

SUPPLY AND DEVELOPMENT.

No. 6 of 1939.

An Act relating to the Supply of Munitions and the Survey, Registration and Development of the Resources of Australia, and for other purposes.

[Assented to 17th June, 1939.]

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

PART I.—PRELIMINARY.

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| Short title. | 1. This Act may be cited as the <i>Supply and Development Act</i> 1939. |
| Commencement. | 2. This Act shall come into operation on the day on which it receives the Royal Assent. |
| Parts. | 3. This Act is divided into Parts as follows :—
Part I.—Preliminary.
Part II.—Administration.
Part III.—Aircraft Assembly.
Part IV.—Miscellaneous. |
| Definitions. | 4. In this Act, unless the contrary intention appears—
“factory” includes establishment ;
“goods” includes all kinds of personal property, and also includes anything growing in or on land and mineral or other deposits ; |

- “munitions” means armaments, arms and ammunition, and includes such equipment, machines, commodities, materials, supplies or stores of any kind, as are, in the opinion of the Governor-General, necessary for the purposes of defence;
- “the Defence Act” means the *Defence Act* 1903–1934;
- “the Department” means the Department of Supply and Development;
- “time of war” means any time during which a state of war exists, and includes the time between the issue of a Proclamation of the existence of war or danger thereof and the issue of a Proclamation declaring that the war or danger thereof declared in the prior Proclamation no longer exists;
- “war” means any invasion or apprehended invasion of, or attack or apprehended attack on, the Commonwealth or any Territory of the Commonwealth by an enemy or armed force.

PART II.—ADMINISTRATION.

5.—(1.) The matters to be administered by the Department shall be matters relating to arrangements for ascertaining costs and for the control and limitation of profits in relation to the production of munitions, and, subject to the directions of the Governor-General and to the next succeeding sub-section—

Functions of
Department.

- (a) the provision or supply of munitions;
- (b) the manufacture or assembly of aircraft or parts thereof by the Commonwealth or any authority of the Commonwealth;
- (c) arrangements for the establishment or extension of industries for purposes of defence;
- (d) the acquisition, maintenance and disposal of stocks of goods in connexion with defence; and
- (e) the arrangement or co-ordination of—
 - (i) surveys of Australian industrial capacity and the preparation of plans to ensure the effective operation of Australian industry in time of war including plans for the decentralization of secondary industries and particularly those relating to defence; and
 - (ii) the investigation and development of Australian sources of supply of goods, which in the opinion of the Governor-General are necessary for the economic security of the Commonwealth in time of war and, in particular, the investigation and development of additional oil resources, the production of power alcohol from sugar or other vegetable crops, and the production of oil from coal or shale.

(2.) The Governor-General may from time to time determine the extent to which or the conditions upon which any of the matters specified in paragraphs (a) to (e) (inclusive) of the last preceding sub-section may be administered by the Department.

Information.

6.—(1.) Where, in the opinion of the Governor-General, it is necessary or desirable in the interests of the defence of the Commonwealth that information should be obtained in relation to industrial, commercial or other undertakings, or with respect to any goods, the regulations may require such persons or classes of persons, as are prescribed, to furnish, as prescribed, such information and particulars, as are prescribed, with respect to those undertakings or goods.

(2.) Nothing in this Act shall authorize the making of any regulation rendering it compulsory for any person to disclose any secret process of manufacture.

(3.) Any person who, when required by the regulations to furnish any information or particulars, refuses or neglects so to do, shall be guilty of an offence against this section.

(4.) Any offence against this section may be prosecuted either summarily or upon indictment, but an offender shall not be liable to be punished more than once in respect of the same offence.

(5.) The punishment for an offence against this section shall be as follows :—

(a) If the offence is prosecuted summarily—a fine not exceeding Fifty pounds or imprisonment for a term not exceeding three months, or both ;

(b) If the offence is prosecuted upon indictment—a fine not exceeding Five hundred pounds or imprisonment for a term not exceeding one year, or both.

**Arrangements
with State
Governments
as to
execution
of Act.**

7.—(1.) The Governor-General may enter into any arrangement with the Governor of any State providing for any matter necessary or convenient for the purpose of carrying out or giving effect to this Act, and in particular for—

(a) the execution by State officers of any power or duty conferred or imposed on any officer under this Act or the regulations ;

(b) the collection by any State Department or officer of any information required for the purposes of this Act ; and

(c) the supplying of information by any State Department or officer.

(2.) All State officers executing any power or duty conferred or imposed on any officer under this Act or the regulations, in pursuance of any arrangement entered into under this section, shall, for the purposes of the execution of that power or duty, be deemed to be officers under this Act.

**Advisory
Committees.**

8.—(1.) The Minister may, in relation to all or any of the matters specified in section five of this Act, or in relation to such other matters as are prescribed, constitute committees and appoint persons to be members of those committees to advise the Minister.

(2.) A committee constituted under this section shall exercise its duties in accordance with the regulations or the directions of the Minister.

(3.) A member of a committee constituted under this section may be paid such fees and allowances as the Governor-General directs.

9. The Governor-General may establish, maintain and operate, or arrange for the establishment, maintenance and operation of, factories for or in relation to the provision or supply of munitions.

Powers of Governor-General in relation to munitions, &c.

10.—(1.) The Minister or any officer or class of officer authorized in that behalf by the Minister or prescribed may, except in such administrative or clerical offices as the Governor-General directs, employ such persons as are necessary in connexion with any factory established or deemed to have been established by the Governor-General in pursuance of this Act.

Employment of persons in connexion with factories.

(2.) Persons employed in pursuance of this section shall not be subject to the *Commonwealth Public Service Act* 1922-1937, but shall be engaged for such periods and shall be subject to such conditions as are prescribed.

11.—(1.) A person who, immediately prior to the commencement of this Act, was employed in a civil capacity under the Defence Act, and who is a person or one of a class of persons specified, for the purposes of this section, by the Minister of State for Supply and Development and the Minister of State for Defence by notice published in the *Gazette*, shall, by force of this Act, cease to be employed under the Defence Act and be employed in the Department, and shall be deemed to have been engaged in pursuance of this Act.

Existing officers and employees.

(2.) Immediately prior to the expiration of the operation of this Act, all persons who, at that time, are officers or employees of the Department and are engaged, or deemed to have been engaged, in pursuance of this Act, shall, by force of this Act, become officers or employees (as the case may be) under the Defence Act.

(3.) All officers and employees specified in this section shall preserve all their existing and accruing rights.

(4.) For the purposes of this section, the expression "existing and accruing rights", in relation to any officer or employee, means rights in respect of—

- (a) leave on the ground of illness ;
- (b) long service leave or pay in lieu thereof (including pay to dependants on the death of the officer or employee) ;
- (c) superannuation ;
- (d) child endowment ; and
- (e) in the case of a female officer or employee, payment on marriage,

to which from time to time the officer or employee would be entitled if he had remained an officer or employee of the Defence Department, or, as the case may be, if this Act had continued in force and he had remained an officer or employee of the Department.

Transfer of
establishments.

12.—(1.) All factories established under section sixty-three of the Defence Act, which were maintained under that Act immediately prior to the commencement of this Act, and which are specified for the purposes of this section by the Governor-General by order published in the *Gazette*, shall, by force of this Act, cease to be maintained under the Defence Act and shall be deemed to have been established by the Governor-General in pursuance of this Act.

(2.) Immediately prior to the expiration of the operation of this Act, factories established, or deemed to have been established, in pursuance of this Act, which at that time are maintained in pursuance of this Act shall, by force of this Act, be deemed to have been established under the Defence Act.

Continuance
of existing
regulations.

13.—(1.) The regulations made under the Defence Act which at the commencement of this Act—

- (a) relate to the provision of munitions ;
- (b) apply to or in relation to the persons deemed to have been engaged in pursuance of this Act ; or
- (c) apply to or in relation to the factories deemed to have been established in pursuance of this Act,

shall, for the purposes of this Act, be deemed to be regulations made under this Act, and, subject to any regulation made under this Act, shall have effect accordingly.

(2.) The Boards established by, or appointed in pursuance of, the regulations made under the Defence Act which are specified in sub-section (1.) of this section, shall, as constituted immediately prior to the commencement of this Act, but subject to any regulation made under this Act, be deemed to be Boards established by or in pursuance of regulations deemed to be regulations made under this Act.

Suspension of
certain powers
under Defence
Act.

14. During the continuance in operation of this Act, the powers conferred by paragraphs (d) and (da) of sub-section (1.) of section sixty-three of the Defence Act shall not be exercised, and the powers conferred by paragraphs (db) and (f) of that sub-section shall not be exercised in relation to any factory deemed to have been established in pursuance of this Act or, unless the Governor-General otherwise directs, in relation to any matter specified in this Act.

PART III.—AIRCRAFT ASSEMBLY.

Establishment
of aircraft
factories.

15.—(1.) The Governor-General may establish factories for the manufacture or assembly of such aircraft or parts of aircraft as are, in the opinion of the Governor-General, necessary in connexion with the defence of Australia.

(2.) Factories established in pursuance of this section shall be maintained and operated in accordance with the regulations.

16. The Governor-General may make regulations providing for the making of arrangements, agreements or contracts for the acquisition, manufacture or assembly of aircraft or parts of aircraft for the Commonwealth.

Arrangements
for
acquisition, &c.,
of aircraft.

17.—(1.) For the purposes of this Part, there shall be a Trust Account which shall be known as the Aircraft Trust Account.

Trust
Account.

(2.) An account established in pursuance of this section shall be a Trust Account for the purposes of section sixty-two A of the *Audit Act* 1901–1934.

18. There shall be a General Manager of Aircraft Construction (in this Part referred to as “the General Manager”) who shall have such powers and perform such duties as are prescribed.

General
Manager of
Aircraft
Construction.

19.—(1.) The General Manager shall be appointed for such term, not exceeding five years, as the Governor-General determines.

Term of office.

(2.) If an officer of the Public Service of the Commonwealth is appointed General Manager, the *Officers' Rights Declaration Act* 1928–1933 shall apply as if this Act and section had been specified in the Schedule to that Act.

(3.) If an officer of the Public Service of a State is appointed General Manager, he shall have the same rights as if he had been an officer of a Department transferred to the Commonwealth and had been retained in the service of the Commonwealth.

(4.) The General Manager shall not, without the approval of the Governor-General, engage in any paid employment other than the duties of his office.

20.—(1.) The General Manager shall receive such salary as the Governor-General determines.

Salary of
General
Manager.

(2.) There shall be paid to the General Manager, on account of his expenses in travelling to discharge the duties of his office, such sums as are considered reasonable by the Governor-General.

21.—(1.) On the happening of any vacancy in the office of General Manager, the Governor-General shall appoint a person to fill that office.

Extraordinary
vacancy.

(2.) Any such appointment shall be for the remainder of the term of office or for such shorter period as the Governor-General determines.

22. In the case of the illness, suspension or absence of the General Manager, the Governor-General may appoint a deputy to act for the General Manager during his illness, suspension or absence, and every deputy so appointed shall, while so acting, have all the powers and authority of the General Manager.

Temporary
appointment.

23.—(1.) The Minister may suspend the General Manager from office for inability, inefficiency or misbehaviour.

Suspension of
General
Manager.

(2.) The Minister shall, within seven days after the suspension, if the Parliament is then sitting, or if the Parliament is not then sitting, within seven days after the next meeting of the Parliament, cause to

be laid before both Houses of the Parliament a full statement of the grounds of suspension, and if within sixty days thereafter an address is presented to the Governor-General by the Senate and the House of Representatives praying for the restoration of the General Manager to office, he shall be restored accordingly ; but if no such address is so presented the Governor-General may confirm the suspension and declare the office of the General Manager to be vacant, and the office shall thereupon be and become vacant.

Vacation of
office.

24. The General Manager shall be deemed to have vacated his office if he—

- (a) becomes bankrupt or insolvent, or applies to take the benefit of any Act for the relief of bankrupt or insolvent debtors, or compounds with his creditors, or makes an assignment of his salary or remuneration for their benefit ;
- (b) absents himself from duty for a period of fourteen consecutive days, or for twenty-eight days in any twelve months, without leave granted by the Governor-General ;
- (c) becomes permanently incapable of performing his duties ; or
- (d) resigns his office by writing under his hand addressed to the Governor-General.

PART IV.—MISCELLANEOUS.

Officers and
employees
to observe
secrecy.

25. An officer or employee of the Department, a member of a committee constituted, or deemed to have been constituted, under this Act, and an officer of the Commonwealth or a State to whom information furnished in pursuance of this Act has been disclosed by virtue of his official position, shall not, except as allowed by this Act or the regulations, divulge any information or particulars furnished in pursuance of this Act or the regulations.

Penalty: Fifty pounds or imprisonment for three months or both.

Requirements
of Tariff Board
Act not
affected.

26. Nothing in this Act or the regulations shall be construed as being in derogation of any requirement of the *Tariff Board Act* 1921–1934.

Regulations.

27.—(1.) The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act and in particular for prescribing matters providing for or in relation to—

- (a) the matters specified in section five of this Act ;
- (b) the establishment, maintenance or operation of factories for or in relation to the provision or supply of munitions ;
- (c) the amendment or repeal of any regulations deemed to be regulations made under this Act ;
- (d) the powers of officers and persons for the purposes of the regulations ; and

- (e) penalties not exceeding Fifty pounds or imprisonment for three months or both for breaches of the regulations.
- (2.) This section shall not be construed to empower the making of regulations—
- (a) depriving a trade union or any member of a trade union of any right conferred by any law of the Commonwealth or of a State relating to rates of wages or conditions of employment ;
 - (b) altering or affecting, to the detriment of a trade union or any member of a trade union, any provision of an agreement between an employer and the trade union relating to rates of wages or conditions of employment ;
 - (c) restricting the freedom of any employee to change his employment ;
 - (d) altering to the detriment of any employees, or any trade union, any rule, practice, or custom in any industry ; or
 - (e) affecting the rules of any trade union.
- (3.) In this section—
- “employee” means employee other than an employee in the Public Service within the meaning of the *Arbitration (Public Service) Act* 1920–1934 ;
 - “member of a trade union” does not include any member of a trade union who is not an employee ;
 - “trade union” includes any organization registered under the law of the Commonwealth or of a State and a branch of any such organization, but does not include an association of employees in the Public Service.

28. This Act shall continue in operation for a period of five Duration of Act. years and no longer.