

# **Defence (Visiting Forces) Amendment Regulations 1999 (No. 2)**

## **1999 No. 233**

### EXPLANATORY STATEMENT

#### STATUTORY RULES 1999 No. 233

Issued by the Authority of the Attorney-General

*Defence (Visiting Forces) Act 1963*

#### Defence (Visiting Forces) Amendment Regulations 1999 (No. 2)

Section 30 of the *Defence (Visiting Forces) Act 1963* (the Act) provides that the Governor-General may make regulations prescribing all matters required or permitted by the Act to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to the Act. Paragraph 6(1)(a) of the Act provides that regulations may declare that the Act applies to a Commonwealth country. Paragraph 6(1)(b) of the Act provides that non-Commonwealth countries may be declared a country to which the Act applies.

The Act governs the legal status of foreign military forces whilst in Australia. The Act allows the military authorities of visiting foreign forces to apply their military law to their personnel whilst they are in Australia, and provides for a corresponding suspension of Australian jurisdiction over such personnel in certain circumstances. The Act, applied to foreign countries by way of the *Defence (Visiting Forces) Regulations 1963* (the Regulations), is the enabling mechanism for the domestic implementation of Status of Forces Agreements (SOFAs) between Australia and various countries.

Currently there are twelve Commonwealth countries listed in the Regulations: Brunei Darussalain, Canada, Malaysia, Mozambique, New Zealand, Pakistan, Papua New Guinea, Singapore, Sri Lanka, Tonga, the United Kingdom of Great Britain and Northern Ireland and Zimbabwe. There are eighteen other countries listed: Cambodia, Fiji, Indonesia, the Philippines, Thailand, the United States of America, Brazil, Chile, Egypt, France, Ireland, Italy, Nepal, Norway, Portugal, Korea, Spain and Sweden.

The United Nations Security Council has passed a resolution under which Australia is leading INTERFET, the multinational peacekeeping force in East Timor. For that purpose, the personnel of the participating nations have been gathering in Darwin. However a number of the new participating nations are not yet included in the Regulations.

It is therefore necessary to amend the Regulations to include the personnel of those nations which will be located in, or passing through, Australia and which are not already listed. The Department of Defence has advised that the following nations which are not currently listed are interested in contributing to the peacekeeping force: Bangladesh, Kenya, South Africa, Argentina, China, the Czech Republic, Denmark, Germany, Hungary, Jordan, Poland and Uruguay. The listing of all of these nations in the Regulations will ensure that their personnel are covered by the arrangements.

Details of the Regulations are as follows:

**Regulation 1** names the amending Regulations.

**Regulation 2** provides that the amending Regulations commence on gazettal.

**Regulation 3** provides that Schedule 1 amends the *Defence (Visiting Forces) Regulations 1963*.

In **Item 1 of Schedule 1**, Bangladesh is added to the list of Commonwealth countries which may contribute to the peacekeeping force.

**Item 2 of Schedule 1** adds Kenya to the list of Commonwealth countries which may contribute to the peacekeeping force.

**Item 3 of Schedule 1** changes the existing name of "Republic of Singapore" to "Singapore" and adds South Africa to the list of Commonwealth countries which are to contribute to the peacekeeping force. The legal effect is that the amended list now includes all of the Commonwealth countries which have indicated that they may or will be participating in East Timor.

**Item 4 of Schedule 1** adds the names of those non-Commonwealth countries which have indicated that they may contribute to the peacekeeping force: Argentina, China, the Czech Republic, Denmark, Germany, Hungary, Jordan, Poland and Uruguay. The legal effect is that the amended list now includes all of the non-Commonwealth countries which have indicated that they may or will be participating in East Timor.

The Minute recommends that Regulations be made in the form proposed.

Authority: Sections 6 and 30 of the *Defence (Visiting Forces)* Act 1963