

EXPLANATORY STATEMENT

Protection of Movable Cultural Heritage Act 1986

Protection of Movable Cultural Heritage Amendment (2021 Measures No. 1) Regulations 2021

Issued by authority of the Minister for Communications,
Urban Infrastructure, Cities and the Arts

Purpose

This Explanatory Statement relates to amendments to the Protection of Movable Cultural Heritage Regulations 2018 (2018 Regulations).

The 2018 Regulations are enabled by section 49 of the *Protection of Movable Cultural Heritage Act 1986* (the Act). Section 49 of the Act provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Subsection 33(3) of the *Acts Interpretation Act 1901* provides that where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws) the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

The Act regulates, and by extension protects, Australia's movable cultural heritage, largely through an export control framework, and provides for the return of foreign cultural property that has been illegally exported from another country and subsequently imported into Australia after the commencement of the Act on 1 July 1987. The Act also provides for the establishment of the National Cultural Heritage Account and the National Cultural Heritage Committee and gives effect to, and implements, Australia's obligations under the UNESCO *Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property* 1970 (the 1970 Convention).

The 2018 Regulations are amended by the Protection of Movable Cultural Heritage Amendment (2021 Measures No. 1) Regulations 2021 (2021 Regulations). It is intended to largely maintain the current regulatory arrangements.

The 2018 Regulations prescribe a number of matters required or permitted to be prescribed by the Act.

Subsection 8(1) of the Act provides that the regulations shall prescribe a list, to be known as the National Cultural Heritage Control List (the Control List), of the categories of objects that constitute the movable cultural heritage of Australia and that are subject to export control under the Act. The prescription of the Control List is fundamental to the operation of the provisions in the Act that regulate the export of movable objects of significance to Australia's cultural heritage, as the Act does not regulate or restrict the export of Australian objects other than those prescribed on the Control List. Without the Control List, significant objects could be exported and permanently lost to Australia with no recourse to impose penalties or take other enforcement actions in relation to the objects.

The Control List consists of 9 Parts, each listing a category of objects and dividing objects in each category into Class A objects and Class B objects, as required by subsection 8(2) of the Act. Class A objects and Class B objects are Australian Protected Objects (APOs). With limited exceptions, Class A objects cannot be exported. Class B objects can be exported with

a permit but these are only issued if the Minister (or their delegate) is satisfied that the loss of the object would not significantly diminish Australia's cultural heritage.

Schedule 1 to the 2021 Regulations prescribes amendments to Part 5 (objects of the category fine or decorative art) and Part 7 (objects of the category numismatic objects) of the Control List established by the 2018 Regulations.

Part 5 of the Control List is amended to provide that certain types of APOs that are currently described as Class A objects under Item 2 of the table in clause 5.3 (that is, pre-1960 Aboriginal or Torres Strait Islander bark paintings with a current Australian market value of at least \$25,000) are redefined as Class B objects where they are owned, or held on loan, by the Commonwealth or by a principal collecting institution (as defined in section 3 of the Act). The amendment applies to bark paintings created between 1901 and 1959. It does not affect pre-1901 bark paintings which, in accordance with item 1 in the table, continue to be Class A objects.

The effect of the amendment is to allow these bark paintings to be temporarily exported, either under an export permit issued under section 10 of the Act or under a general permit held by a principal collecting institution under section 10A of the Act. The amendment is modelled on the approach adopted by the 2018 Regulations for Victoria Cross medals owned, or held on loan, by the Commonwealth or by a principal collecting institution (Part 7 of the Control List).

As Class A objects, these bark paintings could not be exported other than in accordance with a certificate of exemption granted under section 12 of the Act. The 2018 Regulations are amended so that the bark paintings are reclassified as Class B objects, meaning they may be able to be temporarily exported by the Commonwealth or principal collecting institutions for a certain purpose, such as a public exhibition overseas. It is intended that this is only applied where there is prior consent by Traditional Owners and Traditional Custodians.

The prohibition of temporary export of these bark paintings was unnecessarily restrictive and prevented these important works from being shared with the international community. The 2021 Regulations aim to provide more flexibility where it is justified, that is, where there is community consent for the works to be temporarily exported by the Commonwealth or by a principal collecting institution.

The expected result of this change is that significant bark paintings are able to leave Australia temporarily under certain conditions. This will provide more opportunities to promote the cultural significance of such works internationally. The amendment responds to a request from the Buku-Larrnggay Mulka Centre at Yirrkala to be allowed to share older bark paintings and demonstrate the multi-generational continuity of the community's connection to Country through an exhibition tour of the United States of America.

Part 7—Numismatic objects of Schedule 1 to the 2018 Regulations is updated to reflect the current list of recipients of all Victoria Cross medals so that there is no doubt that these are prima facie on the Control List (with some exceptions) and are Class A objects unless owned or held on loan by the Commonwealth (including Departments of State such as the Department of Defence) or a principal collecting institution.

Five names are added to the list of recipients: Dartnell, W.T, Edwards, H.I, Pearse, S.G, Rogers, J, and Sheean, E.

A further amendment to Part 7 is the addition of a definition of 'Victoria Cross medal' to clarify that it means both Victoria Cross and Victoria Cross for Australia medals.

The Victoria Cross medal is the highest combat award in the Imperial honours and awards system, and recognises acts of extreme bravery in the presence of the enemy during war or warlike operations. It was invested upon individuals serving in the militaries of the British Empire, which includes members of Australia's colonial and post-Federation forces, Australians who served in the formations of the British Empire between 1856 and 1948, and those who served in the forces of the British Commonwealth between 1949 and 1975. The Imperial Victoria Cross was incorporated into the Australian Honours and Awards system as the Victoria Cross for Australia in 1991.

The Victoria Cross for Australia medal is awarded for acts of extreme bravery in the presence of the enemy during war or warlike operations. Created by Letters Patent by Queen Elizabeth II in 1991, the Victoria Cross for Australia medal is the highest combat award available to members of the Australian Defence Force. It is invested upon members of the Australian Defence Force and its antecedents, and includes retrospective awards to members of the Australian Imperial Forces, the Royal Australian Navy, the Royal Australian Air Force, and the Australian Army.

The 2018 Regulations as amended will continue to provide that Victoria Cross medals will not be on the Control List by reason of Part 7 where they are owned by the person to whom they are awarded or, in the case of a posthumous award, the person's next of kin (except where the Commonwealth or a principal collecting institution holds the medal on loan). Similarly, other medals or decorations of a civil or military nature (other than a campaign medal) or citations or documents that relate to such a medal or decoration that may be on the Control List under Part 7 will not be on the Control List where owned by the awardee (or their next of kin, for a posthumous award).

The 2021 Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

Consultation

Consultation undertaken in making the 2021 Regulations involved the Australian War Memorial, Department of Foreign Affairs and Trade, Department of the Prime Minister and Cabinet, National Cultural Heritage Committee, affected Traditional Owners and Traditional Custodians at the Buku-Larrnggay Mulka Centre at Yirrkala, as well as the Art Gallery of New South Wales, University of Melbourne, and Museums Victoria.

Regulatory Impact Statement

The Office of Best Practice Regulation (OBPR) was consulted concerning any requirement to prepare a Regulatory Impact Statement (RIS) for the 2021 Regulations (OBPR reference ID 44557). OBPR advised that the regulatory impact of the 2021 Regulations is minor and that a RIS is not required.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Protection of Movable Cultural Heritage Amendment (2021 Measures No. 1) Regulations 2021

This statement of compatibility with human rights is prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

The Protection of Movable Cultural Heritage Amendment (2021 Measures No. 1) Regulations 2021 (2021 Regulations) are compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the legislative instrument

The Protection of Movable Cultural Heritage Regulations 2018 (2018 Regulations) are enabled by section 49 of the *Protection of Movable Cultural Heritage Act 1986* (the Act). They are amended by the Protection of Movable Cultural Heritage Amendment (2021 Measures No. 1) Regulations 2021 (2021 Regulations).

The 2018 Regulations prescribe, pursuant to section 49 of the Act, various matters required or permitted by the Act to be prescribed, relevantly including the list, known as the National Cultural Heritage Control List (the Control List), required to be prescribed by subsection 8(1) of the Act, which lists the categories of objects that constitute the movable cultural heritage of Australia and that are subject to export control under the Act.

The 2021 Regulations amend:

- Part 5—Objects of Fine or Decorative Art of the Control List to allow for the Class A objects listed at item 2 of the table at clause 5.3 to be reclassified as Class B objects if they are owned, or held on loan, by the Commonwealth or a principal collecting institution. This will enable a principal collecting institution that owns such objects and holds a general permit issued under section 10A of the Act to temporarily export the objects for the purposes of research, public exhibition or a similar purpose. If a principal collecting institution or the Commonwealth holds such objects on loan, the proposed amendment would also enable that institution to apply for an export permit issued under section 10 of the Act; and
- Part 7—Numismatic objects of the Control List to list all current Victoria Cross and Victoria Cross for Australia medal awardees, and to define Victoria Cross medals to include the Victoria Cross for Australia medals.

The Act regulates, and by extension protects, Australia's movable cultural heritage, largely through an export control framework, and provides for the return of foreign cultural property that has been illegally exported from a foreign country and imported into Australia. The Act also gives effect to, and implements, Australia's obligations under the UNESCO *Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property* 1970 (the 1970 Convention).

The Regulations are fundamental to the effectiveness of the Act. In the absence of the Control List, it would not be possible to administer the provisions in the Act that relate to the export of objects. The practical implication of this is that there would be no controls in relation to the export of objects of movable cultural heritage. Consequently, significant objects, including those that would have been denied an export permit, could be exported and

permanently lost to Australia, with no recourse to impose penalties or take other enforcement actions in relation to the objects.

The 2021 Regulations seek to redress restrictions on certain kinds of Australian and Torres Strait Islander cultural property, which was extant in the previous iterations of the Regulations, by allowing for the temporary export of certain works in certain conditions.

Human rights implications

Human rights engaged in the 2021 Regulations, as they operate in conjunction with the enabling Act, are the right to enjoy and benefit from culture, and the right to self-determination (contained in the International Covenant on Economic, Social and Cultural Rights to which Australia is a party).

The right to enjoy and benefit from culture, including the right to take part in cultural life

The 2021 Regulations engage the right to enjoy and benefit from culture, including the right to take part in cultural life.

Article 15(1)(a) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) recognises the right of everyone to take part in cultural life. Article 15(2) states that the steps to be taken by parties to the ICESCR to achieve the full realisation of the right shall include those necessary for the conservation, the development and the diffusion of science and culture. Article 15(4) states that parties to the ICESCR recognise the benefits to be derived from the encouragement and development of international contacts and co-operation in the scientific and cultural fields.

To the extent that the right to enjoy and benefit from culture is engaged, this right is promoted by the 2021 Regulations as they operate in conjunction with the enabling Act. The 2021 Regulations are compatible with human rights because they promote the right to enjoy and benefit from culture and enhance cultural life in Australia and internationally by ensuring a continued ability of Australia to fulfil its obligations under the UNESCO *Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property* 1970.

The 2018 Regulations, in conjunction with the enabling Act, enhance cultural life in Australia by safeguarding Australia's movable cultural heritage, largely through an export control framework. The 2018 Regulations specify the objects regulated, with applicants required to apply for an export permit irrespective of whether the export is on a permanent or temporary basis.

The 2018 Regulations recognise an individual's right to the enjoyment of cultural material they own whilst enabling Australia to enforce its right to restrict the movement of that material where it represents a significant part of Australia's cultural heritage.

The 2018 Regulations achieve this in relation to Australian cultural material firstly by prescribing a Control List of objects of importance to Australia, or a particular part of Australia, for a reason listed in subsection 7(1) of the Act, which fall into a category of objects listed in that subsection. Secondly, the 2018 Regulations prescribe these objects as either Class A or B in accordance with subsection 8(2) of the Act with regard to whether these objects are so important by nature that they should be prohibited from export entirely, or should be able to be exported in certain circumstances on a case by case basis.

Prescribing an object as a Class B object means that a person may apply for an export permit, at which point a 'significance test' is applied under paragraph 10(6)(b) of the Act to assess whether the object is suitable for export. Such applications for export are independently

assessed by Expert Examiners with the appropriate qualifications and skills in the field, and the National Cultural Heritage Committee made up of experts and provided for in the Act.

Any limitations on individuals' right to export objects which are regulated as protected objects of Australian cultural heritage are reasonable and justifiable in light of the overall aim of protecting the cultural heritage of Australia for the preservation and future enjoyment of people.

The 2018 Regulations pursue the legitimate objective of regulating the import and export of significant cultural material. To the extent that the regulation of such material may limit the right of people to enjoy and benefit from cultural property that they own, those limitations are reasonable, necessary and proportionate, and not arbitrary. Decisions made by the Minister to refuse to grant an export permit are merits reviewable, and there is sufficient flexibility to treat different cases on their individual merit.

The aim of the 2021 Regulations is to provide for further flexibility with respect to the pre-1960 bark paintings with a current market value of at least \$25,000 (the affected bark paintings), which are the product of Traditional Owners and Traditional Custodians. Traditional Owners and Traditional Custodians have voiced their support for amendments to the 2018 Regulations which would enable aspects of their culture to be shared with the international community. This would be achieved through allowing for the temporary export of the works, and specifically the affected bark paintings, for the purpose of overseas exhibition in the cases where there is strong community support to do so.

The 2021 Regulations enhance the right to enjoy and benefit from culture, including the right to take part in cultural life, by an amendment to Part 5 of the Control List, to provide that certain types of Australian Protected Objects (APOs), namely the affected bark paintings, that are currently described as Class A objects under Item 2 of the table in clause 5.3 are described as Class B objects where they are owned, or held on loan, by the Commonwealth or by a principal collecting institution.

The effect of the amendment is to allow the affected bark paintings to be temporarily exported, either under an export permit issued under section 10 of the Act or under a general permit held by a principal collecting institution under section 10A of the Act. The amendment is modelled on the approach adopted by the 2018 Regulations for Victoria Cross medals owned, or held on loan, by the Commonwealth or by a principal collecting institution (Part 7 of the Control List).

As Class A objects, these objects could not be exported in any circumstances. An amendment has been made so that the affected paintings are reclassified as Class B objects, meaning they may be able to be temporarily exported by the Commonwealth or certain statutory bodies for a certain purpose, such as a public exhibition overseas. It is intended that this is only applied where there is prior consent by Traditional Owners and Traditional Custodians.

The previous prohibition of temporary export of the affected bark paintings was unnecessarily restrictive, and resulted in a disadvantage whereby these important works could not be shared with the international community. The 2021 Regulations aim to provide more flexibility where it is justified, that is, where there is community consent for the works to be temporarily exported by the Commonwealth or by a principal collecting institution.

The expected result of this change is that significant bark paintings are able to leave Australia temporarily under certain conditions. This will provide more opportunities to promote the cultural significance of such works internationally.

The right to self-determination

The 2021 Regulations engage the right to self-determination to the extent that they allow Australian Aboriginal and Torres Strait Islander people to more freely pursue their cultural development.

This is done in a manner which both promotes this right, by preventing the unrestricted export of Aboriginal and Torres Strait Islander heritage; but also limits this right as these export regulations also apply to Aboriginal and Torres Strait Islander people. This is done in a reasonable and proportionate manner to ensure the export of significant material remains regulated. Recommendations on individual export applications for Class B objects are made by Expert Examiners registered under the Act and by the National Cultural Heritage Committee, which includes an identified position for an Aboriginal or Torres Strait Islander person who is nominated by the Minister for Indigenous Australians. The export of Class B objects can also be effected under a general permit held by a principal collecting institution under section 10A of the Act. General permits allow for the temporary export of objects for up to two years.

Part 5—Objects of Fine or Decorative Art of the National Cultural Heritage Control List prescribes the category of objects of fine and decorative art.

Part 5 is amended to provide that certain types of APOs that are currently described as Class A objects under Item 2 of the table in clause 5.3 (that is, pre-1960 Aboriginal or Torres Strait Islander bark paintings with a current Australian market value of at least \$25,000) are redefined as Class B objects where they are owned, or held on loan, by the Commonwealth or by a principal collecting institution (as defined in section 3 of the Act). The amendment applies to bark paintings created between 1901 and 1959. It does not affect pre-1901 bark paintings which, in accordance with item 1 in the table, continue to be Class A objects.

The effect of the amendment is to allow these bark paintings to be temporarily exported, either under an export permit issued under section 10 of the Act or under a general permit held by a principal collecting institution under section 10A of the Act. The amendment is modelled on the approach adopted by the 2018 Regulations for Victoria Cross medals owned, or held on loan, by the Commonwealth or by a principal collecting institution (Part 7 of the Control List).

As Class A objects, these bark paintings could not be exported other than in accordance with a certificate of exemption granted under section 12 of the Act. The 2018 Regulations are amended so that the bark paintings are reclassified as Class B objects, meaning they may be able to be temporarily exported by the Commonwealth or principal collecting institutions for a certain purpose, such as a public exhibition overseas. It is intended that this is only applied where there is prior consent by Traditional Owners and Traditional Custodians. The approach reflects the principles of free, prior and informed consent as set out in the United Nations Declaration on the Rights of Indigenous People (UNDRIP).

The prohibition of temporary export of these bark paintings was unnecessarily restrictive and prevented these important works from being shared with the international community. The 2021 Regulations aim to provide more flexibility where it is justified, that is, where there is community consent for the works to be temporarily exported by the Commonwealth or by a principal collecting institution. This will provide more opportunities to internationally promote their cultural significance and enhance the understanding of such works and the people who made them.

The expected result of this change is that significant bark paintings are able to leave Australia temporarily under certain conditions. This will provide more opportunities to promote the

cultural significance of such works internationally. The amendment responds to a request from the Buku-Larrnggay Mulka Centre at Yirrkala to be allowed to share older bark paintings and demonstrate the multi-generational continuity of the community's connection to Country through an exhibition tour of the United States of America. The expected result of the amendment is that the Traditional Owners and Traditional Custodians will have the opportunity to decide on how they wish to share this aspect of their culture, including with the international audiences beyond the Australian borders.

Conclusion

The 2021 Regulations are compatible with human rights as they do not raise any human rights issues.

Notes on Clauses

Section 1 – Name of Regulations

This section provides that the instrument is the Protection of Movable Cultural Heritage Amendment (2021 Measures No. 1) Regulations 2021 (2021 Regulations).

Section 2 – Commencement

This section provides that the 2021 Regulations commence on the day after the instrument is registered on the Federal Register of Legislation.

Section 3 – Authority

This section provides that the 2021 Regulations are made under the *Protection of Movable Cultural Heritage Act 1986* (the Act).

Section 4 – Schedules

This section provides that each instrument that is specified in a Schedule to the 2021 Regulations is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to the 2021 Regulations has effect according to its terms. Schedule 1 to the 2021 Regulations specifies and therefore amends the Protection of Movable Cultural Heritage Regulations 2018 (the 2018 Regulations).

Schedule 1 – Amendments

Items 1 and 2 together amend the 2018 Regulations to provide that Aboriginal or Torres Strait Islander bark paintings with a current Australian market value of at least \$25,000 created between 1901 and 1959 that are owned, or held on loan, by the Commonwealth or a principal collecting institution are not Class A objects, but are instead Class B objects.

Schedule 1 to the 2018 Regulations contains the National Cultural Heritage Control List (the Control List) which contains the categories of objects that constitute the movable cultural heritage of Australia and are subject to export control. As required under subsection 8(2) of the Act, the Control List divides such objects into Class A objects (being objects that are not to be exported otherwise than in accordance with a certificate of exemption, which may only be granted for objects that are currently outside of Australia and allows those objects to be imported and re-exported) and Class B objects (being objects that are not to be exported otherwise than in accordance with an export permit or a certificate of exemption).

Part 5 of Schedule 1 lists objects of the category ‘Objects of fine or decorative art’ in either clause 5.3 or clause 5.4.

Clause 5.3 provides that objects mentioned in Column 1 of the items in the table contained in the clause that have a current Australian market value of at least the amount mentioned in Column 2 of the table for that item are Class A objects.

Item 1 of the 2021 Regulations amends the table in clause 5.3 to provide that pre-1960 Aboriginal or Torres Strait Islander bark paintings owned, or held on loan, by the Commonwealth or a principal collecting institution with a current Australian market value of \$25,000 are not Class A objects.

This amendment does not affect pre-1901 Aboriginal or Torres Strait Islander bark paintings with a current Australian market value of at least \$25,000. These bark paintings continue to be Class A objects, in accordance with item 1 of the table. Therefore, the effect of the amendment is restricted to Aboriginal and Torres Strait Islander bark paintings with a value of at least \$25,000 created between 1901 and 1959.

The Commonwealth is intended to include Departments of State but is not intended to have a restrictive meaning. The term ‘principal collecting institution’ has the meaning given in section 3 of the Act and is defined in that section to mean any of the following established under a law of the Commonwealth, a State or a Territory:

- (a) a public art gallery; or
- (b) a public museum; or
- (c) a public library; or
- (d) public archives.

Clause 5.4 provides that objects, other than objects mentioned in clause 5.3, that are mentioned in column 1 of the items in the table contained in the clause that have a current Australian market value of at least the amount mentioned in column 2 of that item are Class B objects (providing those objects are Australia-related and at least 30 years old as per clause 5.2).

Item 2 of the 2021 Regulations inserts new item 4A in the table in clause 5.4. Item 4A provides that pre-1960 Aboriginal or Torres Strait Islander bark paintings owned, or held on loan, by the Commonwealth or a principal collecting institution, and with a current Australian market value of at least \$25,000, are Class B objects.

Item 4A does not affect pre-1901 Aboriginal or Torres Strait Islander bark paintings owned, or held on loan, by the Commonwealth or a principal collecting institution, and with a current Australian market value of at least \$25,000. In accordance with item 1 of the table in clause 5.3, such paintings continue to be Class A objects.

At present, Aboriginal or Torres Strait Islander bark paintings that were created between 1901 and 1959, are owned, or held on loan, by the Commonwealth or a principal collecting institution, and have a current Australian market value of at least \$25,000, may not be exported other than in accordance with a certificate of exemption. The effect of items 1 and 2 together is that such paintings may also be able to be exported in accordance with an export permit.

Item 3 amends Part 7 of Schedule 1 to the 2018 Regulations to add the names of five medal recipients of Victoria Cross medals to the list contained in clause 7.3.

Part 7 of Schedule 1 lists objects of the category ‘Numismatic objects’.

Clause 7.2 provides that an object is in this category if it is:

- (a) a Victoria Cross medal awarded to a person mentioned in clause 7.3; or
- (b) an object of a kind mentioned in any of paragraphs 7.4(b) to (e) that:
 - i. is of significance to Australia; and
 - ii. has a current Australian market value of at least \$15,000; and
 - iii. is not represented in at least 2 public collections in Australia by an object of equivalent quality.

Clause 7.3 lists a number of Victoria Cross medal recipients and provides that a Victoria Cross medal awarded to any of those persons is a Class A object unless it is owned, or held on loan, by the Commonwealth or a principal collecting institution (the term ‘principal collecting institution’ is described in the explanation for item 1). This allows, for example, a Victoria Cross medal in the collection of the Australian War Memorial to be temporarily exported for commemorative purposes.

Item 3 adds the names of five medal recipients to the list in clause 7.3: Dartnell, W.T, Edwards, H.I, Pearse, S.G, Rogers, J, and Sheean, E.

Ordinary Seaman Edward ‘Teddy’ Sheean was awarded the Victoria Cross medal in December 2020. The other four names were inadvertently omitted from the 2018 Regulations and would be added to provide a comprehensive listing of all recipients.

Item 4 amends Part 7 of Schedule 1 to the 2018 Regulations to add new clause 7.6 at the end of Part 7. Clause 7.6 defines the term ‘Victoria Cross medal’ to mean ‘a Victoria Cross’ or ‘a Victoria Cross for Australia’ for the purposes of Part 7.

The Victoria Cross for Australia medal was created by Letters Patent by Queen Elizabeth II in 1991. It is invested upon members of the Australian Defence Force and its antecedents, and includes retrospective awards to members of the Australian Imperial Forces, the Royal Australian Navy, the Royal Australian Air Force, and the Australian Army.