

Defence (Visiting Forces) Amendment Regulations 2003 (No. 1) 2003 No. 117

EXPLANATORY STATEMENT

Statutory Rules 2003 No. 117

Issued by the authority of the Attorney-General

Defence (Visiting Forces) Act 1963

Defence (Visiting Forces) Amendment Regulations 2003 (No. 1)

Section 30 of the *Defence (Visiting Forces) Act 1963* (the Act) provides that the Governor-General may make regulations prescribing all matters 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. Paragraph 6(1)(a) of the Act provides that the regulations may declare that the Act applies to a Commonwealth country. Paragraph 6(1)(a) and subsection 6(2) of the Act provide that the regulations may declare a non-Commonwealth country to be a country to which the Act applies.

The Act governs the legal status of foreign military forces while in Australia. The Act regulates the jurisdiction of the military authorities of visiting forces to apply their military law to their personnel while they are in Australia. The Act also provides for the corresponding suspension of Australian jurisdiction over the personnel of visiting forces in certain circumstances. The Act, applied to foreign countries by way of the Defence (Visiting Forces) Regulations 1963 (the Regulations), is also the enabling mechanism for the domestic implementation of Status of Forces Agreements (SOFAs) between Australia and foreign countries. SOFAs are agreements that regulate the legal status of visiting forces.

Prior to the commencement of the Defence (Visiting Forces) Amendment Regulations 2003 (the amendment Regulations), regulation 4 listed fifteen Commonwealth countries pursuant to paragraph 6(1)(a) of the Act: Bangladesh, Brunei Darussalam, Canada, Kenya, Malaysia, Mozambique, New Zealand, Pakistan, Papua New Guinea, Singapore, South Africa, Sri Lanka, Tonga, United Kingdom of Great Britain and Northern Ireland and Zimbabwe. Regulation 5 listed twenty-seven other countries pursuant to paragraph 6(1)(b) and subsection 6(2) of the Act: Cambodia, Fiji, Indonesia, the Philippines, Thailand, the United States of America, Brazil, Chile, Egypt, France, Ireland, Italy, Nepal, Norway, Portugal, Korea, Spain, Sweden, Argentina, China, Czech Republic, Denmark, Germany, Hungary, Jordan, Poland, and Uruguay.

The Regulations added East Timor and Turkey to the list of non-Commonwealth countries under Regulation 5, in view of Australia's present defence relationships with those countries.

The amendment Regulations commenced on gazettal.

Details of the Regulations are as follows:

Regulation 1 names the Regulations.

Regulation 2 provides that the Regulations commence on gazettal.

Regulation 3 provides that Schedule 1 of the Regulations amends the *Defence (Visiting Forces) Regulations 1963*.

Schedule 1 adds Turkey and the Democratic Republic of Timor-Leste (East Timor) to Regulation 5 of the Defence (Visiting Forces) Regulations 1963.