
DEFENCE.

No. 47 of 1918.

An Act to amend the *Defence Act* 1903-1918.

[Assented to 25th December, 1918.]

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

Short title and
citation.

1.—(1.) This Act may be cited as the *Defence Act* (No. 2) 1918.

(2.) The *Defence Act* 1903-1917, as amended by the *Defence Act* 1918 (No. 16 of 1918), is in this Act referred to as the Principal Act.

(3.) Sub-section (3.) of section one of the *Defence Act* 1918 (No. 16 of 1918) is repealed.

(4.) The Principal Act, as amended by this Act, may be cited as the *Defence Act* 1903-1918.

Seniority of
officers in
Reserve Forces.

2. Section twenty of the Principal Act is amended by omitting therefrom the words “but officers of the Active Military Forces shall rank as senior in their respective ranks to officers of the Reserve Military Forces”.

3. After section twenty of the Principal Act the following section is inserted :—

Promotion of
returned
officers.

“20A. Notwithstanding anything contained in this Act, an officer who is eligible for promotion to a higher rank, and who has served on active service abroad, shall, other things being equal, be granted preference in promotion to an officer of the same rank who is eligible for promotion to that higher rank, and who has not served on active service abroad.”.

4. After section forty of the Principal Act the following sections are inserted :—

“40A. In time of war any person who is employed under articles of apprenticeship may, notwithstanding any provision of or obligation under the articles, enlist in the Military Forces, and any person who so enlists shall not be liable, during the period of his service in the Forces, and until a reasonable period thereafter, to be claimed for service under the articles.”

Enlistment of
persons serving
under
articles of
apprenticeship.

“40B.—(1.) Any person employed under articles of apprenticeship who has in time of war enlisted in the Military Forces shall, upon discharge from the Military Forces, unless the Minister otherwise determines, be entitled, within a period of three months after the date of his discharge, or, in the case of a person discharged before the commencement of this section, within three months after such commencement, to resume his employment under his articles of apprenticeship and the period served by him after discharge shall be deemed to be a continuance of the period served by him prior to enlistment.”

Resumption by
apprentice of
service under
articles.

“(2.) If any master, upon the application of an apprentice who is entitled under the last preceding sub-section to resume his employment, refuses to re-employ him, he shall be guilty of an offence.

Penalty : Fifty pounds.”

5. Section sixty of the Principal Act is amended by inserting therein after sub-section (3.) thereof the following sub-section :—

Calling out of
the reserves.

“(3A.) Notwithstanding anything contained in this section the Governor-General may by proclamation—

- (a) subject to the conditions specified in the proclamation, temporarily exempt from service or postpone the service of any persons called upon, in pursuance of this section, to enlist and serve ; and
- (b) divide, according to age, any class mentioned in sub-section (3.) of this section and call upon such divisions of any class as he considers necessary.”

6. Section sixty-one of the Principal Act is amended—

- (a) by omitting from the proviso thereto the letter “(g)” ; and
- (b) by adding at the end thereof the following sub-section :—

“(2.) Every person who is called upon to enlist and serve in pursuance of section sixty of this Act and who is by virtue of this section exempt from service shall, notwithstanding such exemption, do all things required to be done by a person liable to enlist and serve :

Persons exempt
from service.

Provided that any such person (unless exempt by virtue of paragraph (b) or (i) of the last preceding sub-section) shall not, until he ceases to be exempt, be required to take the oath of enlistment.”

Training of
cadets

7. Section sixty-two of the Principal Act is amended by omitting sub-section (2.) thereof and inserting in its stead the following sub-section :—

“(2.) All those liable to be trained as senior cadets shall be allotted to the Naval or Military Forces, and shall be trained as prescribed in elementary naval or military exercises and in musketry, and shall be organized in naval or military units.”.

8. Section seventy-five of the Principal Act is repealed, and the following section inserted in its stead :—

Enlisting
draft, &c.

“75. Any person who—

- (a) when called upon in pursuance of this Act to enlist, fails to attend at the time and place appointed for medical examination or enlistment ; or
- (b) counsels or aids any person, who is liable to enlist in the Defence Force, to fail to enlist or to evade enlistment ; or
- (c) counsels or aids any person who has enlisted or who is liable to enlist in any part of the Defence Force not to perform any duty he is required by this Act to perform ; or
- (d) conceals or assists in concealing any person who is liable to enlist in the Defence Force,

shall be guilty of an offence.

Penalty : Fifty pounds, or imprisonment for six months, or both.”.

When drafted,
refusing to be
sworn.

9. Section seventy-six of the Principal Act is amended by omitting therefrom the words “the commanding officer of the corps to which he is attached or which he is required to join, shall be liable to imprisonment, with or without hard labour, for a period not exceeding six months” and inserting in their stead the words “an officer, shall be guilty of an offence.”

Penalty : Imprisonment for six months.”.

Offences
connected with
desertion.

10. Section seventy-seven of the Principal Act is amended by omitting therefrom the words “shall be liable to be imprisoned, with or without hard labour, for any period not exceeding twelve months” and inserting in their stead the words “shall be guilty of an offence.

Penalty : Fifty pounds, or imprisonment for six months, or both.”.

Penalty for
contravening
the Act in
any way.

11. Section eighty-five of the Principal Act is amended by omitting the word “wilfully”.

12. After section one hundred and ten of the Principal Act the following section is inserted :—

Company
Roll Book.

“110A.—(1.) A Company Roll Book shall be kept by such persons as the Regulations prescribe.

(2.) The entries in the Company Roll Book shall relate to such matters and be made by such persons as the Regulations prescribe.

(3.) The production of the Company Roll Book shall be *prima facie* evidence of the entries contained therein."

13. Section one hundred and nineteen of the Principal Act is amended by omitting therefrom the words "without the authority of the Minister, be entitled to" and inserting in their stead the words "except as prescribed,".

Amendment of
s. 119.

14. Section one hundred and twenty-four of the Principal Act is amended by inserting in paragraph (A) thereof after the word "formation" the word "incorporation".

Regulations.

15. Section one hundred and thirty-five of the Principal Act is amended by omitting from sub-section (5.) the words "detained by that authority" and inserting in their stead the words "handed over by that authority to military custody for conveyance to and detention".

Custody of
offenders.

16. Section one hundred and thirty-five B of the Principal Act is repealed and the following section inserted in its stead :—

"135B.—(1.) Notwithstanding anything contained in the next two preceding sections, a person shall not be liable in any one year to confinement in excess of thirty days in respect of offences committed by him against the provisions of sub-section (1.) or paragraph (a) of sub-section (1A.) of section one hundred and thirty-five, or of costs awarded in proceedings for such offences, and any order or other authority issued by a Court authorizing confinement for a period in excess of such thirty days, shall in so far as it relates to the period in excess be void, but nevertheless proceedings shall not be maintainable against the Commonwealth or any person in respect of the order or authority or of any act or thing done in pursuance of the order or authority.

Total duration
of confinement
of trainees in
any one year.

(2.) In this section "confinement" includes detention under the authority of section one hundred and thirty-five of this Act, and custody under the authority of the last preceding section."

17. Section one hundred and thirty-eight of the Principal Act is amended by omitting from sub-section (3.) thereof the words "undergo such equivalent training as prescribed, unless exempted by some provision of this Act" and inserting in their stead the words "become liable for training as prescribed but shall not be required to perform additional training equivalent to the training from which they have been exempted under this sub-section."

Additional
training by
theological
students not
required.

18. Section one hundred and forty-two of the Principal Act is amended by inserting the following sub-section after sub-section (1.) thereof :—

Registration.

"(1A.) If any such male inhabitant of Australia is not registered in the manner prescribed in sub-section (1.) of this

section, he, and the parent, guardian or person acting *in loco parentis*, shall severally be guilty of an offence."

19. After section one hundred and forty-two of the Principal Act the following section is inserted :—

Offence of being
unregistered.

"142A. Any male inhabitant of Australia, who has resided therein for six months and is a British subject, and whose *bona fide* residence is within a distance of five miles, reckoned by the nearest practicable route, from the nearest place appointed for training, and who is, at any time after he has attained the age of fourteen years and before he has attained the age of twenty-six years, not registered for naval or military training, shall be guilty of an offence."

20. Section one hundred and forty-six of the Principal Act is repealed and the following section inserted in its stead :—

Record Book .

"146.—(1.) Every person who registers shall receive a Record Book in the prescribed form.

(2.) The entries in the Record Book shall relate to such matters and shall be made by such persons as the Regulations prescribe.

(3.) A copy of the entries in the Record Book shall be prepared by such persons and in such form and shall be retained by such persons as the Regulations prescribe.

(4.) The production of a Record Book, or of a book or document purporting to be a copy of the entries in a Record Book, shall be *prima facie* evidence of the entries contained therein."
