

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

(As read a first time)

DEFENCE ACTS AMENDMENT BILL 1981

TABLE OF PROVISIONS

PART I—PRELIMINARY

Clause

1. Short title
2. Commencement

PART II—AMENDMENTS OF THE DEFENCE ACT 1903

3. Principal Act
4. Delegation of power to make appointments and promotions
5. Repeal of section 57
6. Determination of conditions of service
7. Powers may be delegated
8. Insertion of new Part—

PART IXA—PROVISIONS RELATING TO THE FORCES OF OTHER COUNTRIES

Division 1—Interpretation

- 116A. Interpretation

Division 2—Attachment of Personnel and Mutual Powers of Command

- 116B. Attachment to the Defence Force of members of the forces of another country and *vice versa*
- 116C. Forces serving together
- 116D. Corresponding ranks

TABLE OF PROVISIONS—continued

		<i>Division 3—Absentees without leave</i>
Clause	116E.	Interpretation
	116F.	Apprehension of absentees without leave
	116G.	Detention of illegal absentee
	116H.	Disposal of person in custody
	116J.	Evidence for the purposes of this Division
	116K.	Proof of facts by certificate

Division 4—Miscellaneous

	116M.	Delegation by chief of staff
	116N.	Orders
9.	Insertion of new Part—	

PART IXB—PUBLIC AREAS OF DEFENCE LAND

	116P.	Interpretation
	116Q.	Public areas of defence land
	116R.	Delegation
	116S.	Appointment of rangers
	116T.	Rangers <i>ex officio</i>
	116U.	Identity cards
	116V.	Powers of arrest
	116W.	General powers of rangers
	116X.	Seizure and forfeiture
	116Y.	Assaulting, & c., rangers
	116Z.	Personation of rangers
	116ZA.	Officers and employees of governments and authorities
	116ZB.	Prosecution of offences
	116ZC.	Concurrent operation of State and Territory laws
	116ZD.	By-laws
10.	Forfeiture or suspension of salary in certain circumstances	
11.	Regulations	

PART III—AMENDMENTS OF THE DEFENCE (VISITING FORCES) ACT 1963

12.	Principal Act
13.	Interpretation
14.	Countries in relation to which provisions of this Act apply or may be applied
15.	Repeal of Parts III and IV
16.	Delegation of powers and functions
17.	Transitional

1980-81

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time, 17 September 1981

(*Minister for Defence*)

A BILL

FOR

An Act to amend the law relating to defence

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

PART I—PRELIMINARY

Short title

- 5 1. This Act may be cited as the *Defence Acts Amendment Act* 1981.

Commencement

- 10 2. (1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.
- (2) Sub-section 6 (2) shall come into operation on the day fixed by Proclamation under sub-section 2 (2) of the *Statute Law Revision Act* 1981 or, if that day is earlier than the day on which this Act receives the Royal Assent, on the day after the day on which this Act receives the Royal Assent.
- (3) Section 8 and Part III shall come into operation on a date to be fixed by Proclamation.

(4) Section 10 shall come into operation on the day on which section 53 of the *Defence Force Re-organization Act 1975* comes into operation.

PART II—AMENDMENTS OF THE DEFENCE ACT 1903

Principal Act

3. The *Defence Act 1903*¹ is in this Part referred to as the Principal Act. 5

Delegation of power to make appointments and promotions

4. (1) Section 10C of the Principal Act is amended by inserting in sub-section (1) “all or” after “Army” (first occurring).

(2) Where, before the commencement of this section, the Governor-General purported to delegate all of his powers under sections 10 and 10B of the Principal Act to appoint and promote officers of the Army, the purported delegation shall be deemed to have been, and to be, as valid and effectual as it would have been if the amendment made by sub-section (1) had been in force at the time the purported delegation was made. 10

Repeal of section 57

5. Section 57 of the Principal Act is repealed. 15

Determination of conditions of service

6. (1) Section 58B of the Principal Act is amended by adding at the end of paragraph (1) (b) “including, but without limiting the generality of the foregoing, the payment of additional compensation to members of— 20

- (i) the Citizen Naval Forces;
- (ii) the Naval Emergency Reserve Forces;
- (iii) the Citizen Military Forces;
- (iv) the Regular Army Reserve;
- (v) the Regular Army Emergency Reserve; 25
- (vi) the Citizen Air Force; and
- (vii) the Air Force Emergency Force,

to whom compensation is payable under the *Compensation (Commonwealth Government Employees) Act 1971*”.

(2) Section 58B of the Principal Act is amended by omitting sub-paragraphs (1) (b) (i) to (vii), inclusive, and substituting the following sub-paragraphs: 30

- “(i) the Emergency Forces; and
- (ii) the Reserve Forces.”

Powers may be delegated

7. (1) Section 87 of the Principal Act is amended by inserting in sub-section (1) “all or” after “delegate”. 35

(2) Where, before the commencement of this section, the Governor-General purported to delegate all of his powers under section 86 of the Principal Act, the purported delegation shall be deemed to have been, and to be, as valid and effectual as it would have been if the amendment made by sub-section (1) had been in force at the time the purported delegation was made.

8. After Part IX of the Principal Act the following Part is inserted:

“PART IXA—PROVISIONS RELATING TO THE FORCES OF OTHER COUNTRIES

“Division 1—Interpretation

Interpretation

“116A. (1) In this Part, unless the contrary intention appears—

‘forces’, in relation to a country, means the naval, military or air forces of that country;

‘service authorities’, in relation to a country, means the naval, military or air force authorities of that country.

“(2) A reference in this Part to a country in relation to which a provision of this Part applies shall be read as a reference to a country declared by the regulations to be a country in relation to which that provision applies.

“(3) For the purposes of this Part, a member of a force of a country that (by whatever name called) is in the nature of a reserve or auxiliary force shall be deemed to be a member of the forces of that country so long as, but only so long as, he is called into actual service (by whatever expression described) with those forces or is called out for training with those forces.

“Division 2—Attachment of Personnel and Mutual Powers of Command

Attachment to the Defence Force of members of the forces of another country and vice versa

“116B. (1) The Chief of Naval Staff, the Chief of the General Staff or the Chief of the Air Staff may, by order in writing—

(a) attach temporarily to any part of the Defence Force under his command a specified member, or a member included in a specified class of members, of the forces of a country in relation to which this section applies who is placed at his disposal by the service authorities of that country for the purpose of being so attached; and

(b) subject to anything to the contrary in the conditions applicable to his service, place a specified member, or a member included in a specified class of members, of any part of the Defence Force under his command at the disposal of the service authorities of a country in relation to which this section applies in order that he may be attached temporarily by those authorities to the forces of that country.

“(2) Where a member of the forces of a country in relation to which this section applies is attached temporarily to a part of the Defence Force, he shall, for the period for which he is so attached, be regarded as a member of that part of the Defence Force, as holding the rank in that part of the Defence Force that corresponds with the rank that he holds in those forces and as having, for the purposes of command and discipline, the same status and powers, including the power to arrest and to impose punishments, as—

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(a) a member of that rank in that part of the Defence Force; and

(b) if he is given an appointment in that part of the Defence Force—a member of that part of the Defence Force holding the like appointment.

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“(3) The application of the law governing the Australian Navy, the Australian Army or the Australian Air Force, as the case may be, to a person to whom sub-section (2) applies is subject to such exceptions, modifications and adaptations as are specified by the Minister by order in writing.

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“(4) A member of the Defence Force referred to in paragraph (1) (b) does not cease to be subject to the law governing that part of the Defence Force to which he belongs by reason only of his being temporarily attached as provided by that paragraph.

“(5) This section applies to and in relation to a part of the Defence Force serving either within or beyond the territorial limits of Australia.

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Forces serving together

“116C. (1) Whenever a part of the Defence Force and a part of the forces of a country in relation to which this sub-section applies are serving together, either within or beyond the territorial limits of Australia, and either alone or together with any other force, a member of the force of that country has the same powers of command over members of that part of the Defence Force as a member of the Defence Force holding the rank in that Force that corresponds with the rank that he holds in the force of the country to which he belongs.

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“(2) Whenever a part of the Defence Force and a part of the forces of another country to which this sub-section applies are acting in combination, either within or beyond the territorial limits of Australia, an officer of the forces of that other country may be appointed by the Governor-General, by order in writing, to command the combined force, or any part of the combined force, and an officer so appointed—

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(a) has, subject to such restrictions and limitations as are specified by the Chief of Defence Force Staff by order in writing, over members of the Defence Force serving in that combined force or part of that force, the same powers of command and discipline, including the power to impose punishments; and

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(b) may be invested by the Governor-General, by order in writing, with the same power to convene, and confirm the findings and sentences of, courts-martial,

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as if he were an officer of the Defence Force holding that appointment and the rank in that Force corresponding with the rank that he holds in the force to which he belongs.

5 “(3) Where a part of the Defence Force and a part of the forces of a country in relation to which sub-section (1) applies are serving together beyond the territorial limits of Australia, the officer in command of that part of the Defence Force, or an officer authorized in writing by a chief of staff for the purposes of this sub-section, may request the appropriate service authority of that country to direct, by general or special orders, members of the forces of 10 that country to arrest any member of that part of the Defence Force who is alleged to have committed, or is reasonably suspected of having committed, an offence punishable under Australian service law and to deliver him into the custody of such service authority of the Defence Force as is designated by or under the orders.

15 “(4) A member of the Defence Force arrested and held in custody in pursuance of sub-section (3) shall be deemed to have been arrested and held in custody in accordance with Australian service law.

20 “(5) For the purposes of this section, forces shall be deemed to be serving together or acting in combination if, and only if, they are declared, by order in writing of the Governor-General or of any person authorized by the Governor-General to make such orders, to be so serving or acting.

“(6) In this section, ‘Australian service law’ means the law (including any instrument having the force of law) governing the Defence Force or a part of the Defence Force.

25 **Corresponding ranks**

“116D. (1) For the purposes of this Division, the Chief of Defence Force Staff may, by order in writing, determine the ranks in the several parts of the Defence Force that are to be regarded as corresponding with specified ranks in the forces of any other specified country.

30 “(2) References to ranks in sub-section (1) shall be read as including references to ratings in naval forces and, generally, as not restricted to the ranks of officers.

“Division 3—Absentees without leave

Interpretation

35 “116E. (1) In this Division, ‘authorized officer’ means an officer authorized by a chief of staff, by order in writing, for the purposes of this Division.

40 “(2) A reference in this Division to the designated authority of a country is a reference to an authority designated for the purposes of this Division by the appropriate authority or officer of that country.

“(3) A reference in this Division to the country to which a person belongs is a reference to the country from whose forces he is suspected of being, or,

where he has surrendered himself, appears from his confession to be, an absentee without leave.

“(4) For the purposes of the application of this Division in relation to the forces of a country, it is immaterial whether or not any body, contingent or detachment of those forces is present in Australia. 5

Apprehension of absentees without leave

“116F. Where the designated authority of a country in relation to which this section applies, by writing signed by him, requests an authorized officer for assistance in the apprehension of a member of the forces of that country, not being an Australian citizen, who is an absentee without leave from those forces, the authorized officer may, in his discretion, issue a warrant in accordance with the prescribed form authorizing a member or special member of the Australian Federal Police or a member of the police force of a State or Territory or any member of the Defence Force to arrest that absentee. 10

Detention of illegal absentee

“116G. (1) A person who is arrested under section 116F or who surrenders himself as being illegally absent from the forces of a country in relation to which this section applies may be detained— 15

- (a) by a member or special member of the Australian Federal Police or a member of a police force of a State or Territory at a police station or at a place provided for the confinement of persons in lawful custody; or 20
- (b) by a member of the Defence Force at a place provided for the confinement of members of the Defence Force who are accused or convicted of offences, 25

for such time as is reasonably necessary to enable the person to be dealt with in accordance with section 116H. 25

“(2) As soon as practicable after a person is taken into custody under sub-section (1), the person holding him in custody shall—

- (a) cause an authorized officer to be notified that the person has been taken into custody; and 30
- (b) take all reasonable steps to ensure that the person in custody understands his right to make a request under sub-section (3).

“(3) A person in custody under this section may, on grounds specified by him, request that he be released from that custody.

“(4) Where a person makes a request under sub-section (3), the person holding him in custody shall cause the request to be referred to an authorized officer. 35

Disposal of person in custody

“116H. (1) Where an authorized officer is notified under paragraph 116G (2) (a) that a person has been taken into custody under sub-section 116G (1), he shall, after such investigation of the matter as he thinks necessary— 40

- (a) if he is satisfied that there is a good and sufficient reason why the person held in custody should be released—direct that the person be released from custody under this Division; or
- (b) if he is not so satisfied—refer the matter to the Minister.

5 “(2) For the purposes of the carrying out of an investigation referred to in sub-section (1), the authorized officer shall have due regard to any request made by a person under sub-section 116G (3).

“(3) Where the matter is referred to the Minister under sub-section (1), the Minister shall—

- 10 (a) direct that the person held in custody be released from custody under this Division; or
- (b) issue a warrant for the delivery of the person held in custody under this Division into the custody of a specified service authority of the country to which the person belongs at a place in Australia—
 - 15 (i) specified in the warrant; or
 - (ii) determined by the authorized officer.

“(4) A service authority into whose custody a person is delivered in pursuance of a warrant issued under paragraph (3) (b) may remove the person from Australia, but nothing in this sub-section shall be taken to limit any other powers that the authority may have with respect to the person.

“(5) Where under this section the Minister or an authorized officer directs that a person be released from custody under this Division, that person shall be so released.

Evidence for the purposes of this Division

25 “116J. For the purposes of any proceedings in a court or otherwise arising in connection with any action taken in pursuance of the provisions of this Division, where the designated authority of a country in relation to which section 116F applies certifies in writing that a person named and described in that certificate was, on a specified date, an absentee without leave from the forces of that country, that certificate is *prima facie* evidence of the facts so certified.

Proof of facts by certificate

35 “116K. (1) Where in a certificate given for the purposes of this Division reference is made to a person by name and that certificate includes a description of the person named by reference to his physical characteristics and a court is satisfied that a person before it is a person having that name and answering to the description in the certificate, the certificate shall be deemed to refer to that person, unless the contrary is proved.

40 “(2) A document purporting to be a certificate, request or notification given or made for the purposes of a provision of this Division, and to be signed by an authority or person specified in the document, shall, upon mere production in any proceedings in a court, be received in evidence and, unless

the contrary is proved, be deemed to be a certificate, request or notification given or made by that authority or person.

“(3) Where under a provision of this Division a certificate or request is given or made by the designated authority of a country, and a certificate or request purports to be signed by a person described in that document as the designated authority of that country, that person shall, in any proceedings in a court, be deemed to be the designated authority of that country for the purposes of that provision, unless the contrary is proved.

“Division 4—Miscellaneous

Delegation by chief of staff

“116M. (1) Subject to sub-section (2), a chief of staff may, in relation to a matter or a class of matters, or to a State, Territory, or other part of Australia, another country or part of another country, by writing signed by him, delegate to an officer who holds a rank not below the rank of Captain in the Australian Navy, Colonel in the Australian Army or Group Captain in the Australian Air Force, all or any of his powers under this Part, other than this power of delegation.

“(2) A chief of staff shall not delegate—

(a) his power to authorize an officer for the purposes of sub-section 116C (3); or

(b) his power to authorize an officer for the purposes of Division 3,

except to an officer who holds a rank not below the rank of Rear-Admiral in the Australian Navy, Major-General in the Australian Army or Air Vice-Marshal in the Australian Air Force.

“(3) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the chief of staff.

“(4) A delegation under this section does not prevent the exercise of a power by the chief of staff.

“(5) A delegation under this section continues in force notwithstanding a change in the occupancy of, or a vacancy in, the office of a chief of staff.

“(6) A document purporting to be a copy of a delegation by a chief of staff, or an order or written authority made or given by a chief of staff or by a delegate of a chief of staff, and purporting to bear the signature or a facsimile of the signature of the chief of staff or of the delegate, as the case may be, with an endorsement in writing that the delegation, order or written authority is, or was on a specified date, in force, is, upon mere production in a court or otherwise for any purpose arising under this Part, *prima facie* evidence that the delegation, order or written authority was duly given or made in the terms set out in the document and is, or was on the date specified, in force.

Orders

“116N. Orders made in pursuance of a provision of this Part shall be deemed not to be statutory rules within the meaning of the *Statutory Rules Publication Act 1903*.”.

5 9. Before Part X of the Principal Act the following Part is inserted:

“PART IXB—PUBLIC AREAS OF DEFENCE LAND**Interpretation**

“116P. (1) In this Part, unless the contrary intention appears—

‘by-laws’ means by-laws under this Part;

10 ‘public area’ means a public area declared under section 116Q;

‘ranger’ means—

(a) a person appointed under section 116S; and

(b) a person referred to in section 116T.

15 “(2) A reference in this Part to a member of the Australian Federal Police or to a member of a police force includes a reference to a special member of the Australian Federal Police.

Public areas of defence land

“116Q. (1) The Minister may, by notice published in the *Gazette*, declare an area specified in the notice to be a public area and assign a name to that area.

20 “(2) In sub-section (1), ‘area’ means an area of land that is owned or held under lease by the Commonwealth and used, or intended for use, for the purposes of defence.

Delegation

25 “116R. (1) The Minister may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him, delegate to an officer of the Defence Force or an officer of the Department of Defence all or any of his powers under this Part or the by-laws, other than this power of delegation or his powers under section 116ZD to make by-laws.

30 “(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act or the by-laws, be deemed to have been exercised by the Minister.

“(3) A delegation under this section does not prevent the exercise of a power by the Minister.

Appointment of rangers

35 “116S. The Minister may, by instrument in writing, appoint a person as a ranger.

Rangers ex officio

“116T. By force of this section, any member of the Australian Federal Police or member of the police force of a Territory is a ranger.

Identity cards

“116U. (1) The Minister may cause to be issued to a ranger, other than a member of a police force, an identity card in a form approved by the Minister. 5

“(2) A person who ceases to be a ranger shall forthwith return his identity card to the Minister.

“(3) A person who contravenes sub-section (2) is guilty of an offence punishable on conviction by a fine not exceeding \$100. 10

Powers of arrest

“116V. (1) A ranger may, without warrant, arrest any person, if the ranger believes on reasonable grounds—

- (a) that the person is committing or has committed an offence against this Part or the by-laws; and 15
- (b) that proceedings against the person by summons would not be effective.

“(2) Where a ranger (other than a member of a police force who is in uniform) arrests a person under sub-section (1), he shall—

- (a) in the case of a member of a police force—produce, for inspection by that person, written evidence of the fact that he is a member of a police force; or 20
- (b) in any other case—produce his identity card for inspection by that person.

“(3) Where a person is arrested under sub-section (1), a ranger shall forthwith bring the person, or cause him to be brought, before a Justice of the Peace or other proper authority to be dealt with in accordance with law. 25

“(4) Nothing in this section prevents the arrest of a person in accordance with any other law.

General powers of rangers 30

“116W. (1) A ranger may search any vehicle, aircraft or vessel if he believes on reasonable grounds that there is in or on that vehicle, aircraft or vessel anything that will afford evidence as to the commission of an offence against this Part or the by-laws, and for that purpose stop or detain that vehicle, aircraft or vessel. 35

“(2) A ranger may—

- (a) require any person whom he finds committing or whom he suspects on reasonable grounds of having committed an offence against this Part or the by-laws to state his full name and usual place of residence; and

- (b) require any person in a public area whom he finds committing, or whom he suspects on reasonable grounds of having committed, an offence against this Part or the by-laws to leave the public area.

5 “(3) Where a ranger (other than a member of a police force who is in uniform) stops, or proposes to search or detain, a vehicle, aircraft or vessel, he shall—

- (a) in the case of a member of a police force—produce, for inspection by the person in charge of that vehicle, aircraft or vessel, written evidence of the fact that he is a member of a police force; or

- 10 (b) in any other case—produce his identity card for inspection by that person,

and, if he fails to do so, he is not authorized to search or detain that aircraft, vehicle or vessel.

15 “(4) Where a ranger (other than a member of a police force who is in uniform) makes a requirement of a person under this section, he shall—

- (a) in the case of a member of a police force—produce, for inspection by that person, written evidence of the fact that he is a member of a police force; or

- 20 (b) in any other case—produce his identity card for inspection by that person,

and, if he fails to do so, that person is not obliged to comply with the requirement.

25 “(5) A person who, without reasonable excuse, fails to comply with a requirement made of him by a ranger under this section is guilty of an offence punishable on conviction by a fine not exceeding \$1,000.

Seizure and forfeiture

30 “116X. (1) Where a court convicts a person of an offence against this Part or the by-laws, the court may order the forfeiture to the Commonwealth of any vehicle, aircraft, vessel or article used or otherwise involved in the commission of the offence.

35 “(2) A ranger may seize any vehicle, aircraft, vessel or article that he believes on reasonable grounds to have been used or otherwise involved in the commission of an offence against this Part or the by-laws and may retain it until the expiration of a period of 60 days after the seizure, or, if proceedings for an offence against this Part or the by-laws in the commission of which it may have been used or otherwise involved are instituted within that period, until the proceedings are terminated.

40 “(3) The Minister may authorize a vehicle, aircraft, vessel or article seized under sub-section (2) or anything on, in or attached to such a vehicle, aircraft or vessel to be released to its owner, or to the person from whose possession it was seized, either unconditionally or on such conditions as he thinks fit, including conditions as to the giving of security for payment of its value if it is forfeited.

“(4) A vehicle, aircraft, vessel or article forfeited under this section may be sold or otherwise disposed of as the Minister thinks fit.

Assaulting, &c., rangers

“116Y. A person who assaults or threatens a ranger in the performance of his duties under this Part or the by-laws is guilty of an indictable offence punishable on conviction by a fine not exceeding \$5,000 or imprisonment for a period not exceeding 2 years, or both.

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Personation of rangers

“116Z. A person who, by words or conduct, falsely represents that he is a ranger is guilty of an indictable offence punishable on conviction by a fine not exceeding \$5,000 or imprisonment for a period not exceeding 2 years, or both.

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Officers and employees of governments and authorities

“116ZA. The Governor-General may make arrangements with the Governor of a State or the Administrator of a Territory for the performance of functions and the exercise of powers under this Part or the by-laws by officers or employees of that State or Territory or of an authority of that State or Territory, as the case may be.

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Prosecution of offences

“116ZB. (1) Notwithstanding that an offence against this Part is expressed to be an indictable offence, a court of summary jurisdiction may hear and determine proceedings in respect of such an offence if the court is satisfied that it is proper to do so and the defendant and the prosecutor consent.

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“(2) Where, in accordance with sub-section (1), a court of summary jurisdiction convicts a person of an offence, the penalty that the court may impose is a fine not exceeding \$1,000 or imprisonment for a period not exceeding 6 months, or both.

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Concurrent operation of State and Territory laws

“116ZC. (1) This Part and the by-laws, in so far as they apply in relation to public areas, are not intended to exclude or limit the concurrent operation of a law of a State or Territory.

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“(2) In interpreting whether, in relation to land owned or held under lease by the Commonwealth, any provision of this Act (other than this Part) is intended to exclude or limit the concurrent operation of a law of a State or Territory, sub-section (1) shall be disregarded.

By-laws

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“116ZD. (1) The Minister may make by-laws, not inconsistent with this Act, for and in relation to the control and management of public areas.

“(2) Without limiting the generality of sub-section (1), by-laws may be made—

- (a) providing for functions and powers to be conferred, and duties to be imposed, upon rangers;
- (b) regulating or prohibiting the pollution of soil, air or water in a manner that is, or is likely to be, harmful to people or wildlife in, or to the natural features of, public areas;
- (c) regulating or prohibiting tourism in public areas;
- (d) providing for the protection and preservation of public areas and property and things in public areas;
- (e) regulating or prohibiting access to public areas by persons or classes of persons;
- (f) providing for the removal of trespassers from public areas;
- (g) regulating or prohibiting camping in public areas;
- (h) providing for the safety of persons in public areas;
- (j) regulating or prohibiting the use of fire in public areas;
- (k) regulating the conduct of persons in public areas;
- (m) regulating or prohibiting the carrying on of any trade or commerce in a public area;
- (n) regulating or prohibiting the use of vehicles in public areas and providing for signs and road markings for those purposes;
- (p) providing for the removal of vehicles, aircraft or vessels from places in public areas where they have been left in contravention of the by-laws or have been abandoned and for the impounding of such vehicles, aircraft or vessels;
- (q) making provision to the effect that, where a contravention of a provision of the by-laws relating to the parking or stopping of vehicles in a public area occurs in respect of a motor vehicle, the person who is to be regarded as the owner of the motor vehicle for the purposes of the by-laws (who may, in accordance with the by-laws, be or include a person in whose name the motor vehicle is registered under the law of a State or Territory) is to be, except as provided otherwise, deemed to have committed an offence against the provision so contravened, whether or not he in fact contravened that provision;
- (r) enabling a person who is alleged to have contravened a provision of the by-laws relating to—
 - (i) littering;
 - (ii) the use of vehicles or vessels;
 - (iii) the parking or stopping of vehicles;
 - (iv) the mooring or landing of vessels; or
 - (v) the landing and use of aircraft,to pay to the Commonwealth, as an alternative to prosecution, a specified penalty, not exceeding the maximum penalty by which a contravention of that provision is otherwise punishable;
- (s) regulating or prohibiting the use of vessels, and the landing and use of aircraft, in public areas;

- (t) regulating or prohibiting the taking of animals or plants into, or out of, public areas;
 - (u) providing for the impounding, removal, destruction or disposal of animals found straying in public areas;
 - (v) regulating or prohibiting the taking into public areas, and the use in public areas, of weapons, traps, nets, snares, fishing apparatus and other devices; 5
 - (w) regulating or prohibiting the laying of baits and the use of explosives and poisons in public areas;
 - (x) providing for the collection of specimens and the pursuit of research in public areas for scientific purposes; 10
 - (y) providing for the issue of licences, permits and authorities, the conditions subject to which they are issued and the charging of fees by the Minister in respect of such licences, permits and authorities;
 - (z) the imposition of charges for— 15
 - (i) the parking or stopping of vehicles;
 - (ii) the landing of aircraft; and
 - (iii) the use of vehicles and vessels, in public areas;
 - (za) providing for penalties, not exceeding a fine of \$500, for offences against the by-laws; and 20
 - (zb) providing for any matter incidental to or connected with any of the foregoing.
- “(3) Sections 48, 49 and 50 of the *Acts Interpretation Act* 1901 apply in relation to by-laws as if, in those sections, references to regulations were references to by-laws.” 25

Forfeiture or suspension of salary in certain circumstances

10. Section 119 of the Principal Act is amended—

- (a) by inserting “or the suspension of the whole,” after “part,”; and
- (b) by omitting all the words after “Defence Force”. 30

Regulations

11. Section 124 of the Principal Act is amended—

- (a) by adding at the end of paragraph (1) (o) “including, but without limiting the generality of the foregoing, the subjection of—
 - (i) a specified canteen or mess; 35
 - (ii) a canteen or mess included in a class of specified canteens or messes; or
 - (iii) a specified organization established under the regulations that establishes, manages, operates or controls canteens, to taxation (other than income tax) under a law of the Commonwealth or of a State or Territory”; 40

- (b) by omitting paragraphs (1) (r) and (t) and substituting the following paragraph:

“(r) the payment by the Commonwealth of compensation for any loss, injury or damage suffered by reason of anything done in pursuance of this Act;” and

- (c) by inserting after sub-section (2) the following sub-sections:

“(2A) The power to make regulations by virtue of paragraph (1) (gc) shall not be taken not to include the power to make regulations requiring a person appearing as a witness before a court of inquiry or a board of inquiry to answer a question notwithstanding that the answer to the question may tend to incriminate him.

“(2B) Where the regulations contain a requirement of a kind referred to in sub-section (2A), any answer of the kind referred to in that sub-section given by a person in accordance with the requirement is not admissible in evidence against him in—

(a) criminal or civil proceedings before a federal court or a court of a State or Territory;

(b) proceedings before a court-martial—

(i) under Part VIII; or

(ii) under the Naval Discipline Act, the Army Act or the Air Force Act; or

(c) proceedings before an officer—

(i) under regulations in force for the purposes of section 108; or

(ii) under the Naval Discipline Act, the Army Act or the Air Force Act,

except in a prosecution for giving false testimony at the hearing before the court of inquiry or the board of inquiry.”.

PART III—AMENDMENTS OF THE DEFENCE (VISITING FORCES) ACT 1963

Principal Act

12. The *Defence (Visiting Forces) Act 1963*² is in this Part referred to as the Principal Act.

Interpretation

13. Section 5 of the Principal Act is amended by omitting the definition of “Australian service law” from sub-section (1).

Countries in relation to which provisions of this Act apply or may be applied

14. Section 6 of the Principal Act is amended by omitting from sub-section (2) “(except sub-section (2) of section 25)”.

Repeal of Parts III and IV

15. Parts III and IV of the Principal Act are repealed.

Delegation of powers and functions

16. (1) Section 28 of the Principal Act is amended—

(a) by inserting in sub-section (1) “all or” after “delegate”;

(b) by inserting in sub-section (3) “all or” after “Force”; and

(c) by omitting sub-section (4) and substituting the following sub-section:

“(4) A chief of staff shall not delegate his power to make general orders for the purposes of sub-section (7) of section 8 except to an officer who holds a rank not below the rank of Rear-Admiral in the Australian Navy, Major-General in the Australian Army or Air Vice-Marshal in the Australian Air Force.”.

(2) Where, before the commencement of this section, the Attorney-General or a chief of staff purported to delegate all of his powers or functions under the Principal Act, the purported delegation shall be deemed to have been, and to be, as valid and effectual as it would have been if the amendment of sub-sections 28 (1) and (3) of the Principal Act made by sub-section (1) had been in force at the time the purported delegation was made.

Transitional

17. (1) Notwithstanding the repeal of Parts III and IV of the *Defence (Visiting Forces) Act* 1963 by this Act, appointments, authorizations, declarations, delegations, designations, orders, regulations, requests and warrants in force at the commencement of this Part under or for the purposes of provisions of that Act so repealed continue in force as if made under or for the purposes of the corresponding provisions of the *Defence Act* 1903 as amended by this Act.

(2) Where, at the commencement of this Part, a person was in custody under section 20 of the *Defence (Visiting Forces) Act* 1963, that Act continues to apply to him, in relation to that custody, as if Part III of that Act had not been repealed.

NOTES

1. No. 20, 1903, as amended. For previous amendments, see No. 12, 1904; No. 15, 1909; Nos. 30 and 37, 1910; No. 15, 1911; No. 5, 1912; No. 36, 1914; No. 3, 1915; No. 36, 1917; Nos. 16 and 47, 1918; No. 1, 1927; No. 50, 1932; No. 45, 1934; Nos. 13, 38, 70 and 74, 1939; No. 4, 1941; No. 11, 1945; No. 78, 1947; No. 35, 1948; No. 71, 1949; No. 80, 1950; Nos. 19 and 59, 1951; No. 98, 1952; No. 20, 1953; No. 72, 1956; No. 92, 1964; No. 51, 1965; No. 93, 1966; No. 33, 1970; No. 216, 1973 (as amended by No. 20, 1974); No. 96, 1975; Nos. 4 and 20, 1977; Nos. 19, 132 and 155, 1979; No. 70, 1980; and No. 61, 1981.

2. No. 81, 1963, as amended. For previous amendments, see No. 216, 1973; No. 96, 1975; No. 155, 1979; and No. 70, 1980.

