



Defence Legislation Amendment Act 1989

No. 41 of 1989

An Act to amend legislation relating to defence

[Assented to 2 June 1989]

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

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Defence Legislation Amendment Act 1989*.

Commencement

2. (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

(2) Sections 4 and 5 are to be taken to have commenced on 2 May 1989.

(3) Section 7 is to be taken to have commenced on 6 December 1988.

(4) Section 8 commences, or is to be taken to have commenced, immediately after the commencement of section 18 of the *Defence Legislation Amendment Act (No. 2) 1988*.

PART 2—AMENDMENTS OF THE DEFENCE ACT 1903

Principal Act

3. In this Part, “Principal Act” means the *Defence Act 1903*¹.

4. After section 122 of the Principal Act the following section is inserted:

Immunity of Australian Defence Industries Pty Ltd from certain State and Territory laws

“122A. (1) Subject to subsection (4), a law of a State or Territory, being a law to which this section applies, does not apply in relation to:

- (a) Australian Defence Industries Pty Ltd;
- (b) the property or transactions of Australian Defence Industries Pty Ltd; or
- (c) any act or thing done by or on behalf of Australian Defence Industries Pty Ltd.

“(2) Subject to subsection (3), this section applies to a law:

- (a) to the extent that the law relates to:
 - (i) the use of land or premises;
 - (ii) the environmental consequences of the use of land or premises;
 - (iii) dangerous goods;
 - (iv) licensing in relation to:
 - (A) employment;
 - (B) the carrying on of a particular kind of business or undertaking; or
 - (C) the conduct of a particular kind of operation; or
 - (v) the liability to pay, or the payment of, taxes, rates or charges (including stamp duty); or
- (b) if regulations made for the purposes of this paragraph declare that this section applies to the law.

“(3) This section does not apply to a law of a kind referred to in paragraph (2) (a) if regulations made for the purposes of this section declare that this section does not apply to the law.

“(4) Subsection (1) does not apply in relation to any property, transaction, act or thing that is wholly unconnected with defence production.

“(5) This section ceases to be in force at the end of 6 years after the day on which it commences.

“(6) In this section:

‘Australian Defence Industries Pty Ltd’ means the company, known as Australian Defence Industries Pty Ltd, incorporated in the Australian Capital Territory under the *Companies Act 1981* on 21 July 1988.”.

Immunity from certain State and Territory laws

5. Section 123 of the Principal Act is amended:

(a) by omitting subsection (2) and substituting the following subsections:

“(2) The Secretary, or an officer within the meaning of the *Public Service Act 1922* authorised in writing by the Secretary, may, by instrument in writing, declare:

(a) a person:

(i) who is an officer or employee within the meaning of that Act; and

(ii) who is employed in the Department in, or in connection with, the manufacture of firearms; or

(b) a person who is employed by a body corporate concerned with the manufacture of firearms, being a body corporate declared by the regulations to be a body corporate in relation to which this subsection applies;

to be an authorised employee for the purposes of this subsection and, where such a declaration is made in relation to a person, the person continues to be an authorised employee for the purposes of this subsection while the person continues to be so employed.

“(2A) A declaration under subsection (2) may be made by declaring the person holding a particular office or occupying a particular position to be an authorised employee for the purposes of that subsection.”;

(b) by omitting from subsection (3) “the State” and substituting “a State”.

PART 3—AMENDMENTS OF THE DEFENCE LEGISLATION AMENDMENT ACT (No. 2) 1988

Principal Act

6. In this Part, “Principal Act” means the *Defence Legislation Amendment Act (No. 2) 1988*.

Conveyance by railway and tramway

7. Section 14 of the Principal Act is amended by omitting “another” and substituting “other”.

Insertion of new Part IXC of the *Defence Act 1903*

8. Section 18 of the Principal Act is amended:

- (a) by omitting “Part IXA” and substituting “Part IXB”;
- (b) by omitting the heading to the proposed new Part to be inserted in the *Defence Act 1903* by that section and substituting the following heading:

“PART IXC—SALVAGE CLAIMS”.

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 (as amended by No. 164, 1984); Nos. 4 and 20, 1977; Nos. 19 and 155, 1979; No. 132, 1979 (as amended by No. 80, 1982); No. 70, 1980; Nos. 61 and 178, 1981; No. 80, 1982; No. 153, 1982 (as amended by No. 164, 1984); No. 39, 1983; Nos. 164 and 165, 1984; Nos. 65 and 193, 1985; No. 76, 1986; No. 65, 1987; and Nos. 67, 75, 87, 99, 100 and 104, 1988.
2. No. 104, 1988.

[*Minister's second reading speech made in—
House of Representatives on 3 May 1989
Senate on 23 May 1989*]