

Defence Legislation Amendment (Enhancement of the Reserves and Modernisation) Regulations 2002 (No. 1) 2002 No. 278

EXPLANATORY STATEMENT

Statutory Rules 2002 No. 278

Defence Act 1903

Naval Defence Act 1910

Air Force Act 1923

Defence Forces Retirement Benefits Act 1948

Defence Legislation Amendment (Enhancement of the Reserves and Modernisation) Regulations 2002 (No. 1)

Issued by the authority of the Minister for Veterans' Affairs

Section 124 of the *Defence Act 1903* provides that the Governor-General may make regulations, prescribing all matters which are required or necessary or convenient, for securing the good government of the Army, or for carrying out or giving effect to this Act.

Section 9 of the *Air Force Act 1923* provides that the Governor-General may make regulations, prescribing all matters which are required or necessary or convenient to be prescribed for securing the good government of the Air Force and the members thereof.

Subsection 45 (1) of the *Naval Defence Act 1910* provides that the Governor-General may make regulations, prescribing all matters which are required or necessary or convenient, for securing the good government of the Navy, or for carrying out or giving effect to this Act.

Section 88 of the *Defence Forces Retirement Benefits Act 1948* provides that the Governor-General may make regulations, prescribing all matters which are required or necessary or convenient, for purposes of the Act.

This Statutory Rule forms part of a package which consolidates the existing regulations relating to personnel matters contained in service specific regulations, as well as some former provisions of the *Defence Act 1903* and the *Naval Defence Act 1910* into a single consolidated set of tri-service regulations contained in the *Defence (Personnel) Regulations 2002* (the Principal Regulations). The Principal Regulations were made in an interim form in March 2002. However, the *Defence (Personnel) Amendment Regulations 2002*, which form part of this package of regulation changes, have consolidated all of these personnel provisions into the one Statutory Rule.

The *Defence Personnel Amendment Regulations* include provisions establishing new categories of Reserve Service. They are:

- High Readiness Active Reserve;
- High Readiness Specialist Reserve;

- Active Reserve;
- Specialist Reserve;
- Standby Reserve; and
- any other category a Service Chief may wish to raise.

The primary purpose of these Regulations is to make changes to Australian Defence Force references as a result of the passage of the *Defence (Personnel) Amendment Regulations*.

Regulation 1 names the Regulations as the *Defence Legislation Amendment (Enhancement of the Reserves and Modernisation) Amendment Regulations 2002 (No. 1)*.

Regulation 2 provides that the Regulations commence on 1 December 2002.

Regulation 3 provides that Schedule 1 amends the *Defence Force Regulations 1952*.

Regulation 4 provides that Schedule 2 amends the *Defence Force Retirement Benefits Regulations*.

Regulation 5 provides that Schedule 3 amends the *Defence (Inquiry) Regulations 1985*.

Regulation 6 provides that Schedule 4 amends the *Defence (Prohibited Words and Letters) Regulations 1957*.

Schedule 1 makes consequential amendments to the *Defence Force Regulations 1952*, by amending regulations 58A, 68 (2) and 71A (1) (b), to change terms used in the Regulation that have been amended by the *Defence (Personnel) Amendment Regulations 2002*.

Schedule 2 makes consequential changes to the *Defence Force Retirement Benefits Regulations* by amending regulations 20 (1) (c), 20 (4) and 21 (1) (a), to change terms used in the Regulation that have been amended by the *Defence (Personnel) Amendment Regulations 2002*.

Schedule 3 makes consequential amendments to the *Defence (Inquiry) Regulations 1985* by amending regulations 53 (2) and 53 (3), to change terms used in the Regulation that have been amended by the *Defence (Personnel) Amendment Regulations 2002*.

Schedule 4 makes consequential amendments to the *Defence (Prohibited Words and Letters) Regulations 1957*. These Regulations provide that, unless the Minister consents, the terms and descriptions listed in the Schedule to the Regulations cannot be used in the course of trade.

In particular, the Schedule amends regulation 4 of the *Prohibited Words and Letters Regulations* by introducing for the very first time criteria that must be used by the Minister when deciding whether to allow a person to use a term contained in the Schedule in the course of trade, and if so, what conditions (if any) are to be applied.

The Regulations also allow people to have the Minister's decision about whether a person can use in trade a prohibited word, or the conditions of use, considered on merit by the Administrative Appeals Tribunal. This change was made on the advice of the Administrative Review Council, as a result of an undertaking to the Senate Standing Committee on Regulations and Ordinances.

Consequential changes are also made to Schedule 1 of the *Prohibited Words and Letters Regulations*, largely as a result of the establishment of the new categories of reserves in the *Defence (Personnel) Amendment Regulations 2002*. The terms Naval Reserve, Army Reserve and Air Force Reserve are removed from the list of prohibited terms, whilst the term Australian Navy is added to the list of prohibited terms on the Part of the Schedule protecting terms used by the Navy. The amendments also add a new Part to the Schedule, which deals with words applicable to more than 1 Service. The terms added are Active Reserve, ADF, Australian Defence Force, Australian Defence Force Reserves, Defence Reserves, High Readiness Active Reserve, High Readiness Specialist Reserve, Permanent Forces, Reserve Forces, Specialist Reserve and Standby Reserve.