
LEGAL PROCEEDINGS CONTROL.

No. 30 of 1919.

An Act relating to certain Legal Proceedings.

[Assented to 28th October, 1919.]

Preamble.

WHEREAS during the existence of the war with Germany and for the purpose of the more effectual prosecution of the war it became and was, in the opinion of the Governor-General, necessary and expedient to regulate and control the institution and prosecution of civil proceedings in certain cases :

And whereas in order to provide for such regulation and control certain regulations (being the Regulations specified in the Schedules to this Act) were duly made under the provisions of the *War Precautions Act 1914-1916* :

And whereas by the *War Precautions Act 1918* the operation of the *War Precautions Act 1914-1916* was limited to the longer of the following periods, namely, the period of three months after the then

existing state of war, and the period ending on the thirty-first day of July, One thousand nine hundred and nineteen :

And whereas it is expedient that the protection afforded by the said Regulations should, in relation to actions and proceedings in respect of matters arising during the continuance of the *War Precautions Act* 1914–1916, continue to have the force of law notwithstanding the expiration of that Act :

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

1. This Act may be cited as the *Legal Proceedings Control Act* 1919. Short title.

2. In this Act, unless the contrary intention appears— Definitions.

“ the prescribed authority ” means the Attorney-General, or the Solicitor-General, or a person acting for or on behalf of the Attorney-General or the Solicitor-General ;

“ the war ” means the period from the fourth day of August, One thousand nine hundred and fourteen, until the issue of a proclamation by the Governor-General that the war which commenced on that date has ceased.

3. A person shall not bring any action or counterclaim, or take any step in any action or counterclaim brought, in respect of any matter in respect of which the prescribed authority has, in pursuance of the provisions of any of the Regulations specified in the First Schedule— Prohibition in respect of actions to which Attorney-General has refused consent.

(a) refused to grant to him consent to the bringing of the action or counterclaim, or to the taking of any step, in the action or counterclaim, as the case may be ; or

(b) issued a certificate that the bringing of an action or counterclaim brought or proposed to be brought, or the taking of any step in an action or counterclaim brought, by him or on his behalf, is unfair.

4. A person shall not bring any action or take any step in any action brought, in respect of any matter in respect of which the prescribed authority has, in pursuance of the provisions of any of the Regulations specified in the Second Schedule refused to grant to him consent to the bringing of the action, or to the taking of the step in the action, as the case may be. Prohibition in respect of libel actions, &c., to which Attorney-General has refused consent.

5.—(1.) A person shall not, without the consent in writing of the Attorney-General, bring any action or counterclaim, or take any step in any action or counterclaim brought, in respect of any cause of action or matter arising during the war, if, at the commencement of this Act, the action or counterclaim could not have been brought, or the step taken, without the consent of the Attorney-General or other authority except in contravention of one of the Regulations specified in the First Schedule. Prohibition of actions unless with the consent of the Attorney-General.

(2.) A person shall not bring any action or counterclaim, or take any step in any action or counterclaim brought, in respect of any cause of action or matter arising during the war in respect of the non-delivery or short delivery of any goods under any contract or agreement or for damages in respect thereof, if the Attorney-General certifies in writing that the bringing of the action or counterclaim, or the taking of the step, is unfair by reason of any action or direction taken or given by the Commonwealth Shipping Board, the Controller of Shipping, or by any officer or instrumentality of the Commonwealth in connexion with the movements and use of vessels or the distribution of goods during the war.

Actions in
contravention
of this Act not
maintainable.

6. Any action or counterclaim—

(a) which is brought in contravention of either of the last two preceding sections ; or

(b) in which a step is taken in contravention of either of those sections,

shall not be maintainable.

THE SCHEDULES.

THE FIRST SCHEDULE.

WAR PRECAUTIONS (SUPPLEMENTARY) REGULATION No. 3.

(Statutory Rules 1916, No. 112).

3. No person or company shall, without the written consent of the Attorney-General, bring any action, or take any step in any action brought, against any person or company upon any contract or agreement relating to the sale or delivery of goods, the bringing or continuation of which is certified by the Attorney-General, by certificate in writing served on the person or company bringing or threatening to bring the action, to be in his opinion unfair by reason of the person or company against which the action is brought or threatened having, before the date of the making of this regulation, entered into any agreement with, or given any undertaking to, the Government of the Commonwealth or of the United Kingdom, or with or to any Munitions Board.

Certain actions
on contract not
to be brought
without
Attorney-
General's
consent.

WAR PRECAUTIONS (SUPPLEMENTARY) REGULATION No. 10.

(Statutory Rules 1916, No. 129, as amended by Statutory Rules 1917, No. 196).

10. No person shall, without the consent of the Attorney-General, institute any action or other proceeding or take any further steps in any action or other proceeding, brought against the Government of any State of the Commonwealth, the Attorney-General of the State, or the Railway Commissioner or Commissioners or any other authority of a State, in respect or in consequence of the refusal or failure of the State or any State authority to supply any person with trucks for the conveyance of wheat from any place.

No action to be
taken against
State authority.

WAR PRECAUTIONS (SUPPLEMENTARY) REGULATION No. 10A.

(Statutory Rules 1917, No. 196).

10A. No person shall, without the consent of the Attorney-General, institute any action or other proceeding arising out of or in consequence of the non-performance of any contract for the sale or delivery of any wheat or flour, or take any further steps in any such action or other proceeding brought, against the Government of the Commonwealth or of any State or officer of the Commonwealth or of any State, or any Commonwealth or State authority or officer thereof or any person :

Proceedings
on contracts
relating to
wheat and
flour.

Provided that the Attorney-General shall not withhold his consent to the institution of the action or proceeding or the taking of further steps in any action or proceeding if he is satisfied that the non-performance of the contract was not due to the action of any Commonwealth or State authority, or of any joint Commonwealth and State authority in relation to the marketing of wheat or flour.

THE FIRST SCHEDULE—*continued.*

WAR PRECAUTIONS (SUPPLEMENTARY) REGULATION No. 46.

(Statutory Rules 1918, No. 200).

46. No person shall, without the consent in writing of the Attorney-General, bring an action, or take any step in an action brought, against any company incorporated in Australia in respect of any matter arising out of any alteration made by the company in its articles of association, where the alteration—

Actions against companies removing enemy influence.

- (a) has for its object the removal of enemy interest from the company; and
- (b) has been made in consequence of a request received from the Attorney-General.

WAR PRECAUTIONS (SUPPLEMENTARY) REGULATION No. 49.

(Statutory Rules 1918, No. 262).

49.—(1.) Where before or after the commencement of this regulation any dividends in respect of shares standing in the name of any person who is an enemy subject in the books of any company incorporated in England and having a branch register in Australia which, had a state of war not existed, would have been payable and paid in Australia to that person have been paid to the British Public Trustee, no person shall without the consent of the Attorney-General bring any action or take any step in an action brought in respect of the dividends.

Actions in respect of dividends paid to British Public Trustee.

(2.) In this regulation—

“British Public Trustee” means the Public Trustee appointed under any Imperial Law relating to Trading with the Enemy.

“Enemy subject” means enemy subject as defined in the *Trading with the Enemy Act 1914–1916*.

WAR PRECAUTIONS (SHIPPING) REGULATION No. 17A.

(Statutory Rules 1918, No. 131).

17A.—(1.) Where the Attorney-General certifies in writing that the bringing of any action or counterclaim, or the taking of any step in relation to any action or counterclaim brought by any person, firm or company against any other person, firm or company for the non-delivery or short delivery of any goods under any contract or agreement or for damages in respect thereof is, in his opinion, unfair, by reason of any action or direction taken or given by the Commonwealth Shipping Board, the Controller of Shipping, or by any officer or instrumentality of the Commonwealth in connexion with the movements and use of vessels or the distribution of goods during the present war, the bringing of any such action or counterclaim or the taking of any step in relation to any such action or counterclaim shall be an offence.

Actions on contracts not to be brought or continued.

(2.) A copy of any certificate given by the Attorney-General in pursuance of this regulation shall be served upon the person, firm or company bringing or proposing to bring the action or counterclaim or taking or proposing to take any step in relation thereto.

(3.) This regulation shall apply to all contracts or agreements whether made before or after the commencement of this regulation and to all claims or counterclaims whether made arising or accruing before or after such commencement.

THE SECOND SCHEDULE.

WAR PRECAUTIONS (SUPPLEMENTARY) REGULATION No. 7.

(Statutory Rules 1917, No. 302).

7. No person shall, without the written consent of the Attorney-General, bring any action for relief, or take any step in any action brought, or institute criminal proceedings, or take any step in any criminal proceedings instituted, against any person in respect of anything said or done or permitted to be said or done by the defendant which states or implies that the plaintiff or prosecutor (as the case may be) is an enemy subject or a person of enemy origin or associations, or influenced or controlled by enemy subjects, or having or intending to have any connexion with enemy subjects or with subjects of a country with which the King is now at war, either personally or in his trade or business: Provided that, if the Attorney-General is satisfied that the statement or implication has been made maliciously or recklessly, he shall not withhold consent.

Libel and slander proceedings by persons alleged to be enemy subjects.

THE SECOND SCHEDULE—*continued.*

WAR PRECAUTIONS (SUPPLEMENTARY) REGULATION No. 8.

(Statutory Rules 1916, No. 122).

Proceedings for
refusal to
employ or work
with persons
alleged to be
enemy subjects,
&c.

8. No person shall, without the written consent of the Attorney-General, bring any action or take any step in an action brought—

- (a) against any employer, or
- (b) against any association or body of persons, or any member or officer of any such association or body,

for relief in respect of any matter (not being a matter of contract) arising out of the refusal or failure of the employer to employ or continue to employ the person, or the refusal or failure of any or all of the members of the association or body to work or associate with the person, on the ground that he is an enemy subject or a person who has been a subject of a country with which the King is now at war :

Provided that if the Attorney-General is satisfied that the person—

- (a) is neither an enemy subject nor a person who has been a subject of a country with which the King is now at war, and
- (b) is not disloyal,

he shall not withhold his consent.
