/modification                                        | sub pt = Subpart(s)                                                      |
| No. = Number(s)                                                    | <u>underlining</u> = whole or part not<br>commenced or to be commenced   |
| Ord = Ordinance                                                    |                                                                          |

## Endnotes

### Endnote 3—Legislation history

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### 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<br>Remainder: Royal Assent | —                                               |
| Defence Act 1917         | 36, 1917        | 25 Sept 1917 | s. 6: 1 Aug 1914<br>Remainder: Royal Assent        | —                                               |
| Defence Act 1918         | 16, 1918        | 19 June 1918 | s. 8: 1 Aug 1914<br>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                                         | —                                               |

## 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<br>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<br>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                                        | —                                               |

## Endnotes

### 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<br>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)<br>s 12: 17 Sept 1970 (s 2(2) and gaz 1970, No 73, p 5842)<br>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)<br>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                                 |

## 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)<br>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)<br>s 26: 8 Sept 1980 (s 2 and gaz 1980, No G34, p 2)<br>s 35: 24 Sept 1976 (s 2 and gaz 1976, No S167)<br>s 38: 1 July 1985 (s 2 and gaz 1985, No S195)<br>s 45: 9 Feb 1976 (s 2 and gaz 1976, No S24)<br>s 53: 3 July 1985 (s 2 and gaz 1985, No S255)<br>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) |
| <b>as amended by</b>                   |                 |             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                    |
| 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                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | —                                                                                  |

## Endnotes

### 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)<br>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)<br>Remainder: 23 Nov 1979 (s 2(1), (3)) | s 3(2) and 11–17                                |
| <b>as amended by</b>                                          |                 |              |                                                                                                        |                                                 |
| 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)<br>Sch 1: 12 June 1981 (s 2(1))                   | s 51                                            |

## 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<br>(see s. 2(2) and <i>Gazette</i> 1983, No. S222)<br>s. 8 and Part III (ss. 12–18): 15 Aug 1983 (see <i>Gazette</i> 1983, No. S169)<br>s. 10: 3 July 1985 (see s. 2(4) and <i>Gazette</i> 1985, No. S255)<br>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<br>(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                               |
| <b>as amended by</b>                                    |                 |              |                                                                                                                                                                                                                                                             |                                                 |
| Defence Legislation Amendment Act 1984                  | 164, 1984       | 25 Oct 1984  | s 80: 22 Nov 1984 (s 2(1))                                                                                                                                                                                                                                  | —                                               |

## Endnotes

### 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))<br>Sch 1 (amdt to s 69 Defence Act 1903: 1 July 1985 (s 2(7)(a) and gaz 1985, No S195)<br>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)                                          |

## 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))<br>Sch 1 (amdt to s 58B(1)(ca) Defence Act 1903): repealed before commencing (s 2(15))<br>Sch 1 (amdt to s 58B(3), 124 Defence Act 1903): 30 June 1990 (s 2(15) and gaz 1990, No S152)<br>Sch 1 (amdt to s 120B Defence Act 1903): 1 Oct 1985 (s 2(15) and gaz 1985, No S400) | —                                               |
| <b>as amended by</b>                                    |                 |              |                                                                                                                                                                                                                                                                                                                                                                                               |                                                 |
| 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                                                                                                                                                                                                                                                                                                                                                                                   | —                                               |

## Endnotes

### 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<br>ss. 37(1) and Part VI (ss. 50, 51): 10 Nov 1977 ( <i>see</i> s. 2(3))<br>ss. 37(2) and 38–41: 3 July 1985<br>ss. 46 and 47: 19 June 1973 ( <i>see</i> s. 2(2))<br>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<br>ss. 4(1), 68–97, 99 and 100: 1 July 1988 ( <i>see Gazette</i> 1988, No. S196)<br>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<br>Remainder: 1 Mar 1989 ( <i>see</i> s. 2(2) and <i>Gazette</i> 1989, No. S53)                                                                                                                                                                                                                                                                 | —                                               |

## 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)<br>s. 16: 1 July 1988 ( <i>see</i> s. 2(3) and <i>Gazette</i> 1988, No. S173)<br>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)<br>s. 25: 1 Oct 1972<br>ss. 29 and 36: 1 July 1978<br>Part IX (ss. 52, 53): 18 Dec 1987<br>Remainder: Royal Assent  | ss. 9(2) and 16(2)                              |
| <b>as amended by</b>                                                            |                 |             |                                                                                                                                                                                    |                                                 |
| 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<br>s. 7: 6 Dec 1988<br>s. 8: 1 Sept 1989 ( <i>see</i> s. 2(4) and <i>Gazette</i> 1989, No. S268)<br>Remainder: Royal Assent                                | —                                               |

## Endnotes

### 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)<br>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))<br>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))                                                                                                                                                                                                                                                | —                                               |

## Endnote 3—Legislation history

| <b>Act</b>                                                                        | <b>Number<br/>and year</b> | <b>Assent</b>   | <b>Commencement</b>                                                                                                                                       | <b>Application,<br/>saving and<br/>transitional<br/>provisions</b> |
|-----------------------------------------------------------------------------------|----------------------------|-----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------|
| Superannuation<br>Guarantee<br>(Consequential<br>Amendments) Act 1992             | 92, 1992                   | 30 June<br>1992 | Sch: 1 July 1992 (s 2)                                                                                                                                    | —                                                                  |
| Defence Legislation<br>Amendment Act 1993                                         | 95, 1993                   | 22 Dec<br>1993  | s 4–9: 22 Dec 1993 (s 2)                                                                                                                                  | s 5(2)                                                             |
| Industrial Relations and<br>Other Legislation<br>Amendment Act 1993               | 109, 1993                  | 22 Dec<br>1993  | s 4–12: 19 Jan 1994 (s<br>2(5))                                                                                                                           | —                                                                  |
| Evidence (Transitional<br>Provisions and<br>Consequential<br>Amendments) Act 1995 | 3, 1995                    | 23 Feb<br>1995  | s 14: 23 Feb 1995 (s<br>2(1))<br>Sch: 18 Apr 1995 (s<br>2(13)(a))                                                                                         | s 14                                                               |
| Defence Legislation<br>Amendment Act 1995                                         | 43, 1995                   | 15 June<br>1995 | s 3(2) and Sch 1<br>(items 3, 11.3): 15 June<br>1995 (s 2(1))<br>Sch 1 (items 1, 2, 4–10,<br>11.1, 11.2): 1 Nov 1995<br>(s 2(2) and gaz 1995, No<br>S361) | s 3(2) and Sch 1<br>(item 11)                                      |
| Industrial Relations and<br>other Legislation<br>Amendment Act 1995               | 168, 1995                  | 16 Dec<br>1995  | Sch 1: 15 Jan 1996 (s<br>2(2) and gaz 1996, No<br>S16)                                                                                                    | —                                                                  |
| Statute Law Revision<br>Act 1996                                                  | 43, 1996                   | 25 Oct<br>1996  | Sch 4 (items 1, 58–62):<br>25 Oct 1996 (s 2(1))                                                                                                           | —                                                                  |
| Workplace Relations and<br>Other Legislation<br>Amendment Act 1996                | 60, 1996                   | 25 Nov<br>1996  | Sch 19 (item 17): 25<br>Nov 1996 (s 2(1))                                                                                                                 | —                                                                  |
| <b>as amended by</b>                                                              |                            |                 |                                                                                                                                                           |                                                                    |
| Workplace Relations<br>and Other Legislation<br>Amendment Act<br>(No. 2) 1996     | 77, 1996                   | 19 Dec<br>1996  | Sch 3 (items 1, 2): 25<br>Nov 1996 (s 2(4))                                                                                                               | —                                                                  |

## Endnotes

### 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)<br>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))<br>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<br>s. 22 and Schedule 1 (items 53 and 60): 10 Dec 1999 ( <i>see Gazette</i> 1999, S598)<br>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)                                |

## 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<br>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<br>Schedule 3: 19 Apr 2001 ( <i>see</i> s. 2(4))<br>Schedule 4: Royal Assent<br>Remainder: 19 Apr 2001 | Sch. 1 (item 3),<br>Sch. 2 (items 88–90, 93–95), Sch. 3 (item 7) and<br>Sch. 4 (item 3) |
| New Business Tax System (Capital Allowances—Transitional and Consequential) Act 2001<br><b>as amended by</b> | 77, 2001        | 30 June 2001 | Sch 2 (items 19, 488(1)): 30 June 2001 (s 2(1))                                                                                                                        | Sch 2 (item 488(1))                                                                     |
| Taxation Laws Amendment Act (No. 5) 2002                                                                     | 119, 2002       | 2 Dec 2002   | Sch 3 (item 97): 30 June 2001 (s 2(1) item 9)                                                                                                                          | —                                                                                       |

## Endnotes

### 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))<br>Sch 1 (items 5–36): 15 Dec 2001 (s 2(2))                                                                                                     | s 4 and Sch 1 (item 36)                         |
| <b>as amended by</b>                                                                          |                 |              |                                                                                                                                                                          |                                                 |
| 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<br>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)<br>Sch 2 (items 16–19): 14 Jan 2004 (s 2(1) item 4)<br>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<br>Remainder: Royal Assent                                                                                                                       | s. 4                                            |

## 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)<br>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)<br>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)<br>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)<br>Sch 7 (item 38): 11 Dec 2006 (s 2(1) item 9)                    | —                                               |

## Endnotes

### 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)                                |
| <b>as amended by</b>                                                            |                 |              |                                                                                                                |                                                 |
| 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)<br>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)                                                                           | —                                               |

## Endnote 3—Legislation history

| <b>Act</b>                                                                                                | <b>Number<br/>and year</b> | <b>Assent</b>   | <b>Commencement</b>                                                                                                   | <b>Application,<br/>saving and<br/>transitional<br/>provisions</b> |
|-----------------------------------------------------------------------------------------------------------|----------------------------|-----------------|-----------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------|
| Crimes Legislation<br>Amendment (Serious<br>and Organised Crime)<br>Act (No. 2) 2010                      | 4, 2010                    | 19 Feb<br>2010  | Sch 11 (item 7): 20 Feb<br>2010 (s 2(1) item 13)                                                                      | —                                                                  |
| Defence Legislation<br>Amendment Act (No. 1)<br>2010                                                      | 95, 2010                   | 5 July 2010     | Sch 1: 5 Jan 2011 (s 2(1)<br>item 2)<br>Sch 2: 5 July 2010<br>(s 2(1) item 3)<br>Sch 3: 2 Aug 2010<br>(s 2(1) item 4) | Sch 1 (items 2–5),<br>Sch 2 (item 9) and<br>Sch 3 (item 5)         |
| Statute Law Revision<br>Act 2011                                                                          | 5, 2011                    | 22 Mar<br>2011  | Sch 5 (items 90, 91),<br>Sch 6 (item 33) and<br>Sch 7 (item 47): 19 Apr<br>2011 (s 2(1) items 13,<br>15, 18)          | —                                                                  |
| Defence Legislation<br>Amendment (Security of<br>Defence Premises) Act<br>2011                            | 19, 2011                   | 12 Apr<br>2011  | Sch 1 (items 1–3, 5):<br>12 Oct 2011 (s 2(1)<br>item 2)                                                               | —                                                                  |
| Acts Interpretation<br>Amendment Act 2011                                                                 | 46, 2011                   | 27 June<br>2011 | Sch 2 (items 487–509)<br>and Sch 3 (items 10, 11):<br>27 Dec 2011 (s 2(1)<br>items 2, 3, 12)                          | Sch 3 (items 10,<br>11)                                            |
| Superannuation<br>Legislation<br>(Consequential<br>Amendments and<br>Transitional Provisions)<br>Act 2011 | 58, 2011                   | 28 June<br>2011 | Sch 1 (item 35): 1 July<br>2011 (s 2(1) item 2)                                                                       | —                                                                  |
| Defence Legislation<br>Amendment Act 2011                                                                 | 183, 2011                  | 6 Dec 2011      | Sch 1 (items 17–35):<br>1 Mar 2012 (s 2(1)<br>item 2)                                                                 | —                                                                  |

## Endnotes

### 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                                          |
| <b>as amended by</b>                                                                                   |                 |              |                                                                    |                                                 |
| 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                                           |
| <b>as amended by</b>                                                                                   |                 |              |                                                                    |                                                 |
| 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)                       | —                                               |

## 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)                           |
| <b>as amended by</b>                                                                         |                 |              |                                                                                                     |                                                 |
| 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)                                                          | —                                               |
| Statute Law Amendment (Prescribed Forms and Other Updates) Act 2023                          | 74, 2023        | 20 Sept 2023 | Sch 6 (item 1): 18 Oct 2023 (s 2(1) item 3)                                                         | —                                               |
| 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)<br>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)<br>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                                           |

## Endnotes

### Endnote 3—Legislation history

| <b>Act</b>                                                                             | <b>Number and year</b> | <b>Assent</b> | <b>Commencement</b>                                                                                        | <b>Application, saving and transitional provisions</b> |
|----------------------------------------------------------------------------------------|------------------------|---------------|------------------------------------------------------------------------------------------------------------|--------------------------------------------------------|
| Defence Legislation (Enhancement of Military Justice) Act 2015                         | 106, 2015              | 30 June 2015  | Sch 2 (items 1–8): 1 July 2015 (s 2)                                                                       | —                                                      |
| 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)<br>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)                                     |

## Endnote 3—Legislation history

| <b>Act</b>                                                                                                   | <b>Number<br/>and year</b> | <b>Assent</b>  | <b>Commencement</b>                                                                                         | <b>Application,<br/>saving and<br/>transitional<br/>provisions</b> |
|--------------------------------------------------------------------------------------------------------------|----------------------------|----------------|-------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------|
| Defence Legislation<br>Amendment (2017<br>Measures No. 1) Act<br>2017                                        | 117, 2017                  | 30 Oct<br>2017 | Sch 1: 30 Apr 2018<br>(s 2(1) item 2)                                                                       | Sch 1 (items 5,<br>17)                                             |
| Regulatory Powers<br>(Standardisation<br>Reform) Act 2017                                                    | 124, 2017                  | 6 Nov 2017     | Sch 5: 6 Nov 2018 (s<br>2(1) item 3)                                                                        | Sch 5 (item 5)                                                     |
| Defence Legislation<br>Amendment (Instrument<br>Making) Act 2017                                             | 125, 2017                  | 30 Nov<br>2017 | Sch 1 (items 1–12):<br>26 Mar 2018 (s 2(1)<br>items 2, 3)<br>Sch 1 (item 13): 6 Nov<br>2018 (s 2(1) item 4) | —                                                                  |
| Intelligence Services<br>Amendment<br>(Establishment of the<br>Australian Signals<br>Directorate) Act 2018   | 25, 2018                   | 11 Apr<br>2018 | Sch 1 (items 59, 100–<br>108): 1 July 2018 (s 2(1)<br>item 2)                                               | Sch 1 (items 100–<br>108)                                          |
| Office of National<br>Intelligence<br>(Consequential and<br>Transitional Provisions)<br>Act 2018             | 156, 2018                  | 10 Dec<br>2018 | Sch 2 (item 46) and Sch<br>4: 20 Dec 2018 (s 2(1)<br>items 2, 4)                                            | Sch 4                                                              |
| Defence Amendment<br>(Call Out of the<br>Australian Defence<br>Force) Act 2018                               | 158, 2018                  | 10 Dec<br>2018 | Sch 1 (items 1–4, 6):<br>10 June 2019 (s 2(1)<br>item 1)                                                    | Sch 1 (item 6)                                                     |
| Defence Legislation<br>Amendment<br>(Enhancement of<br>Defence Force Response<br>to Emergencies) Act<br>2020 | 146, 2020                  | 17 Dec<br>2020 | Sch 1 (items 1–8, 18)<br>and Sch 2: 18 Dec 2020<br>(s 2(1) item 1)                                          | Sch 1 (item 18)                                                    |

## Endnotes

### 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) | —                                               |
| Defence Amendment (Safeguarding Australia's Military Secrets) Act 2024                                        | 20, 2024        | 8 Apr 2024 | Sch 1 (items 1–3): 6 May 2024 (s 2(1) item 1) | Sch 1 (items 2, 3)                              |

  

| Act (Register ID)                                                                                       | Number and year | Assent      | Commencement                                                                                         | Application, saving and transitional provisions |
|---------------------------------------------------------------------------------------------------------|-----------------|-------------|------------------------------------------------------------------------------------------------------|-------------------------------------------------|
| Administrative Review Tribunal (Consequential and Transitional Provisions No. 2) Act 2024 (C2024A00039) | 39, 2024        | 31 May 2024 | sch 4 (items 1-16): 14 Oct 2024 (s 2(1) item 2)                                                      | —                                               |
| Crown References Amendment Act 2024 (C2024A00115)                                                       | 115, 2024       | 10 Dec 2024 | sch 1 (items 11, 12): 11 Dec 2024 (s 2(1) item 1)                                                    | —                                               |
| Administrative Review Tribunal (Miscellaneous Measures) Act 2025 (C2025A00014)                          | 14, 2025        | 20 Feb 2025 | sch 2 (items 46, 47): 21 Feb 2025 (s 2(1) item 2)                                                    | —                                               |
| Veterans' Entitlements, Treatment and Support (Simplification and Harmonisation) Act 2025 (C2025A00017) | 17, 2025        | 20 Feb 2025 | sch 8 (item 75): <u>awaiting commencement (s 2(1) item 7)</u><br>sch 9: 29 Sept 2025 (s 2(1) item 8) | —                                               |

## Endnote 3—Legislation history

| Name                                                                                                                                  | Registration                 | Commencement                   | Application,<br>saving and<br>transitional<br>provisions |
|---------------------------------------------------------------------------------------------------------------------------------------|------------------------------|--------------------------------|----------------------------------------------------------|
| Workplace Relations<br>Amendment (Work<br>Choices) (Consequential<br>Amendments)<br>Regulations 2006<br>(No. 1) (SLI No. 50,<br>2006) | 17 Mar 2006<br>(F2006L00820) | Sch 5: 27 Mar 2006<br>(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;<br>No. 19, 1951<br><br>rs. No. 92, 1964<br><br>am. No. 51, 1965<br><br>rep. No. 216, 1973                                                                                                                                                                                                                                                                                                                                                                         |
| s. 4.....               | am No 12, 1904; No 30, 1910; No 36, 1917; No 16, 1918; No 13,<br>1939; No 74, 1939; No 71, 1949; No 59, 1951; No 72, 1956;<br>No 92, 1964; No 51, 1965; No 216, 1973; No 96, 1975; No 4,<br>1977; No 132, 1979; No 61, 1981; No 80, 1982; No 153, 1982;<br>No 164, 1984; No 65, 1987; No 104, 1988; No 91, 1992; No 1,<br>1997; No 10, 2001; No 142, 2005; No 5, 2011; No 183, 2011; No<br>106, 2015; No 164, 2015; No 124, 2017; No 125, 2017; No 158,<br>2018; No 146, 2020; No 39, 2024; No 115, 2024; <u>No 17, 2025</u> |
| s. 5.....               | rs. No. 19, 1951<br><br>am. No. 92, 1964; No. 216, 1973; No. 96, 1975; No. 132, 1979;<br>No. 153, 1982; No 164, 2015                                                                                                                                                                                                                                                                                                                                                                                                         |
| s. 5A.....              | ad. No. 13, 1939<br><br>am. No. 80, 1950; No. 59, 1951; No. 216, 1973<br><br>rs. No. 96, 1975                                                                                                                                                                                                                                                                                                                                                                                                                                |
| s. 6.....               | am. No. 96, 1975<br><br>rep. No. 153, 1982<br><br>ad. No. 141, 2001                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Part II                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| Part II.....            | rs No 164, 2015                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| Division 1 heading..... | rep. No. 37, 1910<br><br>ad. No. 43, 1995<br><br>rep. No. 10, 2001                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| s. 8.....               | am. No. 12, 1904; No. 30, 1910                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |

## Endnote 4—Amendment history

| Provision affected      | How affected                                                                             |
|-------------------------|------------------------------------------------------------------------------------------|
|                         | rs. No. 13, 1939                                                                         |
|                         | am. No. 92, 1964                                                                         |
|                         | 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;<br>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;<br>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;<br>No. 46, 2011; No 5, 2015 |
|                         | rep No 164, 2015                                                                         |
| Division 2 heading..... | rep. No. 37, 1910                                                                        |

## Endnotes

### Endnote 4—Amendment history

| Provision affected | How affected                                                                |
|--------------------|-----------------------------------------------------------------------------|
|                    | ad. No. 43, 1995                                                            |
|                    | rep. No. 10, 2001                                                           |
| 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;<br>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<br>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                                               |

## Endnote 4—Amendment history

| Provision affected | How affected                                                                                       |
|--------------------|----------------------------------------------------------------------------------------------------|
|                    | rep. No. 65, 1985                                                                                  |
|                    | ad No 164, 2015                                                                                    |
| 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;<br>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                                                                                 |
| <b>Part III</b>    |                                                                                                    |
| Part III.....      | rs No 164, 2015                                                                                    |
| <b>Division 1</b>  |                                                                                                    |
| 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,<br>1988; No. 1, 1997; No. 113, 2000 |
|                    | rep. No. 10, 2001                                                                                  |
|                    | ad No 164, 2015                                                                                    |
| s. 18.....         | rs. No. 12, 1904                                                                                   |

## Endnotes

### Endnote 4—Amendment history

| Provision affected      | How affected                                |
|-------------------------|---------------------------------------------|
|                         | am. No. 30, 1910; No. 96, 1975              |
|                         | rep. No. 10, 2001                           |
|                         | 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 |

## Endnote 4—Amendment history

| Provision affected | How affected                |
|--------------------|-----------------------------|
|                    | rep. No. 92, 1964           |
| s. 21B.....        | ad. No. 37, 1910            |
|                    | am. No. 36, 1914            |
|                    | rep. No. 92, 1964           |
| <b>Division 2</b>  |                             |
| 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            |

## Endnotes

### Endnote 4—Amendment history

| Provision affected      | How affected                                                |
|-------------------------|-------------------------------------------------------------|
|                         | am. No. 1, 1997; No. 116, 1999                              |
|                         | rep. No. 10, 2001                                           |
| 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                                           |
| <b>Division 3</b>       |                                                             |
| s 28.....               | rs No 12, 1904                                              |
|                         | am No 30, 1910; No 96, 1975                                 |
|                         | rs No 164, 2015                                             |
|                         | am No 146, 2020                                             |

## Endnote 4—Amendment history

| Provision affected        | How affected                                                                                                                                                                                                                                                                                                           |
|---------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| s 29.....                 | rep No 37, 1910<br>ad No 164, 2015<br>am No 146, 2020                                                                                                                                                                                                                                                                  |
| <b>Part IIIAAA</b>        |                                                                                                                                                                                                                                                                                                                        |
| Part IIIAAA heading ..... | rs. No. 3, 2006; No 158, 2018                                                                                                                                                                                                                                                                                          |
| Part IIIAAA .....         | ad. No. 119, 2000<br>rs No 158, 2018                                                                                                                                                                                                                                                                                   |
| <b>Division 1</b>         |                                                                                                                                                                                                                                                                                                                        |
| s. 30.....                | am. No. 74, 1939<br>rs. No. 92, 1964; No. 96, 1975<br>rep No 164, 2015<br>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<br>rs. No. 71, 1949<br>am. No. 80, 1950; No. 59, 1951<br>rs. No. 92, 1964<br>am. No. 96, 1975; No. 132, 1979; No. 61, 1981<br>rs. No. 10, 2001<br>rep No 164, 2015<br>ad No 158, 2018 |
| <b>Division 2</b>         |                                                                                                                                                                                                                                                                                                                        |
| Division 2 heading.....   | rs. No. 3, 2006; No 158, 2018                                                                                                                                                                                                                                                                                          |
| <b>Subdivision A</b>      |                                                                                                                                                                                                                                                                                                                        |
| s. 32.....                | rs. No. 15, 1909<br>rep. No. 30, 1910<br>ad. No. 92, 1964<br>am. No. 51, 1965; No. 96, 1975; No. 132, 1979; No. 61, 1981; No. 65, 1987; No. 1, 1997<br>rs. No. 10, 2001                                                                                                                                                |

## Endnotes

### Endnote 4—Amendment history

| Provision affected      | How affected                           |
|-------------------------|----------------------------------------|
|                         | rep No 164, 2015                       |
|                         | ad No 158, 2018                        |
| s. 32A.....             | ad. No. 15, 1909                       |
|                         | 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                       |
| <b>Subdivision B</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                     |

## Endnote 4—Amendment history

| Provision affected   | How affected                                                                                            |
|----------------------|---------------------------------------------------------------------------------------------------------|
|                      | ad No 158, 2018                                                                                         |
| s. 35A.....          | ad. No. 59, 1951                                                                                        |
|                      | am. No. 216, 1973                                                                                       |
|                      | rep. No. 96, 1975                                                                                       |
| s. 36.....           | am. No. 15, 1909; No. 30, 1910; No. 36, 1917; No. 72, 1956;<br>No. 92, 1964; No. 96, 1975; No. 39, 1983 |
|                      | rs. No. 65, 1987                                                                                        |
|                      | rep. No. 10, 2001                                                                                       |
|                      | ad No 158, 2018                                                                                         |
| <b>Subdivision C</b> |                                                                                                         |
| 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                                                                                         |
| <b>Subdivision D</b> |                                                                                                         |
| 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                                                                                         |

## Endnotes

### Endnote 4—Amendment history

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| Provision affected   | How affected                                                                                                                                                                                |
|----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| s. 40.....           | am. No. 30, 1910; No. 16, 1918<br>rs. No. 71, 1949; No. 92, 1964<br>am. No. 132, 1979; No. 61, 1981<br>rs. No. 65, 1987<br>rep. No. 10, 2001<br>ad No 158, 2018                             |
| s. 40A.....          | ad. No. 47, 1918<br>am. No. 11, 1945; No. 96, 1975<br>rep. No. 65, 1987                                                                                                                     |
| s. 40B.....          | ad. No. 47, 1918<br>am. No. 45, 1934<br>rep. No. 11, 1945                                                                                                                                   |
| <b>Division 3</b>    |                                                                                                                                                                                             |
| <b>Subdivision A</b> |                                                                                                                                                                                             |
| s. 41.....           | am. No. 30, 1910; No. 16, 1918<br>rs. No. 71, 1949; No. 92, 1964<br>am. No. 51, 1965; No. 96, 1975; No. 132, 1979; No. 61, 1981<br>rs. No. 65, 1987<br>rep. No. 10, 2001<br>ad No 158, 2018 |
| s. 42.....           | am. No. 30, 1910<br>rs. No. 92, 1964<br>am. No. 96, 1975<br>rep. No. 61, 1981<br>ad No 158, 2018                                                                                            |
| s. 42A.....          | ad. No. 36, 1917<br>am. No. 51, 1965; No. 96, 1975<br>rep. No. 65, 1987                                                                                                                     |
| s. 43.....           | am. No. 78, 1947<br>rs. No. 71, 1949; No. 92, 1964<br>rep. No. 51, 1965                                                                                                                     |

## Endnote 4—Amendment history

| Provision affected      | How affected                                                                                              |
|-------------------------|-----------------------------------------------------------------------------------------------------------|
|                         | ad No 158, 2018                                                                                           |
| s. 44.....              | am. No. 30, 1910                                                                                          |
|                         | rs. No. 36, 1917; No. 51, 1965                                                                            |
|                         | 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;<br>No. 65, 1987; No. 1, 1997; No. 119, 2000 |
|                         | rs. No. 10, 2001                                                                                          |
|                         | rep No 164, 2015                                                                                          |
|                         | ad No 158, 2018                                                                                           |
| <b>Subdivision B</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                                                                                           |
| <b>Division 4</b>       |                                                                                                           |
| Division 4 heading..... | rs. No. 3, 2006; No 158, 2018                                                                             |
| <b>Subdivision A</b>    |                                                                                                           |
| s. 47.....              | am. No. 36, 1917                                                                                          |
|                         | rs. No. 92, 1964                                                                                          |
|                         | am. No. 132, 1979                                                                                         |

## Endnotes

### Endnote 4—Amendment history

| Provision affected      | How affected                                                      |
|-------------------------|-------------------------------------------------------------------|
|                         | rep. No. 61, 1981                                                 |
|                         | ad No 158, 2018                                                   |
| s. 48.....              | rep. No. 30, 1910                                                 |
|                         | 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                                                  |

## Endnote 4—Amendment history

| Provision affected     | How affected                                                                 |
|------------------------|------------------------------------------------------------------------------|
|                        | rep No 164, 2015                                                             |
| Division 4 .....       | rep. No. 153, 1982                                                           |
| s. 50D.....            | ad. No. 92, 1964                                                             |
|                        | 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                                                            |
| <b>Subdivision B</b>   |                                                                              |
| s. 51.....             | am. No. 36, 1914; No. 59, 1951; No. 92, 1964; No. 61, 1981;<br>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                                                              |
| <b>Subdivision C</b>   |                                                                              |
| 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                                                              |

## Endnotes

### Endnote 4—Amendment history

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| Provision affected     | How affected                                 |
|------------------------|----------------------------------------------|
|                        | rep No 158, 2018                             |
| s 51B (prev s 51)..... | am. No. 119, 2000; No. 3, 2006; No 164, 2015 |
|                        | rs No 158, 2018                              |
| 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                             |
| <b>Subdivision D</b>   |                                              |
| s. 51D.....            | ad. No. 119, 2000                            |
|                        | am. No. 3, 2006                              |
|                        | rs No 158, 2018                              |
| s. 51E.....            | ad. No. 119, 2000                            |
|                        | rs No 158, 2018                              |
| <b>Division 5</b>      |                                              |
| <b>Subdivision A</b>   |                                              |
| 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                |
| <b>Subdivision B</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                             |

## Endnote 4—Amendment history

| Provision affected   | How affected                                                                       |
|----------------------|------------------------------------------------------------------------------------|
| Division 2A.....     | ad. No. 3, 2006<br>rep No 158, 2018                                                |
| s 51IA .....         | ad. No. 3, 2006<br>rep No 158, 2018                                                |
| s 51IB.....          | ad. No. 3, 2006<br>rep No 158, 2018                                                |
| <b>Subdivision C</b> |                                                                                    |
| s. 51J .....         | ad. No. 119, 2000<br>rs No 158, 2018                                               |
| s. 51K.....          | ad. No. 119, 2000<br>am. No. 3, 2006<br>rs No 158, 2018                            |
| s 51L .....          | ad No 119, 2000<br>rs No 158, 2018                                                 |
| <b>Division 6</b>    |                                                                                    |
| s 51M.....           | ad No 119, 2000<br>rs No 158, 2018                                                 |
| s 51N.....           | ad No 119, 2000<br>rs No 158, 2018                                                 |
| s 51O.....           | ad No 119, 2000<br>rep No 158, 2018                                                |
| s 51P .....          | ad No 119, 2000<br>rs No 158, 2018                                                 |
| s. 51Q.....          | ad. No. 119, 2000<br>am. No. 3, 2006<br>rs No 158, 2018                            |
| s. 51R.....          | ad. No. 119, 2000<br>rs No 158, 2018                                               |
| s. 51S .....         | ad. No. 119, 2000<br>am. No. 141, 2001; No. 3, 2006; No 4, 2016<br>rs No 158, 2018 |

## Endnotes

### Endnote 4—Amendment history

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| Provision affected | How affected                                         |
|--------------------|------------------------------------------------------|
| Division 3A.....   | ad. No. 3, 2006<br>rep No 158, 2018                  |
| s 51SA.....        | ad. No. 3, 2006<br>rep No 158, 2018                  |
| s 51SB.....        | ad. No. 3, 2006<br>rep No 158, 2018                  |
| s 51SC.....        | ad. No. 3, 2006<br>rep No 158, 2018                  |
| s 51SD.....        | ad. No. 3, 2006<br>rep No 158, 2018                  |
| s 51SE.....        | ad. No. 3, 2006<br>rep No 158, 2018                  |
| s 51SF.....        | ad. No. 3, 2006<br>rep No 158, 2018                  |
| s 51SG.....        | ad. No. 3, 2006<br>rep No 158, 2018                  |
| s 51SH.....        | ad. No. 3, 2006<br>rep No 158, 2018                  |
| s 51SI.....        | ad. No. 3, 2006<br>rep No 158, 2018                  |
| s 51SJ.....        | ad. No. 3, 2006<br>rep No 158, 2018                  |
| s 51SK.....        | ad. No. 3, 2006<br>rep No 158, 2018                  |
| s 51SL.....        | ad. No. 3, 2006<br>rep No 158, 2018                  |
| s 51SM.....        | ad. No. 3, 2006<br>rep No 158, 2018                  |
| s 51SN.....        | ad. No. 3, 2006<br>am No 4, 2016<br>rep No 158, 2018 |

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## Endnote 4—Amendment history

| Provision affected         | How affected                                                          |
|----------------------------|-----------------------------------------------------------------------|
| s 51SO.....                | ad. No. 3, 2006<br>rep No 158, 2018                                   |
| s 51SP .....               | ad. No. 3, 2006<br>rep No 158, 2018                                   |
| s 51SQ.....                | ad. No. 3, 2006<br>rep No 158, 2018                                   |
| Division 3B.....           | ad. No. 3, 2006<br>rep No 158, 2018                                   |
| s 51SR.....                | ad. No. 3, 2006<br>rep No 158, 2018                                   |
| s 51SS .....               | ad. No. 3, 2006<br>rep No 158, 2018                                   |
| s 51ST .....               | ad. No. 3, 2006<br>rep No 158, 2018                                   |
| <b>Division 7</b>          |                                                                       |
| s. 51T .....               | ad. No. 119, 2000<br>am. No. 3, 2006; No. 19, 2011<br>rs No 158, 2018 |
| s. 51U.....                | ad. No. 119, 2000<br>am. No. 3, 2006<br>rs No 158, 2018               |
| Subdivision B heading..... | rs. No. 3, 2006<br>rep No 158, 2018                                   |
| s. 51V.....                | ad. No. 119, 2000<br>am. No. 3, 2006<br>rs No 158, 2018               |
| s. 51W.....                | ad. No. 119, 2000<br>am. No. 3, 2006<br>rs No 158, 2018               |
| Division 4A.....           | ad. No. 3, 2006<br>rep No 158, 2018                                   |

## Endnotes

### Endnote 4—Amendment history

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| Provision affected       | How affected                                                                                                                                                   |
|--------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| s 51WA .....             | ad. No. 3, 2006<br>rep No 158, 2018                                                                                                                            |
| s 51WB .....             | ad. No. 3, 2006<br>rep No 158, 2018                                                                                                                            |
| <b>Division 8</b>        |                                                                                                                                                                |
| <b>Subdivision A</b>     |                                                                                                                                                                |
| s. 51X.....              | ad. No. 119, 2000<br>am. No. 3, 2006<br>rs No 158, 2018                                                                                                        |
| s. 51XA.....             | ad. No. 119, 2000<br>am. No. 3, 2006<br>rep No 158, 2018                                                                                                       |
| s. 51XB.....             | ad. No. 3, 2006<br>rep No 158, 2018                                                                                                                            |
| <b>Subdivision B</b>     |                                                                                                                                                                |
| s. 51Y.....              | ad. No. 119, 2000<br>rs No 158, 2018                                                                                                                           |
| s 51Z .....              | ad No 158, 2018                                                                                                                                                |
| <b>Subdivision C</b>     |                                                                                                                                                                |
| s 51ZA .....             | ad No 158, 2018                                                                                                                                                |
| s 51ZB.....              | ad No 158, 2018                                                                                                                                                |
| s 51ZC.....              | ad No 158, 2018                                                                                                                                                |
| s 51ZD .....             | ad No 158, 2018                                                                                                                                                |
| <b>Part IIIAA</b>        |                                                                                                                                                                |
| Part IIIAA heading ..... | am. No. 95, 1993<br>rs No 120, 2015                                                                                                                            |
| Part IIIAA .....         | ad. No. 67, 1988                                                                                                                                               |
| s. 52.....               | rep. No. 92, 1964<br>ad. No. 67, 1988<br>am. No. 92, 1992; No. 95, 1993; No. 10, 2001; No. 51, 2002;<br>No. 58, 2004; No. 121, 2005; No 10, 2015; No 164, 2015 |

## Endnote 4—Amendment history

| Provision affected      | How affected                                                                                               |
|-------------------------|------------------------------------------------------------------------------------------------------------|
| s 52A.....              | ad No 120, 2015                                                                                            |
| s 52B.....              | ad No 120, 2015                                                                                            |
| s. 53.....              | am. No. 74, 1939<br>rep. No. 92, 1964<br>ad. No. 187, 1997<br>am. No. 58, 2011; No 164, 2015               |
| s. 54.....              | rep. No. 30, 1910<br>ad. No. 92, 1964<br>am. No. 96, 1975<br>rep. No. 153, 1982                            |
| s. 54A.....             | ad. No. 15, 1909<br>rs. No. 36, 1917<br>rep. No. 92, 1964                                                  |
| s. 55.....              | am. No. 3, 1915<br>rs. No. 36, 1917<br>am. No. 93, 1966; No. 96, 1975; No. 132, 1979<br>rep. No. 153, 1982 |
| s. 56.....              | rep. No. 30, 1910                                                                                          |
| s. 57.....              | am. No. 30, 1910; No. 36, 1917; No. 96, 1975<br>rep. No. 178, 1981                                         |
| s. 58.....              | am. No. 74, 1939; No. 216, 1973; No. 96, 1975; No. 4, 1977<br>rep. No. 153, 1982                           |
| <b>Part IIIA</b>        |                                                                                                            |
| Part IIIA.....          | ad. No. 132, 1979                                                                                          |
| <b>Division 1</b>       |                                                                                                            |
| Division 1 heading..... | ad. No. 164, 1984                                                                                          |
| s. 58A.....             | ad. No. 132, 1979<br>am. No. 164, 1984; No. 104, 1988; No. 135, 2003; No 164, 2015                         |
| s 58B.....              | ad No 132, 1979                                                                                            |

## Endnotes

### Endnote 4—Amendment history

| Provision affected   | How affected                                                                                                                                                    |
|----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                      | 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                                                                                                                                  |
|                      | 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                                                                                                                                                 |
| <b>Division 2</b>    |                                                                                                                                                                 |
| 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                                                                                                                                                |

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| Provision affected    | How affected                                                                                   |
|-----------------------|------------------------------------------------------------------------------------------------|
|                       | 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                                                                              |
|                       | am. No. 108, 1990; No. 109, 1993; No. 127, 2002; No. 54, 2009;<br>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                                                   |
| <b>Division 3</b>     |                                                                                                |
| 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                                                                               |
| <b>Part IV</b>        |                                                                                                |
| Part IV heading ..... | am. No. 15, 1909                                                                               |

## Endnotes

### Endnote 4—Amendment history

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| Provision affected      | How affected                                                                             |
|-------------------------|------------------------------------------------------------------------------------------|
| Part IV.....            | rs. No. 51, 1965                                                                         |
| <b>Division 1</b>       |                                                                                          |
| Division 1 heading..... | ad. No. 91, 1992                                                                         |
| s. 59.....              | am. No. 15, 1909                                                                         |
|                         | rs. No. 51, 1965                                                                         |
|                         | 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;<br>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                                                                         |
| <b>Division 2</b>       |                                                                                          |
| Division 2 .....        | ad. No. 91, 1992                                                                         |
| ss. 61CA–61CE .....     | ad. No. 91, 1992                                                                         |
| <b>Division 3</b>       |                                                                                          |
| Division 3 .....        | ad. No. 91, 1992                                                                         |
| ss. 61CF–61CN.....      | ad. No. 91, 1992                                                                         |

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| Provision affected | How affected                                           |
|--------------------|--------------------------------------------------------|
| s. 61CO .....      | ad. No. 91, 1992<br>am. No. 46, 2011                   |
| <b>Division 4</b>  |                                                        |
| Division 4 .....   | ad. No. 91, 1992                                       |
| s 61CP .....       | ad. No. 91, 1992                                       |
| 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<br>am No 106, 2015                    |
| s 61CV .....       | ad. No. 91, 1992                                       |
| s 61C .....        | ad. No. 91, 1992                                       |
| s. 61CX .....      | ad. No. 91, 1992<br>am. No. 121, 2005                  |
| s 61CY .....       | ad. No. 91, 1992<br>rs. No. 141, 2001<br>am No 4, 2016 |
| s 61CZ .....       | ad No 91, 1992<br>rs No 141, 2001<br>am No 4, 2016     |
| s. 61CZA .....     | ad. No. 91, 1992                                       |
| <b>Division 5</b>  |                                                        |
| Division 5 .....   | ad. No. 91, 1992                                       |
| s 61CZB .....      | ad No 91, 1992<br>am No 39, 2024                       |
| s 61CZC .....      | ad No 91, 1992<br>am No 39, 2024                       |
| s 61CZD .....      | ad No 91, 1992<br>am No 95, 1993; No 39, 2024          |
| s 61CZE .....      | ad No 91, 1992                                         |

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### Endnote 4—Amendment history

| Provision affected | How affected                                                                                                                                         |
|--------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|
|                    | am No 39, 2024                                                                                                                                       |
| <b>Part V</b>      |                                                                                                                                                      |
| 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                                                                                                                                      |
|                    | 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                                                                                                                                      |
| <b>Part VI</b>     |                                                                                                                                                      |
| 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                                                                                                                                    |

## Endnote 4—Amendment history

| Provision affected   | How affected                                                                           |
|----------------------|----------------------------------------------------------------------------------------|
| s. 70.....           | am. No. 74, 1939; No. 80, 1950; No 5, 2015                                             |
| <b>Part VIA</b>      |                                                                                        |
| Part VIA.....        | ad. No. 19, 2011                                                                       |
| <b>Division 1</b>    |                                                                                        |
| s 71.....            | rep No 96, 1975<br>ad No 19, 2011                                                      |
| s 71A.....           | ad No 19, 2011<br>am No 95, 2014; No 25, 2018; No 156, 2018; No 158, 2018              |
| <b>Division 2</b>    |                                                                                        |
| ss. 71B–71G.....     | ad. No. 19, 2011                                                                       |
| <b>Division 3</b>    |                                                                                        |
| <b>Subdivision A</b> |                                                                                        |
| s. 71H.....          | ad. No. 19, 2011                                                                       |
| ss. 71J, 71K.....    | ad. No. 19, 2011                                                                       |
| <b>Subdivision B</b> |                                                                                        |
| ss. 71L–71N.....     | ad. No. 19, 2011                                                                       |
| s. 71P.....          | ad. No. 19, 2011                                                                       |
| <b>Subdivision C</b> |                                                                                        |
| s. 71Q.....          | ad. No. 19, 2011                                                                       |
| <b>Division 4</b>    |                                                                                        |
| ss. 71R–71Z.....     | ad. No. 19, 2011                                                                       |
| <b>Division 5</b>    |                                                                                        |
| s. 72.....           | am. No. 15, 1909; No. 93, 1966; No. 132, 1979<br>rep. No. 96, 1975<br>ad. No. 19, 2011 |
| <b>Division 6</b>    |                                                                                        |
| ss. 72A–72H.....     | ad. No. 19, 2011                                                                       |
| ss. 72J–72N.....     | ad. No. 19, 2011                                                                       |
| <b>Division 7</b>    |                                                                                        |
| s. 72P.....          | ad. No. 19, 2011                                                                       |
| s. 72Q.....          | ad. No. 19, 2011                                                                       |

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### Endnote 4—Amendment history

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| Provision affected | How affected                                               |
|--------------------|------------------------------------------------------------|
|                    | am No. 197, 2012                                           |
| s. 72R.....        | ad. No. 19, 2011                                           |
| s. 72S .....       | ad. No. 19, 2011                                           |
| <b>Part VIB</b>    |                                                            |
| 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                                             |
| 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                                             |
|                    | am No 39, 2024                                             |
| 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                                         |
| <b>Part VII</b>    |                                                            |
| s. 73A.....        | ad. No. 36, 1917                                           |
|                    | am. No. 74, 1939; No. 96, 1975; No. 4, 1977; No. 146, 1999 |
|                    | rs. No. 141, 2001                                          |

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| Provision affected | How affected                                                                                 |
|--------------------|----------------------------------------------------------------------------------------------|
|                    | 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                                                                           |
| 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;<br>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                                                                             |

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### Endnote 4—Amendment history

| Provision affected | How affected                                                                                                                                                                              |
|--------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                    | 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;<br>No. 93, 1966; No. 216, 1973; No. 96, 1975; No. 4, 1977; Nos. 132<br>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;<br>No. 141, 2001; No. 135, 2003; No 4, 2016                                                                                  |
| s. 80B.....        | ad. No. 36, 1917                                                                                                                                                                          |
|                    | rs. No. 51, 1965                                                                                                                                                                          |
|                    | 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<br>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;<br>No. 96, 1975; Nos. 132 and 155, 1979; No. 70, 1980; No. 141,<br>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;<br>No. 132, 1979; No. 164, 1984; No. 104, 1988; No. 141, 2001; No<br>4, 2016; No 61, 2016                                     |
| s. 84.....         | am. No. 93, 1966; No. 132, 1979; No. 104, 1988; No. 141, 2001;<br>No 61, 2016                                                                                                             |
| s. 85.....         | am. No. 47, 1918; No. 93, 1966                                                                                                                                                            |
|                    | rs. No. 96, 1975                                                                                                                                                                          |
|                    | rep. No. 65, 1987                                                                                                                                                                         |

## Endnote 4—Amendment history

| Provision affected       | How affected                                                                                                                                   |
|--------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Part VIII</b>         |                                                                                                                                                |
| Part VIII.....           | rs. No. 153, 1982                                                                                                                              |
| s. 86.....               | am. No. 36, 1917; No. 74, 1939; No. 96, 1975; No 61, 2016<br>rs. No. 153, 1982; No. 141, 2001<br>am No 4, 2016                                 |
| s. 87.....               | am. Nos. 13 and 74, 1939; No. 132, 1979; No. 178, 1981<br>rs. No. 153, 1982<br>rep. No. 39, 1983                                               |
| s. 88.....               | rs. No. 36, 1917<br>am. No. 74, 1939<br>rs. No. 72, 1956<br>am. No. 96, 1975<br>rs. No. 153, 1982; No. 141, 2001<br>am No 4, 2016; No 61, 2016 |
| s. 89.....               | rs. No. 153, 1982<br>am. No. 141, 2001; No. 159, 2006; No. 91, 2009; No 106, 2015;<br>No 61, 2016                                              |
| s. 90.....               | rs. No. 36, 1917<br>am. No. 74, 1939; No. 96, 1975<br>rs. No. 153, 1982; No. 141, 2001<br>am No 4, 2016; No 61, 2016                           |
| <b>Part VIIIA</b>        |                                                                                                                                                |
| Part VIIIA heading ..... | rs. No. 26, 2005                                                                                                                               |
| Part VIIIA .....         | ad. No. 116, 1999                                                                                                                              |
| <b>Division 1</b>        |                                                                                                                                                |
| s. 91.....               | am. No. 36, 1917; No. 93, 1966; No. 216, 1973; Nos. 19 and 132,<br>1979<br>rep. No. 153, 1982<br>ad. No. 116, 1999<br>rs. No. 26, 2005         |
| s. 92.....               | rs. No. 36, 1917                                                                                                                               |

## Endnotes

### Endnote 4—Amendment history

| Provision affected      | How affected                                               |
|-------------------------|------------------------------------------------------------|
|                         | 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                                             |
| <b>Division 2</b>       |                                                            |
| Division 2 heading..... | rs. No. 26, 2005                                           |
| s. 94.....              | rep. No. 153, 1982                                         |
|                         | 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                                          |
| <b>Division 3</b>       |                                                            |
| s 98.....               | am. No. 74, 1939; No. 96, 1975                             |
|                         | rep. No. 153, 1982                                         |

## Endnote 4—Amendment history

| Provision affected | How affected                                  |
|--------------------|-----------------------------------------------|
|                    | 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                             |
|                    | 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                            |

## Endnotes

### Endnote 4—Amendment history

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| Provision affected | How affected                                                                                             |
|--------------------|----------------------------------------------------------------------------------------------------------|
|                    | ad. No. 116, 1999                                                                                        |
|                    | rep. No. 26, 2005                                                                                        |
| <b>Division 4</b>  |                                                                                                          |
| 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;<br>No. 92, 1964; No. 93, 1966; No. 132, 1979 |
|                    | 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;<br>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,<br>1973                                   |
|                    | rep. No. 96, 1975                                                                                        |
|                    | ad. No. 26, 2005                                                                                         |
| s. 110A.....       | ad. No. 47, 1918                                                                                         |
|                    | am. No. 74, 1939                                                                                         |
|                    | rep. No. 153, 1982                                                                                       |

## Endnote 4—Amendment history

| Provision affected  | How affected      |
|---------------------|-------------------|
| <b>Part VIIIB</b>   |                   |
| Part VIIIB .....    | ad. No. 142, 2005 |
| <b>Division 1</b>   |                   |
| 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    |
| <b>Division 2</b>   |                   |
| 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   |
| <b>Division 3</b>   |                   |
| s 110Q .....        | ad No 142, 2005   |
| s 110R .....        | ad No 142, 2005   |
|                     | rs No 46, 2015    |
| s 110S .....        | ad No 142, 2005   |
| <b>Part VIIIC</b>   |                   |
| Part VIIIC .....    | ad. No. 95, 2010  |
| <b>Division 1</b>   |                   |
| s. 110T .....       | ad. No. 95, 2010  |
|                     | am No 106, 2015   |

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### Endnote 4—Amendment history

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| Provision affected    | How affected                |
|-----------------------|-----------------------------|
| <b>Division 2</b>     |                             |
| s. 110U.....          | ad. No. 95, 2010            |
| ss. 110UA, 110UB..... | ad. No. 95, 2010            |
| <b>Division 3</b>     |                             |
| s. 110V.....          | ad. No. 95, 2010            |
| ss. 110VA–110VC.....  | ad. No. 95, 2010            |
| <b>Division 4</b>     |                             |
| s. 110W.....          | ad. No. 95, 2010            |
| <b>Division 5</b>     |                             |
| 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; No 39, 2024 |
| 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             |
| <b>Division 6</b>     |                             |
| 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            |
| <b>Division 7</b>     |                             |
| s. 110Z.....          | ad. No. 95, 2010            |
| <b>Part VIIID</b>     |                             |
| s 110ZA.....          | ad No 106, 2015             |
| s 110ZB.....          | ad No 106, 2015             |

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| Provision affected   | How affected    |
|----------------------|-----------------|
|                      | am No 125, 2017 |
| s 110ZC.....         | ad No 106, 2015 |
| s 110ZD .....        | ad No 106, 2015 |
| <b>Part VIIIE</b>    |                 |
| Part VIIIE .....     | ad No 17, 2025  |
| <b>Division 1</b>    |                 |
| s 110ZEA.....        | ad No 17, 2025  |
| s 110ZEB.....        | ad No 17, 2025  |
| s 110ZEC .....       | ad No 17, 2025  |
| s 110ZED.....        | ad No 17, 2025  |
| s 110ZEE .....       | ad No 17, 2025  |
| <b>Division 2</b>    |                 |
| s 110ZFA.....        | ad No 17, 2025  |
| s 110ZFB .....       | ad No 17, 2025  |
| s 110ZFC .....       | ad No 17, 2025  |
| s 110ZFD.....        | ad No 17, 2025  |
| s 110ZFE.....        | ad No 17, 2025  |
| s 110ZFF.....        | ad No 17, 2025  |
| s 110ZFG .....       | ad No 17, 2025  |
| <b>Division 3</b>    |                 |
| <b>Subdivision A</b> |                 |
| s 110ZGA .....       | ad No 17, 2025  |
| <b>Subdivision B</b> |                 |
| s 110ZGB.....        | ad No 17, 2025  |
| s 110ZGC.....        | ad No 17, 2025  |
| s 110ZGD .....       | ad No 17, 2025  |
| s 110ZGE.....        | ad No 17, 2025  |
| s 110ZGF .....       | ad No 17, 2025  |
| s 110ZGG .....       | ad No 17, 2025  |
| s 110ZGH .....       | ad No 17, 2025  |
| s 110ZGJ.....        | ad No 17, 2025  |

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### Endnote 4—Amendment history

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| Provision affected   | How affected   |
|----------------------|----------------|
| s 110ZGK .....       | ad No 17, 2025 |
| s 110ZGL .....       | ad No 17, 2025 |
| s 110ZGM .....       | ad No 17, 2025 |
| s 110ZGN .....       | ad No 17, 2025 |
| s 110ZGP .....       | ad No 17, 2025 |
| s 110ZGQ .....       | ad No 17, 2025 |
| s 110ZGR .....       | ad No 17, 2025 |
| <b>Division 4</b>    |                |
| <b>Subdivision A</b> |                |
| s 110ZHA .....       | ad No 17, 2025 |
| s 110ZHB .....       | ad No 17, 2025 |
| s 110ZHC .....       | ad No 17, 2025 |
| s 110ZHD .....       | ad No 17, 2025 |
| s 110ZHE .....       | ad No 17, 2025 |
| s 110ZHF .....       | ad No 17, 2025 |
| <b>Subdivision B</b> |                |
| s 110ZHG .....       | ad No 17, 2025 |
| s 110ZHJ .....       | ad No 17, 2025 |
| <b>Subdivision C</b> |                |
| s 110ZHK .....       | ad No 17, 2025 |
| s 110ZHL .....       | ad No 17, 2025 |
| s 110ZHM .....       | ad No 17, 2025 |
| s 110ZHN .....       | ad No 17, 2025 |
| s 110ZHP .....       | ad No 17, 2025 |
| s 110ZHQ .....       | ad No 17, 2025 |
| <b>Division 5</b>    |                |
| s 110ZJA .....       | ad No 17, 2025 |
| s 110ZJB .....       | ad No 17, 2025 |
| s 110ZJC .....       | ad No 17, 2025 |
| s 110ZJD .....       | ad No 17, 2025 |
| s 110ZJE .....       | ad No 17, 2025 |

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| Provision affected | How affected                                                                                                                           |
|--------------------|----------------------------------------------------------------------------------------------------------------------------------------|
| s 110ZJF .....     | ad No 17, 2025                                                                                                                         |
| s 110ZJK.....      | ad No 17, 2025                                                                                                                         |
| s 110ZJL .....     | ad No 17, 2025                                                                                                                         |
| <b>Division 6</b>  |                                                                                                                                        |
| s 110ZKA .....     | ad No 17, 2025                                                                                                                         |
| s 110ZKB.....      | ad No 17, 2025                                                                                                                         |
| s 110ZKC.....      | ad No 17, 2025                                                                                                                         |
| s 110ZKD .....     | ad No 17, 2025                                                                                                                         |
| s 110ZKE.....      | ad No 17, 2025                                                                                                                         |
| s 110ZKF .....     | ad No 17, 2025                                                                                                                         |
| <b>Division 7</b>  |                                                                                                                                        |
| s 110ZLA.....      | ad No 17, 2025                                                                                                                         |
| s 110ZLB.....      | ad No 17, 2025                                                                                                                         |
| s 110ZLC .....     | ad No 17, 2025                                                                                                                         |
| s 110ZLD.....      | ad No 17, 2025                                                                                                                         |
| s 110ZLE .....     | ad No 17, 2025                                                                                                                         |
| <b>Part IX</b>     |                                                                                                                                        |
| s. 111.....        | am. No. 12, 1904; No. 36, 1917; No. 74, 1939; No. 71, 1949;<br>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,<br>1951; No. 216, 1973; No. 96, 1975; No. 61, 1981<br>rep. No. 153, 1982 |
| s. 113.....        | am. No. 36, 1917; No. 74, 1939; No. 92, 1964; No. 96, 1975;<br>No. 61, 1981<br>rep. No. 153, 1982                                      |
| s. 114.....        | am. No. 5, 1912<br>rs. No. 36, 1917<br>am. No. 216, 1973; No. 96, 1975; No. 155, 1979; No. 70, 1980<br>rep. No. 153, 1982              |
| ss. 115, 116.....  | am. No. 36, 1917; No. 74, 1939; No. 216, 1973                                                                                          |

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### Endnote 4—Amendment history

| Provision affected | How affected       |
|--------------------|--------------------|
|                    | rep. No. 153, 1982 |
| <b>Part IXAA</b>   |                    |
| Part IXAA.....     | ad No 20, 2024     |
| <b>Division 1</b>  |                    |
| s 112.....         | ad No 20, 2024     |
| s 113.....         | ad No 20, 2024     |
| s 114.....         | ad No 20, 2024     |
| s 115.....         | ad No 20, 2024     |
| <b>Division 2</b>  |                    |
| s 115A.....        | ad No 20, 2024     |
| <b>Division 3</b>  |                    |
| s 115B.....        | ad No 20, 2024     |
| <b>Division 4</b>  |                    |
| s 115C.....        | ad No 20, 2024     |
| s 115D.....        | ad No 20, 2024     |
| s 115E.....        | ad No 20, 2024     |
| s 115F.....        | ad No 20, 2024     |
| s 115G.....        | ad No 20, 2024     |
| s 115H.....        | ad No 20, 2024     |
| s 115J.....        | ad No 20, 2024     |
| s 115K.....        | ad No 20, 2024     |
| s 115L.....        | ad No 20, 2024     |
|                    | am No 14, 2025     |
| s 115M.....        | ad No 20, 2024     |
| <b>Division 5</b>  |                    |
| s 115N.....        | ad No 20, 2024     |
| s 115P.....        | ad No 20, 2024     |
| <b>Part IXA</b>    |                    |
| Part IXA.....      | ad. No. 178, 1981  |
| <b>Division 1</b>  |                    |
| s 116A.....        | ad. No. 178, 1981  |

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| Provision affected   | How affected                                                                                                               |
|----------------------|----------------------------------------------------------------------------------------------------------------------------|
|                      | am No 5, 2015                                                                                                              |
| <b>Division 2</b>    |                                                                                                                            |
| s 116B .....         | ad. No. 178, 1981<br>am No 1, 1997; No 5, 2015; No 164, 2015                                                               |
| s 116C .....         | ad. No. 178, 1981<br>am No. 164, 1984; No. 95, 1993; No. 1, 1997; No. 159, 2006;<br>No. 91, 2009; No 5, 2015; No 164, 2015 |
| s 116D .....         | ad. No. 178, 1981<br>am No. 39, 1983; No. 164, 1984; No 5, 2015                                                            |
| <b>Division 3</b>    |                                                                                                                            |
| s. 116E .....        | ad. No. 178, 1981<br>am. No. 1, 1997; No 5, 2015; No 164, 2015                                                             |
| s 116F .....         | ad No 178, 1981<br>am No 5, 2015                                                                                           |
| s 116G .....         | ad No 178, 1981<br>am No 5, 2015                                                                                           |
| s 116H .....         | ad No 178, 1981<br>am No 5, 2015                                                                                           |
| s 116J .....         | ad No 178, 1981<br>ed C70                                                                                                  |
| s 116K .....         | ad No 178, 1981<br>am No 5, 2015                                                                                           |
| <b>Division 4</b>    |                                                                                                                            |
| s 116M .....         | ad No 178, 1981<br>am No 1, 1997; No 5, 2015; No 164, 2015<br>ed C70                                                       |
| s. 116N .....        | ad. No. 178, 1981<br>rep. No. 121, 2005                                                                                    |
| <b>Part IXB</b>      |                                                                                                                            |
| Part IXB .....       | ad. No. 178, 1981                                                                                                          |
| ss. 116P, 116Q ..... | ad. No. 178, 1981                                                                                                          |

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### Endnote 4—Amendment history

| Provision affected | How affected                                                                           |
|--------------------|----------------------------------------------------------------------------------------|
| s 116R .....       | ad. No. 178, 1981<br>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<br>ed C70                                                              |
| s 116U .....       | ad No 178, 1981<br>am No 5, 2015; No 4, 2016; No 61, 2016                              |
| s 116V .....       | ad No 178, 1981<br>am No 5, 2015                                                       |
| s. 116W .....      | ad. No. 178, 1981<br>am. No. 141, 2001; No 5, 2015; No 4, 2016; No 61, 2016            |
| s 116X .....       | ad. No. 178, 1981<br>am No 5, 2015                                                     |
| s. 116Y .....      | ad. No. 178, 1981<br>rs. No. 141, 2001<br>am No 4, 2016; No 61, 2016                   |
| s. 116Z .....      | ad. No. 178, 1981<br>rep. No. 137, 2000                                                |
| s. 116ZA .....     | ad. No. 178, 1981<br>am. No. 65, 1985                                                  |
| s 116ZB .....      | ad No 178, 1981<br>am No 61, 2016                                                      |
| s 116ZC .....      | ad No 178, 1981                                                                        |
| s 116ZCA .....     | ad No 125, 2017                                                                        |
| s 116ZD .....      | ad No 178, 1981<br>am No 99, 1988; No 121, 2005; No 5, 2015; No 61, 2016; No 125, 2017 |
| <b>Part IXC</b>    |                                                                                        |
| Part IXC .....     | ad. No. 104, 1988 (as am. by No. 41, 1989)                                             |
| s. 117 .....       | am. No. 96, 1975; No. 4, 1977<br>rep. No. 153, 1982                                    |

## Endnote 4—Amendment history

| Provision affected    | How affected                                                    |
|-----------------------|-----------------------------------------------------------------|
|                       | 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)                      |
| <b>Part IXD</b>       |                                                                 |
| 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                                                 |
| <b>Part X</b>         |                                                                 |
| 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                                                |
|                       | 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                  |

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### Endnote 4—Amendment history

| Provision affected | How affected                                                                                                                                                                                |
|--------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 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))                                                                                                                                                                  |
|                    | 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                                                                                                                                                                             |

## Endnote 4—Amendment history

| Provision affected | How affected                                                                                                                                                                  |
|--------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| s. 123A.....       | ad. No. 15, 1909<br>am. No. 74, 1939<br>rs. No. 59, 1951; No. 51, 1965<br>am. No. 216, 1973; No. 96, 1975<br>rs. No. 165, 1984<br>am. No. 65, 1985; No. 1, 1997; No 164, 2015 |
| s. 123AA.....      | ad. No. 5, 1912<br>rs. No. 59, 1951<br>am. No. 93, 1966; No. 96, 1975; No. 132, 1979<br>rs. No. 141, 2001<br>am. No. 135, 2003; No 4, 2016<br>rep No 164, 2015                |
| s. 123B.....       | ad. No. 15, 1909<br>am No 216, 1973; No 5, 2015                                                                                                                               |
| s. 123BA.....      | ad. No. 92, 1964<br>am. No. 96, 1975<br>rep. No. 65, 1987                                                                                                                     |
| s. 123BB.....      | ad. No. 92, 1964<br>am. No. 96, 1975<br>rep. No. 153, 1982                                                                                                                    |
| s. 123BC.....      | ad. No. 92, 1964<br>rep. No. 153, 1982                                                                                                                                        |
| s. 123C.....       | ad. No. 15, 1909<br>rep. No. 216, 1973                                                                                                                                        |
| s. 123D.....       | ad. No. 37, 1910<br>rep. No. 59, 1951                                                                                                                                         |
| s. 123E.....       | ad. No. 37, 1910<br>am. No. 74, 1939; No. 216, 1973<br>rep. No. 132, 1979                                                                                                     |
| s. 123F.....       | ad. No. 59, 1951<br>rs. No. 96, 1975                                                                                                                                          |

## Endnotes

### Endnote 4—Amendment history

| Provision affected    | How affected                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                       | 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                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>Part XI</b>        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 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; No 19, 1951; No 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); No 61, 1981; No 178, 1981; No 153, 1982; No 39, 1983; No 164, 1984; No 165, 1984; No 65, 1985; No 193, 1985; No 163, 1986; No 146, 1999; No 10, 2001; No 135, 2003; No 121, 2005; No 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; No 115, 2024 |
| 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                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|                       | 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                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |

## Endnote 4—Amendment history

| Provision affected | How affected                                              |
|--------------------|-----------------------------------------------------------|
|                    | 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                                         |
| 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                                         |

## Endnotes

### Endnote 4—Amendment history

| Provision affected | How affected                                                                                                                                                 |
|--------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------|
| s. 133.....        | ad. No. 15, 1909<br>rep. No. 19, 1951<br>ad. No. 92, 1964<br>rep. No. 51, 1965                                                                               |
| s. 134.....        | ad. No. 15, 1909<br>am. No. 15, 1911; No. 3, 1915; No. 36, 1917; No. 16, 1918;<br>No. 74, 1939<br>rep. No. 19, 1951<br>ad. No. 92, 1964<br>rep. No. 51, 1965 |
| s. 135.....        | ad. No. 15, 1909<br>am. No. 15, 1911; No. 5, 1912; No. 36, 1914; No. 47, 1918<br>rep. No. 19, 1951<br>ad. No. 92, 1964<br>rep. No. 51, 1965                  |
| s. 135A.....       | ad. No. 36, 1914<br>rep. No. 19, 1951                                                                                                                        |
| s. 135B.....       | ad. No. 36, 1914<br>rs. No. 47, 1918<br>rep. No. 19, 1951                                                                                                    |
| s. 135C.....       | ad. No. 36, 1914<br>rep. No. 19, 1951                                                                                                                        |
| s. 136.....        | ad. No. 15, 1909<br>rep. No. 19, 1951<br>ad. No. 92, 1964<br>rep. No. 51, 1965                                                                               |
| s. 137.....        | ad. No. 15, 1909<br>am. No. 74, 1939<br>rep. No. 19, 1951                                                                                                    |
| Part XIII.....     | ad. No. 15, 1909<br>rep. No. 19, 1951                                                                                                                        |

## Endnote 4—Amendment history

| Provision affected    | How affected                                                                                                         |
|-----------------------|----------------------------------------------------------------------------------------------------------------------|
| s. 138.....           | ad. No. 15, 1909<br>am. No. 37, 1910; No. 36, 1914; No. 36, 1917; No. 47, 1918;<br>No. 74, 1939<br>rep. No. 19, 1951 |
| s. 139.....           | ad. No. 15, 1909<br>rep. No. 19, 1951                                                                                |
| s. 140.....           | ad. No. 15, 1909<br>am. No. 37, 1910<br>rep. No. 36, 1914<br>ad. No. 36, 1917<br>rep. No. 19, 1951                   |
| s. 140A.....          | ad. No. 37, 1910<br>rep. No. 36, 1914                                                                                |
| s. 141.....           | ad. No. 15, 1909<br>rep. No. 19, 1951                                                                                |
| Part XIV heading..... | am. No. 74, 1939<br>rep. No. 19, 1951                                                                                |
| Part XIV.....         | ad. No. 15, 1909<br>rep. No. 19, 1951                                                                                |
| s. 142.....           | ad. No. 15, 1909<br>am. No. 15, 1911; No. 5, 1912; No. 36, 1914; No. 47, 1918;<br>No. 45, 1934<br>rep. No. 19, 1951  |
| s. 142A.....          | ad. No. 47, 1918<br>am. No. 74, 1939<br>rep. No. 19, 1951                                                            |
| s. 143.....           | ad. No. 15, 1909<br>am. No. 74, 1939<br>rep. No. 19, 1951                                                            |
| ss. 144, 145.....     | ad. No. 15, 1909<br>rep. No. 19, 1951                                                                                |

## Endnotes

### Endnote 4—Amendment history

| Provision affected          | How affected                                                                                                                                      |
|-----------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------|
| s. 146.....                 | ad. No. 15, 1909<br>rs. No. 5, 1912; No. 47, 1918<br>rep. No. 19, 1951                                                                            |
| Part XV.....                | ad. No. 15, 1909<br>rep. No. 65, 1987                                                                                                             |
| s. 147.....                 | ad. No. 15, 1909<br>rs. No. 37, 1910<br>am. No. 92, 1964; No. 96, 1975<br>rep. No. 65, 1987                                                       |
| s. 147A.....                | ad. No. 37, 1910<br>rs. No. 92, 1964<br>am. No. 153, 1982; No. 65, 1985<br>rep. No. 65, 1987                                                      |
| s. 147B.....                | ad. No. 37, 1910<br>rep. No. 92, 1964                                                                                                             |
| s. 148.....                 | ad. No. 15, 1909<br>rs. No. 37, 1910<br>am. No. 36, 1917; No. 16, 1918; No. 45, 1934<br>rs. No. 71, 1949<br>am. No. 92, 1964<br>rep. No. 51, 1965 |
| s. 148A.....                | ad. No. 71, 1949<br>am. No. 132, 1979<br>rep. No. 65, 1985                                                                                        |
| ss. 149, 150.....           | ad. No. 15, 1909<br>rep. No. 37, 1910                                                                                                             |
| s. 151.....                 | ad. No. 15, 1909<br>rep. No. 96, 1975                                                                                                             |
| s. 152.....                 | ad. No. 15, 1909<br>rep. No. 37, 1910                                                                                                             |
| First Schedule heading..... | rep. No. 96, 1975                                                                                                                                 |

## Endnote 4—Amendment history

| Provision affected            | How affected       |
|-------------------------------|--------------------|
| <b>Schedule 1</b>             |                    |
| 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  |