

EXPLANATORY STATEMENT

Statutory Rules 1984 No. 181

Issued by the Authority of the Attorney-General

SEX DISCRIMINATION REGULATIONS

These regulations, made under sections 43 and 116 of the Sex Discrimination Act 1984, declare the duties which are combat duties and combat-related duties for the purposes of section 43 of the Act.

Section 116 of the Act provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters that are required or permitted by the Act to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Divisions 1 and 2 of the Act make it unlawful to discriminate against a person on the ground of sex, marital status or pregnancy in certain areas of activity. Sub-section 43(1) in Division 4 of the Act is an exemption provision which provides that, notwithstanding the provisions of Divisions 1 and 2, it is not unlawful to discriminate against a woman on the ground of her sex in connection with employment, engagement or appointment in the Defence Force -

- "(a) in a position involving the performance of combat duties or combat-related duties; or
- (b) in prescribed circumstances in relation to combat duties or combat-related duties".

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Sub-section 43(2) then provides that for the purposes of the section -

"'combat duties' means such duties as are declared by the regulations to be combat duties for the purposes of this section;

'combat-related duties' means such duties as are declared by the regulations to be combat-related duties for the purposes of this section."

The regulations declare those duties which are combat duties and combat-related duties for the purposes of section 43. At this stage it is not proposed to include prescribed circumstances for the purposes of paragraph 43(1)(b) of the Act.

Notes on the regulations are attached.

NOTES ON THE REGULATIONS

Regulation 1 - Citation

Regulation 1 provides that the regulations may be cited as the Sex Discrimination Regulations.

Regulation 2 - Interpretation

Regulation 2 - provides that the expression "the Act" means the Sex Discrimination Act 1984.

Regulation 3 - Combat Duties and Combat-Related Duties

Sub-regulation 3(1) provides that, for the purposes of section 43 of the Act, 'combat duties' are declared to be duties requiring a person to commit, or to participate directly in the commission of, an act of violence against an adversary in time of war.

Sub-regulation 3(2) provides that, for the purposes of section 43 of the Act, 'combat-related duties' are declared to be duties (other than combat duties) requiring a person to work in support of, and in close proximity to, a person performing combat duties, being work performed in circumstances in which the person performing the work may be killed or injured by an act of violence committed by an adversary.

Sub-regulation 3(3) provides that the expression "time of war" has the same meaning as in the Defence Act 1903. Sub-section 4(1) of the Defence Act 1903 defines "time of war" as any time during which a state of war actually exists and includes the time between the issue of a proclamation of the existence of war or of danger thereof and the issue of a proclamation that the war or danger thereof no longer exists.

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