

EXPLANATORY STATEMENT
STATUTORY RULES 1990 NO. 10
ISSUED BY THE AUTHORITY OF THE
MINISTER FOR DEFENCE SCIENCE AND PERSONNEL
DEFENCE (INQUIRY) REGULATIONS (AMENDMENT)

The Defence (Inquiry) Regulations ("the Regulations"), made under the Defence Act 1903, the Naval Defence Act 1910 and the Air Force Act 1923, prescribe various matters in relation to the conduct of inquiries concerning the Defence Force.

The Regulations provide legislative cover for three levels of inquiry:

- . General Court of Inquiry;
- . Board of Inquiry; and
- . inquiry by an Investigating Officer.

A General Court of Inquiry would be appointed in relation to a matter of major importance. A Board of Inquiry would investigate a matter of significance to the Defence Force which does not warrant a quasi-judicial inquiry. An Investigating Officer investigates less important matters.

Regulation 69 of the Regulations provides for the appointment of Investigating Officers.

Subregulation 69(2) provided that a person was not eligible to be an Investigating Officer unless he or she was an officer of the Defence Force. In some cases, officers with the necessary expertise are not readily available and it would be appropriate for an inquiry to be conducted by a warrant officer or a member of the Australian Public Service.

The Statutory Rule therefore replaces subregulation 69(2) with a provision that expands the class of persons eligible to be appointed as Investigating Officers to include warrant officers and Commonwealth public servants, not below the level of Administrative Service Officer Class 4. (The responsibilities of an Administrative Service Officer Class 4 are broadly equivalent to those of a warrant officer.)

An associated provision ensures that a public servant can only be appointed as an Investigating Officer with his or her consent. This proviso is appropriate because carrying out the duties of an Investigating Officer is normally a military function, and a public servant is outside the command structure.

The Statutory Rule comes into operation on the date of gazettal.

S.R. 234/89