

Cadet Forces Amendment Regulations 2004 (No. 1) 2004 No. 174

EXPLANATORY STATEMENT

Statutory Rules 2004 No. 174

Defence Act 1903
Naval Defence Act 1910
Air Force Act 1923

Issued by the authority of the Parliamentary Secretary of the Minister for Defence

Army and Air Force Canteen Service Amendment Regulations 2004 (No. 1)
Cadet Forces Amendment Regulations 2004 (No. 1)

The *Defence Legislation Amendment Act 2003* amended the *Defence Act 1903*, *Naval Defence Act 1910* and the *Air Force Act 1923* (the relevant Acts) by changing the names of the "Naval Reserve Cadets" to the "Australian Navy Cadets", the "Australian Cadet Corps" to the "Australian Army Cadets"; and the "Air Training Corps" to the "Australian Air Force Cadets".

The purpose of the *Army and Air Force Canteen Service Regulations 2004 (No. 1)* and the *Cadet Forces Amendment Regulations 2004 (No. 1)* is to amend the *Army and Air Force Canteen Service Regulations 1959* and the *Cadet Forces Regulations 1977* ("the Principal Regulations") to align the Principal Regulations with the amendments effected by the *Defence Legislation Amendment Act*.

Canteens

Paragraph 124(1)(o) of the *Defence Act 1903* (the Act) provides in part that the Governor-General may make regulations for the establishment, management, operation and control of canteens.

The *Army and Air Force Canteen Service Regulations 1959*, made under the Act, provide for the establishment and operation of the Army and Air Force Canteen Service ("the Canteen Service"). The purposes of the Canteen Service include the supply of goods, facilities and services to, or for the recreation of, members of the Army or Air Force and persons employed in Army or Air Force installations, their dependants, visitors to the installations and cadets. The regulations update references to the Army and Air Force cadet organisations in the description of those persons to whom canteen facilities and services are made available.

Cadets

Subsection 124(1) of the *Defence Act 1903*, subsection 45(1) of the *Naval Defence Act 1910*, and section 9 of the *Air Force Act 1923*, provide in part that the Governor-General may make regulations, not inconsistent with the relevant Acts prescribing all matters which by the relevant Acts are required or permitted to be prescribed or which are necessary or convenient to be prescribed, for securing the prescribed or which are necessary or convenient to be prescribed, for securing the good government of the Defence Force, or for carrying out or giving effect to the relevant Acts. Subsection 62(7) of the *Defence Act 1903*, Subsection 38(7) of the *Naval Defence Act 1910*, and subsection 8(7) of the *Air Force Act 1923* provide for the making of regulations for the organisation, maintenance, regulation, control and discipline of their respective cadet organisations.

The *Cadet Forces Regulations 1977* made under the relevant Acts provide for, inter alia, the conditions of service for members of the respective cadet organisations. The Regulations update references to the three cadet organisations where necessary. The Regulations also make

technical amendments to some definitions and clarify the minimum and maximum requirements for cadets.

The Acts specify no conditions that need to be met before the power to make the Regulations may be exercised.

Details of the Regulations are outlined in Attachments A and B.

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Attachment A

Army and Air Force Canteen Service Amendment Regulations 2004 (No. 1)

Regulation 1 identifies these Regulations as the *Army and Air Force Canteen Service Amendment Regulations 2004 (No. 1)*.

Regulation 2 provides that the Regulations commence on the date of their notification in the *Gazette*.

Regulation 3 identifies the Regulations amended by Schedule 1 as the *Army and Air Force Canteen Service Regulations 1959*.

Schedule 1 makes one substantive amendment to the Regulations.

Item 1 amends subparagraph 4(3) (a) (v). The amendment substitutes "members of the Australian Army Cadets or the Australian Air Force Cadets; and" for the existing "members of the Australian Cadet Corps or the Air Training Corps; and".

Attachment B

Cadet Forces Amendment Regulations 2004 (No. 1)

Regulation 1 identifies these Regulations as the *Cadet Forces Amendment Regulations 2004 (No. 1)*.

Regulation 2 provides that the Regulations commence on the date of their notification in the *Gazette*.

Regulation 3 identifies the Regulations amended by Schedule 1 as the *Cadet Forces Regulations 1977*.

Schedule 1 makes ten substantive amendments to the Regulations.

Item 1 amends regulation 2 by substituting a new definition of "*cadet force*" to mean the "Australian Navy Cadets, the Australian Army Cadets or the Australian Air Force Cadets".

Item 2 amends the definition of "continuous training" in regulation 2 by omitting the words "2 days" and substituting the words "48 hours". This amendment and the amendment to omit "day" in Item 3 are made because the word "day" is not used elsewhere in the regulations in the sense of 24 hours, apart from this definition of "continuous training".

Item 3 amends regulation 2 by deleting the definitions of "day" and "financial year". "Financial year" is defined in the *Acts Interpretation Act 1901* which therefore makes it unnecessary to define the term in the Regulations.

Item 4 amends regulation 2 by omitting the definition of "Permanent Force". These words no longer appear in the Regulations. The term is defined in the *Defence Act 1903*.

Item 5 amends regulation 7 by substituting a new subsection (1) in relation to the minimum age for cadets and a new subsection (2) in relation to the maximum age of cadets for the three Services. These amendments are designed to make subregulations 7 (1) and (2) simpler by prescribing just the age and not repeating the text already set out in the relevant Acts. The minimum and maximum ages prescribed remain unchanged.

Item 6 amends subregulation 10(1) by changing the names of the cadet corps to "Australian Navy Cadets", "Australian Army Cadets" and "Australian Air Force Cadets" respectively. The word "shall" has been removed and each paragraph has been simplified to reflect a plainer English style.

Item 7 amends paragraph 23(2)(b) by omitting "Air Training Corps" and inserting the words "Australian Air Force Cadets".

Item 8 amends Schedule 1 by substituting the words "Australian Navy Cadets" in the heading to the Schedule.

Item 9 amends Schedule 2 by substituting the words "Australian Army Cadets" in the heading to the Schedule.

Item 10 amends Schedule 3 by substituting the words "Australian Air Force Cadets" in the heading to the Schedule.