



Crimes Amendment (Royal Flying Doctor Service) Act 2010

No. 101, 2010

**An Act to amend the *Crimes Act 1914*, and for
related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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No. 101, 2010

An Act to amend the *Crimes Act 1914*, and for related purposes

[Assented to 6 July 2010]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Crimes Amendment (Royal Flying Doctor Service) Act 2010*.

2 Commencement

This Act commences on the day this Act receives the Royal Assent.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

Crimes Act 1914

1 Subsection 85W(1)

Omit “prescribed narcotic substance within the meaning of the *Customs Act 1901*”, substitute “controlled drug, or a controlled plant, within the meaning of Part 9.1 of the *Criminal Code*”.

Note: The heading to section 85W is altered by omitting “**narcotic substances**” and substituting “**controlled drugs or controlled plants**”.

2 At the end of section 85W

Add:

Exceptions—supply of pharmaceutical products etc. to remote locations

- (3) Subsection (1) does not apply in relation to conduct engaged in by a person if the person engages in the conduct:
- (a) for the purposes of, and in accordance with, the Medical Chest Program; and
 - (b) in the course of duties, powers or functions performed or exercised by the person in the person’s capacity as:
 - (i) Australia Post or an employee of Australia Post; or
 - (ii) the Royal Flying Doctor Service of Australia or an RFDSA employee or contractor.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3) (see subsection 13.3(3) of the *Criminal Code*).

- (3A) Subsection (1) does not apply in relation to conduct engaged in by a person if the person engages in the conduct:
- (a) for the purposes of, and in accordance with, a program, prescribed by the regulations, for the supply of packages of pharmaceutical products and medical supplies to remote locations; and
 - (b) in the course of duties, powers or functions performed or exercised by the person in the person’s capacity as:
 - (i) Australia Post or an employee of Australia Post; or

- (ii) a body, or the holder of an office or position, if the body, office or position is prescribed by the regulations in relation to the program; or
- (iii) an employee of, or a person who performs services for or on behalf of, a government, body or other person, if the government, body or other person is prescribed by the regulations in relation to the program.

Note 1: The regulations may prescribe a body or person by reference to a class of bodies or persons, and may make different provision with respect to different classes of bodies or persons (see subsection 33(3A) of the *Acts Interpretation Act 1901*).

Note 2: A defendant bears an evidential burden in relation to the matter in subsection (3A) (see subsection 13.3(3) of the *Criminal Code*).

(4) In this section:

Medical Chest Program means the program known under that name (or another name determined by the Royal Flying Doctor Service of Australia) that is:

- (a) for the supply of packages of pharmaceutical products and medical supplies to remote locations across Australia; and
- (b) administered and operated by or on behalf of the Royal Flying Doctor Service of Australia.

RFDSA employee or contractor means any of the following:

- (a) an employee of the Royal Flying Doctor Service of Australia;
- (b) any other person (an ***RFDSA contractor***) that performs services for or on behalf of the Royal Flying Doctor Service of Australia;
- (c) a person who is employed by, or that performs services for or on behalf of, an RFDSA contractor.

Royal Flying Doctor Service of Australia means one or more of the following bodies corporate (including, if the name of the body changes, the body as operating under the changed name, and, to the extent that the body stops performing any of its functions, any body corporate responsible for performing the same, or substantially the same, functions):

- (a) the Australian Council of the Royal Flying Doctor Service of Australia;
- (b) the Royal Flying Doctor Service of Australia Central Operations Incorporated;

- (c) the Royal Flying Doctor Service of Australia (Queensland Section);
- (d) the Royal Flying Doctor Service of Australia (South Eastern Section);
- (e) the Royal Flying Doctor Service of Australia (Tasmanian Section);
- (f) the Royal Flying Doctor Service of Australia (Victorian Section);
- (g) the Royal Flying Doctor Service of Australia (Western Operations).

3 Application of amendments

- (1) The amendment made by item 1 applies in relation to conduct engaged in by a person on or after the day the item commences.
- (2) The amendment made by item 2 applies, on and after the day the item commences, in relation to conduct engaged in by a person before, on or after that day.

*[Minister's second reading speech made in—
House of Representatives on 2 June 2010
Senate on 24 June 2010]*

(122/10)
