

## **EXPLANATORY STATEMENT**

### **Select Legislative Instrument 2007 No. 93**

Issued by the authority of the Minister for Veterans' Affairs

*Defence Act 1903*  
*Naval Defence Act 1910*  
*Air Force Act 1923*

#### *Cadet Forces Amendment Regulations 2007 (No. 1)*

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* (the relevant Acts), 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 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, in part, for the discipline of their respective cadet organisations.

The *Cadet Forces Regulations 1977* (the Principal Regulations) made under the relevant Acts provide for, inter alia, the conditions of service for members of the respective cadet organisations.

In June 2006, amendments were made to the Principal Regulations to ensure that the rights and responsibilities of the Australian Defence Force and of cadet staff were defined. These amendments strengthened the administrative control the Service Chiefs can exercise over members of their respective Cadet organisations. Among other things, they made changes to the delegation provision in the Principal Regulations to enable a service chief to delegate his powers or functions to any person, subject to directions from the service chief.

On 10 August 2006, the Senate Committee on Regulations and Ordinances queried the scope of the new delegation provision in the Principal Regulations and the reason for its wide ambit.

The Regulations address this concern by setting minimum levels of delegation in the Principal Regulations, particularly for the exercise of significant powers such as sanctions including termination.

Schedules 1, 2 and 3 set out tables to help understanding of the revised delegation provisions.

Details of the Regulations are outlined in the Attachment.

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

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

The Cadet Policy Branch has been consulted in the making of these Regulations

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## Attachment

**Details of Cadet Forces Amendment Regulations 2007 (No. 1)**

**Regulation 1** identifies these regulations as the *Cadet Forces Amendment Regulations 2007 (No. 1)*.

**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 Regulations amend the *Cadet Forces Regulations 1977* (the Principal Regulations).

**Schedule 1- Amendments**

**Item [1]** substitutes a new regulation for the existing regulation 3. Subregulation 3(1) provides that a Service Chief mentioned in table 1 may delegate all or any of his or her powers or functions under regulations 5, 14 and 17 to a delegate specified in table 1. Regulations 5, 14 and 17 relate to appointment of officers and instructors, discharge or termination of appointment, and sanctions for breaching the Code of Conduct respectively. Subregulation 3(2) provides that a service chief mentioned in table 2 may delegate all or any of his or her powers or functions under regulation 6, 11 and 15 and subregulations 8(3) and 8(4), to a delegate specified in table 2. These regulations and subregulations relate to the appointment of a commanding officer of a unit, promotion of cadets, wearing of uniforms, and acceptance and enrolment of cadets respectively. The item also inserts a note at the foot of table 2 in subregulation 3(2) referring to and summarising the effect of section 34AB of the *Acts Interpretation Act 1901*.

**Item [2]** substitutes a new table to Schedule 1 listing the ranks of Navy cadets, instructors and officers. It also inserts two notes at the foot of the table to indicate, firstly, that the table above must be read with regulation 10, which states that the ranks in a cadet force are set out in Schedules 1, 2 and 3. Regulation 10 also provides that the relationship of each rank to other ranks is set out in the three Schedules. It also provides for the rank of a person appointed as an officer or instructor, to be determined by the age and experience of the officer or instructor and the position he or she is to serve in. The regulation further provides that a cadet, upon acceptance, holds either the most junior rank of cadet or other rank determined by the service chief. Note 2 states that (ANC) means the Australian Navy Cadets.

**Item [3]** substitutes a new table to Schedule 2 listing the ranks of Army cadets, instructors and officers. It also inserts two notes at the bottom of the table to indicate that the table above must be read with regulation 10 and that in the table, (AAC) means Australian Army Cadets.

**Item [4]** substitutes a new table to Schedule 3 listing the ranks of Air Force cadets, instructors and officers. It also inserts two notes at the bottom of the table to indicate that then table above must be read with regulation 10 and that in the table, (AAFC) means the Australian Air Force Cadets.