AUSTRALIANS FOR WAR POWERS REFORM

Determinations for Australia's Participation in Armed Conflict Overseas

(Compliance with International Law in Executive Government Decisions)

Bill 2026

A bill proposed for submission to the Parliament of Australia.

DRAFT

This is a draft bill for an Act relating to ensuring compliance by Australian governments with International Law when making determinations to participate in armed conflict overseas.

1. Short Title – Executive government compliance with International Law in decisions on Australia's participation in foreign armed conflicts.

2. Commencement

3. Objects

   The objects of this Act are to ensure that:
   a. all executive government decisions permitting deployment of the Australian Defence Force in armed conflict overseas, and
   b. decisions to aid foreign powers in armed conflict outside Australia

   are made in conformance with International Law.

4. Interpretation

   [To be supplied:
   - Definitions of International Law to be supplied.
   - A schedule of relevant treaties.]

5. Extension to Territories

6. Application of International Law to Executive determination to deploy Australian Defence Force personnel

(1) Subject to this section, any decision made by the Australian government pursuant to ss 61 and 68 of the *Constitution* and s 8 of the *Defence Act 1903*, that results in the deployment of the Australian Defence Force, in:
    a. an offensive or defensive capacity;
    b. unilaterally;
    c. as part of a coalition; or
    d. in support of another State,

must be:

    i. compliant with Australia's obligations under the Charter of the United Nations relating to the lawful use of force, including but not limited to those contained in Article 2(3), Article 2(4), and Article 51 of the Charter*; and
    ii. in accordance with any obligations under other treaties in International Law to which Australia is or becomes a signatory.

7. Obligation of the Prime Minister to report to the Parliament on compliance with the requirements of this Act

(1) Pursuant to s 6 of this Act and in the event of any Executive determination to deploy Australian Defence Force personnel in armed conflict, or to aid another State in an armed conflict by provision of intelligence, materiel, or strategic activity, the Prime Minister must, within thirty days of any deployment or provision of aid (as defined under this Act) for an armed attack or use of force overseas, furnish the Parliament with a statement as to:
    a. the view of the Executive regarding the legality of the deployment or aid under the Charter of the United Nations and under any other relevant treaty to which Australia is a signatory;
    b. the reasoning of the Executive for its view; and
    c. any supporting opinion in law.

***UN Charter**

Article 2(3) – All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.

Article 2(4) – All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

Article 51 – Nothing in the present Charter shall impair the inherent right of individual or collective self defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken the measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

This draft bill has been prepared by Australians for War Powers Reform in association with the University of Sydney Law School's Professor Emily Crawford.

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