



# **Defence (Visiting Forces) Act 1963**

**No. 81, 1963**

## **Compilation No. 8**

<b>Compilation date:</b>	5 March 2016
<b>Includes amendments up to:</b>	Act No. 164, 2015
<b>Registered:</b>	22 April 2016

**This compilation includes a commenced amendment made by Act No. 10, 2015. Amendments made by Act No. 164, 2015 have not commenced but are noted in the endnotes.**

Prepared by the Office of Parliamentary Counsel, Canberra

---

## About this compilation

### This compilation

This is a compilation of the *Defence (Visiting Forces) Act 1963* that shows the text of the law as amended and in force on 5 March 2016 (the **compilation date**).

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

### Uncommenced amendments

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

### Application, saving and transitional provisions for provisions and amendments

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

### Editorial changes

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

### Modifications

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

### Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

---

## Contents

<b>Part I—Preliminary</b>	1
1	Short title.....1
2	Commencement.....1
4	Repeal.....1
5	Interpretation.....1
6	Countries in relation to which provisions of this Act apply or may be applied.....4
7	Extension of Act to Territories.....4
<b>Part II—Visiting Forces</b>	5
8	Exercise of powers by service tribunals and authorities of countries sending visiting forces .....5
9	Restriction, with respect to certain offences, of trial by courts of offenders connected with visiting force .....7
10	Waiver of jurisdiction otherwise exercisable by a court .....9
11	Courts not to try offenders tried by service tribunals of visiting forces .....9
12	Arrest, custody etc. of offenders against Australian law .....10
13	Restriction of proceedings in respect of service of members etc. of visiting force .....11
14	Inquests .....11
15	Imprisonment etc. of persons sentenced by service tribunals.....13
16	Application to visiting forces of law relating to Defence Force .....13
17	Settlement of claims against visiting forces .....16
18	Evidence for the purposes of this Part .....16
<b>Part V—Miscellaneous</b>	18
27	Proof of facts by certificate .....18
28	Delegation of powers and functions .....19
30	Regulations.....20
<b>The Schedule—Offences against the person</b>	21
Offences Against Property	21
General	21

---

<b>Endnotes</b>	22
<b>Endnote 1—About the endnotes</b>	22
<b>Endnote 2—Abbreviation key</b>	24
<b>Endnote 3—Legislation history</b>	25
<b>Endnote 4—Amendment history</b>	27

# **An Act to make provision with respect to Naval, Military and Air Forces of other countries visiting Australia, and for other purposes**

## **Part I—Preliminary**

### **1 Short title**

This Act may be cited as the *Defence (Visiting Forces) Act 1963*.

### **2 Commencement**

This Act shall come into operation on a date to be fixed by Proclamation.

### **4 Repeal**

The *Defence (Visiting Forces) Act 1939* is repealed.

### **5 Interpretation**

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

*Australia* includes the Territories.

*court* means a federal court or a court of a State or Territory.

*dependant*, in relation to a member of a visiting force or of a civilian component of a visiting force, means a person, not being an Australian citizen or a person ordinarily resident in Australia, who:

- (a) is the wife or husband of the member;
- (b) is wholly or mainly maintained by the member;
- (c) is in the custody, care or charge of the member; or
- (d) is one of the family of the member residing with the member.

Section 5

---

**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.

**service law**, in relation to a country, means the law (including any instrument having the force of law) governing all or any of the forces of that country.

**service tribunal**, in relation to a country or a visiting force, means a court-martial or other like tribunal established under the service law of that country or of the country sending the visiting force, as the case requires, and includes any authority of that country who or which, by or under the law of that country, is empowered to review the proceedings of such a tribunal or to try or investigate charges brought against persons subject to the service law of that country.

**the Defence Force** has the same meaning as in the *Defence Act 1903-1956*.

**the sending country**, in relation to a visiting force, means the country to whose forces the visiting force belongs.

**visiting force** means any body, contingent or detachment of the forces of a country that is for the time being present in Australia.

- (2) A reference in this Act to a member of a visiting force shall be read as a reference to a person who, in accordance with the law of the country to which the visiting force belongs, is serving as a member of the visiting force.
- (3) A reference in this Act to a member of a civilian component of a visiting force shall be read as a reference to a person who, not being a member of that visiting force, an Australian citizen or a person ordinarily resident in Australia:
  - (a) is employed by or in the service of:
    - (i) that visiting force or a part of that visiting force; or

- (ii) an organization established for the benefit or welfare of members of that visiting force and recognized by the designated authority of the sending country;
  - (b) is serving with an organization that is accompanying that visiting force; or
  - (c) is attached to or is accompanying that visiting force and, in accordance with the law of the sending country, is subject to the service law of that country;
- but does not include a dependant of a member of that visiting force or of a person referred to in paragraph (a), (b) or (c).
- (4) A reference in this Act to a person's having at any time a relevant association with a visiting force shall be read as a reference to his or her being at that time:
    - (a) a member of that visiting force or of a civilian component of that force; or
    - (b) a person who, not being an Australian citizen or a person ordinarily resident in Australia, is a dependant of a member of the visiting force or of a member of a civilian component of that force.
  - (5) In determining, for the purposes of this Act, whether a person is, or was at any time, ordinarily resident in Australia, account shall not be taken of any period during which that person has been or intends to be present in Australia while being:
    - (a) a member of a visiting force or of a civilian component of a visiting force; or
    - (b) a dependant of a member of a visiting force or of a member of a civilian component of a visiting force.
  - (6) For the purposes of this Act, 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, and any references in this Act to a person's becoming a member of the forces of a country shall be construed accordingly.

Section 6

---

- (7) A reference in any provision of this Act to the designated authority of a country shall be read as a reference to such authority as is designated for the purposes of that provision by the appropriate authority or officer of that country.
- (8) A reference in any provision of this Act to trial by a court shall be read as including a reference to hearing and determination by a court of summary jurisdiction of a charge that a person has committed an offence against a law of Australia or of a State or Territory.

**6 Countries in relation to which provisions of this Act apply or may be applied**

- (1) A reference in this Act to a country in relation to which a provision of this Act applies shall be read as a reference to:
  - (a) any country declared by the regulations to be, for the purposes of this Act, a country within the Commonwealth of Nations; and
  - (b) any other country declared under this section to be a country in relation to which that provision has effect.
- (2) Where it appears to the Governor-General that it is expedient that any of the provisions of this Act should have effect in relation to a country other than a country referred to in paragraph (a) of the last preceding subsection, the regulations may declare that country to be a country in relation to which such provisions of this Act as are specified in the regulations have effect.

**7 Extension of Act to Territories**

This Act extends to every Territory.

## **Part II—Visiting Forces**

### **8 Exercise of powers by service tribunals and authorities of countries sending visiting forces**

- (1) The service tribunals and service authorities of a country in relation to which this section applies may, within Australia, or on board a ship or aircraft belonging to or in the service of the Defence Force or a part of the Defence Force, exercise over persons subject to their jurisdiction in accordance with this section all such powers as are exercisable by them in accordance with the law of that country.
- (2) The persons subject to the jurisdiction of the service tribunals and service authorities of a country in accordance with this section are:
  - (a) members of any visiting force of that country; and
  - (b) all other persons who, being neither Australian citizens nor persons ordinarily resident in Australia, are for the time being subject to the service law of that country otherwise than as members of that country's forces.
- (3) For the purposes of the last preceding subsection, a person shall be treated as not being a member of a visiting force of a country if he or she became, or last became, a member of that country's forces at a time when he or she was in Australia, unless he or she then became a member of those forces with his or her consent.
- (4) Where a sentence has, whether within or beyond the territorial limits of Australia, been passed by a service tribunal of a country in relation to which this section applies upon a person who was, immediately before the sentence was passed, subject to the jurisdiction of that tribunal in accordance with this section, then, for the purposes of any proceedings in a court:
  - (a) the service tribunal shall be deemed to have been properly constituted;

Section 9

---

- (b) the sentence shall be deemed to be within the jurisdiction of the service tribunal and in accordance with the law of that country; and
  - (c) the sentence shall, if executed according to its tenor, be deemed to have been lawfully executed.
- (5) Notwithstanding anything in the preceding provisions of this section, a sentence of death passed by a service tribunal of a country in relation to which this section applies shall not be carried out in Australia.
- (6) A person who:
  - (a) is detained in custody in pursuance of a sentence with respect to which subsection (4) has effect; or
  - (b) being subject in accordance with this section to the jurisdiction of the service tribunals of a country in relation to which this section applies, is detained in custody pending or during the trial by a service tribunal of that country of a charge brought against him or her;shall, for the purposes of any proceedings in a court, be deemed to be in lawful custody.
- (7) For the purpose of enabling the service tribunals and service authorities of a country in relation to which this section applies to exercise more effectively the powers referred to in subsection (1), the Chief of Navy, the Chief of Army or the Chief of Air Force, if so requested by the designated authority of that country, may, by general or special orders, direct members of that part of the Defence Force under his or her command to arrest any person who, being a member of a visiting force of that country, is alleged to have committed an offence punishable under the law of that country and to deliver him or her to such service authority of that country as is designated by or under any of those orders.

**9 Restriction, with respect to certain offences, of trial by courts of offenders connected with visiting force**

- (1) Subject to this section, a person charged with an offence against a law of Australia or of a State or Territory is not liable to be tried for that offence by a court if he or she was, at the time when the offence is alleged to have been committed, a member of a visiting force or of a civilian component of a visiting force and:
- (a) the alleged offence, if committed by him or her, arose out of and in the course of his or her duty as a member of that force or component, as the case may be, or is an offence solely against the security of the sending country;
  - (b) the alleged offence is an offence against the person, and the person or, if the act or omission constituting the offence has relation to more than one person, each of the persons in relation to whom the offence is alleged to have been committed had at the time of the alleged commission of the offence a relevant association either with that force or with another visiting force of the same country; or
  - (c) the alleged offence is an offence against property, and the whole of the property in relation to which it is alleged to have been committed (or, in a case where different parts of that property were differently owned, each part of the property) was, at the time of the alleged commission of the offence, the property either of the sending country or of an authority of that country or of a person or persons having such an association as is specified in the last preceding paragraph.
- (2) The last preceding subsection does not apply if:
- (a) at the time when the offence is alleged to have been committed, the alleged offender was a person not subject to the jurisdiction of the service tribunals of the sending country in accordance with the last preceding section; or
  - (b) the alleged offender was at that time a member of a civilian component of a visiting force and the case cannot be dealt with under the service law of the sending country.
- (3) Subsection (1):
-

Section 9

---

- (a) does not prevent a person from being tried by a court in a case where the Attorney-General certifies in writing, either before or in the course of the trial, that the designated authority of the sending country has notified him or her that it is not proposed to deal with the case under the law of that country;
  - (b) does not affect anything done or omitted in the course of a trial unless in the course of the trial objection has already been made that, by reason of that subsection, the court is not competent to deal with the case; and
  - (c) shall not, after the conclusion of a trial, be treated as having affected the validity of the trial, if no such objection was made in the proceedings at any stage before the conclusion of the trial.
- (4) Where the charge is a charge (by whatever words expressed) of attempting or conspiring to commit an offence, or of aiding, abetting, inciting, procuring or being accessory to the commission of an offence:
  - (a) paragraphs (b) and (c) of subsection (1) have effect as if references in those paragraphs to the alleged offence were references to the offence that the person charged is alleged to have attempted or conspired to commit or, as the case may be, the offence the commission of which it is alleged that he or she aided, abetted, incited or procured or to the commission of which he or she was accessory; and
  - (b) references in those paragraphs to persons in relation to whom, or property in relation to which, the offence is alleged to have been committed shall be construed accordingly.
- (5) This section does not derogate from any provision of any law that restricts the prosecution of any proceedings or requires the consent of an authority of Australia or of a State or Territory to the prosecution of any proceedings.
- (6) For the purposes of this section, the expressions *offence against the person* and *offence against property* shall be construed in accordance with the provisions of the Schedule.

**10 Waiver of jurisdiction otherwise exercisable by a court**

- (1) Where:
- (a) a service tribunal of a country in relation to which this section applies has jurisdiction to try a person alleged to have committed an offence against the law of Australia or of a State or Territory; and
  - (b) the jurisdiction of a court with respect to the alleged offence is not excluded by virtue of the last preceding section;
- the designated authority of that country may request the Attorney-General that jurisdiction be not exercised by a court with respect to the alleged offence and, if the Attorney-General agrees to that request, he or she shall, by writing under his or her hand, notify the appropriate authority of Australia or of a State or Territory, as the case requires, that it is not desirable that the case should be dealt with by a court.
- (2) Upon the Attorney-General notifying an appropriate authority under the last preceding subsection, the provisions of the last preceding section shall be deemed to apply as if the alleged offence were an offence described in subsection (1) of that section.

**11 Courts not to try offenders tried by service tribunals of visiting forces**

- (1) Where a person has been tried for an offence by a service tribunal of a country in relation to which section 8 applies in the exercise of the powers referred to in subsection (1) of that section, he or she shall not be tried by a court for an offence that is substantially the same offence.
- (2) Where a person who has been convicted of an offence by a service tribunal of such a country in the exercise of those powers is convicted by a court of a different offence, but it appears to the court that the conviction by the service tribunal was wholly or partly in respect of acts or omissions in respect of which he or she is convicted by the court, the court may, in determining any

Section 12

---

penalty that may be imposed or order that may be made, have regard to the sentence of the service tribunal.

**12 Arrest, custody etc. of offenders against Australian law**

- (1) Neither section 9 nor the last preceding section affects:
  - (a) any powers of arrest, search, entry, seizure or custody exercisable under the law of Australia or of a State or Territory with respect to offences committed or suspected or believed to have been committed;
  - (b) any obligation of a person in respect of a recognisance or bail bond entered into in consequence of his or her arrest, or the arrest of another person, for such an offence; or
  - (c) any power of a court to remand (whether in custody or otherwise) a person brought before the court in connexion with such an offence.
- (2) Where a person is charged with an offence against a law of Australia or of a State or Territory, and it appears that that person is subject to the jurisdiction of the service tribunals of a country in relation to which section 8 applies, the designated authority of that country shall be notified.
- (3) Where a person is charged with an offence against a law of Australia or of a State or Territory, and it appears to the court before which he or she is charged that he or she is a person subject to the jurisdiction of the service tribunals of a country in relation to which section 8 applies, the court shall determine the period that it considers reasonable to enable inquiries to be made with a view to determining whether he or she should be dealt with by a court or by a service tribunal of that country, and further proceedings with respect to the offence charged are, by force of this Act, stayed for that period.
- (4) Where:
  - (a) a person referred to in the last preceding subsection is remanded in custody by order of a court; and
  - (b) the Attorney-General, by writing under his or her hand:

- (i) states that the designated authority of the sending country has requested that that person be delivered into the custody of a service authority of that country pending trial; and
  - (ii) requests that that person be so delivered;
- the court shall revoke the order and shall order that that person be so delivered.

### **13 Restriction of proceedings in respect of service of members etc. of visiting force**

Proceedings shall not be brought in any court with respect to:

- (a) the pay of a person in respect of his or her service as a member of a visiting force or of a civilian component of a visiting force;
- (b) the terms of a person's service as a member of a visiting force or of a civilian component of a visiting force; or
- (c) a person's discharge from the service of a visiting force or of a civilian component of a visiting force.

### **14 Inquests**

- (1) If a coroner having jurisdiction to hold an inquest into the manner and cause of a death is satisfied that the deceased person had, at the time of his or her death, a relevant association with a visiting force, the coroner:
  - (a) shall not hold the inquest; or
  - (b) where the inquest has been commenced but is not then completed, shall adjourn the inquest;and, where a jury has been summoned, shall discharge the jury.
- (2) If, on an inquest into the manner and cause of a death, the coroner is satisfied that:
  - (a) a person who in accordance with section 8 is subject to the jurisdiction of the service tribunals of a country in relation to which this section applies has been charged before a service

Section 14

---

- tribunal of that country with the homicide of the deceased person, whether or not that charge has been dealt with; or
- (b) such a person is being detained by an authority of that country with a view to his or her being so charged;
- the coroner shall adjourn the inquest and, where a jury has been summoned, shall discharge the jury.
- (3) The last preceding subsection does not prevent the coroner from:
- (a) taking evidence of the identity of the deceased person and of the place and date of his or her death;
- (b) furnishing information to the appropriate authority of the State or Territory concerned for the purpose of registration of the death; or
- (c) authorizing the burial, cremation or other disposal of the body of the deceased person.
- (4) Notwithstanding the preceding provisions of this section, the Attorney-General may notify the appropriate authority of the State or Territory concerned that there are no circumstances connected with the operation of this Act that make it undesirable that an inquest into the manner and cause of a specified death should be held or continued, as the case may be, and, if the Attorney-General gives such a notification, the inquest may be held or resumed, as the case requires, and in the case of resumption proceed as if it were commenced for the first time.
- (5) Where an inquest is held or resumed as provided by the last preceding subsection, it is not obligatory that the coroner shall view the body of the deceased person.
- (6) A law in force in any part of Australia that imposes restrictions upon the removal out of Australia, or a part of Australia, of the body of a deceased person does not apply to or in relation to the body of a deceased person who at the time of his or her death had a relevant association with a visiting force, and the body of such a deceased person may be disposed of as the Attorney-General, having regard to any request by the designated authority of the country concerned, determines.

- (7) In this section, the expression ***homicide*** includes murder, manslaughter and infanticide and any other offence under the law of the country concerned that is substantially similar to any of those offences.

### **15 Imprisonment etc. of persons sentenced by service tribunals**

- (1) Where the designated authority of a country in relation to which this section applies requests the Attorney-General that assistance be given in carrying out a sentence of imprisonment or detention imposed upon a person by a service tribunal of that country, the Attorney-General may, by writing under his or her hand, authorize the reception of a person so sentenced, and his or her confinement for the whole or any part of the term of his or her sentence, in a prison or other place in Australia provided for the confinement of persons accused or convicted of offences against the laws of Australia or of a State or Territory.
- (2) A person held in custody or under restraint or kept in confinement for the purpose of giving effect to an authority given under the last preceding subsection shall be deemed to be in lawful custody.
- (3) The regulations may make provision with respect to the circumstances under which the persons imprisoned or detained as provided by this section may be discharged or returned to the service authorities of the country under the service law of which they were sentenced.

### **16 Application to visiting forces of law relating to Defence Force**

- (1) Where, under an enactment, a power is exercisable by an authority or person with respect to:
- (a) the Defence Force, a part of that Force, members of that Force or of a part of that Force or other persons connected in any way with that Force or a part of that Force;
  - (aa) service tribunals, within the meaning of the *Defence Force Discipline Act 1982*;

Section 16

---

- (ab) a court of inquiry or a board of inquiry appointed under regulations under the *Defence Act 1903*;
- (b) any property used or to be used for the purposes of that Force or a part of that Force; or
- (c) taking possession of any property to be so used, or acquiring (whether by agreement or compulsorily) any property so used or to be so used;

the regulations may provide that that power shall, subject to such conditions (if any) as are prescribed, be exercisable by that authority or person with respect to a visiting force, its service tribunals, persons connected with the visiting force or property used or to be used by the visiting force to any extent to which the power would be exercisable if the visiting force were a part of the Defence Force.

- (2) The regulations may, subject to such conditions (if any) as are prescribed:
  - (a) exempt a visiting force, its members, its service tribunals or persons in any way connected with a visiting force, or property used or to be used for the purposes of a visiting force, from the operation of any enactment specified in the regulations to any extent to which the force, its members, its service tribunals, such persons or such property would be, or would be capable of being, exempted if the force were a part of the Defence Force; and
  - (b) confer on a visiting force, its members, its service tribunals, persons in any way connected with a visiting force or property used or to be used for the purposes of a visiting force any privilege or immunity specified in the regulations, being a privilege or immunity that would be enjoyed by, or would be capable of being conferred on, the force, its members, its service tribunals, such persons or such property if the force were a part of the Defence Force.
- (3) Where by an enactment the doing of anything is prohibited, restricted or required in relation to:

- (a) the Defence Force, a part of that Force, members or service tribunals of a part of that Force or persons in any way connected with a part of that Force; or
  - (b) any property used or to be used for the purposes of the Defence Force or a part of that Force;
- the regulations may provide that the prohibition, restriction or requirement has effect in the case of a visiting force to any extent to which it would have effect if the visiting force were a part of the Defence Force.
- (4) Regulations made for the purposes of this section may contain such incidental, consequential and supplementary provisions as are expedient for the purposes of any provision of those regulations.
  - (5) Any provision of regulations made for the purposes of this section may be expressed to apply either generally or in relation to a particular visiting force or in relation to a particular place.
  - (6) Subsections (1) and (3) apply whether the power concerned is exercisable, or the prohibition, restriction or requirement concerned is imposed, by a provision expressly relating to the Defence Force or a part of that Force or by a more general provision.
  - (7) Subsection (2) applies whether the exemption, privilege or immunity concerned would subsist, or be capable of being conferred, by virtue of an enactment so providing or by reason that an enactment does not bind Australia.
  - (8) In this section:

***enactment*** means an Act, an Ordinance of a Territory and any regulation, order or other instrument having effect by virtue of an Act or such an Ordinance.

***property*** includes both real and personal property.

## **17 Settlement of claims against visiting forces**

- (1) Where Australia has entered into an agreement with another country under which payments of amounts in satisfaction of claims arising out of acts or omissions of members of a visiting force or of persons connected with a visiting force are to be or may be made by Australia, payment by Australia of such an amount, being an amount agreed upon, or determined by judicial process, between Australia and the claimant, is a full discharge from liability of Australia or other person against whom the claim was made.
- (2) The Australian Government Solicitor may act as solicitor for any person referred to in the last preceding subsection against whom any claim referred to in that subsection is made, and, for that purpose, is entitled to practise as a solicitor in any court exercising jurisdiction with respect to such a claim and has all the rights and privileges of a solicitor in any State or Territory, whether or not he or she is enrolled as a solicitor in that State or Territory.

## **18 Evidence for the purposes of this Part**

- (1) Where the designated authority of a country in relation to which section 8 applies certifies in writing that, at a time specified in the certificate, a person so specified either was or was not a member of a visiting force of that country, that certificate is, in any proceedings in a court, sufficient evidence of the facts so certified, unless the contrary is proved.
- (2) Where, in connexion with a charge against a person of having committed an offence against a law of Australia or of a State or Territory, the designated authority of a country in relation to which section 8 applies certifies in writing that the case can be dealt with under the service law of that country, that certificate is, in any proceedings in a court with respect to that charge, conclusive evidence, for the purposes of paragraph (b) of subsection (2) of section 9 of the matter so certified.

- (3) Where the designated authority of a country in relation to which section 8 applies certifies in writing that a person specified in the certificate:
- (a) was, on a date so specified, sentenced by a service tribunal of that country to such punishment as is so specified;
  - (b) is, or was at a time so specified, detained in custody in pursuance of a sentence passed upon him or her by a service tribunal of that country, or pending or during the trial by such a service tribunal of a charge brought against him or her; or
  - (c) has been tried, at a time and place so specified, by a service tribunal of that country for an offence so specified;
- that certificate is, in any proceedings in a court, conclusive evidence of the facts so certified.
- (4) Where:
- (a) a person is charged with an offence against a law of Australia or of a State or Territory;
  - (b) at the time when the offence is alleged to have been committed he or she was a member of a visiting force or a member of a civilian component of a visiting force; and
  - (c) the Attorney-General certifies in writing that the alleged offence, if committed by that person, arose out of and in the course of his or her duty as a member of that force or component, as the case may be;
- that certificate is, in any proceedings in a court, sufficient evidence of the fact so certified, unless the contrary is proved.

## Part V—Miscellaneous

### 27 Proof of facts by certificate

- (1) Where the designated authority of a country certifies in writing that a body, contingent or detachment of the forces of that country is, or was at a time specified in the certificate, present in Australia, that certificate is, in any proceedings in a court, conclusive evidence of the fact stated in the certificate.
- (3) Where in a certificate given for the purposes of this Act 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.
- (4) A document purporting to be a certificate, request or notification given or made for the purposes of a provision of this Act, and to be signed by an authority or person specified in the document, shall, upon its production in any proceedings in a court, be received in evidence and shall, unless the contrary is proved, be deemed to be a certificate, request or notification given or made by that authority or person.
- (5) Where under a provision of this Act a certificate, request or notification is required or permitted to be given or made by the designated authority of a country, and a certificate, request or notification purports to be signed by a person described in that document as the designated authority of a 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.

**28 Delegation of powers and functions**

- (1) The Attorney-General may, in relation to a matter, or to a State, Territory or other part of Australia, delegate in writing all or any of the Attorney-General's powers and functions under this Act to an SES employee, or acting SES employee, in the Attorney-General's Department.
- (3) Subject to subsection (4), the Chief of the Defence Force or a service chief may, in relation to a matter or 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 or functions under this Act, other than this power of delegation.
- (4) The Chief of the Defence Force or a service chief shall not delegate his or her power to make general orders for the purposes of subsection (7) of section 8 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 power or function delegated under this section may be exercised or performed by the delegate in accordance with the instrument of delegation.
- (6) A delegation under this section is revocable at will and does not prevent the exercise of a power or the performance of a function by the Attorney-General or the Chief of the Defence Force or a service chief, as the case may be.
- (7) A delegation under this section continues in force notwithstanding a change in the occupancy or a vacancy in the office of Attorney-General, of Chief of the Defence Force or of service chief.
- (8) A document purporting to be a copy of:

Section 30

---

- (a) a delegation signed by the Attorney-General or a written authority signed by the Attorney-General or a delegate of the Attorney-General; or
- (b) a delegation by the Chief of the Defence Force or a service chief, or an order or written authority made or given by the Chief of the Defence Force or a service chief or by a delegate of the Chief of the Defence Force or a service chief, and bearing the signature or a facsimile of the signature of the Chief of the Defence Force or the service chief 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 its production in a court or otherwise for any purpose arising under this Act, without proof of the signature on the document or of the authority to give or make the delegation, order, written authority or endorsement, sufficient evidence, unless the contrary is proved, 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.

### 30 Regulations

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 carrying out or giving effect to this Act.

---

## The Schedule—Offences against the person

### Section 9

1. For the purposes of section 9, the expression ***offence against the person*** means any offence that is punishable under the law of Australia or of a State or Territory and an essential element of which is an act or omission that causes, or tends to cause, death, danger to life, bodily harm or apprehension of harm.
2. Without limiting the generality of the last preceding paragraph, the expression ***offence against the person*** includes murder, manslaughter, infanticide, any other form of unlawful homicide, unlawful wounding, assault, robbery with violence or threat of violence, rape and other offences against women and girls, unnatural or indecent acts or conduct, unlawful abortion, incest, abduction, kidnapping and false imprisonment, as provided by the law in force in that part of Australia in which the offence is committed.

### Offences Against Property

3. For the purposes of section 9, the expression ***offence against property*** includes, without prejudice to the generality of the expression, burglary, housebreaking, stealing, larceny, embezzlement, any form of wrongful taking or appropriation of property, obtaining property by extortion, fraud or false pretences, and any form of malicious damage to property, as provided by the law in force in that part of Australia in which the offence is committed.

### General

4. A reference in the preceding paragraphs of this Schedule to a particular offence shall be read as including a reference to any offence (by whatever name called or however described in the law of Australia or of the State or Territory concerned) that is substantially similar to that offence.

## Endnotes

### Endnote 1—About the endnotes

---

## Endnotes

### Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

### Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

### Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

### Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

### Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can

---

Endnote 1—About the endnotes

---

be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

## Endnotes

### Endnote 2—Abbreviation key

---

#### Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

## Endnote 3—Legislation history

## Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Defence (Visiting Forces) Act 1963	81, 1963	31 Oct 1963	15 Dec 1963 (s 2 and gaz 1963, p 4577)	
Statute Law Revision Act 1973	216, 1973	19 Dec 1973	Sch 1 and Sch 2: 31 Dec 1973 (s 2)	s 9(1) and 10
Defence Force Re-organization Act 1975	96, 1975	9 Sept 1975	s 103–110: 9 Feb 1976 (s 2 and gaz 1975, No G42, p 2)	s 105(2), 106(2), 107(2), (3), 108(2), (3) and 109(2)
Australian Federal Police (Consequential Amendments) Act 1979	155, 1979	28 Nov 1979	Sch: 19 Oct 1979 (s 2(1))	—
Australian Federal Police (Consequential Amendments) Act 1980	70, 1980	28 May 1980	Sch: 28 May 1980 (s 2)	—
Defence Acts Amendment Act 1981	178, 1981	8 Dec 1981	s 12–18: 15 Aug 1983 (s 2(3) and gaz 1983, No S169)	s 17(2) and 18
Defence Force (Miscellaneous Provisions) Act 1982	153, 1982	31 Dec 1982	s 71, 72: 3 July 1985 (s 2 and gaz 1985, No S255)	—
Australian Government Solicitor (Consequential Amendments) Act 1984	10, 1984	10 Apr 1984	Sch: 1 July 1984 (s 2(1))	s 4(1)
Defence Legislation Amendment Act (No. 1) 1997	1, 1997	19 Feb 1997	Sch 2 (items 27, 84, 110, 131–134): 19 Feb 1997 (s 2(1))	—
Judiciary Amendment Act 1999	7, 1999	31 March 1999	Sch 3 (items 6, 7): 1 Sept 1999 (s 2(2) and gaz 1999, No S395)	—

*Defence (Visiting Forces) Act 1963*

25

Compilation No. 8

Compilation date: 5/3/16

Registered: 22/4/16

## 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>
Public Employment (Consequential and Transitional) Amendment Act 1999	146, 1999	11 Nov 1999	Sch 1 (item 384): 5 Dec 1999 (s 2(2))	—
Statute Law Revision Act 2008	73, 2008	3 July 2008	Sch 4 (items 248–250): 4 July 2008 (s 2(1) item 64)	—
Acts and Instruments (Framework Reform) Act 2015	10, 2015	5 Mar 2015	Sch 3 (items 80, 348, 349): 5 Mar 2016 (s 2(1) item 2)	Sch 3 (items 348, 349)
Defence Legislation Amendment (First Principles) Act 2015	164, 2015	2 Dec 2015	Sch 2 (items 45–53, 80): 1 July 2016 (s 2(1) item 2)	<u>Sch 2 (item 80)</u>

## Endnote 4—Amendment history

## Endnote 4—Amendment history

Provision affected	How affected
<b>Part I</b>	
s. 3 .....	rep. No. 216, 1973
s. 5 .....	am. No. 216, 1973; No. 96, 1975; No. 178, 1981; No. 73, 2008
s. 6 .....	am. No. 96, 1975; No. 178, 1981
<b>Part II</b>	
s. 8 .....	am. No. 96, 1975; No. 1, 1997; No. 73, 2008; <u>No 164, 2015</u>
ss. 9–12 .....	am. No. 96, 1975; No. 73, 2008
s. 13 .....	am. No. 73, 2008
ss. 14, 15 .....	am. No. 96, 1975; No. 73, 2008
s. 16 .....	am. No. 96, 1975; No. 153, 1982
s. 17 .....	am. No. 96, 1975; No. 10, 1984; No. 73, 2008
s. 18 .....	am. No. 96, 1975; No. 73, 2008
Part III .....	rep. No. 178, 1981
ss. 19, 20 .....	am. No. 96, 1975; No. 155, 1979; No. 70, 1980
	rep. No. 178, 1981
s. 21 .....	am. No. 96, 1975
	rep. No. 178, 1981
s. 22 .....	rep. No. 178, 1981
s. 23 .....	am. No. 96, 1975
	rep. No. 178, 1981
Part IV .....	rep. No. 178, 1981
s. 24 .....	am. No. 96, 1975
	rep. No. 178, 1981
s. 25 .....	am. No. 216, 1973; No. 96, 1975
	rep. No. 178, 1981
s. 26 .....	rep. No. 178, 1981
<b>Part V</b>	
s. 27 .....	am. No. 178, 1981; No. 73, 2008

## Endnotes

### Endnote 4—Amendment history

---

Provision affected	How affected
s. 28 .....	am. No. 96, 1975; No. 178, 1981; No. 10, 1984; No. 1, 1997; Nos. 7 and 146, 1999; No. 73, 2008; <u>No 164, 2015</u>
s 29 .....	rep No 10, 2015
<b>The Schedule</b>	
The Schedule .....	am. No. 96, 1975