

Defence Force Protection

No. 57 of 1967

An Act for the Protection of the Defence Force in respect of its Operations in or near Viet-Nam.

[Assented to 9 September 1967]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

Short title.

1. This Act may be cited as the *Defence Force Protection Act 1967*.

Commencement.

2. This Act shall come into operation on the day on which it receives the Royal Assent.

Prohibited acts.

3.—(1.) A person—

(a) who sends or takes money or other financial assistance or goods to; or

(b) who—

(i) contributes or gives money or goods to a person;

(ii) collects or receives money or goods; or

(iii) solicits the contributing or giving of money or goods,

with a view to money or other financial assistance or goods being made available for the assistance of, or with a view to money or

other financial assistance or goods being sent or taken to,
any of the following, that is to say:—

- (c) the government of the country known as “ the Democratic Republic of Viet-Nam ”, in this Act referred to as “ the Government of North Viet-Nam ”;
- (d) the body known as “ Dang Lao Dong Viet-Nam ” or as “ the Communist Party of North Viet-Nam ”;
- (e) the body known as “ the National Liberation Front of South Viet-Nam ”;
- (f) a body established outside Australia, a class of persons resident outside Australia or a person resident outside Australia for the time being specified by Proclamation as a body or class of persons in relation to which, or a person in relation to whom, this paragraph applies, being a body, class of persons or person—
 - (i) assisting the Government of North Viet-Nam or a body referred to in paragraph (d) or (e) of this sub-section; or
 - (ii) opposed or likely to be opposed to any part of the Defence Force in operations in or near Viet-Nam;
- (g) the armed forces of the Government of North Viet-Nam or of a body, class of persons or person referred to in paragraph (d) (e) or (f) of this sub-section;
- (h) persons engaged in guerilla activities under the direction of or in the interests of the Government of North Viet-Nam or of a body, class of persons or person referred to in paragraph (d), (e) or (f) of this sub-section,

is guilty of an offence punishable—

- (i) upon summary conviction—by a fine not exceeding One thousand dollars or imprisonment for a term not exceeding one year, or by both a fine not exceeding that amount and imprisonment for a term not exceeding that period; or
- (j) upon conviction on indictment—by a fine not exceeding Two thousand dollars or imprisonment for a term not exceeding two years, or by both a fine not exceeding that amount and imprisonment for a term not exceeding that period.

(2.) A person who—

- (a) incites, urges, aids or encourages; or
- (b) prints or publishes a writing that incites, urges, aids or encourages,

the doing of anything made unlawful by the last preceding sub-section is guilty of an offence punishable by a fine not exceeding Five hundred dollars or imprisonment for a term not exceeding six months, or by both a fine not exceeding that amount and imprisonment for a term not exceeding that period.

(3.) The preceding provisions of this section do not make it unlawful for—

(a) a person to—

- (i) contribute or give money or goods to;
- (ii) collect or receive money or goods for; or
- (iii) solicit the contributing or giving of money or goods to, the Australian Red Cross Society or to a body for the time being specified by Proclamation for the purposes of this paragraph;

(b) the Australian Red Cross Society or a body for the time being specified by Proclamation for the purposes of the last preceding paragraph to send money or other financial assistance or goods to the International Committee of the Red Cross or to a body for the time being specified by Proclamation for the purposes of this paragraph; or

(c) a person to—

- (i) incite, urge, aid or encourage; or
- (ii) print or publish a writing that incites, urges, aids or encourages, the doing of anything that, by reason of either of the last two preceding paragraphs, is not unlawful.

4. The last preceding section does not make it unlawful for a person—

(a) merely to endeavour to show in good faith that—

- (i) the Executive Government of the Commonwealth;
- (ii) a Minister;
- (iii) an adviser of the Executive Government of the Commonwealth or of a Minister; or
- (iv) the government of another country, has been or is mistaken in any of its or his counsels, policies or actions; or

(b) merely to excite in good faith another person to attempt to procure by lawful means the alteration of any such counsels, policies or actions.

Certain acts done in good faith not unlawful.

Operation of regulations relating to Exchange Control.

5. Where, by the Banking (Foreign Exchange) Regulations, the doing of an act or thing is prohibited unless the act or thing is done with the authority of the Reserve Bank of Australia or of a person acting as agent of that bank under those Regulations, that authority shall be refused if that bank has reasonable grounds for believing that the doing of the act or thing would be an offence against this Act.

Proceedings for offences against this Act.

6.—(1.) Subject to this section, an offence against sub-section (1.) of section 3 of this Act may be prosecuted either summarily or upon indictment, but an offender is not liable to be punished more than once in respect of the same offence.

(2.) Proceedings in respect of an offence against sub-section (1.) of section 3 of this Act shall not be heard and determined summarily except with the consent of the defendant.

(3.) Subject to this section, an offence against sub-section (2.) of section 3 of this Act is punishable upon summary conviction and not otherwise.

(4.) Proceedings in respect of an offence against this Act shall not be instituted except with the consent in writing of the Attorney-General or of a person authorized by the Attorney-General, by writing under his hand, to give such consents.

(5.) Notwithstanding that a consent has not been given in relation to the offence in accordance with the last preceding sub-section—

(a) a person may be charged with an offence against this Act;

(b) a person may be arrested for such an offence or a warrant for such an arrest may be issued and executed; and

(c) a person so charged may be remanded in custody or on bail,

but no further step in proceedings of a kind referred to in the last preceding sub-section shall be taken in relation to the offence until such a consent has been obtained.

(6.) The last preceding sub-section does not prevent the discharge of an accused person if proceedings are not continued within a reasonable time.

7. Where a body corporate has committed an offence against this Act, a person who, at the time of the commission of the offence, was a member of the committee of management, or an officer, of the body or of a branch of the body shall be deemed to have committed the offence, unless he proves that the offence was committed without his knowledge or that he used all due diligence to prevent the commission of the offence.

Liability
of officers for
offences.

8.—(1.) In a prosecution for an offence against this Act, a Proclamation made for the purposes of paragraph (f) of sub-section (1.) of section 3 of this Act is evidence that the body, class of persons or person specified in the Proclamation was, at the time of the making of the Proclamation and at all times while the Proclamation remained unrevoked—

Evidence.

(a) in the case of a body—a body established outside Australia; or

(b) in the case of a class of persons or person—a class of persons or person resident outside Australia,

and also a body, class of persons or person of a kind referred to in whichever of sub-paragraphs (i) and (ii) of that paragraph is applicable.

(2.) In a prosecution for an offence against this Act, the averment of the prosecutor contained in the indictment, information or complaint that—

- (a) a body having a specified name existed at a specified time;
- (b) guerilla activities under the direction of, or in the interests of, the Government of North Viet-Nam or of a specified body, class of persons or person, being a body, class of persons or person referred to in paragraph (d), (e) or (f) of sub-section (1.) of section 3 of this Act, were being engaged in at a specified time; or
- (c) persons named or described in the averment were, at a particular time, engaged in guerilla activities referred to in an averment in accordance with the last preceding paragraph,

is evidence of the matters averred.

(3.) The last preceding sub-section applies to a matter averred although—

- (a) evidence in support or rebuttal of the matter averred or of any other matter is given; or
- (b) the matter averred is a mixed question of law and fact, but in that case the averment is evidence of the fact only.

(4.) Evidence given in support or rebuttal of a matter averred in accordance with this section shall be considered on its merits, and the credibility and probative value of the evidence is neither increased nor diminished by reason of this section.

(5.) This section does not—

- (a) lessen or affect any burden of proof falling on a person; or
- (b) prevent or affect judicial notice being taken of a matter or prevent the use of other means of proof of a matter.

Imprints on publications.

9.—(1.) In proceedings for an offence against this Act, an imprint appearing upon any writing is *prima facie* evidence that the writing was printed or published by the person specified in the imprint.

(2.) For the purposes of the last preceding sub-section, the word “imprint” means a statement of the name of the printer or publisher of the writing, whether with or without a statement of the address of that person or a description of the place where the writing was printed or published.

Interpretation.

10.—(1.) A reference in section 5, 6, 7, 8 or 9 of this Act to an offence against this Act includes a reference to an offence arising under section 5 or 7 of the *Crimes Act* 1914–1966 in relation to an offence against this Act.

(2.) A reference in section 6 of this Act to an offence against sub-section (1.) or (2.) of section 3 of this Act includes a reference to an offence under section 5 or 7 of the *Crimes Act 1914–1966* in relation to an offence against that sub-section.

11. When all members of the Defence Force have ceased to be engaged in war-like operations in and near Viet-Nam, the Governor-General shall make a Proclamation to that effect and thereupon this Act shall be deemed to have been repealed.

Termination
of Act.