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Commonwealth of Australia

HOUSE OF REPRESENTATIVES

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**Defence Legislation Amendment
(Enhancement of the Reserves and
Modernisation) Bill 2000**

No. , 2000

(Defence)

**A Bill for an Act to amend the law relating to the
Defence Force, and for related purposes**

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1 **A Bill for an Act to amend the law relating to the**
2 **Defence Force, and for related purposes**

3 The Parliament of Australia enacts:

4 **1 Short title**

5 This Act may be cited as the *Defence Legislation Amendment*
6 *(Enhancement of the Reserves and Modernisation) Act 2000*.

7 **2 Commencement**

8 (1) Subject to this section, this Act commences on the 28th day after
9 the day on which it receives the Royal Assent.

10 (2) The following items of Schedule 2 commence on a day or days to
11 be fixed by Proclamation: items 12 to 15, 19, 27 to 31, 67, 68 and
12 75 to 77.

-
- 1 (3) If a provision mentioned in subsection (2) does not commence
2 under that subsection within the period of 12 months beginning on
3 the day on which this Act receives the Royal Assent, it commences
4 on the first day after the end of that period.
- 5 (4) Schedule 3 commences at the same time as the *Defence Reserve*
6 *Service (Protection) Act 2000*.
- 7 (5) Schedule 4 commences on the day on which this Act receives the
8 Royal Assent.

9 **3 Schedule(s)**

10 Subject to section 2, each Act that is specified in a Schedule to this
11 Act is amended or repealed as set out in the applicable items in the
12 Schedule concerned, and any other item in a Schedule to this Act
13 has effect according to its terms.

14 **4 Regulations**

15 The Governor-General may make regulations prescribing matters:
16 (a) required or permitted by this Act to be prescribed; or
17 (b) necessary or convenient for carrying out or giving effect to
18 this Act.

1
2 **Schedule 1—Calling out the Reserves**
3

4 *Defence Act 1903*

5 **1 Sections 50D, 50E, 50F and 50G**

6 Repeal the sections, substitute:

7 **50D Calling out the Reserves**

8 *Governor-General may call out the Reserves*

- 9 (1) The Governor-General may, by publishing a written order in the
10 *Gazette*, call out for continuous full time service:
11 (a) the Reserves; or
12 (b) one or more of the following:
13 (i) a specified part or parts of the Reserves;
14 (ii) a specified class or classes of members in the Reserves;
15 (iii) a specified member or members of the Reserves.

16 *Examples of call out circumstances*

- 17 (2) The Governor-General may make an order in circumstances
18 involving, for example, war, defence emergency, defence
19 preparation, peacekeeping, peace enforcement, civil aid,
20 humanitarian assistance or disaster relief. This subsection does not
21 limit subsection (1).

22 *Advice to Governor-General*

- 23 (3) In making or revoking an order, the Governor-General is to act
24 with the advice of:
25 (a) the Executive Council; or
26 (b) if, after the Minister has consulted the Prime Minister, the
27 Minister is satisfied that, for reasons of urgency, the
28 Governor-General should act with the advice of the Minister
29 alone—the Minister.

1 *When order takes effect*

- 2 (4) An order takes effect on:
3 (a) the day specified in the order; or
4 (b) if no day is specified—the day on which the order is
5 published in the *Gazette*.

6 *When revocation of order takes effect*

- 7 (5) A revocation of an order takes effect on:
8 (a) the day specified in the revocation; or
9 (b) if no day is specified—the day on which the revocation is
10 published in the *Gazette*.

11 *Effect of revocation of order*

- 12 (6) To avoid doubt, if an order is revoked the call out under that order
13 ends.

14 *Further orders*

- 15 (7) The fact that an order has been published under this section in
16 relation to particular circumstances does not prevent further orders
17 being published under this section in relation to the same
18 circumstances.

19 **50E Period of service during call out**

20 *Direction by Chief of the Defence Force or a service chief*

- 21 (1) A member of the Reserves who is covered by a call out order under
22 section 50D is bound to render the period of continuous full time
23 naval, military or air force service (as appropriate) that the Chief of
24 the Defence Force or a service chief directs in relation to the
25 member.

26 *Directions may be specific or general*

- 27 (2) Such a direction may apply to the member specifically, by
28 reference to a part or class of the Reserves that includes the
29 member, or by reference to the Reserves as a whole.

1
2 **Schedule 2—Structure of the Defence Force**

3 **Part 1—Amendments**

4 *Air Force Act 1923*

5 **1 Sections 4A, 4B, 4C and 4D**

6 Repeal the sections, substitute:

7 **4A Australian Air Force**

8 The Australian Air Force consists of 2 parts:

- 9 (a) the Permanent Air Force; and
10 (b) the Air Force Reserve.

11 **4B Permanent Air Force**

12 The Permanent Air Force consists of:

- 13 (a) officers appointed to, and airmen enlisted in, the Permanent
14 Air Force; and
15 (b) officers and airmen transferred to the Permanent Air Force
16 from:
17 (i) the Air Force Reserve; or
18 (ii) the Australian Navy; or
19 (iii) the Australian Army.

20 **4C Air Force Reserve**

21 The Air Force Reserve consists of:

- 22 (a) officers appointed to, and airmen enlisted in, the Air Force
23 Reserve; and
24 (b) officers and airmen transferred to the Air Force Reserve
25 from:
26 (i) the Permanent Air Force; or
27 (ii) the Australian Navy; or
28 (iii) the Australian Army.

29 **2 Sections 4H and 4HA**

1 Repeal the sections.

2 **3 Subsections 4J(1), (2), (2A) and (2B)**

3 Repeal the subsections, substitute:

- 4 (1) A member of the Air Force Reserve is not bound to render
5 continuous full time air-force service otherwise than:
6 (a) as provided in this section; or
7 (b) as a result of a call out order under section 50D, 51A, 51B or
8 51C of the Defence Act.

- 9 (2) The regulations must set, or provide for the setting of, training
10 periods for the Air Force Reserve.

11 Note: Different training periods may be set for different parts of the Air
12 Force Reserve or for different classes of members of the Air Force
13 Reserve: see subsection 33(3A) of the *Acts Interpretation Act 1901*.

- 14 (2A) A member of the Air Force Reserve is bound to render, in each
15 training period, air-force service (other than continuous full time
16 air-force service) for such periods as are set by or under the
17 regulations. However, a member may be exempted by or under the
18 regulations from the obligation to render all, or a specified part, of
19 that service.

20 Note: Different service may be required of different parts of the Air Force
21 Reserve, or of different classes of members of the Air Force Reserve,
22 or in different periods: see subsection 33(3A) of the *Acts*
23 *Interpretation Act 1901*.

24 Note: The heading to section 4J is altered by omitting “**Australian**”.

25 **4 Subsections 4J(3) and (4)**

26 Omit “Australian”.

27 **5 Subsections 4J(5) and (6)**

28 Repeal the subsections.

29 **6 Subsection 8A(1)**

30 Omit “sections 4H, 4HA and 4J”, substitute “section 4J”.

31 ***Defence Act 1903***

32 **7 Subsection 4(1)**

1 Insert:

2 *Permanent Forces* means the Permanent Navy, the Regular Army
3 and the Permanent Air Force.

4 **8 Subsection 4(1)**

5 Insert:

6 *Reserves* means the Naval Reserve, the Army Reserve and the Air
7 Force Reserve.

8 **9 Subsection 4(1) (definition of *The Emergency Forces*)**

9 Repeal the definition.

10 **10 Subsection 4(1) (definition of *The Permanent Forces*)**

11 Repeal the definition.

12 **11 Subsection 4(1) (definition of *The Reserve Forces*)**

13 Repeal the definition.

14 **12 Division 1 of Part II (heading)**

15 Repeal the heading.

16 **13 Subsection 9BA(1)**

17 Omit “Division 3”, substitute “the regulations”.

18 **14 Divisions 2, 3 and 3A of Part II**

19 Repeal the Divisions.

20 **15 Division 4 of Part II (heading)**

21 Repeal the heading.

22 **16 Section 27A**

23 Repeal the section.

24 **17 Sections 31, 32 and 32A**

25 Repeal the sections, substitute:

1 **31 Australian Army**

2 The Australian Army consists of 2 parts:

- 3 (a) the Regular Army; and
4 (b) the Army Reserve.

5 **32 Regular Army**

6 The Regular Army consists of:

- 7 (a) officers appointed to, and soldiers enlisted in, the Regular
8 Army; and
9 (b) officers and soldiers transferred to the Regular Army from:
10 (i) the Army Reserve; or
11 (ii) the Australian Navy; or
12 (iii) the Australian Air Force.

13 **32A Army Reserve**

14 The Army Reserve consists of:

- 15 (a) officers appointed to, and soldiers enlisted in, the Army
16 Reserve; and
17 (b) officers and soldiers transferred to the Army Reserve from:
18 (i) the Regular Army; or
19 (ii) the Australian Navy; or
20 (iii) the Australian Air Force.

21 **18 Division 2 of Part III (heading)**

22 Repeal the heading, substitute:

23 **Division 2—The raising of the Army**

24 **19 Sections 36 to 44A**

25 Repeal the sections.

26 **20 Section 45**

27 Repeal the section, substitute:

1 **45 Service of the Regular Army**

2 Members of the Regular Army are bound to render continuous full
3 time military service.

4 **21 Section 48A**

5 Repeal the section.

6 **22 Subsections 50(1), (2), (2A) and (2B)**

7 Repeal the subsections, substitute:

8 (1) A member of the Army Reserve is not bound to render continuous
9 full time service otherwise than:

10 (a) as provided in this section; or

11 (b) as a result of a call out order under section 50D, 51A, 51B or
12 51C.

13 (2) The regulations must set, or provide for the setting of, training
14 periods for the Army Reserve.

15 Note: Different training periods may be set for different parts of the Army
16 Reserve or for different classes of members of the Army Reserve: see
17 subsection 33(3A) of the *Acts Interpretation Act 1901*.

18 (2A) A member of the Army Reserve is bound to render, in each
19 training period, military service (other than continuous full time
20 military service) for such periods as are set by or under the
21 regulations. However, a member may be exempted by or under the
22 regulations from the obligation to render all, or a specified part, of
23 that service.

24 Note: Different service may be required of different parts of the Army
25 Reserve, or of different classes of members of the Army Reserve, or in
26 different periods: see subsection 33(3A) of the *Acts Interpretation Act*
27 *1901*.

28 Note: The heading to section 50 is altered by omitting “**Australian**”.

29 **23 Subsections 50(3) and (4)**

30 Omit “**Australian**”.

31 **24 Subsections 50(5) and (6)**

32 Repeal the subsections.

1 **25 Paragraph 51G(b)**

2 Omit “Emergency Forces or the Reserve Forces”, substitute “Reserves”.

3 **26 Paragraph 52(1)(b)**

4 Omit “the Reserve Forces and members of the Emergency Forces”,
5 substitute “the Reserves”.

6 **27 Subsections 120A(1) and (1A)**

7 Repeal the subsections.

8 **28 Subsection 120A(3)**

9 Repeal the subsection.

10 **29 Subsection 120A(4)**

11 Omit “10C, 17, 26, 39, 44, 45, 48A,”.

12 **30 Subsection 120A(4AA)**

13 Omit “16, 21, 22, 24, 25, 25B, 25D, 27AA, 44A,”.

14 **31 Subsections 120A(4AB) and (4C)**

15 Omit “27AA, 44A,”.

16 **32 Paragraph 124(1)(a)**

17 After “reduction in rank”, insert “, retirement”.

18 **33 After paragraph 124(1)(a)**

19 Insert:

20 (aa) the transfer of members between different arms, or parts of
21 arms, of the Defence Force;

22 (ab) the training of members;

23 (ac) conditions of service of members;

24 **34 After subsection 124(1A)**

25 Insert:

26 (1AA) Regulations under subsection (1) may make provision in relation
27 to:

28 (a) the appointment or reappointment of a member; or

- 1 (b) the enlistment or re-enlistment of a member; or
2 (c) the service of a member;
3 on the basis that, after a specified time or on a specified event
4 occurring, the member may or must transfer to a different arm, or
5 part of an arm, of the Defence Force, or in relation to other similar
6 arrangements.
7 Example: The regulations might allow for a soldier to enlist for a total of 8
8 years, with the first 4 years to be served in the Regular Army and the
9 last 4 years in the Army Reserve, or vice versa, or any other
10 combination of service.

11 (1AB) Subsection (1AA) does not limit the scope of subsection (1).

12 ***Defence Force Discipline Act 1982***

13 **35 Subsection 3(1) (definition of *defence member*)**

14 Repeal the definition, substitute:

15 ***defence member*** means:

- 16 (a) a member of the Permanent Navy, the Regular Army or the
17 Permanent Air Force; or
18 (b) a member of the Reserves who:
19 (i) is rendering continuous full-time service; and
20 (ii) is on duty or in uniform.

21 **36 Subsection 3(1) (definition of *Emergency Forces*)**

22 Repeal the definition.

23 **37 Subsection 3(1) (definition of *Reserve Forces*)**

24 Repeal the definition.

25 **38 Subsection 3(1)**

26 Insert:

27 ***Reserves*** means the Naval Reserve, the Army Reserve and the Air
28 Force Reserve.

29 **39 Subsection 3(4)**

30 Repeal the subsection, substitute:

- 1 (4) For the purposes of subparagraph (b)(ii) of the definition of
2 *defence member* in subsection (1):
3 (a) a member of the Reserves is taken to be on duty from the
4 time appointed for him or her to report to, or to attend at, a
5 specified place for any naval, military or air force service that
6 he or she is required to render by or under the *Defence Act*
7 *1903*, the *Naval Defence Act 1910* or the *Air Force Act 1923*
8 until he or she is released or discharged from that service;
9 and
10 (b) a member of the Reserves is taken to be on duty while acting,
11 or purporting to act, in his or her capacity as a member of the
12 Reserves.

13 ***Defence Force (Home Loans Assistance) Act 1990***

14 **40 Section 3 (subparagraph (h)(i) of the definition of *eligible***
15 ***person*)**

16 Repeal the subparagraph, substitute:

- 17 (i) who is a member of the Reserves; and

18 **41 Section 3**

19 Insert:

20 *Reserves* has the same meaning as in the *Defence Act 1903*.

21 **42 Section 3 (definition of *The Emergency Forces*)**

22 Repeal the definition.

23 **43 Section 3 (definition of *The Reserve Forces*)**

24 Repeal the definition.

25 ***Defence Force Retirement and Death Benefits Act 1973***

26 **44 Subsection 3(1) (definition of *Permanent Forces*)**

27 Repeal the definition, substitute:

28 *Permanent Forces* means the Permanent Navy, the Regular Army
29 and the Permanent Air Force.

1 **45 Subsection 3(1) (definition of Reserve)**

2 Repeal the definition, substitute:

3 **Reserve** means:

- 4 (a) in relation to a member of the Navy—the Naval Reserve; and
5 (b) in relation to a member of the Army—the Army Reserve; and
6 (c) in relation to a member of the Air Force—the Air Force
7 Reserve.

8 **46 Paragraph 5A(1)(b)**

9 Omit “the Emergency Forces or the Reserve Forces”, substitute “a
10 Reserve”.

11 **47 Paragraph 61B(1)(d)**

12 Omit “the Emergency Forces or the Reserve Forces”, substitute “a
13 Reserve”.

14 **48 Paragraph 61B(3)(a)**

15 Omit “the Emergency Forces or the Reserve Forces”, substitute “a
16 Reserve”.

17 ***Defence Forces Retirement Benefits Act 1948***

18 **49 Subsection 4(1) (definition of *Permanent Forces*)**

19 Repeal the definition, substitute:

20 ***Permanent Forces*** means the Permanent Navy, the Regular Army
21 or the Permanent Air Force.

22 **50 Subsection 4(1) (definition of Reserve)**

23 Repeal the definition, substitute:

24 **Reserve** means:

- 25 (a) in relation to a member of the Navy—the Naval Reserve; and
26 (b) in relation to a member of the Army—the Army Reserve; and
27 (c) in relation to a member of the Air Force—the Air Force
28 Reserve.

29 **51 Fourth Schedule (table, heading to columns 1 and 2)**

1 Repeal the heading, substitute “**Permanent Navy**”.

2 **52 Fourth Schedule (table, heading to column 3)**

3 Repeal the heading, substitute “**Regular Army**”.

4 ***Defence Forces Special Retirement Benefits Act 1960***

5 **53 Title**

6 Omit “**Australian**”.

7 **54 Subparagraph 4(2)(a)(i)**

8 Omit “**Australian**”.

9 **55 Paragraphs 4(2)(d) and (e)**

10 Omit “**Australian**”.

11 ***Defence (Parliamentary Candidates) Act 1969***

12 **56 Subsection 5(1) (definition of Reserve)**

13 Repeal the definition, substitute:

14 ***Reserve*** means:

15 (a) the Naval Reserve; or

16 (b) the Army Reserve; or

17 (c) the Air Force Reserve.

18 **57 Paragraph 7(1)(a)**

19 Repeal the paragraph, substitute:

20 (a) an officer who is a member of the Permanent Navy, the
21 Regular Army or the Permanent Air Force applies to the
22 appropriate service chief to be transferred to the appropriate
23 Reserve; and

24 **58 Paragraph 8(a)**

25 Repeal the paragraph, substitute:

26 (a) an enlisted member who is a member of the Permanent Navy,
27 the Regular Army or the Permanent Air Force applies to the

1 appropriate service chief to be discharged from that arm of
2 the Defence Force; and

3 **59 Paragraph 9(a)**

4 Repeal the paragraph, substitute:

5 (a) a member of the Naval Reserve, the Army Reserve or the Air
6 Force Reserve who is rendering continuous full-time service
7 applies to the appropriate service chief for the termination of
8 that service; and

9 ***Employment Services Act 1994***

10 **60 Paragraph 42(1)(h)**

11 Omit “Reserve Forces”, substitute “the Reserves”.

12 **61 Subsection 42(5)**

13 Omit “*Reserve Forces*”, substitute “*Reserves*”.

14 ***Income Tax Assessment Act 1997***

15 **62 Section 51-5 (table items 1.3 and 1.4)**

16 Repeal the items, substitute:

17

1.4	a member of:	pay and allowances as	except pay and
	(a) the Naval Reserve; or	a member	allowances for
	(b) the Army Reserve; or		continuous full time
	(c) the Air Force Reserve		service

18 ***Jury Exemption Act 1965***

19 **63 The Schedule**

20 Omit “the Reserve Forces” (wherever occurring), substitute “the
21 Reserves”.

22 ***Long Service Leave (Commonwealth Employees) Act 1976***

23 **64 Paragraph 12(10)(a)**

24 Repeal the paragraph, substitute:

1 (a) on continuous full-time service in the Reserves (within the
2 meaning of the *Defence Act 1903*); or

3 **65 Paragraph 12(10)(b)**

4 Omit “those Forces”, substitute “the Reserves”.

5 ***Military Superannuation and Benefits Act 1991***

6 **66 Paragraphs 6(1)(b) and (c)**

7 Omit “the Emergency Forces or the Reserve Forces”, substitute “the
8 Reserves”.

9 ***Naval Defence Act 1910***

10 **67 Part II**

11 Repeal the Part.

12 **68 Sections 19, 20, 21 and 22**

13 Repeal the sections, substitute:

14 **19 Australian Navy**

15 The Australian Navy consists of 2 parts:

- 16 (a) the Permanent Navy; and
17 (b) the Naval Reserve.

18 **20 Permanent Navy**

19 The Permanent Navy consists of:

- 20 (a) officers appointed to, and sailors enlisted in, the Permanent
21 Navy; and
22 (b) officers and sailors transferred to the Permanent Navy from:
23 (i) the Naval Reserve; or
24 (ii) the Australian Army; or
25 (iii) the Australian Air Force.

26 **21 Naval Reserve**

27 The Naval Reserve consists of:

- 1 (a) officers appointed to, and sailors enlisted in, the Naval
2 Reserve; and
3 (b) officers and sailors transferred to the Naval Reserve from:
4 (i) the Permanent Navy; or
5 (ii) the Australian Army; or
6 (iii) the Australian Air Force.

7 **69 Sections 25 to 30A**

8 Repeal the sections.

9 **70 Section 31**

10 Omit “Naval Forces”, substitute “Navy”.

11 Note: The heading to section 31 is altered by omitting “Naval Forces” and substituting
12 “Navy”.

13 **71 Sections 32 and 32AA**

14 Repeal the sections.

15 **72 Subsections 32A(1), (2) and (2A)**

16 Repeal the subsections, substitute:

- 17 (1) A member of the Naval Reserve is not bound to render continuous
18 full time naval service otherwise than:
19 (a) as provided in this section; or
20 (b) as a result of a call out order under section 50D, 51A, 51B or
21 51C of the Defence Act.

- 22 (2) The regulations must set, or provide for the setting of, training
23 periods for the Naval Reserve.

24 Note: Different training periods may be set for different parts of the Naval
25 Reserve or for different classes of members of the Naval Reserve: see
26 subsection 33(3A) of the *Acts Interpretation Act 1901*.

- 27 (2A) A member of the Naval Reserve is bound to render, in each
28 training period, naval service (other than continuous full time naval
29 service) for such periods as are set by or under the regulations.
30 However, a member may be exempted by or under the regulations
31 from the obligation to render all, or a specified part, of that service.

32 Note: Different service may be required of different parts of the Naval
33 Reserve, or of different classes of members of the Naval Reserve, or

1 in different periods: see subsection 33(3A) of the *Acts Interpretation*
2 *Act 1901*.

3 Note: The heading to section 32A is altered by omitting “**Australian**”.

4 **73 Subsections 32A(3) and (4)**

5 Omit “Australian”.

6 **74 Subsections 32A(5) and (6)**

7 Repeal the subsections.

8 **75 Subsections 44B(1), (1A) and (2)**

9 Repeal the subsections.

10 **76 Subsection 44B(3)**

11 Omit “sections 11, 13, 17A, 28, 30, 32, 32AA and”, substitute
12 “section”.

13 **77 Subsections 44B(3A), (3B) and (3C)**

14 Repeal the subsections.

15 ***Social Security Act 1991***

16 **78 Paragraph 8(8)(w)**

17 Repeal the paragraph, substitute:

18 (w) in the case of a member of:

19 (i) the Naval Reserve; or

20 (ii) the Army Reserve; or

21 (iii) the Air Force Reserve;

22 the pay and allowances paid to the person as such a member
23 (other than pay and allowances in respect of continuous
24 full-time service);

25 **79 Paragraph 541D(1)(h)**

26 Omit “Reserve Forces”, substitute “Reserves”.

27 **80 Section 542G**

28 Repeal the section, substitute:

1 **542G Training camp exemption**

2 A person has a *training camp exemption* if the person is attending
3 a training camp as a member of:

- 4 (a) the Naval Reserve; or
5 (b) the Army Reserve; or
6 (c) the Air Force Reserve.

7 **81 Paragraph 601(2A)(h)**

8 Omit “Reserve Forces”, substitute “Reserves”.

9 **82 Subsection 601(7)**

10 Repeal the subsection, substitute:

11 (7) In this section:

12 *Reserves* means:

- 13 (a) the Naval Reserve; or
14 (b) the Army Reserve; or
15 (c) the Air Force Reserve.

16 **83 Subsection 603(1)**

17 Repeal the subsection, substitute:

18 (1) A person is taken to satisfy the activity test in respect of a period
19 when the person is attending a training camp as a member of:

- 20 (a) the Naval Reserve; or
21 (b) the Army Reserve; or
22 (c) the Air Force Reserve.

23 **84 Section 1212 (definition of Reserve service)**

24 Repeal the definition, substitute:

25 *Reserve service* means attending a training camp as a member of
26 any of the following:

- 27 (a) the Naval Reserve; or
28 (b) the Army Reserve; or
29 (c) the Air Force Reserve.

1 ***Superannuation Guarantee (Administration) Act 1992***

2 **85 Section 29**

3 Note: The heading to section 29 is altered by omitting “**Reserve Forces**” and substituting
4 “**Reserves**”.

5 ***Superannuation Act 1922***

6 **86 Subsection 4(1) (paragraph (a) of the definition of Service)**

7 Repeal the paragraph, substitute:

8 (a) continuous service as a member of the Permanent Navy, the
9 Regular Army or the Permanent Air Force; and

10 ***Veterans’ Entitlements Act 1986***

11 **87 Paragraph 5H(8)(za)**

12 Repeal the paragraph, substitute:

13 (za) in the case of a member of:

14 (i) the Naval Reserve; or

15 (ii) the Army Reserve; or

16 (iii) the Air Force Reserve;

17 the pay and allowances paid to the person as such a member
18 (other than pay and allowances in respect of continuous
19 full-time service);

1

2 **Part 2—Saving and transitional provisions**

3 **88 Saving—appointments of Chiefs under the Defence Act**

4 Although item 13 amends subsection 9BA(1) of the *Defence Act 1903*,
5 that subsection continues to apply, in relation to a person who held an
6 appointment under subsection 9(1) or 9AA(1) of that Act immediately
7 before that item commenced, as if that amendment, and the repeal of
8 Division 3 of Part II of that Act, had not happened.

9 **89 Saving—other appointments under the Defence Act**

10 Although item 14 repeals Divisions 2, 3 and 3A of Part II of the
11 *Defence Act 1903*, those provisions continue to apply, in relation to a
12 person who held an appointment under subsection 10(1) of that Act
13 immediately before that item commenced, as if the repeal had not
14 happened.

15 **90 Saving—enlistments under the Defence Act**

16 Although item 19 repeals sections 36 to 44A of the *Defence Act 1903*,
17 those sections continue to apply, in relation to a person who was
18 enlisted under subsection 36(3) of that Act immediately before that item
19 commenced, as if the repeal had not happened.

20 **91 Saving—appointments under the Naval Defence Act**

21 Although item 67 repeals Part II of the *Naval Defence Act 1910*, that
22 Part continues to apply, in relation to a person who held an appointment
23 under subsection 8(1) of that Act immediately before that item
24 commenced, as if the repeal had not happened.

25 **92 Saving—enlistments under the Naval Defence Act**

26 Although item 69 repeals sections 25 to 30A of the *Naval Defence Act*
27 *1910*, those sections continue to apply, in relation to a person who was
28 enlisted under subsection 25(3) of that Act immediately before that item
29 commenced, as if the repeal had not happened.

30 **93 Most of the old provisions may be superseded by new**
31 **regulations**

32 (1) However, the repealed provisions mentioned in items 89, 90, 91 and 92
33 continue to apply under those items only to the extent that they are

1 consistent with regulations made after the repeal for the purposes of
2 section 124 of the *Defence Act 1903*.

- 3 (2) If such regulations are made, then:
4 (a) to the extent of the inconsistency, those provisions
5 permanently cease to apply from the time that the
6 inconsistency arises; and
7 (b) the regulations apply despite being inconsistent with those
8 provisions.

9 **94 Saving—old regulations**

- 10 (1) Regulations that were in effect under any Act immediately before the
11 commencement of this item continue to have effect after that time as if
12 members of an arm of the Defence Force who were members of a
13 particular part or component of that arm immediately before the
14 commencement of this item were still members of that part or
15 component after that time, even if that part or component no longer
16 exists.

17 Example: Assume that, immediately before the commencement of this item, regulations imposed
18 training obligations on members of the Air Force Specialist Reserve. Those obligations
19 would continue to apply to former members of that Reserve after commencement, even
20 though the Air Force Specialist Reserve itself is no longer mentioned in the *Air Force*
21 *Act 1923* and the members have now become members of the Air Force Reserve.

- 22 (2) However, regulations that continue in effect under this item do so only
23 to the extent that they are not amended or revoked by later regulations.

24 **95 Regulations about transitional matters**

- 25 (1) The regulations may make provision in relation to other saving and
26 transitional matters in connection with the amendments made by this
27 Schedule.
28 (2) In particular, such regulations may deal with the status, after the
29 commencement of the amendments, of persons who were members of
30 the Defence Force immediately before that time.
31 (3) Subitem (2) does not limit the scope of subitem (1).

1
2 **Schedule 3—Repeal of the Defence**
3 **(Re-establishment) Act 1965 and**
4 **consequential amendments**

5 **Part 1—Repeal of Act and amendments**

6 *Defence Act 1903*

7 **1 Subsection 118A(1)**

8 Omit “Parts III and”, substitute “Part”.

9 **2 Subsection 118A(2)**

10 Omit “Parts III and IV or for voluntarily enlisting or attempting to enlist
11 in any force raised under section 35”, substitute “Part IV”.

12 **3 Subsection 118A(4)**

13 Omit “Parts III and IV or of having voluntarily enlisted or attempted to
14 enlist in a force raised for active service”, substitute “Part IV”.

15 **4 Subsection 118A(6)**

16 Repeal the subsection.

17 *Defence (Re-establishment) Act 1965*

18 **5 The whole of the Act**

19 Repeal the Act.

20 *Disability Services Act 1986*

21 **6 Subsection 23(1) (definition of cost)**

22 Repeal the definition, substitute:

23 *cost*, in relation to a person’s rehabilitation program, means the
24 cost, as determined by the Secretary, of and incidental to the
25 program, and includes any allowances paid to the person under
26 section 24 but does not include any part of the cost that is not borne
27 by the Commonwealth.

1

2 Part 2—Application and transitional provisions

2

3 7 Application of new Protection Act to defence service

3

4 (1) The *Defence Reserve Service (Protection) Act 2000* applies in relation
5 to all defence service undertaken after that Act commences (the
6 **commencement time**), except in so far as the service is rendered only as
7 a result of:

8

9 (a) being called out under Division 4 of Part III, or under
10 Part IIIA, of the *Defence Act 1903* before the commencement
11 time; or

10

11

12

12 (b) a voluntary undertaking to render continuous full time
service that a member gave before the commencement time.

13

14 (2) The *Defence (Re-establishment) Act 1965* continues to apply in relation
15 to defence service covered by paragraph (1)(a) or (b), despite the repeal
of that Act by this Schedule.

15

16 8 Application of new Protection Act to existing contracts and 17 other arrangements

16

17

18 The *Defence Reserve Service (Protection) Act 2000* applies, in
19 accordance with subitem 7(1), in relation to all contracts of
20 employment, other contracts, partnerships, courses and all other
21 arrangements, even if the contract, partnership, course or arrangement
22 began before the commencement time.

18

19

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22

23 9 Saving—benefits under Parts V and VA of the old Act

23

24 Although this Schedule repeals the *Defence (Re-establishment) Act*
25 *1965*, Parts V and VA of that Act continue to apply, in relation to
26 people who were receiving any assistance or benefits under those Parts
27 immediately before the repeal, as though the repeal had not happened.

24

25

26

27

28 10 Regulations

28

29 The regulations may make provision in relation to application, saving
30 and transitional matters in connection with the enactment of the
31 *Defence Reserve Service (Protection) Act 2000* or the repeal of the
32 *Defence (Re-establishment) Act 1965*.

29

30

31

32

1
2 **Schedule 4—Allowances and benefits to**
3 **employers etc.**
4

5 *Defence Act 1903*

6 **1 At the end of paragraph 58B(1)(a)**

7 Add “and”.

8 **2 Paragraph 58B(1)(b)**

9 Repeal the paragraph, substitute:

- 10 (b) the payment of allowances or other pecuniary benefits
11 (except allowances or benefits by way of remuneration) to or
12 for members or cadets, including the payment of additional
13 compensation to members of the Reserves to whom
14 compensation is payable under the *Safety, Rehabilitation and*
15 *Compensation Act 1988*; and

16 **3 Saving—determinations under paragraph 58B(1)(b)**

17 Although item 2 repeals and substitutes paragraph 58B(1)(b) of the
18 *Defence Act 1903*, any determination that was in effect under that
19 paragraph immediately before that repeal continues in effect after that
20 time as if it had been made under the new version of that paragraph.

21 **4 At the end of paragraphs 58B(1)(c), (d) and (e)**

22 Add “and”.

23 **5 Paragraph 58B(1)(f)**

24 Omit “examination.”, substitute “examination; and”.

25 **6 After paragraph 58B(1)(g)**

26 Insert:

- 27 (ga) payments, by way of compensation, incentives or other
28 benefits, to:
29 (i) members of the Reserves; or
30 (ii) their dependants; or
31 (iii) their employers, business or professional partners or
32 other associates; or
-

1 (iv) other persons;
2 in relation to the availability of the members for defence
3 service, or for losses incurred or inconvenience suffered
4 because of the members' absence on defence service
5 (including losses incurred or inconvenience suffered because
6 of the operation of the *Defence Reserve Service (Protection)*
7 *Act 2000*); and

8 **7 After subsection 58B(1)**

9 Insert:

10 (1AA) Expressions used in paragraph (1)(ga) that are defined in the
11 *Defence Reserve Service (Protection) Act 2000* have the same
12 meaning as in that Act.