

EXPLANATORY STATEMENT

Select Legislative Instrument 2005 No. 303

Issued by the authority of the Minister for Veteran's Affairs

Defence Act 1903

Australian Military Amendment Regulations 2005 (No. 2)

Subsection 124(1) of the *Defence Act 1903* (the Act) provides in part that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters which by this Act are required or permitted to be 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 Act. In particular, subregulation 124(1)(o) permits regulations to be made concerning the establishment, management, operation and control of messes.

The *Australian Military Regulations 1952* (the Principal Regulations), made under the Act prescribe various matters relating to the administration of the Army. While Part 11 of the Principal Regulations provides for the administration of Army messes by the Chief of Army, it does not permit the Chief of Army to impose mess fees on members of messes. Currently, mess membership is voluntary with mess fees levied by individual messes at a rate determined by the individual mess committees.

The purpose of the *Australian Military Amendment Regulations 2005 (No. 2)* is to permit the Chief of Army to impose fees on members of a mess or messes (officers, warrant officers and sergeants) for services provided to them following the proposed issuing of a Defence Instruction making mess membership compulsory. While the proposed Regulations permit the Chief of Army to determine the fees to be paid by the mess members, the fees must be reasonably proportionate to the value of the services provided.

Details of the regulations are contained in the Attachment.

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

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

There has been no consultation in the making of this instrument as it relates to the management of and the service of members of the Australian Defence Force.

The Regulations commence on the day after they are registered on the Federal Register of Legislative Instruments.

Details of the proposed *Australian Military Amendment Regulations 2005 (No. 2)*

Regulation 1 identifies these Regulations as the *Australian Military Amendment Regulations 2005 (No. 2)*.

Regulation 2 provides that the Regulations commence on the day after they are registered on the Federal Register of Legislative Instruments.

Regulation 3 provides that the amendments to the *Australian Military Regulations 1927* (the Principal Regulations) are contained in Schedule 1.

Schedule 1 - Amendment

Item 1 amends regulation 782 by inserting subregulations 782(5) and (6) after subregulation 782(4) of the Principal Regulations. Subsection 782(5) would permit the Chief of Army to determine mess fees that are to be paid by officers, warrant officers and sergeants for services provided in a specified mess or all messes. Subregulation 782(6) would provide that the mess fees must be proportionate to the value of the services provided by the mess and all members of messes must pay any mess fee imposed by the Chief of Army.