



# **Defence Legislation Amendment Act 2003**

**No. 135, 2003**

**An Act to amend legislation relating to defence, and  
for related purposes**

Note: An electronic version of this Act is available in SCALEplus  
(<http://scaleplus.law.gov.au/html/comact/browse/TOCN.htm>)



---

## Contents

1	Short title.....	1
2	Commencement.....	2
3	Schedule(s).....	3
<b>Schedule 1—Amendment of the Defence Force Discipline Act 1982</b>		4
<b>Schedule 2—Amendment of other Acts</b>		16
	<i>Air Force Act 1923</i>	16
	<i>Archives Act 1983</i>	17
	<i>Defence Act 1903</i>	17
	<i>Defence Force (Home Loans Assistance) Act 1990</i>	19
	<i>Defence Legislation Amendment (Application of Criminal Code) Act 2001</i>	19
	<i>Defence Reserve Service (Protection) Act 2001</i>	20
	<i>Freedom of Information Act 1982</i>	20
	<i>Naval Defence Act 1910</i>	20
	<i>Privacy Act 1988</i>	21
	<i>Safety, Rehabilitation and Compensation Act 1988</i>	21
<b>Schedule 3—Amendment of regulations</b>		23
	<i>Defence Legislation Amendment (Application of Criminal Code) Regulations 2001 (No. 1)</i>	23
	<i>Defence Legislation Amendment (Application of Criminal Code) Regulations 2001 (No. 2)</i>	23





# Defence Legislation Amendment Act 2003

No. 135, 2003

---

---

## **An Act to amend legislation relating to defence, and for related purposes**

[Assented to 17 December 2003]

The Parliament of Australia enacts:

### **1 Short title**

This Act may be cited as the *Defence Legislation Amendment Act 2003*.

---

## 2 Commencement

- (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.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent	17 December 2003
2. Schedule 1	The 28th day after the day on which this Act receives the Royal Assent	14 January 2004
3. Schedule 2, items 1 to 15	A single day to be fixed by Proclamation, subject to subsection (3)	17 June 2004
4. Schedule 2, items 16 to 19	The 28th day after the day on which this Act receives the Royal Assent	14 January 2004
5. Schedule 2, item 20	At the same time as the provisions covered by item 3 of this table	17 June 2004
6. Schedule 2, items 21 to 24	At the same time as the provisions covered by item 1 of this table	17 December 2003
7. Schedule 2, item 25	At the same time as the provisions covered by item 3 of this table	17 June 2004
8. Schedule 2, items 26 and 27	At the same time as the provisions covered by item 1 of this table	17 December 2003
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
10. Schedule 2, item 29	Immediately after the commencement of the <i>Defence Reserve Service (Protection) Act 2001</i>	19 April 2001
11. Schedule 2, items 30 to 42	At the same time as the provisions covered by item 3 of this table	17 June 2004
12. Schedule 3, item 1	5 October 2001	5 October 2001

---

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
13. Schedule 3, item 2	15 October 2001	15 October 2001

Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table is for additional information that is not part of this Act. This information may be included in any published version of this Act.
- (3) If a provision covered by item 3 of the table does not commence 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.

### **3 Schedule(s)**

- (1) Each Act, and each set of regulations, that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.
- (2) The amendment of any regulation under subsection (1) does not prevent the regulation, as so amended, from being amended or repealed by the Governor-General.
- (3) To avoid doubt, regulations amended under subsection (1) are taken to still be regulations.

## Schedule 1—Amendment of the Defence Force Discipline Act 1982

### 1 Subsection 3(1)

Insert:

*competent reviewing authority* has the meaning given by section 150A.

### 2 Paragraph 34(1)(b)

Omit “inferior”, substitute “subordinate”.

Note: The heading to section 34 is altered by omitting “**an inferior**” and substituting “**a subordinate**”.

### 3 Subsection 34(3)

Omit “inferior”, substitute “subordinate”.

### 4 Section 35

Repeal the section, substitute:

### 35 Negligence in performance of a duty

- (1) A person who is a defence member is guilty of an offence if:
  - (a) the person is required, because of his or her office or appointment, to perform a duty; and
  - (b) the person engages in conduct; and
  - (c) that conduct results in a failure to perform the duty to the required standard.

Penalty: Imprisonment for 3 months.

- (2) Negligence applies to paragraph (1)(c).
- (3) In this section:

*required standard*, in relation to performing a duty, means the standard to which a reasonably capable and careful defence member of the same training and experience would perform the duty.



## **5 Section 36A**

Repeal the section, substitute:

### **36A Unauthorised discharge of weapon**

A person who is a defence member or a defence civilian is guilty of an offence if:

- (a) the person engages in conduct; and
- (b) the conduct causes, or contributes to, the discharge of a weapon; and
- (c) the discharge of the weapon is not authorised.

Penalty: Imprisonment for 6 months.

### **36B Negligent discharge of weapon**

A person who is a defence member or a defence civilian is guilty of an offence if:

- (a) the person engages in conduct; and
- (b) the conduct causes, or contributes to, the discharge of a weapon; and
- (c) the person is negligent as to that result.

Penalty: Imprisonment for 6 months.

## **6 Section 40B**

Repeal the section.

## **7 Subsection 72(1)**

After “20AA”, insert “of the *Crimes Act 1914*”.

## **8 Subsection 101C(2)**

Omit all the words and paragraphs after “commencement”, substitute “of the interview cautioned the person that he or she does not have to say or do anything, but that anything the person does say or do may be used in evidence.”.

Note: The heading to section 101C is replaced by the heading “**Questioning and cautioning of person in custody**”.

## **9 After subsection 101C(2)**

Insert:

- (2A) A caution for the purpose of subsection (2) must be given in, or translated into, a language in which the person being cautioned is able to communicate with reasonable fluency, but need not be given in writing.
- (2B) An investigating officer who is required by subsection (2) to caution a person must, if practicable, tape record the giving of the caution and the person's response (if any).
- (2C) If:
- (a) an investigating officer cautions a person under this section; and
  - (b) the giving of the caution and the person's response (if any) to the caution are not tape recorded;
- then, in any proceedings before a service tribunal, the prosecution has the burden of proving that it was not practicable to tape record the giving of the caution or the person's response (if any) to the caution.

#### **10 Paragraph 101D(4)(a)**

After "person", insert "under this section".

Note: The heading to section 101D is replaced by the heading "**Cautioning once decision to charge or summon has been made**".

#### **11 Subsection 103(1)**

After "subsection 129A(3)", insert "or 130(5)".

#### **12 At the end of subsection 103(1)**

Add:

Note: A charge referred to a Defence Force magistrate must be referred to the magistrate nominated by the Judge Advocate General: see subsection 129C(1).

#### **13 At the end of subsection 103(2)**

Add:

Note: A charge referred to a Defence Force magistrate must be referred to the magistrate nominated by the Judge Advocate General: see subsection 129C(1).

**14 At the end of subsection 103(4)**

Add:

Note: A charge referred to a Defence Force magistrate must be referred to the magistrate nominated by the Judge Advocate General: see subsection 129C(1).

**15 At the end of subsection 103(6)**

Add:

Note: A case referred to a Defence Force magistrate must be referred to the magistrate nominated by the Judge Advocate General: see subsection 129C(2).

**16 At the end of section 103**

Add:

(8) If a convening authority believes that he or she would be:

- (a) biased, or likely to be biased; or
- (b) likely to be thought, on reasonable grounds, to be biased;

in the exercise of a power under this section in relation to:

- (c) a charge; or
- (d) an order for a new trial; or
- (e) a conviction;

the convening authority may refer the charge, order or conviction to another convening authority.

(9) If a convening authority believes that the interests of justice require this in respect of the exercise of a power under this section in relation to:

- (a) a charge; or
- (b) an order for a new trial; or
- (c) a conviction;

the convening authority may refer the charge, order or conviction to another convening authority.

(10) If:

- (a) a charge, order or conviction is referred to a convening authority for the purposes of the exercise of a power of the convening authority under this section; and

- (b) the convening authority does not, because of the terms of his or her appointment, have the power to convene a general court martial; and
- (c) the convening authority is of the opinion that the convening of a general court martial could be an appropriate exercise of power under this section in relation to the charge, order or conviction;

the convening authority may refer the charge, order or conviction to a convening authority who has the power to convene a general court martial.

- (11) If a convening authority (the *first convening authority*) refers a charge, order or conviction to another convening authority (the *second convening authority*) under subsection (8), (9) or (10):
  - (a) the first convening authority must not exercise a power under subsections (1) to (7) in relation to the charge, order or conviction; and
  - (b) the subsection of this section that relates to the referral of the charge, order or conviction to the first convening authority applies as if the charge, order or conviction had been referred to the second convening authority.

## 17 Section 118

Repeal the section.

## 18 At the end of subsection 119(1)

Add:

Note: A convening authority must not appoint a person as a member, reserve member or judge advocate of a court martial unless the person has been nominated by the Judge Advocate General: see section 129B.

## 19 At the end of section 123

Add:

Note: A convening authority must not appoint a person as a member, reserve member or judge advocate of a court martial unless the person has been nominated by the Judge Advocate General: see section 129B.

## 20 At the end of subsection 124(3)

Add:

Note: A convening authority must not appoint a person as a judge advocate of a court martial unless the person has been nominated by the Judge Advocate General: see section 129B.

## **21 At the end of section 127**

Add:

Note: A member of the judge advocates' panel is appointed for a maximum period of 3 years but is eligible for reappointment: see subsection 196(2A).

## **22 At the end of subsection 129A(4)**

Add:

Note: A charge or case referred to a Defence Force magistrate must be referred to the magistrate nominated by the Judge Advocate General: see section 129C.

## **23 At the end of Part VII**

Add:

### **Division 5—Nomination of Defence Force magistrates and members of courts martial**

#### **129B Judge Advocate General to nominate members of courts martial**

- (1) A convening authority must not appoint a person as:
  - (a) the President of a court martial; or
  - (b) a member or reserve member of a court martial; or
  - (c) a judge advocate of a court martial;unless the Judge Advocate General has nominated the person for the position.
- (2) The Judge Advocate General must not nominate a person for one of the positions referred to in subsection (1) if the Judge Advocate General believes the person to be:
  - (a) biased or likely to be biased; or
  - (b) likely to be thought, on reasonable grounds, to be biased.

**129C Judge Advocate General to nominate Defence Force magistrates**

- (1) A convening authority must not refer a charge to a Defence Force magistrate unless the Judge Advocate General has nominated the magistrate to try the charge.
- (2) A convening authority must not refer a case to a Defence Force magistrate to take action under Part IV in relation to a convicted person unless the Judge Advocate General has nominated the magistrate to take action in relation to the person.

**24 At the end of Division 1 of Part IX**

Add:

**150A Meaning of *competent reviewing authority***

A reviewing authority is a *competent reviewing authority* for the purposes of reviewing the proceedings of a service tribunal that relate to a particular charge only if the reviewing authority did not exercise any of the powers or perform any of the functions of a convening authority in relation to the charge.

**25 At the end of section 151**

Add:

- (6) If the legal officer does not transmit the record of proceedings and the report of the results of the review to a reviewing authority, the commanding officer must give written notice of the results of the review to the person who was convicted of the service offence.

**26 Subsection 152(1)**

Omit “reviewing authority”, substitute “competent reviewing authority”.

**27 At the end of section 152**

Add:

- (3) After reviewing the proceedings, the reviewing authority must give the person who was convicted of the service offence, or who was the person in relation to whom a direction under subsection 145(2) or (5) was given, written notice of the results of the review.

**28 Subsection 153(1)**

Omit “, within 90 days after that conviction or the giving of that direction or such further period as a reviewing authority allows, lodge with the”, substitute “lodge with a competent”.

**29 After subsection 153(1)**

Insert:

(1A) The person must lodge the petition within 30 days after:

- (a) if a commanding officer reviews the proceedings of the service tribunal under section 151 and gives the person notice of the results of the review under subsection 151(6)—the notice is given; or
- (b) in any other case—the person is given notice of the results of the review under subsection 152(3);

unless the reviewing authority extends the period during which the petition may be lodged.

(1B) If the reviewing authority extends the period during which the petition may be lodged, the petition must be lodged within that extended period.

**30 Subsection 153(2)**

Omit “a reviewing authority”, substitute “a competent reviewing authority”.

**31 After subsection 154(1)**

Insert:

(1A) An appointment under paragraph (1)(a) is for the period, not exceeding 3 years, specified in the instrument of appointment.

(1B) A legal officer appointed under paragraph (1)(a) may be reappointed for a further period or periods.

**32 Subsection 155(1)**

Omit “Chief of Staff”, substitute “Chief of the Defence Force or the service chief”.

**33 Subsection 155(2)**

Omit “Chief of Staff”, substitute “Chief of the Defence Force or the service chief”.

**34 Section 169A**

Insert:

*officer cadet* means a defence member who holds:

- (a) in the Navy—the rank of midshipman; or
- (b) in the Army or the Air Force—the rank of officer cadet.

**35 Section 169C**

Omit “holding”, substitute “who is an officer cadet or holds”.

**36 Subsection 169D(1)**

Omit “holding”, substitute “who is an officer cadet or holds”.

**37 Subsection 169F(2)**

Omit “penalty”, substitute “punishment”.

**38 After section 169F**

Insert:

**169FA Commencement of punishments**

- (1) Subject to this Part, a punishment imposed by a discipline officer takes effect immediately and a punishment for a specific period commences on the day on which it is imposed.
- (2) A discipline officer who imposes a punishment for a specific period may impose the punishment for a period beginning on a specified day no later than 14 days after the day on which the punishment is imposed.

**39 Part XI (heading)**

Repeal the heading, substitute:



**Part XI—Judge Advocate General, Deputy Judge  
Advocates General and Chief Judge  
Advocate**

**Division 1—Judge Advocate General and Deputy Judge  
Advocates General**

**40 At the end of Part XI**

Add:

**Division 2—Chief Judge Advocate**

**188A Chief Judge Advocate**

- (1) The Judge Advocate General may, by instrument in writing, appoint an officer to be the Chief Judge Advocate.
- (2) The appointment is for the period, not exceeding 3 years, specified in the instrument of appointment.
- (3) A Chief Judge Advocate may be reappointed for a further period or periods.

**188B Role of the Chief Judge Advocate**

- (1) The Chief Judge Advocate is to provide administrative assistance to the Judge Advocate General.
- (2) Subject to subsection (3), the Judge Advocate General may, by signed instrument, delegate all or any of his or her powers to the Chief Judge Advocate.
- (3) The Judge Advocate General must not delegate his or her powers under any of the following provisions to the Chief Judge Advocate:
  - (a) subsection 127(1);
  - (b) subsection 154(4);
  - (c) subsection 196(2).
- (4) The Chief Judge Advocate is, in the exercise of a delegated power or function, subject to the direction and control of the Judge Advocate General.

**188C Eligibility requirements**

A person is not eligible to be the Chief Judge Advocate unless the person is:

- (a) an officer holding a rank not below the naval rank of captain or the rank of colonel or group captain; and
- (b) a member of the judge advocates' panel.

**188D Resignation**

The Chief Judge Advocate may resign his or her office by giving to the Judge Advocate General a signed notice of resignation.

**41 Subsection 190(2)**

Omit "subsections (3), (4) and (5)", substitute "subsection (4)".

**42 Subsection 190(3)**

Repeal the subsection.

**43 Subsection 190(5)**

Repeal the subsection.

**44 Subsection 190(6)**

Repeal the subsection.

**45 Subsection 196(2)**

Omit "chief of staff", substitute "Chief of the Defence Force or the service chief".

**46 After subsection 196(2)**

Insert:

- (2A) An appointment under subsection (2) is for the period specified in the instrument of appointment. However, if the specified period exceeds 3 years, the appointment is for a period of 3 years.
- (2B) An officer appointed under subsection (2) may be reappointed for a further period or periods.

**47 Table C in Schedule 3 (table item dealing with Any other subordinate summary authority)**

---

Repeal the table item, substitute:

Any subordinate summary authority	Non-commissioned officer of, or below, the rank of leading seaman or corporal	Fine not exceeding the amount of the convicted person's pay for 3 days Severe reprimand Reprimand
	Member below non-commissioned rank	Fine not exceeding the amount of the convicted person's pay for 3 days Severe reprimand Restriction of privileges for a period not exceeding 7 days Stoppage of leave for a period not exceeding 7 days Extra duties for a period not exceeding 7 days Extra drill for not more than 2 sessions of 30 minutes each per day for a period not exceeding 3 days Reprimand

#### **48 Application**

The amendments made by items 21, 31 and 46 of this Schedule apply to appointments made after the commencement of this Act.

## Schedule 2—Amendment of other Acts

### *Air Force Act 1923*

#### **1 Subsection 8(1)**

Repeal the subsection, substitute:

- (1) The body known immediately before the commencement of this subsection as the Air Training Corps is continued in existence with the new name, Australian Air Force Cadets.

Note: The heading to section 8 is replaced by the heading “**Australian Air Force Cadets**”.

#### **2 Subsection 8(2)**

Omit “Air Training Corps shall consist”, substitute “Australian Air Force Cadets consists”.

#### **3 Subsection 8(3)**

Omit “Air Training Corps”, substitute “Australian Air Force Cadets”.

#### **4 Subsection 8(4)**

Omit “Air Training Corps”, substitute “Australian Air Force Cadets”.

#### **5 Subsection 8(7)**

Omit “Air Training Corps”, substitute “Australian Air Force Cadets”.

#### **6 Subsection 8(8)**

Omit “Air Training Corps”, substitute “Australian Air Force Cadets”.

#### **7 Subsection 8(9)**

Omit “Air Training Corps”, substitute “Australian Air Force Cadets”.

#### **8 Transitional—Australian Air Force Cadets**

To avoid doubt:

- (a) appointments to the Air Training Corps in force under paragraph 8(2)(a) or (b) of the *Air Force Act 1923* immediately before the commencement of item 1 of this Schedule continue to have effect after that commencement as

---

if they were appointments to the Australian Air Force Cadets;  
and

- (b) persons who are cadets in the Air Training Corps under section 8 of the *Air Force Act 1923* immediately before the commencement of item 1 of this Schedule continue as cadets in the Australian Air Force Cadets after that commencement, subject to the limitations imposed by that section (as amended).

### ***Archives Act 1983***

#### **9 Paragraph 3(3)(b)**

Omit “Cadet Corps”, substitute “Army Cadets”.

#### **10 Paragraph 3(3)(c)**

Omit “Naval Reserve Cadets”, substitute “Australian Navy Cadets”.

#### **11 Paragraph 3(3)(d)**

Omit “Air Training Corps”, substitute “Australian Air Force Cadets”.

### ***Defence Act 1903***

#### **12 Section 58A (definition of *cadet*)**

Omit “Australian Cadet Corps, the Naval Reserve Cadets or the Air Training Corps”, substitute “Australian Army Cadets, the Australian Navy Cadets or the Australian Air Force Cadets”.

#### **13 Subsection 62(1)**

Repeal the subsection, substitute:

- (1) The body known immediately before the commencement of this subsection as the Australian Cadet Corps is continued in existence with the new name, Australian Army Cadets.

Note: The heading to section 62 is altered by omitting “**Cadet Corps**” and substituting “**Army Cadets**”.

#### **14 Subsection 62(2)**

Omit “Cadet Corps shall consist”, substitute “Army Cadets consists”.

#### **15 Subsections 62(3), (4), (7), (8) and (9)**

Omit “Cadet Corps”, substitute “Army Cadets”.

**16 Subsection 80A(1) (penalty)**

Omit “\$200”, substitute “30 penalty units”.

**17 Subsection 80B(1) (penalty)**

Repeal the penalty, substitute:

Penalty: 30 penalty units or imprisonment for 6 months, or both.

**18 Subsection 80B(4) (penalty)**

Repeal the penalty, substitute:

Penalty: 30 penalty units or imprisonment for 6 months, or both.

**19 Subsection 80B(5) (penalty)**

Repeal the penalty, substitute:

Penalty: 60 penalty units or imprisonment for 12 months, or both.

**20 Paragraph 123AA(1)(b)**

Omit “Cadet Corps”, substitute “Army Cadets”.

**21 Paragraph 124(1)(gc)**

Omit “and investigating officers”, substitute “, investigating officers and inquiry assistants”.

**22 Subsection 124(2A)**

Omit “or a board of inquiry”, substitute “, a board of inquiry, an investigating officer or an inquiry assistant”.

**23 Subsection 124(2C)**

Omit “or a board of inquiry”, substitute “, a board of inquiry, an investigating officer or an inquiry assistant”.

**24 Subsection 124(2C)**

Omit “at the hearing before the court of inquiry or the board of inquiry”, substitute “at the hearing before the court of inquiry, the board of inquiry, the investigating officer or the inquiry assistant”.

---

**25 Transitional—Australian Army Cadets**

To avoid doubt:

- (a) appointments to the Australian Cadet Corps in force under paragraph 62(2)(a) or (aa) of the *Defence Act 1903* immediately before the commencement of item 13 of this Schedule continue to have effect after that commencement as if they were appointments to the Australian Army Cadets; and
- (b) persons who are cadets in the Australian Cadet Corps under section 62 of the *Defence Act 1903* immediately before the commencement of item 13 of this Schedule continue as cadets in the Australian Army Cadets after that commencement, subject to the limitations imposed by that section (as amended).

***Defence Force (Home Loans Assistance) Act 1990*****26 Section 3 (after paragraph (b) of the definition of reviewable decision)**

Insert:

- (ba) refusing to make a determination under subsection 4(1A); or

**27 After subsection 4(1)**

Insert:

- (1A) However, the Secretary may determine in writing that a person covered by paragraph (1)(a) continues to be an eligible person for a specified period beyond the period of 2 years mentioned in that paragraph, if:
  - (a) the person is an incapacitated person; and
  - (b) the person satisfies the Secretary that the compensable disability that caused the person's discharge also caused, or contributed to, the person's failure to apply for an entitlement certificate within that 2 year period.
- (1B) An application for a determination under subsection (1A) must be in writing.

***Defence Legislation Amendment (Application of Criminal Code) Act 2001***

---

**28 Subsection 2(2)**

Repeal the subsection, substitute:

- (2) Part 1 of Schedule 1 commences on 15 December 2001.

***Defence Reserve Service (Protection) Act 2001***

**29 Subsection 12(1)**

Omit “32A(4)”, substitute “32A(3)”.

***Freedom of Information Act 1982***

**30 Paragraph 4(4)(b)**

Omit “Cadet Corps”, substitute “Army Cadets”.

**31 Paragraph 4(4)(c)**

Omit “Naval Reserve Cadets”, substitute “Australian Navy Cadets”.

**32 Paragraph 4(4)(d)**

Omit “Air Training Corps”, substitute “Australian Air Force Cadets”.

***Naval Defence Act 1910***

**33 Subsection 38(1)**

Repeal the subsection, substitute:

- (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.

Note: The heading to section 38 is altered by omitting “**Naval Reserve Cadets**” and substituting “**the Australian Navy Cadets**”.

**34 Subsection 38(2)**

Omit “Naval Reserve Cadets shall consist”, substitute “Australian Navy Cadets consists”.

**35 Subsections 38(3), (7) and (8)**

Omit “Naval Reserve”, substitute “Australian Navy”.

---



**36 Section 39**

Omit “Naval Reserve”, substitute “Australian Navy”.

Note: The heading to section 39 is altered by omitting “**Naval Reserve**” and substituting “**the Australian Navy**”.

**37 Paragraph 44E(1)(b)**

Omit “Naval Reserve”, substitute “Australian Navy”.

Note: The heading to section 44E is altered by omitting “**Naval Reserve**” and substituting “**Australian Navy**”.

**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).

***Privacy Act 1988***

**39 Subsection 6(1) (definition of *Defence Force*)**

Omit “Naval Reserve Cadets, the Australian Cadet Corps and the Air Training Corps”, substitute “Australian Navy Cadets, the Australian Army Cadets and the Australian Air Force Cadets”.

***Safety, Rehabilitation and Compensation Act 1988***

**40 Paragraph 6A(1)(b)**

Omit “Air Training Corps established under section 8 of the *Air Force Act 1923*”, substitute “Australian Air Force Cadets (see section 8 of the *Air Force Act 1923*)”.

**41 Paragraph 6A(1)(c)**

Omit “Australian Cadet Corps established under section 62 of the *Defence Act 1903*”, substitute “Australian Army Cadets (see section 62 of the *Defence Act 1903*)”.

**42 Paragraph 6A(1)(d)**

Omit “Naval Reserve Cadets established under section 38 of the *Naval Defence Act 1910*”, substitute “Australian Navy Cadets (see section 38 of the *Naval Defence Act 1910*)”.

## **Schedule 3—Amendment of regulations**

### ***Defence Legislation Amendment (Application of Criminal Code) Regulations 2001 (No. 1)***

#### **1 Regulation 2**

Repeal the regulation, substitute:

#### **2 Commencement**

These Regulations commence on 15 December 2001.

### ***Defence Legislation Amendment (Application of Criminal Code) Regulations 2001 (No. 2)***

#### **2 Regulation 2**

Repeal the regulation, substitute:

#### **2 Commencement**

These Regulations commence on 15 December 2001.

---

*[Minister's second reading speech made in—  
House of Representatives on 26 March 2003  
Senate on 28 November 2003]*

(32/03)

---