



# Defence (Visiting Forces) Amendment Regulations 2023

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I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 6 July 2023

David Hurley  
Governor-General

By His Excellency's Command

Mark Dreyfus KC  
Attorney-General

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## 1 Name

This instrument is the *Defence (Visiting Forces) Amendment Regulations 2023*.

## 2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. The whole of this instrument	<p>The later of:</p> <p>(a) the day after this instrument is registered; and</p> <p>(b) the day the Agreement between Australia and Japan Concerning the Facilitation of Reciprocal Access and Cooperation Between the Australian Defence Force and the Self-Defense Forces of Japan, done at Canberra and Tokyo on 6 January 2022, comes into force for Australia.</p> <p>However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.</p> <p>The Minister must announce, by notifiable instrument, the day the agreement comes into force for Australia.</p>	<p>13 August 2023</p> <p>(paragraph (b) applies)</p> <p>(F2023N00241)</p>

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

## 3 Authority

This instrument is made under the *Defence (Visiting Forces) Act 1963*.

## 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

## Schedule 1—Amendments

### *Defence (Visiting Forces) Regulations 1963*

#### **1 Subregulation 6(3)**

Omit “Singapore or Papua New Guinea”, substitute “Singapore, Papua New Guinea or Japan”.

#### **2 Paragraph 6(4)(a)**

After “America”, insert “or Japan”.

#### **3 Subregulation 6(4)**

Omit “by the United States of America”, substitute “by the sending country in relation to the visiting force”.

#### **4 Subregulation 6(5)**

Repeal the subregulation, substitute:

- (5) For the purposes of paragraph 16(2)(b) of the Act, the immunities conferred by paragraph 123(1)(b) of the *Defence Act 1903* on members of the Defence Force are conferred on members of the civilian component of a visiting force of Japan as if references to the Defence Force in subsection 123(1) of the *Defence Act 1903* were references to the civilian component of the visiting force.
- (6) Subregulations (2), (3), (4) and (5) do not limit each other.

#### **5 After regulation 12**

Insert:

### **13 Extension of investigative powers to visiting force of Japan**

#### *Members of a visiting force of Japan*

- (1) For the purposes of subsection 16(1) of the Act, a power that would be exercisable, with respect to a member of the Defence Force, under Part VI of the *Defence Force Discipline Act 1982* by an authority or person is exercisable by that authority or person with respect to a member of a visiting force of Japan if:
  - (a) the power is to be exercised for the purposes of investigating an offence against Japanese law that is equivalent to a Defence Force Discipline Act service offence that can be committed by a defence member; and
  - (b) Japan requests the investigation.

#### *Members of a civilian component of a visiting force of Japan*

- (2) For the purposes of subsection 16(1) of the Act, a power that would be exercisable, with respect to a defence civilian, under Part VI of the *Defence Force Discipline Act 1982* by an authority or person is exercisable by that authority or person with respect to a member of a civilian component of a visiting force of Japan if:

- (a) the power is to be exercised for the purposes of investigating an offence against Japanese law that is equivalent to a Defence Force Discipline Act service offence that can be committed by a defence civilian; and
- (b) Japan advises that the member is subject to the jurisdiction of a Japanese service tribunal; and
- (c) Japan requests the investigation.

*Definitions*

- (3) In this regulation:

***defence civilian*** has the same meaning as in the *Defence Force Discipline Act 1982*.

***Defence Force Discipline Act service offence*** means a service offence within the meaning of the *Defence Force Discipline Act 1982*.

***defence member*** has the same meaning as in the *Defence Force Discipline Act 1982*.