

Air Force Act 1923

REPRINT No. 3

Consolidated to 11 April 1997

Contents

1	Short title [<i>see</i> Note 1]	1
2	Interpretation.....	1
4	Extension of Act to Territories.....	1
4A	Australian Air Force	1
4B	Permanent Air Force [<i>see</i> Note 2].....	1
4C	Air Force Emergency Force [<i>see</i> Note 2].....	1
4D	Australian Air Force Reserve [<i>see</i> Note 2].....	1
4E	Voluntary entry	2
4F	Territorial limits of service	2
4G	Service of the Permanent Air Force	2
4H	Service of the Air Force Emergency Force	2
4HA	Service of the Air Force Emergency Force other than continuous full time service	3
4J	Service of the Australian Air Force Reserve.....	4
8	Air Training Corps	5
8A	Delegation.....	6
9	Regulations	7

An Act relating to Air Defence

1 Short title [see Note 1]

This Act may be cited as the *Air Force Act 1923*.

2 Interpretation

In this Act unless the contrary intention appears:

the Defence Act means the *Defence Act 1903*.

the Naval Defence Act means the *Naval Defence Act 1910*.

time of defence emergency, *time of war* and *war* have the same meanings respectively as in the Defence Act.

4 Extension of Act to Territories

This Act extends to every Territory.

4A Australian Air Force

The Australian Air Force consists of 3 parts, namely, the Permanent Air Force, the Air Force Emergency Force and the Australian Air Force Reserve.

4B Permanent Air Force [see Note 2]

The Permanent Air Force consists of:

- (a) officers appointed to, and airmen enlisted in, that force; and
- (b) officers and airmen transferred to that force from:
 - (i) the Air Force Emergency Force; or
 - (ii) the Australian Air Force Reserve.

4C Air Force Emergency Force [see Note 2]

The Air Force Emergency Force consists of:

- (a) officers appointed to, and airmen enlisted in, that force; and
- (b) officers and airmen transferred to that force from:
 - (i) the Permanent Air Force; or
 - (ii) the Australian Air Force Reserve.

4D Australian Air Force Reserve [see Note 2]

- (1) The Australian Air Force Reserve consists of the Air Force Active Reserve, the Air Force General Reserve and the Air Force Specialist Reserve.

- (2) The Active Citizen Air Force in existence immediately before the commencement of this section continues in existence as a force forming part of the Australian Air Force Reserve, under the name Air Force Active Reserve, but so that the identity and membership of the force is not affected.
- (3) The Air Force Reserve in existence immediately before the commencement of this section continues in existence as a force forming part of the Australian Air Force Reserve, under the name Air Force General Reserve, but so that the identity and membership of the force is not affected.
- (4) The Air Force Active Reserve, the Air Force General Reserve and the Air Force Specialist Reserve respectively consist of:
 - (a) officers appointed to, and airmen enlisted in, that part of the Australian Air Force Reserve; and
 - (b) officers and airmen transferred to that part of the Australian Air Force Reserve from:
 - (i) the Permanent Air Force;
 - (ii) the Air Force Emergency Force; or
 - (iii) another part of the Australian Air Force Reserve.

4E Voluntary entry

Except as provided by Part IV of the Defence Act, the Air Force shall be kept up by the appointment to that Force, or the enlistment in that Force, of persons who volunteer and are accepted for service in that Force.

4F Territorial limits of service

Members of the Air Force may be required to render air-force service on land or sea or in the air, and either within or beyond the territorial limits of Australia.

4G Service of the Permanent Air Force

- (1) Members of the Permanent Air Force are bound to render continuous full time air-force service.

4H Service of the Air Force Emergency Force

- (1) Members of the Air Force Emergency Force are not bound to render continuous full time air-force service otherwise than:

- (a) as provided by subsection (2); or
 - (b) while they are members of a part of that force called out for continuous full time service under section 50D or 51 of the Defence Act.
- (2) A member of the Air Force Emergency Force may, at any time, voluntarily undertake to render continuous full time air-force service for a period specified by the member and, if the undertaking is accepted, the member is bound to render continuous full time air-force service for:
- (a) the specified period; or
 - (b) such periods within the specified period as the Chief of Air Force directs, in writing.

4HA Service of the Air Force Emergency Force other than continuous full time service

- (1) Where the Chief of Air Force is of the opinion that a particular member of the Air Force Emergency Force, or members within a particular class of members of that Force, should undergo a period of training, he may, by instrument in writing, require the member or members to render air-force service (other than continuous full time air-force service) for that purpose.
- (2) Subject to subsection (3), while a member is required to render air-force service pursuant to subsection (1), he is bound to render that service for such period or periods in a specified training period as the Chief of Air Force directs in the instrument requiring him to render air-force service.
- (3) The period or periods of service by a member specified in an instrument or instruments pursuant to subsection (2) shall not, either continuously or in the aggregate, exceed 30 days in any training period.
- (4) A member of the Air Force Emergency Force may, at any time, voluntarily undertake to render air-force service (other than continuous full time air-force service) for a period specified by him, and, if that undertaking is accepted, he is bound to render air-force service in accordance with that undertaking or for such period or periods within that specified period as the Chief of Air Force directs.

- (5) In this section, *training period*, in relation to a member of the Air Force Emergency Force, means a period of 12 consecutive months commencing on the date of the member's transfer or appointment to, or enlistment in, that Force or on an anniversary of that date, as the case requires.

4J Service of the Australian Air Force Reserve

- (1) Members of the Australian Air Force Reserve are not bound to render continuous full time air-force service otherwise than:
- (a) as provided in this section; or
 - (b) while they are members of a part of that force called out for continuous full time service under section 50E, 50F or 51 of the Defence Act.
- (2) The regulations shall fix, or make provision for fixing, training periods in respect of the Air Force Active Reserve and the Air Force Specialist Reserve, or different training periods in respect of different parts, or different classes of members, of those Reserves.
- (2A) Members of the Air Force Active Reserve or the Air Force Specialist Reserve are bound to render, in each training period, air-force service, other than continuous full time air-force service, for such periods as are fixed by or in accordance with the regulations, unless exempted by or in accordance with the regulations from the obligation to render the whole or a part of that service.
- (2B) The regulations:
- (a) may make provision for different periods of air-force service with respect to different parts, or different classes of members, of the Air Force Active Reserve or the Air Force Specialist Reserve; and
 - (b) may make provision for exempting:
 - (i) a particular member of the Air Force Active Reserve or the Air Force Specialist Reserve; or
 - (ii) members within a specified class of members of the Air Force Active Reserve or the Air Force Specialist Reserve;from the obligation to render, during a training period, the whole or part of the air-force service that he or they would otherwise be bound to render during that period.

- (3) A member of the Australian Air Force Reserve may, at any time, voluntarily undertake to render continuous full time air-force service for a period specified by him and, if that undertaking is accepted, he is bound to render that form of service for that specified period, or for such period or periods within that specified period, as the Chief of Air Force directs.
- (4) A member of the Australian Air Force Reserve may at any time voluntarily undertake to render air-force service, other than continuous full time air-force service, for a period or periods specified by him, and, if that undertaking is accepted, the member is bound to render air-force service in accordance with that undertaking or for such period or periods within that specified period, or within those specified periods, as the case may be, as the Chief of Air Force directs.
- (5) Where a period is fixed, for the purposes of this subsection, by or in accordance with the regulations, in respect of a part, or a class of members, of the Air Force Active Reserve or the Air Force Specialist Reserve, a member of that Reserve included in that part or class may, in addition to rendering air-force service that he is bound to render in pursuance of subsection (2A) or (4), render voluntarily, in a training period, air-force service for a period not exceeding, or for periods not exceeding in the aggregate, the period so fixed.
- (6) Where a kind or kinds of air-force service is or are fixed, for the purposes of this subsection, by or in accordance with the regulations in respect of a part, or a class of members, of the Air Force Active Reserve or the Air Force Specialist Reserve, being a part or class in respect of which a period is fixed for the purposes of subsection (5), that subsection does not authorize a member of that Reserve included in that part or class to render voluntarily air-force service of a kind other than a kind so fixed.

8 Air Training Corps

- (1) There is hereby established a body to be known as the Air Training Corps.
- (2) The Air Training Corps shall consist of:
 - (a) persons appointed in accordance with the regulations to be officers in that body;

Section 8A

- (b) persons appointed in accordance with the regulations to be instructors in that body; and
 - (c) subject to subsections (5) and (6), persons who volunteer, and are accepted, in accordance with the regulations as cadets in that body.
- (3) A person appointed to be an officer or instructor in the Air Training Corps does not become a member of the Air Force by virtue of that appointment.
- (4) A cadet in the Air Training Corps is not a member of the Air Force.
- (5) A person is not entitled to volunteer, or to be accepted, as a cadet unless he:
 - (a) has attained such age as is prescribed; and
 - (b) has not attained the age of 20 years.
- (6) A person ceases to be a cadet when he attains the age of 21 years or such lower age as is prescribed.
- (7) The regulations may make provision for and in relation to the organization, maintenance, regulation, control and discipline of the Air Training Corps, and, in particular, for and in relation to:
 - (a) the periods and conditions of service of members, other than conditions of service with respect to which determinations under section 58B of the Defence Act may be made; and
 - (b) the promotion of members.
- (8) In subsection (7), *member* means an officer, instructor or cadet in the Air Training Corps.
- (9) Subject to the regulations, to any determinations in force under section 58B of the Defence Act and to the directions of the Minister, the Chief of Air Force shall administer the Air Training Corps.

8A Delegation

- (1) The Chief of Air Force may, by instrument in writing, delegate to an officer of the Air Force all or any of his powers under sections 4H, 4HA and 4J.
- (2) A delegation under this section may be made either generally or as otherwise provided in the instrument of delegation.

- (3) A power delegated under this section shall, when exercised by the delegate, be deemed, for the purposes of this Act, to have been exercised by the Chief of Air Force.
- (3A) The delegate is, in the exercise of a power delegated under this section, subject to the directions of the Chief of Air Force.
- (4) A delegation under this section does not prevent the exercise of a power by the Chief of Air Force.
- (5) A delegation under this section continues in force notwithstanding a change in the occupancy of, or a vacancy in, the office of Chief of Air Force.
- (6) A document purporting to be a copy of an instrument of delegation under this section and purporting to bear the signature, or a facsimile of the signature, of the Chief of Air Force and an endorsement in writing that the delegation is, or was on a specified date, in force, is, upon mere production in a court or otherwise for any purpose arising under this Act, *prima facie* evidence that the delegation was duly made in the terms set out in the document and is, or was on the date specified, in force.

9 Regulations

The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for securing the good government of the Air Force and the members thereof, whether within or beyond the limits of Australia, or for carrying out or giving effect to this Act.

NOTES Table of Acts

NOTES

1. The *Air Force Act 1923* as shown in this reprint comprises Act No. 33, 1923 amended as indicated in the Tables below.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Air Force Act 1923</i>	33, 1923	1 Sept 1923	1 Sept 1923	
<i>Air Force Act 1939</i>	74, 1939	15 Dec 1939	15 Dec 1939	S. 7
<i>Air Force Act 1941</i>	12, 1941	7 Apr 1941	5 May 1941	—
<i>Statute Law Revision Act 1950</i>	80, 1950	16 Dec 1950	31 Dec 1950	—
<i>Air Force Act 1952</i>	15, 1952	30 May 1952	30 May 1952	—
<i>Air Force Act 1956</i>	73, 1956	29 Oct 1956	29 Oct 1956	-
<i>Air Force Act 1964</i>	94, 1964	6 Nov 1964	6 Nov 1964	Ss. 4(2), 5 and 6
<i>Air Force Act 1965</i>	50, 1965	7 June 1965	S. 3: 17 Sept 1970 (see <i>Gazette</i> 1970, p. 5690) Remainder: Royal Assent	S. 2(2)
<i>Statute Law Revision Act 1973</i>	216, 1973	19 Dec 1973	31 Dec 1973	Ss. 9(1) and 10
<i>Defence Force Re-organization Act 1975</i>	96, 1975	9 Sept 1975	Ss. 90-92 and 96: 28 Oct 1975 (see <i>Gazette</i> 1975, No. G42, p. 2) (a) Ss. 93 and 95: 9 Feb 1976 (see <i>Gazette</i> 1975, No. G42, p. 2) (a) S. 94: 8 Sept 1980 (see <i>Gazette</i> 1980, No. G34, p. 2) (a)	S. 95(1), (2), (4) and (5) s. 95(3) (am. by 164, 1984, s. 120)
as amended by				
<i>Defence Legislation Amendment Act 1984</i>	164, 1984	25 Oct 1984	S. 120: Royal Assent (b)	—
<i>Air Force Amendment Act 1976</i>	138, 1976	2 Dec 1976	Ss. 3 and 4: 29 July 1977 (see <i>Gazette</i> 1977, No. S151) Remainder: Royal Assent	Ss. 4 and 5
<i>Air Force Amendment Act 1979</i>	134, 1979	23 Nov 1979	Ss. 4(1) and 6: 1 Jan 1985 (see s.	S. 6

NOTES

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
			2(2) and <i>Gazette</i> 1981, No. S273, p. 2) Remainder: Royal Assent	
<i>Statute Law Revision Act 1981</i>	61, 1981	12 June 1981	Part III (ss. 5-13): 30 Sept 1983 (see <i>Gazette</i> 1983, No. S222) (c)	S. 13
<i>Defence Force (Miscellaneous Provisions) Act 1982</i>	153, 1982	31 Dec 1982	3 July 1985 (see s. 2(2) and <i>Gazette</i> 1985, No. S255)	—
<i>Defence Legislation Amendment Act 1984</i>	164, 1984	25 Oct 1984	Part II (ss. 3-7): 22 Nov 1984 (d)	—
<i>Defence Legislation Amendment Act 1987</i>	65, 1987	5 June 1987	Ss. 3 and 9: Royal Assent (e) Ss. 4-8: 1 July 1988 (see <i>Gazette</i> 1988, No. S173) (e)	—
<i>Defence Legislation Amendment Act (No. 2) 1988</i>	104, 1988	6 Dec 1988	Part II (ss. 3, 4): Royal Assent (f)	—
<i>Defence Legislation Amendment Act (No. 1) 1997</i>	1, 1997	19 Feb 1997	Schedule 1 (items 1-3: (see (g) and Note 2) Schedule 2 (items 90-94): Royal Assent (g)	—

- (a) The *Air Force Act 1923* was amended by sections 90-96 only of the *Defence Force Re-organization Act 1975*, section 2 of which provides as follows:
- “2. This Part shall come into operation on the day on which this Act receives the Royal Assent, and the remaining provisions of this Act shall come into operation on such date as is, or such respective dates as are, fixed by Proclamation.”
- (b) The *Defence Force Re-organization Act 1975* was amended by section 120 only of the *Defence Legislation Amendment Act 1984*, subsection 2(2) of which provides as follows:
- “(2) Section 1, this section and sections 16, 17, 18, 19 and 20 and Part XIV shall come into operation on the day on which this Act receives the Royal Assent.”
- (c) The *Air Force Act 1923* was amended by Part III (sections 5-13) only of the *Statute Law Revision Act 1981*, subsection 2(2) of which provides as follows:
- “(2) Parts III, X and XV and section 116 shall come into operation on a date to be fixed by Proclamation.”
- (d) The *Air Force Act 1923* was amended by Part II (sections 3-7) only of the *Defence Legislation Amendment Act 1984*, subsection 2(1) of which provides as follows:
- “(1) Subject to this section, this Act shall come into operation on the twenty-eighth day after the day on which it receives the Royal Assent.”
- (e) The *Air Force Act 1923* was amended by sections 3-9 only of the *Defence Legislation Amendment Act 1987*, subsections 2(1) and (6) of which provide as follows:
- “(1) Sections 1, 2, 3, 9 and 10, subsection 13(1), sections 23, 24 and 25, subsection 26(1), sections 27, 29, 31, 33, 34, 35, 36, 42, 43, 44, 45, 52, 53, 54, 55 and 58, subsection 61(1), section 62, subsection 69(1) and Parts IX and X shall come into operation on the day on which this Act receives the Royal Assent.
- “(6) The remaining provisions of this Act shall come into operation on such day as is, or on such respective days as are, fixed by Proclamation.”
- (f) The *Air Force Act 1923* was amended by Part II (sections 3, 4) only of the *Defence Legislation Amendment Act (No. 2) 1988*, subsection 2(1) of which provides as follows:
- “(1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.”
- (g) The *Air Force Act 1923* was amended by Schedule 1 (items 1-3) and Schedule 2 (items 90-94) only of the *Defence Legislation Amendment Act (No. 1) 1997*, section 2 of which provides as follows:
- “(1) Subject to subsections (2) and (3), this Act commences on the day on which it receives the Royal Assent.
- “(2) Subject to subsection (3), Schedules 1 and 3 commence on a day or days to be fixed by Proclamation. [see Note 2]
- “(3) If a provision of this Act does not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, it commences on the first day after the end of that period.”

NOTES Table of Amendments

Table of Amendments

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

Provision affected	How affected
Title	rs. No. 96, 1975
S. 2.....	am. No. 74, 1939 rs. No. 94, 1964 am. No. 134, 1979; No. 153, 1982; No. 104, 1988
S. 3.....	am. No. 74, 1939; No. 15, 1952 rs. No. 94, 1964 am. No. 50, 1965; No. 96, 1975; No. 134, 1979 rep. No. 153, 1982
S. 4.....	ad. No. 74, 1939 am. No. 15, 1952 rs. No. 94, 1964 am. No. 216, 1973
S. 4A	ad. No. 94, 1964
.....	am. No. 96, 1975; No. 134, 1979; No. 61, 1981
Ss. 4B, 4C.....	ad. No. 94, 1964 am. No. 61, 1981 rs. No. 65, 1987
S. 4D	ad. No. 94, 1964 rs. No. 61, 1981 am. No. 65, 1987
S. 4E	ad. No. 94, 1964 rs. No. 50, 1965 am. No. 134, 1979
S. 4F.....	ad. No. 94, 1964
S. 4G	ad. No. 94, 1964 am. No. 61, 1981; No. 65, 1987
S. 4H	ad. No. 94, 1964 am. No. 134, 1979; No. 61, 1981; No. 164, 1984 rs. No. 65, 1987 am. No. 1, 1997
S. 4HA.....	ad. No. 164, 1984 am. No. 1, 1997
S. 4J	ad. No. 94, 1964 am. No. 96, 1975; No. 61, 1981; No. 164, 1984; No. 65, 1987
S. 5.....	ad. No. 74, 1939 am. No. 73, 1956 rep. No. 153, 1982
S. 6.....	ad. No. 74, 1939 rep. No. 96, 1975
S. 7.....	ad. No. 74, 1939 am. No. 216, 1973 rep. No. 96, 1975
S. 8.....	ad. No. 74, 1939 am. No. 12, 1941

NOTES

Table of Amendments

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

Provision affected	How affected
	rep. No. 80, 1950 ad. No. 138, 1976 am. No. 134, 1979; No. 1, 1997
S. 8A	ad. No. 164, 1984 am. No. 65, 1987; No. 1, 1997
S. 9.....	ad. No. 74, 1939 am. No. 96, 1975; No. 153, 1982

2. The *Air Force Act 1923* was amended by Schedule 1 (items 1-3) of the *Defence Legislation Amendment Act (No. 1) 1997*. The applicable provisions provide as follows:

1 At the end of paragraph 4B(b)

Add:

- ; or (iii) the Australian Army; or
- (iv) the Australian Navy.

2 At the end of paragraph 4C(b)

Add:

- ; or (iii) the Australian Army; or
- (iv) the Australian Navy.

3 At the end of paragraph 4D(4)(b)

Add:

- ; or (iv) the Australian Army; or
- (v) the Australian Navy.

Subsections (2) and (3) of the *Defence Legislation Amendment Act (No. 1) 1997* provide as follows:

- (2) Subject to subsection (3), Schedules 1 and 3 commence on a day or days to be fixed by Proclamation.
- (3) If a provision of this Act does not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, it commences on the first day after the end of that period.

As at 11 April 1997 no date had been fixed and the amendments are not incorporated in this reprint.

NOTES
