

2019-2020-2021

The Parliament of the  
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

*Presented and read a first time*

**Defence Amendment (Parliamentary  
Approval of Overseas Service) Bill 2021**

**No.     , 2021**

*(Mr Bandt)*

**A Bill for an Act to amend the *Defence Act 1903* to  
provide for parliamentary approval of overseas  
service by members of the Defence Force, and for  
related purposes**



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**A Bill for an Act to amend the *Defence Act 1903* to provide for parliamentary approval of overseas service by members of the Defence Force, and for related purposes**

The Parliament of Australia enacts:

**1 Short title**

This Act is the *Defence Amendment (Parliamentary Approval of Overseas Service) Act 2021*.

**2 Commencement**

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with

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column 2 of the table. Any other statement in column 2 has effect according to its terms.

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<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. The whole of this Act	The day after the day this Act receives the Royal Assent.	

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Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

### **3 Schedules**

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

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## **Schedule 1—Amendments**

### *Defence Act 1903*

#### **1 After Division 3 of Part III**

Insert:

#### **Division 4—The Service of the Defence Force**

##### **29A Parliamentary approval of service of members of Defence Force**

- (1) Members of the Defence Force may serve within the territorial limits of Australia.
- (2) Subject to this section, members of the Defence Force may not serve beyond the territorial limits of Australia except in accordance with a resolution, which is in effect and agreed to by each House of the Parliament, authorising the service.
- (3) The Governor-General may by proclamation declare that an emergency exists requiring the service beyond the territorial limits of Australia of members of the Defence Force, and such service may occur in accordance with such proclamation.
- (4) A proclamation under subsection (3) must not be made except on the written advice of the Prime Minister to the Governor-General explaining the circumstances of emergency which make it impractical to seek a resolution pursuant to subsection (2) before deploying members of the Defence Force beyond the territorial limits of Australia.
- (5) A proclamation and advice under subsections (3) and (4) must be published within 24 hours after the proclamation is made.
- (6) A proclamation under subsection (3) must be laid before each House of the Parliament within 2 days after it is made, together with a report (with copies for each member and senator) setting out:
  - (a) the advice referred to in subsection (4);
  - (b) the reasons for the proposed deployment;

- (c) the legal authority for the proposed deployment;
  - (d) the expected geographical extent of the proposed deployment;
  - (e) the expected duration of the proposed deployment; and
  - (f) the number of members of the Defence Force proposed to be deployed.
- (7) If the Parliament is in session when a proclamation under subsection (3) is made, but either House of the Parliament is adjourned for an indefinite period of time or for a period of time which will expire more than 2 days after the making of the proclamation, the Presiding Officer of that House within the meaning of the *Parliamentary Presiding Officers Act 1965*, or the person who is deemed to be the Presiding Officer of that House for the purpose of that Act, must summon that House to meet within 2 days after the making of the proclamation, in spite of anything contained in the standing orders or resolution of adjournment of that House.
- (8) If:
- (a) the Parliament is not in session when a proclamation under subsection (3) is made; or
  - (b) the Parliament is prorogued within 7 days after the proclamation is made;
- then:
- (c) the proclamation ceases to have effect at the expiration of 7 days after the proclamation is made; and
  - (d) no proclamation the same in substance as that proclamation can be made until the day on which the Parliament next meets.
- (9) If:
- (a) when a proclamation is made under subsection (3) the House of Representatives has been dissolved or has expired and the day appointed for the return of the writs for the general election has not occurred; or
  - (b) the House expires within 7 days after the proclamation is made;



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the proclamation ceases to have effect at the expiration of 7 days after the day appointed for the return of the writs for the general election.

- (10) While members of the Defence Force are deployed beyond the territorial limits of Australia under this section, the Minister must report in writing to each House of the Parliament on the first sitting day of that House after the commencement of each of the months of February, April, June, August, October and December of each year, commencing within 2 months after each deployment, including in the report information on:
- (a) the status of each such deployment, including its legality, scope and anticipated duration;
  - (b) what efforts have been, are being, or are to be, made, to resolve the circumstances which required such deployment;
  - (c) whether there is any reason why the Parliament should not resolve to terminate such deployment.
- (11) For the purpose of this section, service beyond the territorial limits of Australia does not include service by members of the Defence Force:
- (a) pursuant to their temporary attachment as provided by section 116B; or
  - (b) as part of an Australian diplomatic or consular mission; or
  - (c) on an Australian vessel or aircraft not engaged in hostilities or in operations during which hostilities are not likely to occur; or
  - (d) for the purpose of their education or training; or
  - (e) for purposes related to the procurement of equipment or stores.