

# CRIMES (FOREIGN INCURSIONS AND RECRUITMENT) ACT 1978

## No. 13 of 1978

An Act relating to Incursions into Foreign Countries and Recruitment for Service in Armed Forces in Foreign Countries.

BE IT ENACTED by the Queen, and the Senate and House of Representatives of the Commonwealth of Australia, as follows:

- Short title           1. This Act may be cited as the *Crimes (Foreign Incursions and Recruitment) Act 1978*.<sup>1</sup>
- Commencement       2. This Act shall come into operation on the day on which it receives the Royal Assent.<sup>1</sup>
- Interpretation       3. In this Act, unless the contrary intention appears—  
“armed force” does not include an armed force forming part of the Defence Force of Australia;  
“Australia” includes the external Territories;  
“foreign country” means any country outside Australia;  
“government”, in relation to a foreign country, means the government recognized by the government of Australia as the lawful government of that foreign country;  
“incite” includes urge, aid and encourage and also includes print or publish any writing that incites, urges, aids or encourages;  
“recruit” includes procure, induce and incite.
- Extension of Act to Territories       4. This Act extends to every Territory.
- Act not to apply to acts done for defence of Australia       5. Nothing in this Act applies to any act done by a person acting in the course of his duty to the Commonwealth in relation to the defence of Australia.
- Incursions into foreign countries for purpose of engaging in hostile activities       6. (1) A person shall not—  
(a) enter a foreign country with intent to engage in a hostile activity against the government of that country; or  
(b) engage, in a foreign country, in a hostile activity against the government of that country.  
Penalty: Imprisonment for 14 years.  
(2) A person shall not be taken to have committed an offence against this section unless—

- (a) at the time of the doing of the act that is alleged to constitute the offence, the person—
  - (i) was an Australian citizen; or
  - (ii) not being an Australian citizen, was ordinarily resident in Australia; or
- (b) at any time during the period of one year immediately preceding the doing of that act, the person was present in Australia for a purpose connected with that act.

(3) For the purposes of sub-section (1), engaging in a hostile activity against the government of a foreign country consists of doing an act for the purpose of achieving any one or more of the following objectives (whether or not such an objective is achieved):

- (a) the overthrow by force or violence of the government of the foreign country;
- (b) causing by force or violence the public in the foreign country to be in fear of suffering death or personal injury;
- (c) causing the death of, or bodily injury to, a person who—
  - (i) is the head of state of the foreign country; or
  - (ii) holds, or performs any of the duties of, a public office of the foreign country; or
- (d) unlawfully destroying or damaging any real or personal property belonging to the government of the foreign country.

(4) Nothing in this section applies to an act done by a person in the course of, and as part of, his service in any capacity in or with—

- (a) the armed forces of the government of a foreign country; or
- (b) any other armed force in respect of which a declaration by the Minister under sub-section 9 (2) is in force.

7. (1) A person shall not, whether within or outside Australia—

- (a) do any act preparatory to the commission of an offence against section 6, whether by that person or by another person;
- (b) accumulate, stockpile or otherwise keep arms, explosives, munitions, poisons or weapons for the purpose of the commission of an offence against section 6, whether by that person or by another person;
- (c) train or drill or participate in training or drilling, or be present at a meeting or assembly of persons with intent to train or drill or to participate in training or drilling, any other person in the use of arms or explosives, or the practice of military exercises, movements or evolutions, for the purpose of preparing that other person to commit an offence against section 6;
- (d) allow himself to be trained or drilled, or be present at a meeting or assembly of persons with intent to allow himself to be trained or drilled, in the use of arms or explosives, or the practice of

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military exercises, movements or evolutions, for the purpose of the commission of an offence against section 6;

- (e) give money or goods to, or perform services for, any other person or any body or association of persons for the purpose of supporting or promoting the commission of an offence against section 6;
- (f) receive or solicit money or goods, or the performance of services, for the purpose of supporting or promoting the commission of an offence against section 6; or
- (g) being the owner, lessee, occupier, agent or superintendent of any building, room, premises or place, knowingly permit a meeting or assembly of persons to be held in the building, room, premises or place for the purpose of committing, or supporting or promoting the commission of, an offence against this section.

(2) A person shall not be taken to have committed an offence against this section in respect of the doing of an act outside Australia unless—

- (a) at the time of the doing of that act, the person—
  - (i) was an Australian citizen; or
  - (ii) not being an Australian citizen, was ordinarily resident in Australia; or
- (b) at any time during the period of one year immediately preceding the doing of that act, the person was present in Australia for a purpose connected with that act.

Penalty: Imprisonment for 10 years.

Recruiting persons to join organizations engaged in hostile activities against foreign governments

**8.** A person shall not, in Australia, recruit another person to become a member of, or to serve in any capacity with, a body or association of persons the objectives of which are or include any of the objectives referred to in sub-section 6 (3).

Penalty: Imprisonment for 7 years.

Recruiting persons to serve in or with an armed force in a foreign country

**9.** (1) A person shall not, in Australia—

- (a) recruit another person to serve in any capacity in or with an armed force in a foreign country, whether the armed force forms part of the armed forces of the government of that foreign country or otherwise;
- (b) publish an advertisement for the purpose of recruiting persons to serve in any capacity in or with such an armed force;
- (c) publish an advertisement containing any information—

- (i) relating to the place at which, or the manner in which, persons may make applications to serve, or obtain information relating to service, in any capacity in or with such an armed force; or
- (ii) relating to the manner in which persons may travel to a foreign country for the purpose of serving in any capacity in or with such an armed force; or
- (d) do any other act or thing for the purpose of facilitating or promoting the recruitment of persons to serve in any capacity in or with such an armed force.

Penalty: \$10,000 or imprisonment for 5 years.

(2) If the Minister has, by instrument signed by him and published in the *Gazette*, declared that it is in the interests of the defence or international relations of Australia to permit the recruitment in Australia, either generally or in particular circumstances, of persons to serve in or with a specified armed force, or to serve in or with a specified armed force in a particular capacity, sub-section (1) does not apply, or does not apply in those circumstances, as the case may be, to or in relation to recruitment to serve, or the publication of an advertisement containing information with respect to service, in or with that armed force, or in or with that armed force in that capacity, as the case may be.

(3) If a person recruits another person to enter into a commitment or engagement to serve in any capacity in or with an armed force, he shall be taken, for the purposes of this section, to recruit that other person to serve in or with that armed force whether or not the commitment or engagement is legally enforceable and whether or not it constitutes a legal or formal enlistment in that force.

(4) The provisions of section 48 (except paragraphs (1) (a) and (b) and sub-section (2)) and of section 49 of the *Acts Interpretation Act* 1901 apply, by force of this section, to a declaration made under sub-section (2) of this section in like manner as those provisions apply to regulations.

(5) For the purposes of this section, the publication of an item of news shall be deemed to constitute the publication of an advertisement if the publication was procured by the payment of, or by a promise to pay, money or by the provision of, or by a promise to provide, any other consideration.

**10.** (1) Proceedings for the commitment of a person for trial on indictment for an offence against this Act shall not be instituted except with the consent in writing of the Attorney-General.

Consent of  
Attorney-  
General  
required for  
prosecutions

(2) Notwithstanding that a consent has not been given in relation to the offence in accordance with sub-section (1)—

- (a) a person may be charged with an offence against this Act;

(b) a person may be arrested for an offence against this Act, and a warrant for such an arrest may be issued and executed; and

(c) a person so charged may be remanded in custody or on bail, but no further step in proceedings referred to in sub-section (1) shall be taken in relation to the offence until such a consent has been given.

(3) Nothing in sub-section (2) prevents the discharge of the accused if proceedings are not continued within a reasonable time.

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#### NOTE

1. Act No. 13, 1978; assented to 14 April 1978.