

EXPLANATORY STATEMENT
STATUTORY RULES 1990 NO.3*78
ISSUED BY THE AUTHORITY OF THE
MINISTER FOR DEFENCE SCIENCE AND PERSONNEL
DEFENCE (PROHIBITED WORDS AND LETTERS)
REGULATIONS (AMENDMENT)

The Defence (Prohibited Words and Letters) Regulations ("the Regulations") prohibit the use, in connection with a trade, business, calling or profession or by an organization or body of persons, of specified words or groups of letters descriptive or indicative of a part of the Defence Force or a service or body of persons associated with the defence of Australia, unless the use of those words or letters has been approved by the Minister under the Regulations.

The Statutory Rule updates the Regulations by revising the Schedule of prohibited words and letters so that it protects only words and letters of continuing Defence interest and reflects current titles. New references to current elements of the Defence Force that have been incorporated into the revised Schedule were considered by the Commonwealth Business Regulation Review Unit, State and Territory Commissioners for Corporate Affairs and the Registrar of Trade Marks to ensure that they did not conflict with legitimate business interests.

The Statutory Rule also removes a strict liability offence, and replaces an inappropriate penalty with a monetary penalty that reflects current criminal law standards.

A further amendment enables delegation of the Minister's approval powers to an appropriate level of senior officer.

A detailed description of the Statutory Rule is attached.

The Statutory Rule comes into operation on the date of gazettal.

S.R. 362/90

ATTACHMENT

DEFENCE (PROHIBITED WORDS AND LETTERS) REGULATIONS
(AMENDMENT)

Regulation 1 provides that the Regulations are amended as set out in the Statutory Rule.

Regulation 2 omits regulation 5 of the Regulations, which deals with offences under the Regulations, and replaces it with new delegation and offence provisions.

The Regulations required the Minister to consider all applications to use a prohibited word or group of letters. This was not appropriate, as most applications are routine in nature. Regulation 2 therefore inserts a new regulation 5 which enables delegation of the Minister's powers to an officer not below the rank of Colonel (or its rank equivalent in the Navy or Air Force).

Regulation 2 also replaces a strict liability offence and outdated penalty of \$40 or imprisonment for 3 months with a monetary penalty of \$500 that only applies where a person has knowingly used a word or group of letters in contravention of the Regulations.

Regulation 3 replaces the Schedule of prohibited words and letters with a revised Schedule which reflects the current needs of the Defence Force. The former Schedule contained a number of unnecessary references, as well as obsolete references. At the same time, it did not protect the title of new elements of the Defence Force. The revised Schedule removes the obsolete and unnecessary references, and ensures that the Regulations cover words or groups of letters associated with new elements of the Defence Force.