



Defence (Visiting Forces) Regulations 1963

Statutory Rules 1963 No. 134 as amended

made under the

Defence (Visiting Forces) Act 1963

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taking into account amendments up to SR 2003 No. 117

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1 Name of Regulations [see Note 1]

These Regulations are the *Defence (Visiting Forces) Regulations 1963*.

2 Commencement [see Note 1]

These regulations shall come into operation on the day on which the Act comes into operation.

3 Interpretation

In these regulations, *the Act* means the *Defence (Visiting Forces) Act 1963*.

4 Declaration of countries within the Commonwealth

The following countries are declared to be, for the purposes of the Act, countries within the Commonwealth of Nations:

Bangladesh;
Brunei Darussalam;
Canada;
Kenya;
Malaysia;
Mozambique;
New Zealand;
Pakistan;
Papua New Guinea;
Singapore;
South Africa;
Sri Lanka;
Tonga;
United Kingdom of Great Britain and Northern Ireland;
Zimbabwe.

5 Declaration of other countries under section 6 of the Act

The following countries are declared under section 6 of the Act to be countries in relation to which all the provisions of the Act have effect:

- (a) the Kingdom of Cambodia;
- (b) the Republic of Fiji;
- (c) the Republic of Indonesia;
- (d) the Republic of the Philippines;
- (e) the Kingdom of Thailand;
- (f) the United States of America;
- (g) Brazil;
- (h) Chile;
- (i) Egypt;
- (j) France;
- (k) Ireland;
- (l) Italy;
- (m) Nepal;
- (n) Norway;
- (o) Portugal;
- (p) Republic of Korea;
- (q) Spain;
- (r) Sweden;
- (s) Argentina;
- (t) China;
- (u) Czech Republic;
- (v) Denmark;
- (w) Germany;
- (x) Hungary;
- (y) Jordan;
- (z) Poland;
- (za) Uruguay;
- (zb) Turkey;
- (zc) Democratic Republic of Timor-Leste (East Timor).

6 Application to visiting forces of law relating to Defence Force

- (1) The immunities conferred by section 70 of the *Defence Act 1903* on members of the Defence Force and vehicles used by members of the Defence Force are conferred on members of a visiting force sent to Australia by a country in relation to which section 16 of the Act applies and vehicles used by members of that force.
- (2) The immunities conferred by subsection 123 (1) of the *Defence Act 1903* on members of the Defence Force are conferred on members of a visiting force sent to Australia by a country in relation to which section 16 of the Act applies as if:
 - (a) references to the Defence Force in subsection 123 (1) of the *Defence Act 1903* were references to that force; and
 - (b) the reference in paragraph 123 (1) (a) of that Act to the Commonwealth included a reference to that country.

9 Summons to give evidence before, or produce documents to, service tribunal

- (1) The power to summon witnesses to give evidence and produce documents conferred by section 138 of the *Defence Force Discipline Act 1982* shall, subject to the condition specified in subregulation (2), be exercisable, with respect to the service tribunals of a visiting force of a country in relation to which section 8 of the Act applies, by:
 - (a) a convening authority within the meaning of the *Defence Force Discipline Act 1982*; or
 - (b) an officer who holds a rank not below the rank of Commander in the Navy, Lieutenant Colonel in the Army or Wing Commander in the Air Force.
- (2) The condition subject to which the power to summon a witness shall be exercisable by a convening authority or an officer referred to in subregulation (1) is that the authority or officer, as the case requires, is satisfied that the person requesting the issue of the summons has paid or will pay the reasonable expenses of the witness in attending before the service tribunal.

10 Duties of person summoned before a service tribunal

Sections 86 and 87 of the *Defence Act 1903* have effect in relation to a person who has been lawfully summoned to attend a service tribunal of a visiting force to give evidence or produce documents, to the extent to which they would have effect if the visiting force were a part of the Defence Force.

11 Civil detention of arrested persons

- (1) Section 94 of the *Defence Force Discipline Act 1982* applies with respect to a member of a visiting force of a country in relation to which section 8 of the Act applies charged with an offence triable by a service tribunal of the visiting force as if the member were a person arrested under the *Defence Force Discipline Act 1982* and in the custody of a member of the Defence Force.
- (2) Where a commanding officer or the senior member of an escort issues a certificate under section 94 of the *Defence Force Discipline Act 1982* with respect to a member of a visiting force of a country in relation to which section 8 of the Act applies charged with an offence triable by a service tribunal of the visiting force, the commanding officer or senior member, as the case may be, shall issue a warrant for the temporary detention of that member in a civil detention facility.
- (3) A warrant under subregulation (2) shall be in accordance with the Form in the Schedule.
- (4) In this regulation *civil detention facility* has the same meaning as in the *Defence Force Discipline Act 1982*.

12 Witnesses before service tribunals

- (1) A service tribunal of a visiting force of a country in relation to which section 8 of the Act applies may receive evidence on oath from a person not subject to the jurisdiction of the service tribunal who appears as a witness before the tribunal, whether the person has been summoned or appears without being summoned, and for this purpose a member of the tribunal may administer an oath to the person.

- (2) Where a witness conscientiously objects to take an oath, he may make an affirmation that he conscientiously objects to take an oath and that he will state the truth, the whole truth and nothing but the truth to all questions that are asked him.
- (3) An affirmation so made is of the same force and effect, and entails the same liabilities, as an oath.
- (4) A person referred to in subregulation (1) who appears as a witness before a service tribunal has the same protection as a witness in a matter before the High Court.

Schedule

(regulation 11)

Form Warrant for the temporary detention in a civil detention facility of a person charged with an offence

COMMONWEALTH OF AUSTRALIA

Defence (Visiting Forces) Act 1963

WARRANT FOR THE TEMPORARY DETENTION IN A CIVIL DETENTION FACILITY OF A PERSON CHARGED WITH AN OFFENCE

To *(description of person in charge of civil detention facility)* at (address) I, *(full name of person issuing warrant)*, being a person authorized to issue warrants for the temporary detention in a civil detention facility of persons charged with offences before the service tribunal of _____, do, by this warrant, authorize the temporary detention of *(full name and description of person to be detained in civil detention facility)*, a person charged with an offence triable by a service tribunal of _____, in *(name of civil detention facility)* and order you, _____, to receive into your custody at _____ and detain _____ for a period not exceeding 7 days.

Dated this _____ day of _____ 19 _____.

(Signature of officer authorized to issue warrant)

Table of Statutory Rules**Notes to the *Defence (Visiting Forces) Regulations 1963*****Note 1**

The *Defence (Visiting Forces) Regulations 1963* (in force under the *Defence (Visiting Forces) Act 1963*) as shown in this compilation comprise Statutory Rules 1963 No. 134 amended as indicated in the Tables below.

Table of Statutory Rules

Year and number	Date of notification in <i>Gazette</i>	Date of commencement	Application, saving or transitional provisions
1963 No. 134	13 Dec 1963	15 Dec 1963 (see r. 2 and <i>Gazette</i> 1963, p. 4577)	
1965 No. 2	8 Jan 1965	8 Jan 1965	—
1966 No. 28	10 Feb 1966	10 Feb 1966	—
1970 No. 202	17 Dec 1970	17 Dec 1970	—
1973 No. 10	25 Jan 1973	25 Jan 1973	—
1975 No. 182	12 Sept 1975	R. 2: 16 Sept 1975 Remainder: 12 Sept 1975	—
1976 No. 45	6 Feb 1976	9 Feb 1976	—
1983 No. 130	5 Aug 1983	15 Aug 1983	—
1985 No. 159	5 July 1985	3 July 1985 (see <i>Gazette</i> 1985, No. S255)	—
1989 No. 213	7 Aug 1989	7 Aug 1989	—
1994 No. 407	13 Dec 1994	13 Dec 1994	—
1997 No. 73	14 Apr 1997	14 Apr 1997	—
1999 No. 218	22 Sept 1999	22 Sept 1999	—
1999 No. 233	13 Oct 1999	13 Oct 1999	—
2003 No. 117	19 June 2003	19 June 2003	—

Table of Amendments**Table of Amendments**

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
R. 1	rs. 1999 No. 218
R. 3A.....	ad. 1976 No. 45 rep. 1997 No. 73
R. 4	rs. 1973 No. 10 am. 1975 No. 182; 1983 No. 130; 1994 No. 407; 1999 No. 218; 1999 No. 233
R. 5	am. 1976 No. 45; 1983 No. 130; 1999 No. 218 rs. 1994 No. 407 am. 1999 No. 233; 2003 No. 117
R. 5A.....	ad. 1965 No. 2 am. 1966 No. 28; 1976 No. 45 rep. 1983 No. 130
R. 6	am. 1976 No. 45; 1989 No. 213; 1997 No. 73
R. 7	am. 1976 No. 45 rep. 1983 No. 130
R. 8	rep. 1983 No. 130
R. 9	ad. 1966 No. 28 am. 1976 No. 45; 1985 No. 159
R. 10.....	ad. 1966 No. 28 rs. 1985 No. 159
R. 11	ad. 1966 No. 28 am. 1976 No. 45 rs. 1985 No. 159
R. 12.....	ad. 1966 No. 28 am. 1976 No. 45
R. 13.....	ad. 1970 No. 202 rep. 1976 No. 45
Heading to The Schedule ...	rep. 1976 No. 45
Heading to Schedule.....	ad. 1976 No. 45
The Schedule.....	ad. 1965 No. 2 am. 1966 No. 28
Schedule.....	am. 1976 No. 45; 1983 No. 130; 1985 No. 159
Heading to Form 1	ad. 1996 No. 28 am. 1976 No. 45 rep. 1983 No. 130
Form 2.....	ad. 1996 No. 28 am. 1976 No. 45 rep. 1985 No. 159
Form.....	ad. 1985 No. 159