



# Naval Defence Act 1910

## Act No. 30 of 1910 as amended

This compilation was prepared on 17 June 2004  
taking into account amendments up to Act No. 135 of 2003

The text of any of those amendments not in force  
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be  
affected by application provisions that are set out in the Notes section

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# An Act relating to Naval Defence

## Part I—Introductory

### 1 Short title [see Note 1]

This Act may be cited as the *Naval Defence Act 1910*.

### 3 Interpretation

In this Act, unless the contrary intention appears:

*member* means an officer or sailor.

*naval establishment* includes any naval college, naval instructional establishment, ship, vessel or boat used for services auxiliary to naval defence, and any dock, shipyard, foundry, machine shop, work, office, or establishment, used in connexion with naval defence.

*officer* means a person appointed as an officer of the Navy, and includes a subordinate officer.

*regulations* means regulations relating to the Navy, whether made under this Act or the Defence Act.

*sailor* means a member of the Navy not being an officer.

*subordinate officer* means a person who holds the rank in the Navy of Acting Sub-Lieutenant, Midshipman or Cadet Midshipman.

*the Defence Act* means the *Defence Act 1903*.

*time of defence emergency*, *time of war* and *war* have the same meanings respectively as in the Defence Act.

### 5A Extension of Act to Territories

This Act extends to every Territory.

Section 5B

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**5B 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.

**6 Act does not appropriate money**

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

## **Part III—The Australian Navy**

### **19 Australian Navy**

The Australian Navy consists of 2 parts:

- (a) the Permanent Navy; and
- (b) the Naval Reserve.

### **20 Permanent Navy**

The Permanent Navy consists of:

- (a) officers appointed to, and sailors enlisted in, the Permanent Navy; and
- (b) officers and sailors transferred to the Permanent Navy from:
  - (i) the Naval Reserve; or
  - (ii) the Australian Army; or
  - (iii) the Australian Air Force.

### **21 Naval Reserve**

The Naval Reserve consists of:

- (a) officers appointed to, and sailors enlisted in, the Naval Reserve; and
- (b) officers and sailors transferred to the Naval Reserve from:
  - (i) the Permanent Navy; or
  - (ii) the Australian Army; or
  - (iii) the Australian Air Force.

### **24 Voluntary entry**

Except as provided by Part IV of the Defence Act, the Navy shall be kept up by the appointment to the Navy, or the enlistment in the Navy, of persons who volunteer and are accepted for service in the Navy.

## Part IV—The service of the Navy

### 31 Service of the Permanent Navy

Members of the Permanent Navy are bound to render continuous full time naval service.

### 32A Service of the Naval Reserve

- (1) A member of the Naval Reserve is not bound to render continuous full time naval service otherwise than:
  - (a) as provided in this section; or
  - (b) as a result of a call out order under section 50D, 51A, 51B or 51C of the Defence Act.

- (2) The regulations must set, or provide for the setting of, training periods for the Naval Reserve.

Note: Different training periods may be set for different parts of the Naval Reserve or for different classes of members of the Naval Reserve: see subsection 33(3A) of the *Acts Interpretation Act 1901*.

- (2A) A member of the Naval Reserve is bound to render, in each training period, naval service (other than continuous full time naval service) for such periods as are set by or under the regulations. However, a member may be exempted by or under the regulations from the obligation to render all, or a specified part, of that service.

Note: Different service may be required of different parts of the Naval Reserve, or of different classes of members of the Naval Reserve, or in different periods: see subsection 33(3A) of the *Acts Interpretation Act 1901*.

- (2B) The regulations:
  - (a) may make provision for different periods of naval service with respect to different parts, or different classes of members, of the Australian Naval Reserve; and
  - (b) may make provision for exempting:
    - (i) a particular member of the Australian Naval Reserve; or
    - (ii) members within a specified class of members of the Australian Naval Reserve;



from the obligation to render, during a training period, the whole or part of the naval service that he or they would otherwise be bound to render during that period.

- (3) A member of the Naval Reserve may, at any time, voluntarily undertake to render continuous full time naval service for a period specified by him and, if that undertaking is accepted, he is bound to render that form of service for that specified period, or for such period or periods within that specified period, as the Chief of Navy directs.
- (4) A member of the Naval Reserve may at any time voluntarily undertake to render naval service, other than continuous full time naval service, for a period or periods specified by him, and, if that undertaking is accepted, the member is bound to render naval service in accordance with that undertaking or for such period or periods within that specified period, or within those specified periods, as the case may be, as the Chief of Navy directs.

### **33 Limits of service**

Members of the Navy may be required to serve either within or beyond the territorial limits of Australia.

## Part V—Cadets

### 38 Establishment and constitution of the Australian Navy Cadets

- (1) The body known immediately before the commencement of this subsection as the Naval Reserve Cadets is continued in existence with the new name, Australian Navy Cadets.
- (2) The Australian Navy Cadets consists of:
  - (a) persons appointed in accordance with the regulations to be officers in that body;
  - (b) persons appointed in accordance with the regulations to be instructors in that body; and
  - (c) subject to subsections (5) and (6), persons who volunteer, and are accepted, in accordance with the regulations as cadets in that body.
- (3) A person appointed to be an officer or instructor in the Australian Navy Cadets does not become a member of the Navy by virtue of that appointment.
- (4) A cadet is not a member of the Navy.
- (5) A person is not entitled to volunteer, or to be accepted, as a cadet unless he:
  - (a) has attained such age as is prescribed; and
  - (b) has not attained the age of 18 years.
- (6) A person ceases to be a cadet when he attains the age of 19 years.
- (7) The regulations may make provision for or in relation to the organization, maintenance, regulation, control and discipline of the Australian Navy Cadets and, in particular, for and in relation to the periods and conditions of service of members, other than conditions of service with respect to which determinations under section 58B of the Defence Act may be made.
- (8) In subsection (7), *member* means an officer, instructor or cadet in the Australian Navy Cadets.

### **39 Administration of the Australian Navy Cadets**

Subject to the regulations, to any determinations in force under section 58B of the Defence Act and to the directions of the Minister, the Chief of Navy shall administer the Australian Navy Cadets.

## **Part VI—Special powers in relation to Naval ships, Naval establishments and civil employment**

### **40 Interpretation**

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

*authorized person* means a person appointed by the Minister in writing to be an authorized person for the purposes of this Part.

*Commonwealth authority* means a company or other body corporate incorporated under a law of the Commonwealth or of a State or Territory, being a company or body corporate in which the Commonwealth has a controlling interest.

*determination* means a determination made under section 42A.

*industrial award* means an award within the meaning of the *Workplace Relations Act 1996*.

### **42 Employment of persons in civil capacity**

The authorized person may, on behalf of the Commonwealth, engage persons for employment in a civil capacity (whether within or without Australia) in or in connexion with a naval establishment or otherwise in connexion with the Navy.

### **42A Determination of conditions of employment**

- (1) The authorized person may, by instrument in writing, determine the terms and conditions (including rates of pay and allowances) applicable to the employment of persons under section 42.
- (3) A determination takes effect from the date on which it is made or, if it is expressed to take effect from another date specified in the determination, from that other date.

Section 42C

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- (4) A determination:
- (b) shall not be expressed to take effect from a date before the date on which the determination is made in any case where, if it so took effect:
    - (i) the rights of a person (other than the Commonwealth) existing at the date on which it is made would be affected in a manner prejudicial to that person; or
    - (ii) liabilities would be imposed on a person (other than the Commonwealth) in respect of anything done or omitted to be done before the date on which it is made;and where, in a determination, provision is made in contravention of this subsection, that provision is void and of no effect.
- (5) A determination may make provision for or in relation to terms or conditions of employment by applying, adopting or incorporating, with or without modification:
- (a) the provisions of any Act, or of any regulations, as in force at a particular time or as in force from time to time; or
  - (b) any matter contained in any other instrument or writing as in force or existing at the time when the determination takes effect.
- (6) Determinations shall be deemed not to be Statutory Rules within the meaning of the *Statutory Rules Publication Act 1903*.
- (7) Nothing in this section affects the application of the *Workplace Relations Act 1996* in relation to persons employed under the last preceding section.

**42C Public Service Act not to apply**

- (1) Subject to the next succeeding subsection, the *Public Service Act 1999* does not apply to persons employed under section 42 of this Act.
- (2) Section 75 of the *Public Service Act 1999* applies in relation to a person employed under section 42 of this Act as if he were an APS employee, within the meaning of that Act, employed in the Department.

Section 42D

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**42D Transfer of persons where functions are to be performed by a Commonwealth authority**

- (1) Where the Minister certifies in writing that a function that has been performed by persons employed under section 42 is to be performed by a Commonwealth authority, the authorized person may, by writing published in the *Gazette*, declare that specified persons or classes of persons are in the employment of the Commonwealth authority.
- (2) A person specified in, or in a class of persons specified in, a declaration under subsection (1):
  - (a) on the day specified in the declaration for the purpose of this subsection, ceases to be employed under section 42; and
  - (b) from and including that day, is employed by the Commonwealth authority specified in the declaration.
- (3) For the purpose of facilitating a transfer of persons to the employment of a Commonwealth authority, the Commonwealth authority may, notwithstanding anything in any other law (other than an industrial award), determine special terms or conditions of employment that are to apply in relation to the persons (other than terms and conditions with respect to superannuation).

## Part VII—Miscellaneous

### 44B Delegation

- (3) The Chief of Navy may, by instrument in writing, delegate to an officer all or any of his powers under section 32A.
- (4) The authorized person may, by instrument in writing, delegate to a person all or any of his powers under Part VI.
- (5) A delegation under this section may be made either generally or otherwise as provided in the instrument of delegation.
- (6) A power delegated under this section shall, when exercised by the delegate, be deemed, for the purposes of this Act, to have been exercised by the person who made the delegation.
- (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.
- (7) A delegation under this section does not prevent the exercise of a power by 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 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.
- (10) In this section, ***authorized person*** has the same meaning as in section 40.

Section 44E

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**44E Intoxicating liquor not to be supplied to Australian Navy Cadets**

- (1) A person is guilty of an offence if:
- (a) the person sells or supplies intoxicating liquor to another person; and
  - (b) the person is a member of the Australian Navy Cadets, is under such age as is prescribed, and is in uniform.

Maximum penalty: \$40.

- (2) Subsection (1) does not apply if the liquor is sold or supplied by direction of a duly qualified medical practitioner.

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) An offence under subsection (1) is an offence of strict liability.

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

**45 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 Navy, or for carrying out or giving effect to this Act, and in particular prescribing matters for or in relation to:
- (a) the good government of naval establishments;
  - (b) the discipline of persons (not being defence members or defence civilians within the meaning of the *Defence Force Discipline Act 1982*) employed in or in connexion with naval establishments;
  - (c) the regulation and control of shipping in time of war or for the purposes of any naval operation or practice;
  - (d) the fixing of charter rates and establishment charges in respect of ships requisitioned for naval purposes; and
  - (e) the imposition of penalties, not exceeding a fine of \$2,000 or imprisonment for a period not exceeding 12 months, or both, for offences against the regulations.



- (3) The power to make regulations contained in this section is in addition to any power to make regulations contained in the Defence Act.



**Table of Acts****Notes to the *Naval Defence Act 1910*****Note 1**

The *Naval Defence Act 1910* as shown in this compilation comprises Act No. 30, 1910 amended as indicated in the Tables below.

All relevant information pertaining to application, saving or transitional provisions prior to 22 September 1999 is not included in this compilation. For subsequent information *see* Table A.

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Naval Defence Act 1910</i>	30, 1910	25 Nov 1910	25 Nov 1910	
<i>Naval Defence Act 1911</i>	16, 1911	22 Dec 1911	22 Dec 1911	—
<i>Naval Defence Act 1912</i>	21, 1912	24 Dec 1912	24 Dec 1912	—
<i>Naval Defence Act 1918</i>	45, 1918	25 Dec 1918	25 Dec 1918	—
<i>Statute Law Revision Act 1934</i>	45, 1934	6 Aug 1934	6 Aug 1934	S. 8
<i>Commonwealth Public Service Act 1948</i>	35, 1948	26 June 1948	1 Sept 1948 ( <i>see Gazette</i> 1948, p. 3115)	—
<i>Naval Defence Act 1949</i>	72, 1949	28 Oct 1949	1 Jan 1950	—
<i>Naval Defence Act 1952</i>	14, 1952	30 May 1952	30 May 1952	—
<i>Naval Defence Act 1964</i>	93, 1964	6 Nov 1964	6 Nov 1964	Ss. 5, 15(2), 17 and 18
<i>Naval Defence Act 1965</i>	53, 1965	7 June 1965	7 June 1965	S. 2(2)
<i>Statute Law Revision (Decimal Currency) Act 1966</i>	93, 1966	29 Oct 1966	1 Dec 1966	—
<i>Naval Defence Act 1968</i>	24, 1968	22 May 1968	22 May 1968	S. 5(2)–(6)
<i>Naval Defence Act 1971</i>	14, 1971	5 Apr 1971	Ss. 3 and 4: 1 Jan 1973 ( <i>see Gazette</i> 1972, No. 125, p 4) Remainder: Royal Assent	Ss. 4 and 5
<i>Statute Law Revision Act 1973</i>	216, 1973	19 Dec 1973	31 Dec 1973	Ss. 9(1) and 10

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Defence Force Re-organization Act 1975</i>	96, 1975	9 Sept 1975	Ss. 62, 63(a), (b), 64, 71, 73–77, 83, 85 and 88: 28 Oct 1975 (see <i>Gazette</i> 1975, No. G42, p. 2) (a) Ss. 63(c), (d), 65–70, 72, 79–82, 84, 86 and 89: 9 Feb 1976 (see <i>Gazette</i> 1975, No. G42, p. 2) (a) Ss. 78 and 87: 9 Feb 1976 (see <i>Gazette</i> 1976, No. S24) (a)	Ss. 65(2), (4), (5), 68(2), (3), 69(2), 72(2), 74(2), 76(2), 81(2) and 82(2) S. 65(3) (am. by 164, 1984, s. 120)
<b>as amended by</b>				
<i>Defence Legislation Amendment Act 1984</i>	164, 1984	25 Oct 1984	(see 164, 1984 below)	—
<i>Naval Defence Amendment Act 1979</i>	133, 1979	23 Nov 1979	Ss. 4 and 7: 1 Jan 1985 (see s. 2(2) and <i>Gazette</i> 1981, No. S273, p. 2) Remainder: Royal Assent	S. 7
<i>Statute Law Revision Act 1981</i>	61, 1981	12 June 1981	Part XV (ss. 61–72): 30 Sept 1983 (see <i>Gazette</i> 1983, No. S222) (b)	S. 72
<i>Statute Law (Miscellaneous Amendments) Act (No. 2) 1982</i>	80, 1982	22 Sept 1982	Part LXXVII (s. 280): Royal Assent (c)	S. 280(2) and (3)
<i>Defence Force (Miscellaneous Provisions) Act 1982</i>	153, 1982	31 Dec 1982	3 July 1985 (see s. 2 and <i>Gazette</i> 1985, No. S255)	S. 96
<b>as amended by</b>				
<i>Defence Legislation Amendment Act 1984</i>	164, 1984	25 Oct 1984	(see 164, 1984 below)	—
<i>Statute Law (Miscellaneous Provisions) Act (No. 1) 1983</i>	39, 1983	20 June 1983	S. 3: 18 July 1983 (d)	S. 7(1)
<i>Conciliation and Arbitration Amendment Act (No. 2) 1983</i>	115, 1983	16 Dec 1983	S. 41: 1 June 1984 (see <i>Gazette</i> 1984, No. S201) (e)	—

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Defence Legislation Amendment Act 1984</i>	164, 1984	25 Oct 1984	Ss. 1, 2, 16–19, Part XIV (ss. 115 and 116) and 120: Royal Assent Ss. 23–70 and 72–78: 3 July 1985 (see s. 2(4) and <i>Gazette</i> 1985, No. S255) S. 71: 31 Dec 1982 (see s. 2(3)) Ss. 82, 83 and 87–89: 1 July 1983 Ss. 84 and 86: 1 Oct 1972 Part XI (ss. 108 and 109): 1 Jan 1985 Part XV (ss. 117–119): 1 Aug 1984 (see s. 2(8)) S. 121: 1 Jan 1982 Remainder: 22 Nov 1984	Ss. 120(1), (3), 121 and 122
<i>Statute Law (Miscellaneous Provisions) Act (No. 2) 1984</i>	165, 1984	25 Oct 1984	S. 3: 22 Nov 1984 (f)	S. 6(1)
<i>Statute Law (Miscellaneous Provisions) Act (No. 1) 1985</i>	65, 1985	5 June 1985	S. 3: 3 July 1985 (g)	—
<i>Statute Law (Miscellaneous Provisions) Act (No. 1) 1986</i>	76, 1986	24 June 1986	S. 3: Royal Assent (h)	S. 9
<i>Defence Legislation Amendment Act 1987</i>	65, 1987	5 June 1987	Ss. 58, 61(1), 62 and 69(1): Royal Assent (j) Ss. 59, 60, 61(2), 63–68, 69(2) and 70: 1 July 1988 (see <i>Gazette</i> 1988, No. S173) (j)	Ss. 64(2)–(5)
<i>Industrial Relations (Consequential Provisions) Act 1988</i>	87, 1988	8 Nov 1988	Ss. 1 and 2: Royal Assent Remainder: 1 Mar 1989 (see s. 2(2) and <i>Gazette</i> 1989, No. S53)	—

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Defence Legislation Amendment Act 1988</i>	100, 1988	2 Dec 1988	Ss. 5 and 16: 1 July 1988 (see s. 2 and <i>Gazette</i> 1987, No. S173) Remainder: Royal Assent	—
<i>Naval Defence Amendment Act 1988</i>	101, 1988	2 Dec 1988	2 Dec 1988	—
<i>Defence Legislation Amendment Act (No. 2) 1988</i>	104, 1988	6 Dec 1988	S. 18: 1 Sept 1989 (see <i>Gazette</i> 1989, No. S268) S. 25: 1 Oct 1972 Ss. 29 and 36: 1 July 1978 Part IX (ss. 52 and 53): 18 Dec 1987 Remainder: Royal Assent	—
<i>Defence Legislation Amendment Act 1990</i>	75, 1990	22 Oct 1990	S. 3: (k)	—
<i>Defence Legislation Amendment Act (No. 2) 1990</i>	21, 1991	5 Feb 1991	Ss. 10–13 and 16–18: 1 July 1990 Remainder: Royal Assent	—
<i>Prime Minister and Cabinet Legislation Amendment Act 1991</i>	199, 1991	18 Dec 1991	18 Dec 1991	—
<i>Qantas Sale Act 1992</i>	196, 1992	21 Dec 1992	Schedule (Part 1): 10 Mar 1993 (see <i>Gazette</i> 1993, No. GN17) (l) Schedule (Part 5): 30 Aug 1995 (see <i>Gazette</i> 1995, No. S324) (l)	S. 2(6) (am. by 60, 1993, s.4; 168, 1994, s. 3)
<b>as amended by</b>				
<i>Qantas Sale Amendment Act 1993</i>	60, 1993	3 Nov 1993	10 Mar 1993	—
<i>Qantas Sale Amendment Act 1994</i>	168, 1994	16 Dec 1994	S. 3 (item 17): Royal Assent (m)	—
<i>Defence Legislation Amendment Act 1995</i>	43, 1995	15 June 1995	Schedule 5: 1 Nov 1995 (see <i>Gazette</i> 1995, No. S361) (n)	—
<i>Workplace Relations and Other Legislation Amendment Act 1996</i>	60, 1996	25 Nov 1996	Schedule 19 (item 32): Royal Assent (o)	S. 2(2), (6) (am. by 77, 1996, Sch. 3) [items 1, 2])

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<b>as amended by</b>				
<i>Workplace Relations and Other Legislation Amendment Act (No. 2) 1996</i>	77, 1996	19 Dec 1996	Schedule 3 (items 1, 2): (p)	—
<i>Defence Legislation Amendment Act (No. 1) 1997</i>	No. 1, 1997	19 Feb 1997	Schedule 1 (items 14–20) and Schedule 3 (items 3, 4): 30 Apr 1997 (see <i>Gazette</i> 1997, No. S91) (q) Schedule 2 (items 29–46): Royal Assent (q)	—
<i>Defence Legislation Amendment Act (No. 1) 1999</i>	116, 1999	22 Sept 1999	Schedule 2 (items 13–24): 22 Mar 2000 (r) Schedule 3 (item 2): Royal Assent (r)	Sch. 2 (item 24) [see Table A]
<i>Public Employment (Consequential and Transitional) Amendment Act 1999</i>	146, 1999	11 Nov 1999	Schedule 1 (items 687–691): 5 Dec 1999 (see <i>Gazette</i> 1999, No. S584) (s)	—
<i>Defence Legislation Amendment (Flexible Career Practices) Act 2000</i>	113, 2000	5 Sept 2000	5 Mar 2001	S. 4 [see Table A]
<i>Defence Legislation Amendment (Aid to Civilian Authorities) Act 2000</i>	119, 2000	12 Sept 2000	12 Sept 2000	—
<i>Defence Legislation Amendment (Enhancement of the Reserves and Modernisation) Act 2001</i>	10, 2001	22 Mar 2001	Schedule 2 (items 12–15, 19, 27–31, 67, 68, 75–77): 22 Mar 2002 Schedule 3: 19 Apr 2001 (see s. 2(4)) Schedule 4: Royal Assent Remainder: 19 Apr 2001	Sch. 2 (items 91–95) [see Table A]

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Defence Legislation Amendment (Application of Criminal Code) Act 2001</i>	141, 2001	1 Oct 2001	S. 4: Royal Assent Schedule 1 (items 107–109): 15 Dec 2001	S. 4 and Sch. 1 (item 109) [see Table A] S. 2(2) (am. by 135, 2003, Sch. 2 (item 28))
<b>as amended by</b>				
<i>Defence Legislation Amendment Act 2003</i>	135, 2003	17 Dec 2003	Schedule 2 (item 28): (t)	—
<i>Defence Legislation Amendment Act 2003</i>	135, 2003	17 Dec 2003	Schedule 2 (items 33–38): 17 June 2004	Sch. 2 (item 38) [see Table A]



**Act Notes**

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- (a) The *Naval Defence Act 1910* was amended by sections 62–89 only of the *Defence Force Re-Organization Act 1975*, section 2 of which provides as follows:
- 2 This Part shall come into operation on the day on which this Act receives the Royal Assent, and the remaining provisions of this Act shall come into operation on such date as is, or such respective dates as are, fixed by Proclamation.
- (b) The *Naval Defence Act 1910* was amended by Part XV (sections 61–72) only of the *Statute Law Revision Act 1981*, subsection 2(2) of which provides as follows:
- (2) Parts III, X and XV and section 116 shall come into operation on a date to be fixed by Proclamation.
- (c) The *Naval Defence Act 1910* was amended by Part LXXVII (section 280) only of the *Statute Law (Miscellaneous Amendments) Act (No. 2) 1982*, subsection 2(1) of which provides as follows:
- (1) Sections 1, 2, 166 and 195 and Parts III, VI, VII, XVI, XXXVI, XLIV, LI, LIII, LIV, LXI and LXXVII shall come into operation on the day on which this Act receives the Royal Assent.
- (d) The *Naval Defence Act 1910* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 1) 1983*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act shall come into operation on the twenty-eighth day after the day on which it receives the Royal Assent.
- (e) The *Naval Defence Act 1910* was amended by section 41 only of the *Conciliation and Arbitration Amendment Act (No. 2) 1983*, subsection 2(2) of which provides as follows:
- (2) Sections 3, 6, 7, 8, 9, 10, 12, 14 and 16, subsection 22(3) and sections 27, 39, 40, 41 and 43 shall come into operation on a date, or respective dates, to be fixed by Proclamation.
- (f) The *Naval Defence Act 1910* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 2) 1984*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act shall come into operation on the twenty-eighth day after the day on which it receives the Royal Assent.
- (g) The *Naval Defence Act 1910* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 1) 1985*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act shall come into operation on the twenty-eighth day after the day on which it receives the Royal Assent.
- (h) The *Naval Defence Act 1910* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 1) 1986*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.
- (i) The *Naval Defence Act 1910* was amended by sections 58–70 only of the *Defence Legislation Amendment Act 1987*, subsections 2(1) and (6) of which provide as follows:
- (1) Sections 1, 2, 3, 9 and 10, subsection 13(1), sections 23, 24 and 25, subsection 26(1), sections 27, 29, 31, 33, 34, 35, 36, 42, 43, 44, 45, 52, 53, 54, 55 and 58, subsection 61(1), section 62, subsection 69(1) and Parts IX and X shall come into operation on the day on which this Act receives the Royal Assent.
- (6) The remaining provisions of this Act shall come into operation on such day as is, or on such respective days as are, fixed by Proclamation.
- (k) The *Naval Defence Act 1910* was amended by section 3 only of the *Defence Legislation Amendment Act 1990*, subsections 2(1) and (2) of which provide as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (2) Subject to subsection (3), the amendment of section 9, and the repeal of sections 32C and 33, of the *Defence Act 1903*, and the repeal of section 23 of the *Naval*
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## Act Notes

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*Defence Act 1910*, made by section 3 commence on a day to be fixed by Proclamation.

In pursuance of section 2(2) the date of commencement for the repeal of section 23 was 15 December 1990 (see *Gazette* 1990, No. S312).

- (l) The *Naval Defence Act 1910* was amended by the *Qantas Sale Act 1992*, subsections 2(2), (3)(a) and (c) of which provide as follows:
- (2) Subject to subsection (3), the remaining provisions of this Act commence on a day or days to be fixed by Proclamation.
  - (3) A Proclamation may fix a day that is earlier than the day on which the Proclamation is published in the *Gazette* but only if:
    - (a) in the case of sections 30, 31, 35, 37, 39, 43 and 50 and Parts 1 and 2 of the Schedule—the day is not earlier than the substantial minority sale day; and
    - (c) in the case of sections 25, 36, 38, 44 and 51 and Parts 5, 6 and 7 of the Schedule—the day is not earlier than the 100% sale day.
- (m) The *Qantas Sale Act 1992* was amended by section 3 (item 17) only of the *Qantas Sale Amendment Act 1994*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (n) The *Naval Defence Act 1910* was amended by the *Defence Legislation Amendment Act 1995*, subsection 2(2) of which provides as follows:
- (2) Schedule 1 (except items 3 and 11.3), items 29 and 30 of Schedule 2, and Schedule 5 commence on a day to be fixed by Proclamation.
- (o) The *Naval Defence Act 1910* was amended by Schedule 19 (item 32) only of the *Workplace Relations and Other Legislation Amendment Act 1996*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (p) The *Workplace Relations and Other Legislation Amendment Act 1996* was amended by the *Workplace Relations and Other Legislation Amendment Act (No. 2) 1996*, subsection 2(4) of which provides as follows:
- (4) The items of Schedule 3 are taken to have commenced immediately after the *Workplace Relations and Other Legislation Amendment Act 1996* received the Royal Assent.
- The *Workplace Relations and Other Legislation Amendment Act 1996* received the Royal Assent on 25 November 1996.
- (q) The *Naval Defence Act 1910* was amended by Schedule 1 (items 14–20), Schedule 3 (items 3 and 4) and Schedule 2 (items 29–46) only of the *Defence Legislation Amendment Act (No. 1) 1997*, subsections 2(1) and (2) of which provide as follows:
- (1) Subject to subsections (2) and (3), this Act commences on the day on which it receives the Royal Assent.
  - (2) Subject to subsection (3), Schedules 1 and 3 commence on a day or days to be fixed by Proclamation.
- (r) The *Naval Defence Act 1910* was amended by Schedule 2 (items 13–23) and Schedule 3 (item 2) only of the *Defence Legislation Amendment Act (No. 1) 1999*, subsections 2(1)–(3) of which provide as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
  - (2) Subject to subsection (3), the items in Schedules 1 and 2 commence on a day or days to be fixed by Proclamation.

**Act Notes**

- (3) If an item in Schedule 1 or 2 does not commence under subsection (2) within the period of 6 months beginning on the day on which this Act receives the Royal Assent, it commences on the first day after the end of that period.
- (s) The *Naval Defence Act 1910* was amended by Schedule 1 (items 687–691) only of the *Public Employment (Consequential and Transitional) Amendment Act 1999*, subsections 2(1) and (2) of which provide as follows:
- (1) In this Act, **commencing time** means the time when the *Public Service Act 1999* commences.
- (2) Subject to this section, this Act commences at the commencing time.
- (t) Subsection 2(1) (item 9) of the *Defence Legislation Amendment Act 2003* provides as follows:
- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

**Commencement information**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
9. Schedule 2, item 28	Immediately after the commencement of section 2 of the <i>Defence Legislation Amendment (Application of Criminal Code) Act 2001</i>	1 October 2001

**Table of Amendments****Table of Amendments**

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

Provision affected	How affected
<b>Part I</b>	
S. 2.....	am. No. 14, 1952 rs. No. 93, 1964 am. No. 24, 1968 rep. No. 216, 1973
S. 3.....	am. No. 45, 1918; No. 14, 1952 rs. No. 93, 1964 am. No. 216, 1973; No. 96, 1975; No. 133, 1979; No. 153, 1982; No. 65, 1987; No. 104, 1988
S. 4.....	rep. No. 93, 1964
S. 5.....	am. No. 45, 1918; No. 14, 1952 rs. No. 93, 1964 am. No. 53, 1965; No. 96, 1975; No. 133, 1979 rep. No. 153, 1982
S. 5A .....	ad. No. 93, 1964 am. No. 216, 1973
S. 5B .....	ad. No. 141, 2001
S. 7.....	rep. No. 96, 1975
Part II .....	rep. No. 10, 2001
Heading to Div. 1 of Part II.....	ad. No. 43, 1995 rep. No. 10, 2001
S. 8.....	am. No. 45, 1918 rs. No. 93, 1964 am. No. 96, 1975; No. 133, 1979; No. 39, 1983 rep. No. 10, 2001
S. 9.....	rs. No. 93, 1964; No. 53, 1965 am. No. 96, 1975; No. 61, 1981; No. 39, 1983; No. 65, 1987; No. 43, 1995 rep. No. 10, 2001
S. 10.....	rs. No. 93, 1964 am. No. 216, 1973 rep. No. 153, 1982
S. 11.....	am. No. 45, 1918 rs. No. 93, 1964 am. No. 96, 1975 rs. No. 39, 1983 am. No. 1, 1997; No. 113, 2000 rep. No. 10, 2001
Heading to s. 12 .....	rs. No. 43, 1995 rep. No. 10, 2001
S. 12.....	rs. No. 93, 1964 am. No. 76, 1986; No. 43, 1995; No. 1, 1997 rep. No. 10, 2001

**Table of Amendments**

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 13.....	rs. No. 93, 1964; No. 96, 1975 am. No. 133, 1979; No. 39, 1983; No. 65, 1987; Nos. 100 and 104, 1988; No. 1, 1997; No. 113, 2000 rep. No. 10, 2001
S. 13A .....	ad. No. 43, 1995 am. No. 1, 1997; No. 116, 1999; No. 113, 2000 rep. No. 10, 2001
Heading to Div. 2 of Part II.....	ad. No. 43, 1995 rep. No. 10, 2001
S. 13B .....	ad. No. 43, 1995 am. No. 1, 1997 rep. No. 10, 2001
S. 13C .....	ad. No. 43, 1995 am. No. 116, 1999 rep. No. 10, 2001
S. 13D .....	ad. No. 43, 1995 rep. No. 10, 2001
S. 13E .....	ad. No. 43, 1995 rep. No. 10, 2001
Heading to s. 13F .....	am. No. 116, 1999 rep. No. 10, 2001
S. 13F.....	ad. No. 43, 1995 am. No. 116, 1999 rep. No. 10, 2001
S. 13G.....	ad. No. 43, 1995 rep. No. 10, 2001
S. 13H .....	ad. No. 43, 1995 am. No. 1, 1997 rep. No. 10, 2001
S. 13J.....	ad. No. 43, 1995 rep. No. 10, 2001
S. 13K .....	ad. No. 43, 1995 am. No. 1, 1997; No. 116, 1999 rep. No. 10, 2001
Heading to s. 13L .....	am. No. 116, 1999 rep. No. 10, 2001
S. 13L.....	ad. No. 43, 1995 am. No. 1, 1997; No. 116, 1999 rep. No. 10, 2001
S. 13M.....	ad. No. 43, 1995 am. No. 1, 1997 rs. No. 116, 1999 rep. No. 10, 2001
S. 13N.....	ad. No. 43, 1995 rep. No. 10, 2001
S. 14.....	am. No. 45, 1918 rs. No. 93, 1964 am. No. 216, 1973; No. 96, 1975 rep. No. 75, 1990
Ss. 15, 16.....	rep. No. 93, 1964

**Table of Amendments**

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Heading to s. 17 .....	rs. No. 43, 1995 rep. No. 10, 2001
S. 17.....	am. No. 216, 1973; No. 96, 1975; No. 133, 1979; No. 39, 1983; No. 43, 1995 rep. No. 10, 2001
S. 17A .....	ad. No. 96, 1975 am. No. 61, 1981; No. 39, 1983; No. 1, 1997 rep. No. 10, 2001
Div. 2A of Part II .....	ad. No. 1, 1997 rep. No. 10, 2001
S. 17B .....	ad. No. 1, 1997 am. No. 113, 2000 rep. No. 10, 2001
Div. 3 of Part II.....	ad. No. 43, 1995 rep. No. 10, 2001
S. 18.....	am. No. 216, 1973; No. 96, 1975 rep. No. 65, 1987 ad. No. 43, 1995 rep. No. 10, 2001
<b>Part III</b>	
Heading to Part III.....	am. No. 96, 1975
S. 19.....	rs. No. 93, 1964 am. No. 96, 1975; No. 133, 1979; No. 61, 1981 rs. No. 10, 2001
S. 20.....	rs. No. 93, 1964 am. No. 216, 1973 rs. No. 65, 1987 am. No. 1, 1997 rs. No. 10, 2001
S. 21.....	am. No. 21, 1912; No. 14, 1952 rs. No. 93, 1964 am. No. 216, 1973; No. 61, 1981 rs. No. 65, 1987 am. No. 1, 1997 rs. No. 10, 2001
S. 22.....	rs. No. 93, 1964 am. No. 216, 1973 rs. No. 61, 1981; No. 65, 1987 am. No. 1, 1997 rep. No. 10, 2001
S. 23.....	rep. No. 45, 1934 ad. No. 93, 1964 am. No. 96, 1975 rep. No. 75, 1990
S. 24.....	am. No. 14, 1952 rs. No. 93, 1964; No. 53, 1965 am. No. 96, 1975; No. 133, 1979
S. 24A .....	ad. No. 14, 1952 am. No. 216, 1973 rep. No. 96, 1975

**Table of Amendments**

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 25.....	rs. No. 93, 1964 am. No. 216, 1973; No. 96, 1975; No. 39, 1983 rs. No. 65, 1987 rep. No. 10, 2001
S. 25A.....	ad. No. 16, 1911 rep. No. 96, 1975
S. 26.....	rs. No. 93, 1964 am. No. 96, 1975 rs. No. 65, 1987 rep. No. 10, 2001
S. 26A.....	ad. No. 113, 2000 rep. No. 10, 2001
S. 27.....	am. No. 216, 1973 rep. No. 96, 1975 ad. No. 65, 1987 rep. No. 10, 2001
S. 28.....	am. No. 45, 1918 rs. No. 93, 1964; No. 53, 1965 am. No. 216, 1973; No. 96, 1975; No. 133, 1979; No. 61, 1981 rs. No. 65, 1987 am. No. 100, 1988; No. 75, 1990; No. 1, 1997 rep. No. 10, 2001
S. 29.....	am. No. 14, 1952 rs. No. 93, 1964 am. No. 216, 1973; No. 133, 1979; No. 61, 1981 rs. No. 65, 1987 rep. No. 10, 2001
S. 29A.....	ad. No. 65, 1987 rep. No. 10, 2001
S. 30.....	rs. No. 53, 1965 am. No. 216, 1973; No. 96, 1975; No. 39, 1983; No. 65, 1987; No. 1, 1997 rep. No. 10, 2001
S. 30A.....	ad. No. 1, 1997 rep. No. 10, 2001
<b>Part IV</b>	
Heading to Part IV.....	am. No. 96, 1975
Heading to s. 31.....	am. No. 10, 2001
S. 31.....	rs. No. 93, 1964; No. 53, 1965 am. No. 216, 1973 rs. No. 61, 1981 am. No. 10, 2001
S. 32.....	am. No. 14, 1952 rs. No. 93, 1964 am. No. 133, 1979; No. 61, 1981; No. 164, 1984 rs. No. 65, 1987 am. No. 1, 1997; No. 119, 2000 rep. No. 10, 2001
S. 32AA.....	ad. No. 164, 1984 am. No. 1, 1997 rep. No. 10, 2001

**Table of Amendments**

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Heading to s. 32A.....	am. No. 10, 2001
S. 32A.....	ad. No. 93, 1964 am. No. 96, 1975; No. 61, 1981; No. 164, 1984; No. 65, 1987; No. 1, 1997; No. 119, 2000; No. 10, 2001
S. 33.....	rs. No. 216, 1973 am. No. 96, 1975
S. 34.....	rs. No. 93, 1964 am. No. 216, 1973; No. 96, 1975 rep. No. 153, 1982
S. 35.....	rep. No. 93, 1964
S. 36.....	am. No. 21, 1912 rep. No. 93, 1964
S. 37.....	rs. No. 16, 1911 am. No. 21, 1912 rep. No. 93, 1964
<b>Part V</b>	
Part V.....	rs. No. 14, 1952; No. 14, 1971
Heading to s. 38.....	am. No. 135, 2003
S. 38.....	rs. No. 14, 1952; No. 14, 1971 am. No. 96, 1975; No. 133, 1979; No. 135, 2003
Heading to s. 39.....	am. No. 135, 2003
S. 39.....	rs. No. 14, 1952; No. 14, 1971; No. 96, 1975 am. No. 133, 1979; No. 1, 1997; No. 135, 2003
<b>Part VI</b>	
Heading to Part VI.....	rs. No. 24, 1968
S. 40.....	rep. No. 14, 1952 ad. No. 24, 1968 rs. No. 96, 1975 am. No. 101, 1988; No. 196, 1992; No. 146, 1999
Ss. 40A, 40B.....	ad. No. 21, 1912 rep. No. 14, 1952
S. 41.....	am. No. 35, 1948; No. 24, 1968; No. 96, 1975; No. 104, 1988 rep. No. 21, 1991
S. 42.....	rep. No. 93, 1964 ad. No. 24, 1968 am. No. 96, 1975; No. 133, 1979; No. 146, 1999
S. 42A.....	ad. No. 24, 1968 am. No. 96, 1975; No. 133, 1979; No. 115, 1983; Nos. 87 and 104, 1988; No. 199, 1992; No. 60, 1996
S. 42B.....	ad. No. 24, 1968 am. No. 216, 1973; No. 96, 1975; No. 133, 1979 rep. No. 65, 1985
S. 42C.....	ad. No. 24, 1968 am. No. 96, 1975; No. 133, 1979; No. 80, 1982; No. 146, 1999
S. 42D.....	ad. No. 24, 1968 rep. No. 216, 1973 ad. No. 101, 1988



**Table of Amendments**

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

Provision affected	How affected
S. 42E .....	ad. No. 24, 1968 am. No. 96, 1975 rep. No. 39, 1983
S. 43.....	rs. No. 93, 1964 am. No. 96, 1975; No. 133, 1979 rep. No. 65, 1987
S. 44.....	rs. No. 93, 1964 am. No. 96, 1975 rep. No. 153, 1982
S. 44A .....	ad. No. 16, 1911 rs. No. 93, 1964 rep. No. 153, 1982
<b>Part VII</b>	
S. 44B .....	ad. No. 16, 1911 am. No. 21, 1912 rep. No. 93, 1964 ad. No. 39, 1983 am. No. 164, 1984; No. 76, 1986; No. 65, 1987; No. 1, 1997; No. 116, 1999; No. 10, 2001
S. 44C .....	ad. No. 72, 1949 rep. No. 216, 1973
S. 44D .....	ad. No. 14, 1952 am. No. 93, 1966; No. 216, 1973 rs. No. 96, 1975 rep. No. 165, 1984
Heading to s. 44E .....	am. No. 135, 2003
S. 44E .....	ad. No. 14, 1952 am. No. 93, 1966; No. 96, 1975; No. 133, 1979 rs. No. 141, 2001 am. No. 135, 2003
S. 45.....	am. No. 72, 1949; No. 14, 1952; No. 93, 1966; No. 216, 1973; No. 96, 1975; No. 153, 1982; No. 39, 1983; No. 165, 1984
The First and Second Schedules .....	rep. No. 93, 1964
The Schedule .....	ad. No. 93, 1964 am. No. 216, 1973 rep. No. 65, 1987

## **Table A**

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### **Table A**

#### **Application, saving or transitional provisions**

*Defence Legislation Amendment Act (No. 1) 1999* (No. 116, 1999)

#### **Schedule 2**

##### **24 Saving**

Sections 13K and 13M of the *Naval Defence Act 1910* as in force before the commencement of this item continue to apply to an officer of the Navy who was given a notice before that commencement under subsection 13K(1) of that Act as so in force.

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*Defence Legislation Amendment (Flexible Career Practices) Act 2000* (No. 113, 2000)

#### **4 Application of amendments**

The amendments made by items 3, 4, 5, 8, 9 and 11 of Schedule 1 do not apply in relation to appointments made before the commencement of this Act.

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*Defence Legislation Amendment (Enhancement of the Reserves and Modernisation) Act 2001* (No. 10, 2001)

#### **Schedule 2**

##### **91 Saving—appointments under the Naval Defence Act**

Although item 67 repeals Part II of the *Naval Defence Act 1910*, that Part continues to apply, in relation to a person who held an appointment under subsection 8(1) of that Act immediately before that item commenced, as if the repeal had not happened.

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**Table A****92 Saving—enlistments under the Naval Defence Act**

Although item 69 repeals sections 25 to 30A of the *Naval Defence Act 1910*, those sections continue to apply, in relation to a person who was enlisted under subsection 25(3) of that Act immediately before that item commenced, as if the repeal had not happened.

**93 Most of the old provisions may be superseded by new regulations**

- (1) However, the repealed provisions mentioned in items 89, 90, 91 and 92 continue to apply under those items only to the extent that they are consistent with regulations made after the repeal for the purposes of section 124 of the *Defence Act 1903*.
- (2) If such regulations are made, then:
  - (a) to the extent of the inconsistency, those provisions permanently cease to apply from the time that the inconsistency arises; and
  - (b) the regulations apply despite being inconsistent with those provisions.

**94 Saving—old regulations**

- (1) Regulations that were in effect under any Act immediately before the commencement of this item continue to have effect after that time as if members of an arm of the Defence Force who were members of a particular part or component of that arm immediately before the commencement of this item were still members of that part or component after that time, even if that part or component no longer exists.

Example: Assume that, immediately before the commencement of this item, regulations imposed training obligations on members of the Air Force Specialist Reserve. Those obligations would continue to apply to former members of that Reserve after commencement, even though the Air Force Specialist Reserve itself is no longer mentioned in the *Air Force Act 1923* and the members have now become members of the Air Force Reserve.

- (2) However, regulations that continue in effect under this item do so only to the extent that they are not amended or revoked by later regulations.

## **Table A**

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### **95 Regulations about transitional matters**

- (1) The regulations may make provision in relation to other saving and transitional matters in connection with the amendments made by this Schedule.
- (2) In particular, such regulations may deal with the status, after the commencement of the amendments, of persons who were members of the Defence Force immediately before that time.
- (3) Subitem (2) does not limit the scope of subitem (1).

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*Defence Legislation Amendment (Application of Criminal Code) Act 2001*  
(No. 141, 2001)

### **4 Application of amendments**

- (1) Each amendment made by this Act applies to acts and omissions that take place after the amendment commences.
- (2) For the purposes of this section, if an act or omission is alleged to have taken place between 2 dates, one before and one on or after the day on which a particular amendment commences, the act or omission is alleged to have taken place before the amendment commences.

### **Schedule 1**

#### **109 Saving—regulations**

Regulations that were in effect for the purposes of section 44E of the *Naval Defence Act 1910* immediately before the commencement of this item continue to have effect after that time as if they had been made for the purposes of section 44E of that Act, as in force after that time.

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**Table A**

*Defence Legislation Amendment Act 2003* (No. 135, 2003)

**Schedule 2**

**38 Transitional—Australian Navy Cadets**

To avoid doubt:

- (a) appointments to the Naval Reserve Cadets in force under paragraph 38(2)(a) or (b) of the *Naval Defence Act 1910* immediately before the commencement of item 33 of this Schedule continue to have effect after that commencement as if they were appointments to the Australian Navy Cadets; and
- (b) persons who are cadets in the Naval Reserve Cadets under section 38 of the *Naval Defence Act 1910* immediately before the commencement of item 33 of this Schedule continue as cadets in the Australian Navy Cadets immediately after that commencement, subject to the limitations imposed by that section (as amended).