

RE-ESTABLISHMENT AND EMPLOYMENT.

No. 11 of 1945.

An Act to provide for the Re-establishment in Civil Life of Members of the Forces, for facilitating their Employment, and for other purposes.

[Assented to 28th June, 1945.]

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.

- Short title.** 1. This Act may be cited as the *Re-establishment and Employment Act* 1945.
- Commencement.** 2. The several Parts and Divisions of this Act shall commence on such dates as are respectively fixed by proclamation.
- Parts.** 3. This Act is divided into Parts, as follows :—
- Part** I.—Preliminary.
- Part** II.—Provisions relating to Employment.
- Division 1.—Reinstatement in Civil Employment.
- Division 2.—Preference in Employment.
- Division 3.—Apprenticeship.
- Division 4.—Modification of Conditions of Entry to Employment.
- Division 5.—The Commonwealth Employment Service.
- Part** III.—Vocational Training.
- Part** IV.—Disabled Persons.
- Part** V.—Demobilization.
- Part** VI.—Re-establishment Assistance.
- Division 1.—Re-establishment Leave.
- Division 2.—Re-employment Allowances
- Division 3.—Re-establishment Loans.
- Division 4.—Business Re-establishment Allowances.

Part VII.—Servicemen's Settlement.

Part VIII.—Housing.

Part IX.—Legal Aid Bureaux.

Part X.—War Service Moratorium.

Division 1.—Preliminary.

Division 2.—Mortgages and Agreements for the Purchase of Land.

Division 3.—Prohibition or Suspension of Proceedings.

Division 4.—General.

Part XI.—Miscellaneous.

4.—(1.) In this Act, unless the contrary intention appears—

Definitions.

"Australia" includes the Territories of the Commonwealth.

"member of the Forces" means—

- (a) a person who is or was, during the war, a member of the Permanent Forces, other than the Australian Imperial Force ;
- (b) a person who is or was, during the war, a member of the Australian Imperial Force ;
- (c) a member of the Citizen Forces who is or was enlisted appointed or called up for continuous service for the duration of, and directly in connexion with, the war ;
- (d) a person who is or was, during the war, engaged on continuous full-time service as a member of any of the following Services :—
 - The Royal Australian Naval Nursing Service ;
 - The Women's Royal Australian Naval Service ;
 - The Australian Army Nursing Service ;
 - The Australian Women's Army Service ;
 - The Australian Army Medical Women's Service ;
 - The Royal Australian Air Force Nursing Service ;
 - The Women's Auxiliary Australian Air Force ;
- (e) a member of a Voluntary Aid Detachment who is or was, during the war, engaged on continuous full-time paid duty with any part of the Defence Force .
- (f) a member of the Naval, Military or Air Forces of any part of the King's dominions other than Australia, who is or was, during the war, engaged on service in a prescribed area and was born in Australia or was, immediately prior to his becoming a member of any of those Forces, domiciled in Australia ; and

(g) a person who is or was, during the war, engaged on continuous full-time service with any Nursing Service or other Women's Service auxiliary to the Naval, Military or Air Forces of any part of the King's dominions other than Australia who was born in Australia or was, immediately prior to her becoming a member of that Service, domiciled in Australia,

but does not include any enemy alien who served during the war as a member of the Army Labour Corps but not otherwise ;

"the Minister", in relation to any provision of this Act, means the Minister for the time being administering the Part or Division of this Act in which that provision occurs :

"the war" means the war which commenced on the third day of September, One thousand nine hundred and thirty-nine, and includes any other war in which His Majesty became engaged after that date and before the date of commencement of this Part ;

"war service" means—

(a) service as a member of the Permanent Forces, other than the Australian Imperial Force ;

(b) service in the Australian Imperial Force ;

(c) the service of a member of the Citizen Forces when called out for war service in pursuance of the *Defence Act* 1903–1945, or during continuous training under that Act, the *Naval Defence Act* 1910–1934 or the *Air Force Act* 1923–1941 ;

(d) the continuous full-time service in the Defence Force under any Act or under any regulations under an Act, of any person who volunteers and is accepted for that service during war ;

(e) in the case of a person specified in paragraph (d), (e), (f) or (g) of the definition of "member of the Forces", service in any of the bodies specified in those paragraphs ; or

(f) in relation to any of the provisions of this Act, the continuous full-time service of any person as a member of an organization or part thereof which is declared by proclamation to be an organization in relation to which those provisions apply.

(2.) For the purposes of this Act, a member of the Forces who has ceased to be engaged on war service shall be deemed to have been discharged.

Extension of
certain
provisions of
Act to
members of
Dominion, &c.,
Forces.

5. The regulations may provide that persons resident in Australia who were, during the war, engaged on service in a prescribed area

with the Naval, Military or Air Forces of a prescribed part of the King's dominions other than Australia, of a prescribed foreign power allied or associated with His Majesty or of any prescribed foreign authority recognized by His Majesty as competent to maintain Naval, Military or Air Forces for service in association with His Majesty's Forces, shall, for the purposes of such of the provisions of this Act (other than Division 2 of Part II. and Division 1 of Part VI.) as are specified in the regulations, be deemed to be discharged members of the Forces.

6. This Act shall extend to all the Territories of the Commonwealth. Application to Territories.

7.—(1.) A Minister may, by writing under his hand, delegate all or any of his powers and functions under this Act, except this power of delegation, so that the delegate may exercise the powers and functions specified in the instrument of delegation. Delegation.

(2.) Where under this Act the exercise of any power or function by a Minister, or the operation of any provision of this Act, is dependent upon the opinion, belief or state of mind of a Minister in relation to any matter, that power or function may be exercised by the delegate of the Minister, or that provision may operate, as the case may be, upon the opinion, belief or state of mind of the delegate in relation to that matter.

(3.) Every delegation under this section shall be revocable at will and no delegation shall prevent the exercise of any power or function by the Minister.

PART II.—PROVISIONS RELATING TO EMPLOYMENT.

Division 1.—*Reinstatement in Civil Employment.*

8. Sub-section (3.) of section one hundred and eighteen A of the *Defence Act* 1903–1945 shall, in so far as it is inconsistent with this Division, be inoperative. Modification of the Defence Act.

9.—(1.) Where any person has applied for reinstatement in employment in accordance with the National Security (Reinstatement in Civil Employment) Regulations and has not been reinstated in employment in accordance with those Regulations, the provisions of this Division shall apply in like manner as they would apply in relation to an application made under this Division on the date of commencement of this Division. Saving.

(2.) Any application to a Reinstatement Committee, and any notice or statement, made or given under the National Security (Reinstatement in Civil Employment) Regulations, shall have the same effect as if it had been made or given under this Division.

(3.) The chairmen and other members of the Reinstatement Committees appointed under the National Security (Reinstatement in Civil Employment) Regulations holding office at the date of commencement of this Division shall be deemed to have been appointed chairmen and members, respectively, of the corresponding Reinstatement Committees under this Division.

(4.) Anything done by a Reinstatement Committee under the National Security (Reinstatement in Civil Employment) Regulations shall have the same effect as if it had been done under this Division.

(5.) The panels of persons selected under the National Security (Reinstatement in Civil Employment) Regulations to represent persons who have rendered war service and employers respectively shall be deemed to have been selected under this Division.

Interpretation.

10.—(1.) In this Division, unless the contrary intention appears—

“employer” includes the Crown (whether in right of the Commonwealth or of a State) and any authority constituted by or under the law of the Commonwealth or of a State or Territory of the Commonwealth;

“essential work” means, in relation to any person who has rendered war service, work which is, in the opinion of the Minister, more important, in the national interest, than the work which the person would perform if he were reinstated in employment in accordance with this Division;

“former employer” means, in relation to a person who is rendering or has rendered war service, the employer by whom that person was employed for not less than twenty-eight days out of the fifty-six days immediately preceding the date upon which he volunteered for war service or received a notice requiring him to perform war service, and includes any person for the time being—

(a) carrying on an undertaking or service in which the first-mentioned person was so employed; or

(b) carrying on an undertaking or service with which that undertaking or service has been amalgamated or in which it was comprised during those fifty-six days;

“Reinstatement Committee” means a Reinstatement Committee appointed, or deemed to have been appointed, under this Division.

(2.) Subject to the next succeeding sub-section, a person shall be deemed for the purposes of this Division to have completed a period of war service upon the termination of that service for any cause whatsoever.

(3.) Where—

(a) any person has completed a period of war service and engages in essential work either—

(i) within one month after completing that service;

(ii) after having applied to be reinstated in employment in accordance with this Division or in accordance with the National Security (Reinstatement in Civil Employment) Regulations and not having been so reinstated; or

- (iii) after having been so reinstated in employment and not having left that employment except to engage in essential work, the Minister, in his discretion, may; and
- (b) the war service of any person has, on the recommendation of the Director-General of Man Power or of a Deputy Director-General of Man Power, or of a person thereto authorized by the Director-General of Man Power or by a Deputy Director-General of Man Power, been terminated after the twentieth day of December, One thousand nine hundred and forty-four, for the purpose of enabling that person to engage in essential work, the Minister shall, notify the former employer (if any) in writing that the rights of the person to reinstatement in employment are reserved, and thereupon the person shall be deemed not to have completed a period of war service until such time as—
- (c) he receives from the Minister a statement in writing that his services are no longer required for essential work; or
- (d) His Majesty ceases to be engaged in all the wars in which His Majesty was engaged at the date of commencement of this Division,
- whichever first happens.

(4.) Any notification or statement under the last preceding sub-section may be given to a former employer or a person by serving it upon him personally or by sending it to him by post in a letter addressed to his place of abode or business last known to the Minister, and, if it is sent by post, the former employer or the person shall, unless the contrary is proved, be deemed to have been notified or to have received the statement at the time at which the letter would be delivered in the ordinary course of post.

11.—(1.) An employer shall not terminate the employment of any person employed by him for the reason that that person is, or may become, liable to perform any war service.

Employers not to terminate employment by reason of liability of employees for war service.

Penalty: One hundred pounds.

(2.) In any proceedings for an offence arising under this section, if all the facts and circumstances constituting the offence, other than the reason for the defendant's action, are proved, it shall lie upon the defendant to prove that he was not actuated by the reason alleged in the charge.

12.—(1.) Any person who has completed a period of war service may apply to his former employer for reinstatement in employment

Application for reinstatement in employment.

(2.) An application under the last preceding sub-section shall be made not earlier than fourteen days prior to the completion of the period of war service and not later than one month after the completion of that period, or prior to the date to which the period during which the application may be made has been extended by a Reinstatement Committee in pursuance of section twenty-one of this Act.

Notice of date on which applicant will be available for employment.

13.—(1.) A person making application under the last preceding section may specify in the application a date, not later than two months after the date of making the application, as the date upon which the applicant will be available for employment.

(2.) Where the applicant does not so specify a date he shall, by notice in writing served personally or by post on the former employer, within the period of two months after the date on which the application was made, or prior to the date to which that period has been extended by a Reinstatement Committee in pursuance of section twenty-one of this Act, specify a date during that period or extended period as the date on which the applicant will be available for employment.

Expiration and renewal of applications.

14.—(1.) An application which is still in force may be renewed from time to time by notice in writing served personally or by post on the former employer.

(2.) An application shall cease to have effect at the expiration of a period of three months after the date on which it was made or last renewed, as the case may be, or, if that period has been extended by a Reinstatement Committee in pursuance of section twenty-one of this Act, at the expiration of that extended period.

(3.) Whenever an application is renewed, the applicant shall specify in the notice a date, not later than two months after the date on which the application is renewed, as the date on which the applicant will be available for employment.

Signature of notices.

15. A notice under this Division may be signed by the applicant personally or by some person acting with his authority.

Reinstatement in employment.

16.—(1.) Where an application has been made under this Division and is still in force, the former employer shall make employment available to the applicant in accordance with this section at the date notified to him, or last notified to him, as the date on which the applicant will be available for employment or at the first opportunity (if any) at which it is practicable and reasonable to do so thereafter.

Penalty : One hundred pounds.

(2.) A former employer shall be deemed not to have made employment available to the applicant unless he has given reasonable notice thereof in writing to the applicant.

(3.) The employment to be made available under this section shall be employment—

(a) in the occupation in which the applicant was employed immediately prior to the commencement of his period of war service and under conditions not less favorable to him than those which would have been applicable to him in that occupation if he had remained in the employment of the former employer, including any increase of remuneration to which he would have become entitled if he had remained in that employment : or

- (b) if the applicant and the former employer agree, or, in the event of disagreement, a Reinstatement Committee, upon application by either party, determines, that it is not practicable or is not reasonable for the former employer to employ the applicant in that occupation and on those terms and conditions—in an occupation and upon terms and conditions agreed on between the applicant and the former employer or, in the event of their disagreement, in an occupation and upon terms and conditions which the Reinstatement Committee determines to be reasonable and practicable.

(4.) Where several persons apply to a former employer to be reinstated in employment and it is not reasonably practicable for him to make employment available to each of those persons, the former employer shall make employment available to as many of those persons as is reasonably practicable and in the order which gives preference, as between any two applicants, to the applicant whose length of service with that employer was the greater at the date on which the applicant who first commenced a period of war service commenced that period of war service.

Penalty : One hundred pounds.

(5.) Where—

- (a) it is not reasonably practicable for a former employer to make employment available to an applicant without employing in some other occupation or under less favorable conditions some person who has been reinstated in accordance with this Division or in accordance with the National Security (Reinstatement in Civil Employment) Regulations, or without terminating the employment of that person ; and

- (b) the applicant was, prior to the date on which the applicant, or the date on which that person, first commenced his period of war service, whichever is the earlier, employed by the former employer for a longer period than that person was employed,

the former employer shall, as soon as it is practicable and reasonable for him to do so, employ that person in some other occupation or under less favorable conditions, or, if that is not reasonably practicable, shall terminate the employment of that person.

Penalty : One hundred pounds.

(6.) Where it is not reasonably practicable for a former employer to make employment available to an applicant without terminating the employment of some person who was employed to take the place of the applicant and who has not been reinstated in accordance with this Division or in accordance with the National Security (Reinstatement in Civil Employment) Regulations, the former employer shall terminate the employment of that person.

Penalty : One hundred pounds.

(7.) Where employment has been made available to a person in accordance with this section or in accordance with the National Security (Reinstatement in Civil Employment) Regulations and is not accepted by him at the date at which it is made available, the application shall cease to have effect unless, within fourteen days thereafter, the person applies to a Reinstatement Committee and that Committee determines that the person has reasonable cause for not so accepting that employment, in which event the application to the former employer shall be renewed forthwith in accordance with section fourteen of this Act.

Rights of
reinstated
employees.

17. Where any person has been reinstated in employment in accordance with this Division or in accordance with the National Security (Reinstatement in Civil Employment) Regulations then, for the purposes of determining the rights of that person, as against the employer in whose employment he has been reinstated, in respect of—

- (a) annual leave for recreation ;
- (b) leave on the ground of illness ;
- (c) long service leave or pay in lieu thereof (including pay to dependants on the death of the person) ; and
- (d) superannuation or pension (whether for himself or his dependants),

the continuity of the employment of that person by the employer shall be deemed not to have been broken by his absence from employment during any period between the date upon which that person left the employment to commence war service and the date upon which he was reinstated in employment, but that period shall not, by reason only of this section, be reckoned as part of the period of employment.

Termination of
employment
after
reinstatement.

18.—(1.) Where an employer has reinstated a former employee in accordance with this Division, or in accordance with the National Security (Reinstatement in Civil Employment) Regulations, he shall not, except as required by sub-section (5.) of section sixteen of this Act or without reasonable cause, terminate the employment of that employee or vary it by employing the employee in an occupation, or under conditions, less favourable to him than the employment in which he was so reinstated.

Penalty : One hundred pounds.

(2.) In any proceedings for a contravention of this section, the onus shall, where the employment was terminated or varied within six months after reinstatement, be on the employer to prove that he terminated or varied the employment as required by sub-section (5.) of section sixteen of this Act or that he had reasonable cause for terminating or varying the employment and, in any other case, the onus shall be on the prosecutor.

Payment of
portion of
fine or
compensation
to employee.

19.—(1.) Where an employer is convicted of an offence under this Division—

- (a) the court may order that a portion of the fine imposed shall be paid to the employee or former employee concerned ; and

(b) whether or not an order has been made under the last preceding paragraph, the court may order that the employer shall pay to the employee or former employee such compensation as the court thinks reasonable.

(2.) In determining the amount of any compensation under the last preceding sub-section the court shall, where necessary, have regard to—

- (a) the nature of the employment in respect of which the offence occurred ;
- (b) the duration of that employment and whether, but for the offence, it was likely to have been permanent employment for that employee or former employee ;
- (c) the prospects of the employee or former employee in respect of that employment ; and
- (d) any other factors which the court considers relevant.

(3.) The like proceedings may be taken upon an order under paragraph (b) of sub-section (1.) of this section as if the order were a judgment or order of the court in favour of the employee or former employee.

20.—(1.) The Minister may appoint a Reinstatement Committee in each State and Territory of the Commonwealth.

Appointment of
Reinstatement
Committees.

(2.) Each Reinstatement Committee shall consist of a chairman, one member to represent persons who have rendered war service, one member to represent employers and one member to represent employees.

(3.) In the event of the illness or absence of the chairman of a Reinstatement Committee, any person appointed by the Minister to be a deputy chairman of the Committee shall have, and may exercise, all the powers and functions of the chairman.

(4.) Any acts done by a deputy chairman as such shall not, in any proceedings, be questioned on the ground that the occasion for the exercise of his powers had not arisen or had ceased.

(5.) All questions before a Reinstatement Committee shall be decided by a majority of votes.

(6.) The chairman shall have a deliberative vote and, in the event of an equality of votes, shall also have a casting vote.

(7.) Panels of persons to represent persons who have rendered war service, to represent employers, and to represent employees, respectively, shall be selected in such manner as the Minister determines, and the members of a Reinstatement Committee, other than the chairman, shall be selected from the panels in such manner as the Minister determines.

(8.) A person shall not, at any meeting, act as a member of a Reinstatement Committee in relation to any matter in which that person has a direct interest as the applicant for reinstatement in employment or the employee, or as the employer or former employer, or as a member of the firm or company which is the employer or former employer.

(9.) The regulations may prescribe the manner in which applications may be made to, or disputes may be referred to, Reinstatement Committees and the procedure in relation to the hearing of such applications or disputes.

(10.) The members of Reinstatement Committees shall be paid remuneration and allowances at such rates (if any) as the Minister determines.

Extension of periods within which application, &c., may be made.

21.—(1.) A Reinstatement Committee may, on application by a person who has completed a period of war service, extend—

- (a) the period specified in sub-section (2.) of section twelve of this Act as the period within which that person may apply for reinstatement in employment;
- (b) the period specified in sub-section (2.) of section thirteen of this Act as the period within which that person shall specify a date as the date on which he will be available for employment; or
- (c) the period specified in sub-section (2.) of section fourteen of this Act as the period at the expiration of which an application shall cease to have effect,

if it is satisfied that the person made the application as early as it was practicable and reasonable for him to do so and that, by reason of illness or other reasonable cause, the application should be granted.

(2.) A Reinstatement Committee may extend any period specified in paragraph (a), (b) or (c) of the last preceding sub-section notwithstanding that that period has expired.

(3.) Where, after the expiration of the period specified in sub-section (2.) of section fourteen of this Act as the period at the expiration of which an application shall cease to have effect, a Reinstatement Committee has extended that period, the application shall thereupon revive and shall continue in force until the expiration of the extended period.

Division 2.—Preference in Employment.

Repeal of section 117 of the Australian Soldiers' Repatriation Act.

22.—(1.) Section one hundred and seventeen of the *Australian Soldiers' Repatriation Act* 1920–1943 is repealed.

(2.) The *Australian Soldiers' Repatriation Act* 1920–1943, as amended by this section, may be cited as the *Australian Soldiers' Repatriation Act* 1920–1945.

Amendment of the Commonwealth Public Service Act.

23.—(1.) Section seven of the *Commonwealth Public Service Act* 1922–1943 is amended by adding at the end of the definition of "Returned Soldier" the following words:—

"and also includes a discharged member of the Forces within the meaning of the *Re-establishment and Employment Act* 1945;".

(2.) Section eleven of the *Commonwealth Public Service Act* 1922–1943 is amended by omitting sub-section (2.).

(3.) Section eighty-three of the *Commonwealth Public Service Act* 1922–1943 is repealed.

(4.) Section eighty-four of the *Commonwealth Public Service Act 1922-1943* is amended—

- (a) by omitting sub-sections (1.), (2.) and (3.); and
- (b) by omitting sub-section (9.) and inserting in its stead the following sub-section :—

“(9.) In this section, ‘the war’ means the war which commenced on the fourth day of August, One thousand nine hundred and fourteen or the war which commenced on the third day of September, One thousand nine hundred and thirty-nine, and includes any other war in which His Majesty became engaged after the latter date and before the date of commencement of Division 2 of Part II. of the *Re-establishment and Employment Act 1945*.”

(5.) Section one hundred and four of the *Commonwealth Public Service Act 1922-1943* is repealed.

(6.) The *Commonwealth Public Service Act 1922-1943*, as amended by this section, may be cited as the *Commonwealth Public Service Act 1922-1945*.

24.—(1.) The provisions of this Division shall apply to the exclusion of any provisions, providing for preference in any matter relating to the employment of discharged members of the Forces, of any law of the Commonwealth or of a Territory of the Commonwealth, or of any industrial award, order, determination or agreement made or filed under or in pursuance of any such law, and whether the law, award, order, determination or agreement was enacted, made or filed before or after the commencement of this section.

Provisions of this Division to be exclusive of other laws, &c.

(2.) The provisions of this Division shall apply to the exclusion of any provisions, providing for preference in any matter relating to the employment of discharged members of the Forces, of any law of a State, or of any industrial award, order, determination or agreement made or filed under or in pursuance of any such law, and whether the law, award, order, determination or agreement was enacted, made or filed before or after the commencement of this section.

25. In this Division, unless the contrary intention appears—

Interpretation.

- “employer” includes an intending employer ;
- “employment” means remunerative employment and “employed” has a corresponding meaning ;
- “member of the Forces” includes a person who was, at any time during the war which commenced on the fourth day of August, One thousand nine hundred and fourteen, engaged on continuous full-time service as a member of—
 - (a) the Defence Force ; or
 - (b) the Army Medical Corps Nursing Service ;
- “person entitled to preference” means—
 - (a) a member of the Forces who has been discharged or is awaiting discharge ; and
 - (b) a person registered under section thirty-two of this Act.

Application.

26. The application of this Division shall extend in relation to employment by the Crown in right of the Commonwealth or a State or by any authority constituted by or under any law of the Commonwealth or of a State or Territory of the Commonwealth.

Preference in employment.

27.—(1.) An employer shall, in the engagement of any person for employment, engage, in preference to any other person, a person entitled to preference, unless he has reasonable and substantial cause for not doing so.

(2.) Any person entitled to preference may apply in writing to the employer concerned to be engaged for employment in any position notwithstanding that employment in the position has not been offered to him.

(3.) In determining whether reasonable and substantial cause exists for not engaging in employment a person entitled to preference, the employer concerned shall consider—

- (a)** the length, locality and nature of the service of that person ;
- (b)** the comparative qualifications of that person and of other applicants for engagement in employment in the position concerned ;
- (c)** the qualifications required for the performance of the duties of the position ;
- (d)** the procedure (if any) provided by law for engaging persons for employment in the position ; and
- (e)** any other relevant matters.

(4.) In determining, as between two or more persons entitled to preference who are applicants for engagement in employment, which of those persons shall be engaged in employment, the employer shall consider—

- (a)** the matters referred to in paragraphs **(a)**, **(c)**, **(d)** and **(e)** of the last preceding sub-section ; and
- (b)** the comparative qualifications of those persons.

(5.) Nothing in this section shall—

- (a)** apply in relation to the engagement for employment by any employer of a person who is already employed by him ; or
- (b)** require the engagement in employment of a person who has, since the termination of his service, been convicted of an offence of such a nature that he is unsuitable for engagement in that employment.

Applications to Court by persons considering themselves entitled to preference in employment.

28.—(1.) Where any person whom an employer has refused to engage in employment considers that, having regard to the provisions of the last preceding section, the employer should have engaged him in employment, that person may apply to a court of summary jurisdiction constituted by a Police, Stipendiary or Special Magistrate for an order under this section.

(2.) On the hearing of the application, the court shall have regard to the matters specified in sub-section (3.) or sub-section (4.) (whichever is applicable) of the last preceding section and shall make such order as it thinks just and reasonable in the circumstances.

(3.) The court shall not, on the hearing of the application, make an order directing an employer to engage a person in employment in any position if the court is satisfied that that person—

- (a) would be unable to perform the duties of the position by reason of lack of skill or a reasonable degree of efficiency ;
- (b) is physically or mentally unfit to perform the duties of the position ; or
- (c) has, since the termination of his service, been convicted of an offence of such a nature that he is unsuitable for engagement in that employment.

(4.) Except as provided by the next succeeding section, the decision of the court shall be final and conclusive.

29.—(1.) The Commonwealth Court of Conciliation and Arbitration may, if it thinks fit, grant special leave to appeal from any order under the last preceding section, and, in any such case, that Court shall have jurisdiction to hear the appeal. Appeals.

(2.) The Commonwealth Court of Conciliation and Arbitration may affirm, reverse or modify the order appealed from, and may make such order as ought to have been made in the first instance.

(3.) The decision of the Commonwealth Court of Conciliation and Arbitration shall be final and conclusive.

(4.) The jurisdiction of the Commonwealth Court of Conciliation and Arbitration under this section shall be exercised by a single Judge.

30. An employer shall not, without reasonable cause, terminate the employment of any person whom he has engaged in employment in accordance with the provisions of this Division. Persons not to be dismissed without reasonable cause.

31.—(1.) The Minister may appoint a Central Preference Board and, in each State and Territory of the Commonwealth, one or more Regional Preference Boards. Preference Boards.

(2.) Each Preference Board shall consist of a chairman, one member to represent persons who have rendered war service, one member to represent employers and one member to represent employees.

(3.) In the event of the illness or absence of the chairman of a Preference Board, any person appointed by the Minister to be a deputy chairman of the Board shall have, and may exercise, all the powers and functions of the chairman.

(4.) Any act done by a deputy chairman shall not, in any proceedings, be questioned on the ground that the occasion for the exercise of his powers had not arisen or had ceased.

(5.) All questions before a Preference Board shall be decided by a majority of votes.

(6.) The chairman shall have a deliberative vote and, in the event of an equality of votes, shall also have a casting vote.

(7.) Panels of persons to represent persons who have rendered war service, to represent employers, and to represent employees, respectively, shall be selected in such manner as the Minister determines, and the members of a Preference Board, other than the chairman, shall be selected from the panels in such a manner as the Minister determines.

(8.) Unless in any particular case the Minister is satisfied that it is not practicable, a majority of the members of a Preference Board selected from the panels shall be persons who have been members of the Forces.

(9.) A person shall not, at any meeting, act as a member of a Preference Board in relation to any matter in which that person has an interest, whether personally or as a member of a firm or company.

(10.) A Preference Board shall exercise such powers and functions as are prescribed.

(11.) The members of Preference Boards shall be paid remuneration and allowances at such rates (if any) as the Minister determines.

Registration
of certain
persons
entitled to
preference.

32.—(1.) Where any person not otherwise entitled to the benefits of this Division considers that, having regard to the service performed by him in relation to the war, he is entitled to receive the benefits of this Division, he may apply to the Central Preference Board for registration.

(2.) After the prescribed date, any such application shall be made to a Regional Preference Board.

(3.) If the Board to which the application is made considers that that person is so entitled, the Board shall, subject to the next succeeding sub-section, register him accordingly.

(4.) There shall be an appeal to the Central Preference Board from any decision of a Regional Preference Board under this section.

Offences.

33.—(1.) A person who contravenes or fails to comply with any provision of this Division, or contravenes or fails to comply with any order of a court made under this Division, shall be guilty of an offence punishable on conviction by a fine not exceeding One hundred pounds or imprisonment for a period not exceeding six months, or both.

(2.) Where a person is convicted of an offence under this section, the court may order that a portion of the fine imposed shall be paid to such person entitled to preference as the court specifies in the order.

Operation of
sections 24
to 33.

34. Sections twenty-four to thirty-three (inclusive) of this Act shall cease to operate at the expiration of seven years after the cessation of hostilities in all the wars in which His Majesty was engaged at the date of commencement of this Division.

Division 3.—Apprenticeship.

35.—(1.) Section forty A of the *Defence Act* 1903–1941 is amended by omitting all the words after the words “Military Forces”.

Amendment of
the Defence
Act.

(2.) Section forty B of the *Defence Act* 1903–1941 is repealed.

(3.) The *Defence Act* 1903–1941, as amended by this section, may be cited as the *Defence Act* 1903–1945.

36.—(1.) In this Division—

Interpretation.

“Apprenticeship Authority” means any person or body authorized by the Minister, by notice in the *Gazette*, to exercise and perform the powers and functions of an Apprenticeship Authority under this Division;

“employer” includes the Crown (whether in right of the Commonwealth or of a State) and any authority constituted by or under the law of the Commonwealth or of a State or Territory of the Commonwealth;

“trainee apprentice” means a person who is employed in a trade without indentures or other written contract of apprenticeship for the purpose of learning to be a skilled journeyman.

(2.) In this Division, any reference to an employer shall, in relation to a person who is rendering or has rendered war service, include a reference to any person for the time being—

(a) carrying on an undertaking or service in which the first mentioned person was employed immediately prior to the commencement of his war service; or

(b) carrying on an undertaking or service with which that undertaking or service has been amalgamated or in which, immediately prior to the commencement of the employee's war service, it was comprised.

37. Where an apprentice has become or becomes engaged on war service and an Apprenticeship Authority has not already been notified by the apprentice's employer, the employer shall forthwith notify an Apprenticeship Authority accordingly.

Employers
to notify
Apprenticeship
Authorities
of apprentices
engaged on
war service.

Penalty: Fifty pounds.

38. Where an apprentice, whether before or after the commencement of this Division, is or has been absent from his usual employment by reason of his being engaged on war service for a period exceeding one week, his contract of apprenticeship shall be deemed to have been suspended during the period of his absence and shall remain suspended until it is revived, transferred or cancelled in accordance with this Division.

Suspension of
contracts of
apprenticeship.

39.—(1.) An apprentice who has been absent from his usual employment by reason of his being engaged on war service may, within two months after he ceases to be so engaged, make application to an Apprenticeship Authority for the revival of the contract of apprenticeship.

Revival of
contracts of
apprenticeship.

(2.) Forthwith on receipt of the application, the Apprenticeship Authority shall give notice in writing to the employer of the receipt of the application, and the employer may, within fourteen days after the receipt of the notice, lodge an objection in writing to the revival of the contract of apprenticeship on the ground that he is no longer in a position to undertake the proper training of the apprentice.

(3.) Forthwith after the expiration of the time for lodging objection, the Apprenticeship Authority shall consider the application and any objection received from the employer, and shall—

- (a) determine that the contract of apprenticeship shall, as from such date as it specifies, be revived ; or
- (b) if the Apprenticeship Authority is satisfied that the employer is no longer in a position to undertake the proper training of the apprentice, authorize the transfer of the contract of apprenticeship to another employer, or, if that is impracticable, cancel the contract of apprenticeship.

(4.) Where the Apprenticeship Authority determines that the contract of apprenticeship shall be revived, it shall have effect as from the date specified by the Apprenticeship Authority.

Failure to make application.

40. If any apprentice fails to make application within the time prescribed by the last preceding section, the Apprenticeship Authority shall, on application by the employer, cancel the contract of apprenticeship unless the Apprenticeship Authority is satisfied that the failure to make the application was occasioned by mistake, absence from the Commonwealth or other reasonable cause.

Right to employment.

41.—(1.) Where a contract of apprenticeship is revived, the apprentice shall be entitled to resume his apprenticeship under the contract, and shall have absolute preference in employment over any apprentice engaged during his absence on war service, and the employer shall not refuse to permit the apprentice to resume his employment.

Penalty : One hundred pounds.

(2.) Where a contract of apprenticeship is revived, the Apprenticeship Authority may, if it considers it necessary so to do in order to protect the interests of any apprentice engaged during the period during which the contract was suspended—

- (a) if the number of apprentices who may be employed by the employer is limited by any law of the Commonwealth or of a State or Territory of the Commonwealth, or by any industrial award, order, determination or agreement—determine the number of apprentices who may be employed by the employer ; and
- (b) in any event—authorize the transfer of any contract of apprenticeship to another employer.

(3.) Where the Apprenticeship Authority, in pursuance of the last preceding sub-section, determines the number of apprentices who may be employed by an employer, the employer may employ that number of apprentices.

42.—(1.) An Apprenticeship Authority may, in exercising its powers under section thirty-nine of this Act, review the contract of apprenticeship, and may vary any of its provisions in such a manner and to such extent as it deems just and equitable, and, if satisfied that the capabilities of the apprentice for the exercise of his trade have increased during the period of suspension of his contract of apprenticeship, may direct that the period or any portion of the period shall be included in the term of apprenticeship.

Variation of
contracts of
apprenticeship]
in certain
circumstances.

(2.) Where an Apprenticeship Authority, in pursuance of the last preceding sub-section, varies any of the provisions of a contract of apprenticeship, or directs that the period, or any portion of the period during which a contract of apprenticeship was suspended, shall be included in the term of apprenticeship, the contract shall be deemed to be so varied, and the apprentice shall, for all purposes, be deemed to have served that period, or portion of that period, under and in accordance with the contract of apprenticeship in continuation of the period served by him prior to the suspension of the contract of apprenticeship.

43. Where a contract of apprenticeship in a trade, occupation or calling is revived by an Apprenticeship Authority and that authority does not direct that the whole of the period during which the contract was suspended shall be included in the term of apprenticeship, the prescribed authority may authorize the payment, during the time during which the apprentice is completing his apprenticeship, of an allowance at such a rate as, in the opinion of the prescribed authority, will ensure to the apprentice an income by way of wages and allowance equivalent to the wage he would have been earning in that trade, occupation or calling if his contract of apprenticeship had not been suspended.

Allowances to
apprentices in
certain cases.

44. The provisions of this Division shall apply, *mutatis mutandis*, to and in relation to trainee apprentices and the employers of trainee apprentices in the same manner and to the same extent as those provisions apply to and in relation to apprentices and the employers of apprentices, and any reference in this Division to a contract of apprenticeship shall include a reference to a contract of apprenticeship of a trainee apprentice.

Trainee
apprentices.

45. An application to an Apprenticeship Authority under the National Security (Apprenticeship) Regulations shall have effect as if it had been made to the Apprenticeship Authority in pursuance of this Division, and any determination or direction of an Apprenticeship Authority under those regulations shall have effect as if it had been made in pursuance of this Division.

Saving.

Division 4.—Modification of Conditions of Entry to Employment.

46.—(1.) The Governor-General may make regulations modifying or suspending, in relation to discharged members of the Forces—

Modification of
conditions of
entry into
employment.

(a) the requirements by way of training or practical experience, the completion of any course of study, the passing of any

examination or the holding of any degree or diploma, to be complied with by persons desiring to engage in any profession, occupation, business, trade or industry; and

- (b) the requirement that a person shall obtain a licence, permit or other authority in relation to any profession, occupation, business, trade or industry.

(2.) The Governor-General may make regulations providing that a specified proportion of any licences, permits or other authorities required in relation to any profession, occupation, business, trade or industry shall be granted to discharged members of the Forces.

(3.) A regulation under this Division shall have effect according to its tenor notwithstanding anything inconsistent therewith in any other law.

Division 5.—The Commonwealth Employment Service.

Establishment
of the
Commonwealth
Employment
Service.

47.—(1.) There shall be a Commonwealth Employment Service.

(2.) The Minister may, for the purposes of the Commonwealth Employment Service, establish and maintain Commonwealth Employment Offices at such places as he thinks fit.

Functions of
Commonwealth
Employment
Service.

48. The functions of the Commonwealth Employment Service shall be to provide services and facilities in relation to employment for the benefit of persons seeking to become employed, to change employment or to engage labour, to provide facilities to assist in bringing about and maintaining a high and stable level of employment throughout the Commonwealth and, in particular, but without limiting the generality of the foregoing—

- (a) to provide facilities to assist in the re-employment of discharged members of the Forces, including facilities relating to the operation of the preceding Divisions of this Part and to the operation of Part IV. of this Act;
- (b) to provide facilities to assist in the re-establishment of civilians who have been engaged in war work;
- (c) to aid any person who has been trained (whether under Part III. of this Act or otherwise) to become employed in the manner best suited to his training, experience, abilities and qualifications;
- (d) to provide means whereby any person whose name is entered in the Register of Disabled Persons referred to in Part IV. of this Act may obtain employment;
- (e) to afford occupational advice, vocational guidance and other services to facilitate the engagement in employment and continued employment of persons in the manner best suited to their experience, abilities and qualifications;
- (f) to provide means whereby any person in receipt of unemployment benefit under the *Unemployment and Sickness Benefits Act 1944*, or of a re-employment allowance under Division 2 of Part VI. of this Act, may obtain employment; and
- (g) to provide such advice and information services, and such other facilities in relation to employment, or to matters connected with employment, as the Minister determines.

49.—(1.) The Minister may appoint such committees as he thinks fit to advise him on matters relating to the administration of this Division. Committees to advise Minister.

(2.) The members of committees so appointed shall be paid such remuneration and allowances (if any) as the Minister determines.

PART III.—VOCATIONAL TRAINING.

50.—(1.) The Minister may, on behalf of the Commonwealth, establish a scheme, to be known as the Commonwealth Reconstruction Training Scheme, for the vocational training (including training for a professional occupation or for an agricultural occupation) of such classes of discharged members of the Forces and of other persons as are prescribed. Provision of training facilities.

(2.) The Minister may, on behalf of the Commonwealth, make arrangements with any State for the use, for the purposes of this Part, of any services and facilities of the State in relation to vocational training (including training for a professional occupation or for an agricultural occupation).

(3.) Any such arrangement may provide for the extension of any such services and facilities of the State and for the use of those services and facilities as extended in pursuance of the arrangement.

(4.) The Minister may, on behalf of the Commonwealth, provide, or arrange for the provision of, facilities in connexion with any such scheme.

(5.) The Commonwealth shall, subject to such conditions as are prescribed, pay to persons eligible for, or undergoing, training under this Part such allowances and expenses as are prescribed.

(6.) The Commonwealth may, subject to such conditions as are prescribed, pay tuition and other like fees on behalf of persons undergoing training under this Part.

(7.) The Commonwealth may, subject to such conditions as are prescribed, provide or supply to persons undergoing training under this Part, or arrange for the provision or supply to such persons, of such books, equipment, appliances and tools of trade as are necessary in connexion with the training.

51.—(1.) For the purposes of this Part there shall be a Central Reconstruction Training Committee. Central Reconstruction Training Committee.

(2.) The Committee shall consist of a chairman and such number of other members as the Minister determines.

(3.) The members of the Committee shall be appointed by the Minister and shall hold office on such terms and conditions as he determines.

(4.) The functions of the Central Reconstruction Training Committee shall be—

- (a) to advise and assist the Minister with respect to such matters affecting the administration of the Commonwealth Reconstruction Training Scheme as are referred to it by the Minister; and

(b) to supervise the conduct of the business of the Regional Training Committees,
together with such additional functions as the Minister determines.

Regional
Training
Committees,
Industrial
Committees and
Professional
Committees.

52.—(1.) The Minister may, on the recommendation of the Central Reconstruction Training Committee, establish such Regional Training Committees, Industrial Committees and Professional Committees as he thinks fit.

(2.) Each such committee shall consist of a chairman and such number of other members as the Minister determines.

(3.) The members of each such committee shall be appointed by the Minister and shall hold office on such terms and conditions as the Minister determines.

(4.) Each such committee shall assist in the administration of the Commonwealth Reconstruction Training Scheme and shall have such additional functions as the Minister determines.

Saving of
certain rights.

53. Nothing done under this Part shall deprive any employer or employee of any rights under any industrial award, order, determination or agreement, or in accordance with any custom or usage in any profession, occupation, business, trade or industry.

Regulations.

54. The regulations may prescribe matters providing for or in relation to—

- (a) the selection of persons for training, or for any particular kind of training ;
- (b) the method and time of application for training ;
- (c) the payment of expenses to members of the Central Reconstruction Training Committee, the Regional Training Committees, the Industrial Committees and the Professional Committees established under this Part ;
- (d) the giving effect to any scheme for the training of persons under this Part agreed upon between the Commonwealth and any organization composed of or representative of employers or employees ; and
- (e) such other matters as are necessary or convenient for carrying out or giving effect to this Part.

PART IV.—DISABLED PERSONS.

Interpretation.

55. In this Part, “ disabled person ” means a discharged member of the Forces, or a person included in any prescribed class of persons, who, by reason of injury, disease or deformity, is substantially handicapped in obtaining, or maintaining himself in, employment, or in undertaking work on his own account, of a kind which, but for that injury, disease or deformity, would, in the opinion of the Minister, be suitable to his age, experience and qualifications, and “ disablement ” has a corresponding meaning.

Register of
Disabled
Persons.

56.—(1.) The regulations may provide for the establishment and maintenance of a Register of Disabled Persons (in this Part referred to as “ the Register ”).

(2.) A person who desires his name to be entered in the Register shall make application in the prescribed manner and if the authority maintaining the Register is satisfied—

- (a) that the applicant is a disabled person ;
- (b) that such prescribed conditions as to the entry of the name in the Register as are applicable to the applicant are complied with ; and
- (c) that the applicant is not subject to any prescribed disqualification,

his name shall be entered in the Register.

57.—(1.) The Minister may, on behalf of the Commonwealth, provide, or arrange for the provision of, facilities for making persons whose names are entered in the Register, or who are included in prescribed classes of such persons, and who, by reason of their disablement, are in need of special treatment, fit to undertake training, to obtain employment and to maintain themselves in employment or to work on their own account.

Special treatment for disabled persons.

(2.) The facilities referred to in the last preceding sub-section may include training, exercise, occupational and other therapy and other facilities under medical supervision and under circumstances likely to restore the persons concerned to physical and mental fitness.

58.—(1.) The Commonwealth shall pay to disabled persons whose names are entered in the Register such allowances and expenses and at such rates and subject to such conditions, as are prescribed.

Allowances to disabled persons.

(2.) The rate per week of any allowance payable to a disabled person under this section shall not exceed the rate per week of the allowance which would be paid to that person if he were in receipt of a re-employment allowance under Division 2 of Part VI. of this Act.

(3.) An allowance under this section shall not be payable in respect of any period after the expiration of three months, or, in special circumstances, six months, from the date on which the name of that person was entered in the Register.

59. The Minister may, on behalf of the Commonwealth, subject to the prescribed conditions, provide, or arrange for the provision for disabled persons whose names are entered in the Register, of such books, equipment, appliances, tools of trade, artificial replacements, surgical aids and appliances as are necessary, and may also provide for the payment to disabled persons of expenses incidental to the provision of facilities under this Part.

Provision of books, &c., for disabled persons.

60. A person shall not be entitled to receive any assistance or benefit under any of the last three preceding sections if that person is entitled to receive the like assistance or benefit from the Repatriation Commission.

Persons not entitled to double benefits.

61.—(1.) The regulations may provide for the employment by employers of any class specified in the regulations of—

Employment of disabled persons.

- (a) a specified number of disabled persons whose names are entered in the Register ; or

(b) a specified proportion of disabled persons whose names are entered in the Register to other employees.

(2.) In this section, "employers" includes the Crown in right of the Commonwealth or of a State and any authority constituted by or under any law of the Commonwealth or of a State or Territory of the Commonwealth.

Advisory
Committees.

62.—(1.) The Minister may appoint one or more committees consisting of a chairman and such number of persons (being, in the opinion of the Minister, representative of Commonwealth or State authorities and other bodies concerned with the welfare of disabled persons and of employers and employees) as the Minister determines.

(2.) Each such committee shall advise the Minister as to the administration of the provisions of this Act in so far as they relate to disabled persons.

PART V.—DEMobilIZATION.

Demobilization.

63.—(1.) The regulations may provide for the preparation and administration of a scheme for the demobilization of members of the Forces (other than members of the Forces specified in paragraph (f) or (g) of the definition of "member of the Forces" in section four of this Act), having regard to their re-establishment in civil life.

(2.) The scheme shall be prepared so as to apply, so far as is practicable, uniformly to members of the Military Forces, the Naval Forces and the Air Force.

(3.) The provisions of the scheme so prepared shall have effect notwithstanding anything inconsistent therewith in any Act other than this Act.

PART VI.—RE-ESTABLISHMENT ASSISTANCE.

Division 1.—Re-establishment Leave.

Leave on
discharge.

64. A member of the Forces (other than a member of the Forces specified in paragraph (e), (f) or (g) of the definition of "member of the Forces" in section four of this Act) shall, immediately prior to his discharge from the Defence Force, unless his discharge is, in the opinion of the prescribed authority, other than an honourable discharge, be entitled to leave of absence (to be known as re-establishment leave)—

(a) where the member has been engaged on war service for a period of not less than six months—for a period of thirty days; and

(b) in any other case—for a period of fifteen days.

Payment
in lieu of
leave.

65.—(1.) A member of the Forces may be discharged before entering upon re-establishment leave, or before completing his period of re-establishment leave, and in that case he shall be paid a sum equivalent to his pay for the period of leave, or the uncompleted period of leave, as the case may be.

(2.) For the purpose of the last preceding sub-section, "pay" includes such allowances as are prescribed.

Division 2.—Re-employment Allowances.

66.—(1.) In this Division, unless the contrary intention appears— Interpretation.

“adult dependant”, in relation to any person, means a person who is the spouse, widowed mother or unmarried mother of, and is substantially dependent for his or her support on, the first-mentioned person;

“child”, in relation to any person, means a person under the age of sixteen years who is a child (including a step-child, illegitimate child or adopted child) of, and is substantially dependent for his support on, the first-mentioned person;

“claim” means a claim for a re-employment allowance;

“claimant” means a person claiming a re-employment allowance;

“re-employment allowance” means a re-employment allowance under this Division.

(2.) For the purposes of this Division, where a person who, although not legally married to another person, was, immediately prior to that other person's engagement on war service, substantially dependent for his or her support on that other person and was recognized as the wife or husband of that other person, the first-mentioned person shall be deemed to be the spouse of that other person, but nothing in this sub-section shall be deemed to deprive the wife or husband of that other person of any right to receive a re-employment allowance to which the wife or husband would have been entitled if this sub-section had not been enacted.

67.—(1.) The prescribed authority may, subject to this Division, determine claims. Determination of claims.

(2.) Whenever it appears to the prescribed authority that sufficient reason exists for reviewing any determination under this Division, he may review, and may confirm, vary or annul the determination.

68.—(1.) The prescribed authority may, for the purposes of this Division— Taking of evidence and production of documents.

(a) summon witnesses;

(b) receive evidence on oath; and

(c) require the production of documents.

(2.) A person who has been summoned to appear before the prescribed authority shall not, without lawful excuse and after tender of reasonable expenses, fail to appear in obedience to the summons.

(3.) A person, whether summoned or not, who appears before the prescribed authority shall not—

(a) refuse to be sworn as a witness or to make an affirmation;

(b) fail to answer any question which he is lawfully required to answer; or

(c) fail to produce any document he is lawfully required to produce.

Penalty: Fifty pounds.

Delegation.

69.—(1.) The prescribed authority may, by writing under his hand, delegate to any person all or any of his powers and functions under this Division (except this power of delegation) so that the delegate may exercise the powers and functions specified in the instrument of delegation.

(2.) Where the exercise of any power or function by the prescribed authority, or the operation of any provision of this Division, is dependent upon the opinion, belief, or state of mind of the prescribed authority in relation to any matter, that power or function may be exercised by the delegate of the prescribed authority, or that provision may operate, as the case may be, upon the opinion, belief or state of mind of the delegate in relation to that matter.

(3.) Every delegation under this section shall be revocable at will and no delegation shall prevent the exercise of any power or function by the prescribed authority.

(4.) Any reference in this Division to the prescribed authority shall, in relation to any matter, include a reference to the delegate of the prescribed authority exercising any power or function in relation to that matter.

Secrecy.

70. The prescribed authority and any other person performing duties, or exercising powers and functions, under this Division—

- (a) shall not, directly or indirectly, except in the performance of his duties or in the exercise of his powers or functions under this Division, and while he has, or after he has ceased to have, any such duties, powers or functions, make a record of, or divulge or communicate to any person, any information acquired by him in the performance of those duties, or in the exercise of those powers or functions, with respect to the affairs of any other person ;
- (b) shall, if the Minister or prescribed authority so directs, before entering upon his duties, or exercising any powers or functions, under this Division, make before a Justice of the Peace or a Commissioner for Declarations a declaration in accordance with the prescribed form ; and
- (c) shall not be required to produce in court any claim or determination of a claim, or to divulge or to communicate to any court any matter or thing coming under his notice in the performance of his duties, or in the exercise of his powers or functions, under this Division, except where it is necessary to do so, for the purpose of carrying into effect the provision of this Division.

Penalty : Two hundred and fifty pounds.

Information may be disclosed in certain circumstances.

71.—(1.) Notwithstanding anything contained in the last preceding section, the prescribed authority, or any other person performing duties or exercising powers and functions under this Division, may—

- (a) if the Minister or prescribed authority certifies that it is necessary in the public interest that any information acquired by him in the performance of those duties, or in

the exercise of these powers and functions, should be divulged, divulge that information to such person as the Minister or the prescribed authority directs ;

(b) divulge any such information to any prescribed person.

(2.) Any person to whom information is divulged under the last preceding sub-section, and any person or employee under the control of that person, shall, in respect of that information, be subject to the same rights, privileges, obligations and liabilities under paragraphs (a) and (c) of the last preceding section as if he were a person performing duties under this Division and had acquired the information in the performance of those duties.

72. Subject to this Division, a discharged member of the Forces—

(a) who, in the opinion of the prescribed authority—

(i) has been honourably discharged after not less than six months' war service ; or

(ii) has been materially prejudiced by reason of his war service and has been honourably discharged after less than six months' war service ;

(b) who is not in receipt of any payment under Division 1 of this Part ;

(c) who is residing in Australia ; and

(d) who satisfies the prescribed authority that he—

(i) is unemployed and that his unemployment is not due to his being a direct participant in a strike ;

(ii) is capable of undertaking, and is willing to undertake work which, in the opinion of the prescribed authority, is suitable to be undertaken by him ; and

(iii) has taken reasonable steps to obtain such work.

shall be qualified to receive a re-employment allowance.

Re-employment allowance for discharged members of the Forces.

73. A discharged member of the Forces shall not be qualified to receive a re-employment allowance if, since his discharge or the cessation of hostilities in all the wars in which His Majesty was engaged at the date of commencement of this Division, whichever is the later, he has been employed for a period or periods exceeding six months in the aggregate.

Disqualification in certain cases.

74. A person shall not be disqualified from receiving a re-employment allowance by reason only of his refusal to undertake work which has become available by reason of a strike or lock-out.

Persons not to be disqualified in certain cases.

75. A married woman shall not be qualified to receive a re-employment allowance unless the prescribed authority is satisfied that it is not reasonably possible for her husband to maintain her or that her husband is not under any legal obligation to maintain her.

Married women.

76.—(1.) Subject to this Division, the rate of a re-employment allowance shall be—

Rate of re-employment allowance.

(a) in the case of a man—Two pounds ten shillings per week ;

- (b) in the case of a woman who is, in the opinion of the prescribed authority, capable of wholly or substantially maintaining herself by her own efforts—Two pounds ten shillings per week ; and
- (c) in the case of a woman who is, in the opinion of the prescribed authority, capable of partially maintaining herself by her own efforts—such proportion of the amount specified in the last preceding paragraph as the prescribed authority determines.

(2.) The rate of a re-employment allowance payable under the last preceding sub-section shall be increased, or further increased, as the case may be—

- (a) in the case of a person with one or more adult dependants—by One pound two shillings per week ; and
- (b) in the case of a person with one or more dependent children—by Nine shillings per week in respect of each dependent child, but not exceeding in the aggregate One pound seven shillings per week in the case of a person with an adult dependant or Two pounds five shillings in any other case.

Reduction of
re-employment
allowance.

77. The rate per week of the re-employment allowance payable to any person shall be reduced by the amount (if any) of—

- (a) any pension payable to that person or to any dependant of that person ;
- (b) any allowance (including sustenance allowance) or workers' compensation payable to that person or to any dependant of that person under any law of the Commonwealth or of a State or Territory of the Commonwealth ; and
- (c) any amount earned or derived by that person from any permanent, temporary, casual or intermittent employment or occupation.

Period for
which
re-employment
allowance
payable.

78.—(1.) Subject to the next succeeding sub-section, a re-employment allowance shall be payable from such date and shall continue for such period or periods, not exceeding, in the aggregate, three months, or, in special circumstances, six months, as the prescribed authority determines.

(2.) A re-employment allowance shall not be payable to any person in respect of any period after the expiration of twelve months from—

- (a) the date of his discharge ; or
- (b) in the case of a person discharged while a patient in hospital—the date of his ceasing to be such a patient,

or from the cessation of hostilities in all the wars in which His Majesty was engaged at the date of commencement of this Division, whichever is the later.

Claims for
re-employment
allowances.

79.—(1.) A claim for a re-employment allowance shall be made in accordance with such form and in such manner as the prescribed authority determines.

(2.) Every claim shall be investigated in such manner as the prescribed authority determines.

80. Subject to this Division, a re-employment allowance shall be paid to a person only so long as the prescribed authority is satisfied that that person continues to be qualified to receive it.

Re-employment allowance to be paid only while recipient qualified.

81. The prescribed authority may postpone for such period as he thinks fit the date from which a re-employment allowance shall be payable to any person, or may cancel the payment of a re-employment allowance to any person, as the case requires—

Postponement and cancellation of re-employment allowances in certain cases.

- (a) if that person voluntarily became unemployed without good and sufficient reason ;
- (b) if that person became unemployed by reason of his misconduct as a worker ;
- (c) if that person has refused or failed, without good and sufficient reason, to accept an offer of employment which the prescribed authority considers to be suitable ; or
- (d) if that person becomes imprisoned or an inmate of a hospital for the insane.

82. A re-employment allowance shall be paid, in such manner as the prescribed authority determines, to the person entitled thereto, but the prescribed authority may determine that the whole or part of the allowance shall be paid to such other person as the prescribed authority approves, in which case payment shall be made accordingly.

Manner of payment of re-employment allowance.

83.—(1.) Whenever so required by the prescribed authority, a person in receipt of a re-employment allowance shall furnish to the prescribed authority a statement, in accordance with a form approved by the prescribed authority, relating to any matter which might affect the payment to him of the re-employment allowance.

Beneficiaries to furnish statements as required.

Penalty : Twenty pounds.

(2.) If, for any reason, the prescribed authority is satisfied that the payment of a re-employment allowance to any person should be cancelled, or that the rate of a re-employment allowance paid to any person is greater or less than it should be, he may cancel the payment of the allowance, or reduce or increase the rate of the allowance, paid to that person accordingly.

84.—(1.) Re-employment allowances shall be payable in weekly instalments on such days as the prescribed authority determines.

Re-employment allowances to be paid weekly.

(2.) Where payment of any instalment of a re-employment allowance has not been made within one month after the date on which the instalment became payable, the instalment shall not (unless the prescribed authority, in special circumstances, otherwise determines) be paid.

85. Subject to this Division, re-employment allowances shall be absolutely inalienable, whether by way of, or in consequence of, sale, assignment, charge, execution, bankruptcy or otherwise.

Re-employment allowances to be absolutely inalienable.

Information as to recipients of re-employment allowances.

86. The prescribed authority may require any person whom he believes to be in a position to do so to furnish to him a confidential report relating to any matter which might affect the payment of a re-employment allowance to any person and a person so required shall not fail to furnish the report accordingly within a reasonable time and shall not furnish a report which is false or misleading in any particular.

Penalty : Fifty pounds or imprisonment for three months.

Receipt of income by recipient of re-employment allowance to be notified.

87. Whenever—

- (a) any person in receipt of a re-employment allowance earns, derives or receives any income or other payment the receipt of which affects the rate of the re-employment allowance payable to him ; or
- (b) any person in receipt of a re-employment allowance earns, derives or receives any income or other payment which was not received by him when the re-employment allowance was granted,

he shall, within seven days after the acquisition or receipt thereof, give notice to the prescribed authority accordingly.

Penalty : Twenty pounds.

Recovery of over-payments.

88. Where, in consequence of any false statement or representation, or in consequence of any failure to give notice as required by the last preceding section, any amount has been paid by way of re-employment allowance which would not have been paid but for the false statement or representation, or failure to give notice, or where any amount of re-employment allowance which is not payable has been paid, the amount so paid shall be recoverable in any court of competent jurisdiction from the person to whom, or on whose account, the amount was paid, or from the estate of that person, as a debt due to the Commonwealth.

Offences.

89.—(1.) A person shall not—

- (a) make, either orally or in writing, a false or misleading statement in connexion with, or in support of, any claim, either for himself or for any other person ;
- (b) obtain payment of a re-employment allowance or any instalment thereof which is not payable ;
- (c) obtain payment of a re-employment allowance or any instalment thereof by means of any false or misleading statement ; or
- (d) make or present to any officer doing duty in relation to this Division any statement or document which is false in any particular.

Penalty : Fifty pounds or imprisonment for three months.

(2.) Any person convicted of an offence against this section may, in addition to the penalty imposed for the offence, be ordered to repay to the Commonwealth any amount paid by way of re-employment allowance in consequence of the act in respect of which he was convicted.

90. Nothing contained in any law of a State or Territory of the Commonwealth shall operate so as to prohibit any person from furnishing any information, or making any books, documents or papers available, to the prescribed authority or to any other person doing duty in relation to this Division, for the purposes of this Division.

Indemnity to
certain persons.

Division 3.—Re-establishment Loans.

91.—(1.) In this Division—

Interpretation.

“agricultural occupation” includes an occupation by way of farming, horticultural, viticultural, apicultural, dairy farming, poultry farming, pastoral or grazing operations or any other prescribed form of primary production ;

“eligible person” means—

(a) a discharged member of the Forces who—

- (i) in the opinion of the prescribed authority, has been honourably discharged after not less than six months' war service or has been materially prejudiced by reason of his war service and has been honourably discharged after less than six months' war service ; and
- (ii) was, immediately prior to his engagement on war service, engaged in an occupation, business or practice on his own account, as an active member of a partnership, as a share-farmer or as a contract worker ; or

(b) the widow who has not re-married of a deceased member of the Forces—

- (i) whose death occurred in such circumstances that there is a liability under the *Australian Soldiers' Repatriation Act 1920-1945* to pay war pension in respect of his death or that there would be a liability if the widow were not rendered ineligible for war pension by virtue of a provision of that Act having effect irrespective of the circumstances of the death ; and
- (ii) who was, immediately prior to his engagement on war service, engaged in an occupation, business or practice on his own account, as an active member of a partnership, as a share-farmer or as a contract worker.

(2.) For the purposes of this Division, a person who, at the time of the occurrence of the event resulting in the death of a member of the Forces, was recognized as the wife of that person although not legally married to him, shall, if the prescribed authority is satisfied that that person was wholly or partly dependent upon the earnings of the member, be deemed to be the widow of that member and that member shall be deemed to have been her husband, but nothing in this sub-section shall prevent the making of a loan under this Division to the lawful widow of the member, or the guaranteeing under this Division of repayment of a loan (including interest thereon) made, or to be made, to her.

(3.) Where a person is not an eligible person by reason only that that person, or the husband of that person, was not, immediately prior to his engagement on war service, engaged in an occupation, business or practice on his own account, as an active member of a partnership, as a share-farmer or as a contract worker, the prescribed authority may, if it considers it desirable in the circumstances of the case, determine that that person shall be an eligible person.

Loans for
establishment
in business
or civil
occupation.

92.—(1.) Subject to this Division, the prescribed authority may, if, in its opinion, an eligible person is in need of financial assistance to enable him to establish or re-establish himself satisfactorily in civil life, make a loan to that person so that that person may—

- (a) purchase or take on lease any land or premises, purchase or take on lease any business, effect improvements on land, or purchase, take on hire or otherwise acquire tools of trade, stock, live-stock, plant or equipment, to enable him—
 - (i) to engage in or resume any occupation, business or practice, whether on his own account, as an active member of a partnership, as a share-farmer or as a contract worker;
 - (ii) to expand or develop his business or practice;
 - (iii) to establish a co-operative business with other persons; or
 - (iv) to carry on an occupation, business or practice more efficiently;
- (b) reduce or discharge any mortgage, charge, bill of sale or other encumbrance on property owned by him and used in his occupation, business or practice;
- (c) fulfil his obligations under a hire purchase agreement in respect of property so used;
- (d) pay any subscription, fee or other sum of money to enable or qualify him to engage in or resume any occupation, business or practice; or
- (e) otherwise establish or re-establish himself in civil life by engaging in or resuming an occupation, business or practice whether on his own account, as an active member of a partnership, as a share-farmer or as a contract worker.

(2.) Subject to this Division, the prescribed authority may guarantee the repayment of any loan (including interest thereon) made or to be made for any of the purposes specified in paragraphs (a), (b), (c), (d) and (e) of the last preceding sub-section.

93.—(1.) The amount of any loan made, or in respect of which a guarantee is given, under this Division to any eligible person (or, if there is more than one such loan, the aggregate of those loans) shall not exceed—

Amount of
loans, &c.

- (a) Two hundred and fifty pounds ;
- (b) where the loan is for the purpose of enabling the eligible person to engage in or resume an agricultural occupation—
One thousand pounds ; or
- (c) where the loan is for the purpose of enabling the eligible person to engage in or resume a prescribed occupation, business or practice—Five hundred pounds.

(2.) The aggregate amount of any loans made, or in respect of which guarantees are given, under this Division to more than one eligible person in respect of the same enterprise shall not exceed the amount of the loan which could have been made, or in respect of which a guarantee could have been given, to one eligible person in respect of that enterprise.

94. Subject to this Division, a loan made or guarantee given under this Division shall be made or given on such security and on such terms and conditions as the prescribed authority determines.

Terms and
conditions of
loans.

95. Loans made under this Division shall bear interest at such rate as is prescribed.

Interest on
loans.

96.—(1.) Subject to this section, a loan shall not be made or guarantee given under this Division unless—

Conditions to
be complied
with by
applicants.

- (a) an application for the loan or guarantee is made—
 - (i) within five years after the cessation of hostilities in all the wars in which His Majesty was engaged at the date of commencement of this Division, the date on which the applicant ceased to be engaged on war service, or the date of the termination or completion of any training which the applicant received under Part III. of this Act, whichever is the later ; or
 - (ii) where the applicant is a widow—within five years after the cessation of hostilities in all the wars in which His Majesty was engaged at the date of commencement of this Division, the date on which the applicant's husband ceased to be engaged on war service, or the date of the termination or completion of any training which the applicant's husband received under Part III. of this Act, whichever is the later :

- (b) the applicant satisfies the prescribed authority that he has the ability and qualifications to engage in, with a reasonable prospect of success, the occupation, business or practice in respect of which the loan or guarantee is sought ;
- (c) the applicant satisfies the prescribed authority that the applicant's engaging in the occupation, business or enterprise is a suitable means of establishing or re-establishing himself in civil life ; and
- (d) the applicant satisfies the prescribed authority that he is likely to be able to repay the amount of the loan made or guaranteed within a reasonable period.

(2.) In determining whether a loan should be made or a guarantee given to an applicant, the prescribed authority shall take into account—

- (a) the effect of the applicant's war service on his capacity and opportunities to establish or re-establish himself in civil life ; and
- (b) where there are limited opportunities for the establishment of a business, practice or enterprise of a particular type or in a particular locality—the applications of other eligible persons and the effect of the establishment of the business, practice or enterprise on other persons conducting businesses, practices or enterprises of the same or a similar type, or on persons who have ceased to conduct such businesses, practices or enterprises by reason of circumstances attributable to the war.

Loans to be
repayable
if improperly
expended.

97.—(1.) Where the prescribed authority is satisfied—

- (a) that any money lent under this Division has not been applied for the purpose for which it was lent or has not been carefully and economically expended ; or
- (b) owing to the misconduct, idleness or inefficiency of the person to whom the loan was made, the purpose for which the loan was made is not likely to be achieved,

the balance of the loan then remaining unpaid shall, at the option of the prescribed authority, become due and payable on demand and be recoverable with interest thereon and, after the exercise of the option, interest shall accrue from day to day.

(2.) Where the prescribed authority is satisfied as to any of the matters specified in paragraphs (a) and (b) of the last preceding subsection, the prescribed authority may vary all or any of the terms and conditions on which the loan was made.

(3.) Where the prescribed authority is satisfied that, in view of the efficiency or industry of a person to whom a loan has been made under this Division, it is desirable to do so, the prescribed authority may vary all or any of the terms and conditions on which the loan was made in favour of that person.

98.—(1.) The prescribed authority may, with the consent of the Treasurer, enter into an agreement with the Commonwealth Bank of Australia, with an authority of a State or with any Savings Bank for the performance by the Commonwealth Bank of Australia, by the authority or by the Savings Bank of such of the functions of the prescribed authority under this Division as are specified in the agreement.

Arrangement
with
Commonwealth
Bank, State
authorities
and Savings
Banks.

(2.) The prescribed authority may, with the consent of the Treasurer, make loans to, and may, on behalf of the Commonwealth, give financial guarantees to an authority of a State or a Savings Bank making loans to, or giving guarantees with respect to loans made to, eligible persons, in accordance with the agreement.

99. Subject to such limitations (if any) as are prescribed, where the prescribed authority is satisfied that a person who has obtained a loan under this Division is unable to repay the amount of the loan or any interest thereon, or that for any other reason the amount of the loan or any part thereof, or any interest thereon, should be written off, the prescribed authority may write off that amount or interest accordingly.

Writing off
loans.

Division 4.—Business Re-establishment Allowances.

100. In this Division, “agricultural occupation” and “eligible person” have the same respective meanings as in Division 3 of this Part.

Definitions.

101.—(1.) Where the prescribed authority is satisfied that an eligible person is in need of a financial allowance to enable him to establish or re-establish himself satisfactorily in civil life in an occupation, business or practice on his own account, as an active member of a partnership, as a share-farmer or as a contract worker, the prescribed authority may pay to that person an allowance to be known as a business re-establishment allowance.

Business
re-establishment
allowance.

(2.) A business re-establishment allowance shall be payable only in respect of the period during which the income derived by the person concerned from the occupation, business or practice is, in the opinion of the prescribed authority, inadequate.

(3.) The rate per week of a business re-establishment allowance shall be such as the prescribed authority determines, having regard to all the circumstances of the case including the income of the person concerned (whether from the occupation, business or practice or from any other source), but shall not exceed the amount of the allowance which he would have received if he had been in receipt of an allowance—

(a) under Division 2 of this Part; or

(b) in the case of a person engaged in an agricultural occupation—
under Part III. of this Act.

102.—(1.) Subject to this section, a business re-establishment allowance shall not be payable to any person in respect of any period after the expiration of six months (or, if that person is engaged in an agricultural occupation, twelve months) from the date of his engagement in the occupation, business or practice concerned.

Period of
payment of
re-establishment
allowance.

(2.) Except in the case of a person engaged in an agricultural occupation, the prescribed authority may, if it considers it necessary in any particular case, extend payment of the allowance for such additional period as it considers reasonable, but the amount paid during the extended period shall be deemed to be a loan made by the prescribed authority under Division 3 of this Part and the provisions of that Division relating to loans shall be applicable thereto.

PART VII.—SERVICEMEN'S SETTLEMENT.

Advances to
States.

103. The Commonwealth may, in accordance with any agreement entered into between the Commonwealth and any State, make advances or payments to a State—

(a) to enable that State to—

- (i) acquire land for the purpose of settlement by discharged members of the Forces ;
- (ii) develop or improve land for settlement by discharged members of the Forces ; and
- (iii) settle discharged members of the Forces on land so acquired, developed or improved ; and

(b) for such other purposes relating to the settlement of discharged members of the Forces on land as are prescribed.

PART VIII.—HOUSING.

Housing.

104.—(1.) The Minister may, on behalf of the Commonwealth, enter into an agreement with any State for the allocation of dwelling-houses amongst discharged members of the Forces, or classes of discharged members of the Forces, and other persons or classes of persons.

(2.) In this section, "dwelling-house" means any building or part of a building occupied or intended to be occupied as a separate dwelling and constructed or purchased in accordance with any agreement between the Commonwealth and the State relating to housing.

PART IX.—LEGAL AID BUREAUX.

Legal aid
bureaux.

105.—(1.) The legal aid bureaux established by the Attorney-General for the purpose of furnishing legal advice to members of the Forces, discharged members of the Forces and the dependants of such members and discharged members, which are in existence at the date of commencement of this Part shall continue in existence.

(2.) The Attorney-General may establish additional legal aid bureaux at such places as he thinks fit.

PART X.—WAR SERVICE MORATORIUM.

Division 1.—Preliminary.

Certain
provisions of
War Service
Moratorium
Regulations
to cease to
have effect.

106.—(1.) Parts II. and III. of the National Security (War Service Moratorium) Regulations (being Statutory Rules 1941, No. 61, as amended) shall cease to have effect.

(2.) Nothing in the last preceding sub-section shall affect the operation of any order of a court made in pursuance of the previous Regulations, and, where leave has been given to any person under the previous Regulations to do, or to continue or complete the doing of, any act, that person may, notwithstanding anything contained in this Part, do, or complete the doing of, that act accordingly.

(3.) Any consent given under or for the purposes of regulation fifteen A or regulation twenty-two A of the National Security (War Service Moratorium) Regulations (being Statutory Rules 1941, No. 61, as amended) shall have the same effect as if the consent had been given under or for the purposes of section one hundred and eighteen or one hundred and twenty-six of this Act.

(4.) Any notice given under regulation thirty-two of the National Security (War Service Moratorium) Regulations (being Statutory Rules 1941, No. 61, as amended) which could have been given under this Part if this Part had been in force when the notice was given, shall have the same effect as if this Part had been so in force and the notice had been given under this Part.

(5.) Any statutory declaration furnished in reply to any such notice, or in reply to a notice under regulation twenty-five of the National Security (War Service Moratorium) Regulations (being Statutory Rules 1940, No. 194, as amended), shall have the same effect as if it had been furnished under this Part.

(6.) A certificate issued under sub-regulation (3.) of regulation twenty-five of the National Security (War Service Moratorium) Regulations (being Statutory Rules 1940, No. 194, as amended), or under sub-regulation (5.) of regulation thirty-two of the National Security (War Service Moratorium) Regulations (being Statutory Rules 1941, No. 61, as amended), shall have the same effect as if the certificate had been issued under this Part.

107. This Part shall bind the Crown in right of the Commonwealth or any State.

Crown to
be bound.

108.—(1.) In this Part, unless the contrary intention appears—

Interpretation.

“constable” includes any member of the Police Force of the Commonwealth or of a State or Territory of the Commonwealth, and any Peace Officer appointed in pursuance of the *Peace Officers Act 1925*;

“female dependant of a member” means a female who is wholly or partly dependent for her support upon the pay of, or upon a pension payable in consequence of the incapacity or death of, a person who is or has been a member of the Forces, and includes—

(a) the wife of a person who, having been a member of the Defence Force engaged on war service during the war—

(i) has been discharged from the Defence Force ;
or

(ii) has ceased to be engaged on war service,

and, although not receiving a pension, is receiving from the Commonwealth medical treatment of such a nature as to prevent him either wholly or partly from engaging in his occupation ; and

(b) the widow of a member of the Forces who died while engaged on war service ;

“ land ” includes messuages, tenements, and hereditaments, and houses and buildings, and also includes any estate or interest in land (legal or equitable), and any easement, right, power or privilege over, in, or in connexion with, land ;

“ member of the Forces ” means a member of the Commonwealth Naval, Military or Air Forces engaged on war service, and includes any person—

(a) who, during the war, is or has been called up for active service, or is serving on active service, with the Naval, Military or Air Forces of any part of the King's dominions (other than the Commonwealth) ; and

(b) who was born in Australia or was, immediately prior to being called up or enlisting or being appointed for such active service, domiciled in Australia ;

“ mortgage ” means a mortgage (legal or equitable) of land ;

“ pension ” means a pension (including a service pension) under the *Australian Soldiers' Repatriation Act 1920-1945*, and includes a pension payable under any law of a country outside Australia providing for the payment of pensions to members, or former members, of the Naval, Military or Air Forces of that country ;

“ the previous Regulations ” means the National Security (Courts Emergency Powers) Regulations (being Statutory Rules 1939, No. 165, as amended), the National Security (War Service Moratorium) Regulations (being Statutory Rules 1940, No. 194, as amended), and the National Security (War Service Moratorium) Regulations (being Statutory Rules 1941, No. 61, as amended) ;

“ war service ” means—

(a) the service, during the war, of a member of the Citizen Forces when called out for war service in pursuance of the *Defence Act 1903-1945*, or during continuous training under that Act or the *Naval Defence Act 1910-1934*, or the *Air Force Act 1923-1941* ;

(b) the continuous full-time service in the Defence Force under any Act or under any regulations under an Act, of any person who volunteers and is accepted for that service during the war ;

(c) the continuous service, during the war, of a person called upon to serve in the Defence Force in pursuance of any Act or of any regulations under an Act ; or

- (d) the service during the war of such other members or classes of members of the Naval, Military or Air Forces (not being members of the Citizen Forces) as are prescribed.

(2.) For the purposes of this Part, a person specified in paragraphs (a) and (b) of the definition of " member of the Forces " shall be deemed to be engaged on war service so long as he is called up for active service, or is serving on active service, with the Naval, Military or Air Forces of any part of the King's dominions (other than the Commonwealth).

(3.) Where by this Part any jurisdiction is conferred on the Supreme Court of a State or Territory of the Commonwealth that jurisdiction may, in relation to the Territory of Norfolk Island, be exercised by the Court of Norfolk Island sitting in its Full Jurisdiction.

(4.) Where any female was wholly or partly dependent for her support on the pay of a member of the Forces, but is no longer so dependent merely by reason of an allotment of pay made to that female having been suspended, that female shall be deemed to be a female dependant of a member within the meaning of this section.

Division 2.—Mortgages and Agreements for the Purchase of Land.

109.—(1.) Subject to this Division, where a member of the Forces, or a female dependant of a member, is liable to pay the principal money secured by a mortgage, or the purchase money under an agreement for the purchase of land, and that liability arose before the date on which the member at any time became engaged on war service, the time (including any time past) for payment of the principal money or purchase money shall, by force of this section be postponed in accordance with the provisions of this section.

Postponement
of certain
payments.

(2.) The time for payment shall be postponed so that the payment shall fall due on the expiration of the period—

- (a) immediately following the date on which the member ceases (otherwise than by his death) to be engaged on war service equal to the period during which he was so engaged ; or

(b) of twelve months immediately following that date, whichever is the shorter.

(3.) If the person liable to pay the principal or purchase money is a member of the Forces or a female dependant of a member (not being the widow of a member of the Forces who died while engaged on war service) and the member dies while engaged on war service, the time for payment shall be postponed so that the payment shall fall due upon the expiration of the period of twelve months immediately following the date of his death.

(4.) If the person liable to pay the principal or purchase money is the widow of a member of the Forces who died while engaged on war service, the time for payment shall be postponed so that the payment shall fall due upon the expiration of the period of twelve months immediately following the date on which His Majesty ceases to be engaged in all the wars in which His Majesty was engaged at the date of commencement of this Part.

(5.) If the person liable to pay the principal or purchase money is a female dependant of a member, and she dies while the member continues to be engaged on war service, the postponement shall cease at the expiration of twelve months after her death, unless, in the meantime, the member becomes liable to pay the principal or purchase money, in which case the time for payment shall be postponed in accordance with the provisions of sub-section (2.) or (3.) of this section.

(6.) Where a member of the Forces has been engaged on war service during two or more periods, he shall be deemed to have been engaged on war service during a period equal in duration to the aggregate of the periods during which he was so engaged.

(7.) Where, under any mortgage or agreement to which this section applies, the principal or purchase money is to be repaid or paid by instalments, the time for payment of the earliest unpaid instalment shall be postponed in accordance with the provisions of this section and the time for payment of each subsequent instalment shall be postponed for a period equal to the period of postponement of the first-mentioned instalment.

(8.) Where a member of the Forces or a female dependant of a member is liable to pay the principal money secured by a mortgage but is not the owner of the land subject to the mortgage, the postponement effected by this section shall apply only in relation to the liability of that member or female dependant, and where a member of the Forces or female dependant of a member is liable to pay the principal money secured by a mortgage and is the owner of the land subject to the mortgage but ceases to be the owner before the postponement effected by this section ceases, the postponement shall thereupon apply only in relation to the liability of that member or female dependant.

(9.) Where any payment includes interest as well as principal, and the rate of interest is not ascertainable from the mortgage or agreement, or the mortgage or agreement does not indicate what parts of the payment are principal and interest respectively, then, for the purposes of this section, the rate of interest shall be deemed to be Five pounds per centum per annum.

(10.) Where a mortgagee—

- (a) was or is in possession of land under a mortgage to which this section applies at the date on which the member of the Forces first became or becomes engaged on war service; or
- (b) has appointed or appoints a receiver who was or is in possession of the mortgaged property, or in receipt of the rents and profits thereof, at that date,

nothing in this section shall affect any power of sale, right to foreclose, power to appoint a receiver, power to go into, or remain in, possession of the mortgaged property, or power to receive or continue to receive the rents and profits thereof.

(11.) Nothing in this section shall apply in respect of any mortgage or agreement for the sale of land—

- (a) where a court has, prior to the sixth day of December, One thousand nine hundred and thirty-nine, ordered that the mortgagee or vendor may exercise all or any of the remedies he may have for the enforcement of the security under the mortgage or re-entry on the land ;
- (b) where the member of the Forces or female dependant of a member, whether before or after the date of commencement of this Division, while liable to pay the principal or purchase money, became or becomes a bankrupt or an insolvent or has assigned or assigns his estate for the benefit of his creditors under any law relating to bankruptcy or insolvency or where the member or female dependant is deceased and his or her estate is being administered in bankruptcy or insolvency ; or
- (c) where the mortgagee or vendor obtains a declaration from the appropriate court that the member of the Forces or female dependant of a member has abandoned the land.

(12.) Nothing in this section shall prevent any person from paying any principal money or purchase money before the time to which payment thereof is postponed under this section.

(13.) Where the time for payment of any money is postponed under the National Security (War Service Moratorium) Regulations (being Statutory Rules 1941, No. 61, as amended), to a date after the date of commencement of this Part, that time for payment shall, by force of this section, cease to be so postponed but shall be subject to such postponement (if any) under this section as is applicable in the circumstances.

(14.) For the purposes of this section—

- (a) the owner (including an equitable owner) of land subject to a mortgage shall be deemed to be liable to pay the principal money secured by the mortgage ; and
- (b) a person shall be deemed to be liable to pay any principal money or purchase money if he is under an obligation to pay that money notwithstanding that the time for payment thereof has not arrived.

(15.) Where—

- (a) a member of the Forces or a female dependant of a member is, and was prior to the date of commencement of this Division, paying the purchase money under an agreement for the purchase of land but is not actually liable to pay that purchase money ;
- (b) the member of the Forces or female dependant of a member commenced paying that purchase money before the date on which the member at any time became engaged on war service : and

- (c) the payments made by the member, or female dependant, prior to the date of commencement of this Division, were accepted by the vendor,

the member of the Forces or female dependant of a member shall, for the purposes of this section, be deemed to be liable to pay the purchase money and the time (including any time past) for payment thereof (whether by the member or female dependant or by the person actually liable to pay the purchase money) shall, by force of this sub-section, be postponed in accordance with the provisions of this section.

(16.) Where a member of the Forces, or a female dependant of a member, became, or becomes, liable to pay the purchase money under an agreement for the purchase of land after the member at any time became, or becomes, engaged on war service, and that agreement was, or is, entered into by the member or female dependant of a member in pursuance of an option to purchase that land granted to the member or female dependant of a member before the member at any time became, or becomes, engaged on war service, the member or female dependant shall, for the purposes of this section, be deemed to have become liable to pay the purchase money under the agreement on the date on which the option was granted.

Interest to
be payable
in respect
of postponed
payments.

110.—(1.) Where any payment of principal money or purchase money is postponed under this Division, interest shall be payable thereon until payment thereof is made, at the rate agreed upon by the parties before the interest falls due, or at the rate which would have been applicable if the payment had been made on the date when it would have been due if this Division had not been enacted, or, in the case of principal money due under a first mortgage or purchase money payable under an agreement for the purchase of land, at the rate of Five pounds per centum per annum, whichever is the lower rate :

Provided that, if the rate of interest payable under any mortgage or agreement is thereby fixed by reference to rates current in the case of some specified class of transactions at the times when the sums of interest respectively fall due or are paid (as the case may be), the rate payable by virtue of this section shall, at the option of the mortgagee or vendor, be as so fixed or as fixed by this section, but so that the rate shall not in any case exceed Five pounds per centum per annum.

(2.) Interest payable by virtue of this section shall be payable at the close of the same intervals of time as are provided by the mortgage or agreement with respect to the interest payable thereunder, or, if no provision is so made, then quarterly.

(3.) In the case of a payment which fell due on or before the date of commencement of this Division, the period of postponement shall, for the purposes of this section, be deemed to have commenced on the day immediately following that date.

111. Where in any mortgage to which this Division applies provision is made for the payment or acceptance of interest at a reduced rate in the case of punctual payment, interest shall be payable at the reduced rate notwithstanding that it is not paid punctually in accordance with that provision.

Panel rate
of interest
not enforceable.

112.—(1.) Except as otherwise provided by section one hundred and nine of this Act, this Division shall, so long as a postponement under that section continues in respect of any principal money or purchase money, operate as a stay of all proceedings, whether by action of any other means and whether in any court or otherwise, against a member of the Forces or a female dependant of a member commenced before the date of commencement of this Division to enforce the payment, or in respect or in consequence of the non-payment of, the principal or purchase money, and of all remedies against the member of the Forces or female dependant of a member for the recovery thereof, but shall not otherwise prejudice or affect any such proceeding or remedy, or alter or affect the rights or obligations of any person, except so far as is necessary to give effect to the provisions of this Division.

Proceedings
stayed but
rights not
otherwise
prejudiced.

(2.) Upon the termination of the postponement effected by this Division, all proceedings so stayed may be continued, and all such remedies may be pursued as if the period of postponement had not intervened.

113.—(1.) The appropriate court may order that the provisions of this Division shall not apply in relation to the enforcement of any mortgage or agreement against any person if it is satisfied—

Provision for
cases of
hardship.

- (a) that the whereabouts of that person are not known to the mortgagee or vendor;
- (b) that the mortgagee or vendor has made reasonable efforts to ascertain those whereabouts; and
- (c) that the mortgagee or vendor is not aware that that person is a member of the Forces or a female dependant of a member.

or if it is of opinion that, in the special circumstances of the case, the postponement effected by those provisions is not necessary in the interests of the member of the Forces or female dependant of a member concerned, or would cause hardship or loss to the mortgagee or vendor, as the case may be, or to any person towards whom, with respect to that mortgage or agreement, the mortgagee or vendor stands in the position of a trustee.

(2.) An application for an order under this section shall be made with notice to such persons as the court considers entitled thereto, or *ex parte* in any case in which by reason of special circumstances, the court considers that procedure to be just and equitable.

(3.) The court may make all such interlocutory and final orders in the matter of any such application, including orders as to costs, as, having regard to the objects of this Division and the circumstances of the case, the court considers to be just and equitable.

(4.) The costs of any such application shall be in the discretion of the court.

(5.) The order of the court determining any application under this regulation shall be final, and no order, whether interlocutory or final, in the matter of any such application, and no other proceeding under this section, shall be appealed against, questioned or reviewed in any manner whatsoever or be restrained or removed by prohibition, injunction, certiorari or otherwise howsoever.

Certain
contracts and
instruments
not affected.

114. This Division shall not be held to prevent, or to alter the effect of—

(a) any contract made after the date on which a member of the Forces first became engaged on war service, concerning any mortgage or agreement to which section one hundred and nine of this Act applies ; or

(b) any instrument made or thing done in pursuance of any such contract.

Joint
mortgages and
agreements.

115. The provisions of this Division shall apply in any case where a member of the Forces or a female dependant of a member is liable jointly with another person to pay the principal money under a mortgage or the purchase money under an agreement for the purchase of land in like manner as they apply where a member of the Forces or a female dependant of a member is solely so liable.

Meaning of
"the
appropriate
court"
defined.

116. In this Division, " the appropriate court " means—

(a) in relation to a mortgage or agreement where the amount of principal or purchase money outstanding thereunder does not exceed Five hundred pounds—a court of limited civil jurisdiction constituted by a Police, Stipendiary or Special Magistrate or by a barrister, solicitor, attorney or proctor in the State or Territory of the Commonwealth in which the land is situated, or, if there is no such court, the High Court, or the Supreme Court of that State or Territory ;

(b) in relation to a mortgage or agreement where the amount of principal or purchase money outstanding thereunder exceeds Five hundred pounds but does not exceed Two thousand pounds—a District Court, County Court or Local Court of Full Jurisdiction in the State or Territory of the Commonwealth (other than the Territory of New Guinea) in which the land is situated, or, if there is no such court, or the land is situated in the Territory of New Guinea, the High Court, or the Supreme Court of the State or Territory of the Commonwealth in which the land is situated ; and

(c) in any other case—the High Court, or the Supreme Court of the State or Territory of the Commonwealth in which the land is situated.

Division 3.—Prohibition or Suspension of Proceedings.

117.—(1.) A person shall not—

Restriction on
execution
and other
remedies.

(a) except with the leave of the court by which the judgment was given, commence, proceed with or put in force any execution, or any other process or proceeding, to enforce any judgment against a member of the Forces or a female dependant of a member, where the judgment is in respect of the liability of the member or female dependant under a contract or agreement made prior to the sixth day of December, One thousand nine hundred and thirty-nine, or the date on which the member at any time became engaged on war service, whichever is the later, or under any contract or agreement modifying, superseding, or in substitution for any such contract or agreement ; or

(b) except with the leave of the appropriate court, exercise any legal remedy in consequence of any default in the payment of a debt or the performance of an obligation by a member of the Forces or a female dependant of a member, where the debt or obligation arose or arises under any such contract or agreement.

(2.) Where, prior to the date on which any person becomes or has become a member of the Forces, any person has commenced, proceeded with or put into force any execution, or any other process or proceeding, to enforce a judgment against that member or a female dependant of that member in respect of a liability of the kind referred to in paragraph (a) of the last preceding sub-section, and the execution or proceeding to enforce the judgment has not been completed at that date, the execution or proceeding shall, by force of this sub-section, be suspended, unless and until the court by which the judgment was given gives leave to proceed therewith.

(3.) Where any person has given a guarantee in relation to any contract or agreement to which sub-section (1.) of this section applies, a person shall not, except with the leave of the appropriate court, take any action for the enforcement of the guarantee.

(4.) An application for the leave of a court under this section may be made, with notice to such persons as the court considers entitled thereto, or *ex parte* in any case in which by reason of special circumstances the court considers that procedure to be just and equitable, and may be disposed of in chambers.

(5.) In determining whether leave shall be granted under this section the court shall consider —

(a) whether the failure to satisfy the judgment, pay the debt, or perform the obligation, was due to circumstances directly or indirectly attributable to the war service of the member of the Forces ;

(b) the conduct of the member of the Forces or female dependant in respect of any breach of the terms of the contract or agreement ;

- (c) whether the grant of leave would cause hardship to the member of the Forces or female dependant; and
- (d) whether refusal to grant leave would cause hardship to the applicant, or to some person towards whom, with respect to the judgment, contract or agreement, the applicant stands in the position of a trustee,

and for the purpose of determining the facts the court may procure the attendance of, and examine, the member of the Forces or female dependant or any other person having knowledge of the facts.

(6.) If, having regard to the considerations mentioned in the last preceding sub-section, and to all other relevant considerations, the court is of opinion that it is equitable so to do, it may—

- (a) grant leave, either unconditionally or subject to such restrictions and conditions as the court thinks fit;
- (b) refuse to grant leave;
- (c) readjust the amounts of any instalments payable under the contract or agreement;
- (d) postpone the time for payment of all or any such instalments in such manner and for such time as the court thinks just in the circumstances of the case; or
- (e) modify the terms of any guarantee given in relation to the contract or agreement in such manner as the court thinks just in the circumstances of the case,

and, if the court orders that the payment of any instalment be postponed, the court may direct that interest thereon be paid at such rate as it considers reasonable in the circumstances of the case.

(7.) If the court orders that the time for payment of any instalments be postponed—

- (a) the court may direct that interest thereon be paid at such rate as it considers reasonable in the circumstances of the case; and
- (b) the court shall order that the time for payment of all subsequent instalments be postponed in such manner as the court thinks fit.

(8.) The court may exercise any of the powers conferred by paragraphs (c), (d) and (e) of sub-section (6.) of this section upon application made by or on behalf of the member of the Forces or female dependant in the manner prescribed by sub-section (4.) of this section.

(9.) The costs of an application under this section shall be in the discretion of the court.

(10.) No settlement or agreement entered into by the parties after the making of an application for leave under this section shall be valid unless approved by the court.

(11.) For the purposes of this section—

“guarantee” includes any agreement or security included in or collateral to a contract or agreement referred to in subsection (1.) of this section under which a third person undertakes to be answerable for the due performance of that contract or agreement or for the making of any payment falling due under that contract or agreement;

“judgment” means any judgment or order of any court (whether given or made before, on or after the date of commencement of this Division) for the payment or recovery of a sum of money;

“legal remedy” means any remedy by way of—

(a) the levying of distress on, or the taking of possession of, any property, other than goods the seizure or taking possession of which is prohibited by section one hundred and nineteen of this Act;

(b) re-entry upon any land;

(c) the realization of any security or the forfeiture of any deposit; or

(d) the rescission of any agreement for the sale and purchase of land.

(12.) Nothing in this section shall affect—

(a) any power or remedy of a mortgagee or vendor of land—

(i) which arose or arises from any default in the payment of interest under or by virtue of a mortgage or agreement to which section one hundred and nine of this Act applies; or

(ii) which is not affected by that section;

(b) any power to enforce a charge for rates on land, but no action, suit or other proceeding shall be brought or taken to enforce a charge for rates on land while the land is subject to a mortgage or agreement to which Division 2 of this Part applies;

(c) any power of sale of a mortgagee in possession of property, other than land or some interest in land, belonging to a member of the Forces or a female dependant of a member, where the power of sale arose before the date upon which the member first became engaged on war service;

(d) any right or power of a pawnbroker to deal with pledges; or

(e) any proceedings relating to goods being purchased by a member of the Forces or a female dependant under a hire-purchase agreement where the member or female dependant has purported to sell or otherwise dispose of the goods or has parted with the possession of the goods.

118.—(1.) Where power is conferred upon any person by or under any law of the Commonwealth or of a State or Territory of the Commonwealth to acquire land compulsorily for any purpose, that person shall not, without the prior consent of the Attorney-General, exercise the power, in relation to the acquisition of land which is owned by a

Restriction on compulsory acquisition of certain lands.

member of the Forces, for any purpose other than a purpose in connexion with the defence of the Commonwealth or the efficient prosecution of the war, or do or commence or continue to do any act, or commence or continue any proceeding, for the purpose of or with a view to any such acquisition or obtaining possession of the land in connexion with any such acquisition.

(2.) The consent of the Attorney-General shall not be necessary in any case where the member of the Forces intimates, in writing, that he agrees to or has no objection to the proposed acquisition.

Protection
from execution
distress, &c.

119.—(1.) A person shall not, except with the leave of the appropriate court granted upon application made in the manner prescribed by section one hundred and seventeen of this Act, under a writ of execution or other process issued by a court, by way of distress, or under the provisions of a bill of sale or hire-purchase agreement made prior to the date on which the member of the Forces affected at any time became engaged on war service, or under any agreement modifying, superseding or in substitution for any such agreement, seize or take possession of any goods which are used by, or belong to, a member of the Forces or a female dependant of a member.

(2.) A person shall not, except with the leave of the appropriate court granted upon application made in the manner prescribed by section one hundred and seventeen of this Act, proceed with the execution of any writ of *fieri facias* or writ of execution, whenever issued, against land on which a dwelling-house is erected and which is owned by a member of the Forces or female dependant of a member, whether the judgment or order in respect of which the writ was issued was given or made before or after the date on which the member of the Forces affected at any time became engaged on war service.

(3.) Leave shall not be granted under the last preceding subsection—

(a) in any case where the member of the Forces or the female dependant of the member is occupying the dwelling-house concerned; or

(b) if the member of the Forces or female dependant of the member is not occupying the dwelling-house concerned, the member of the Forces or female dependant of the member *bona fide* desires to occupy the dwelling-house and has taken steps to obtain possession thereof.

(4.) The provisions of section one hundred and seventeen of this Act relating to procedure and costs shall apply to applications under this section.

(5.) In relation to any goods being purchased under a hire-purchase agreement or the subject of a bill of sale, where the appropriate court, on application for leave in pursuance of this section by the vendor, under the hire-purchase agreement or by the grantee of the bill of sale, is satisfied—

(a) that the member of the Forces or female dependant of a member concerned would not suffer any hardship if the agreement or bill of sale were enforced; or

(b) that, having regard to all the circumstances of the case, it would be inequitable to the vendor or grantee that the member of the Forces or female dependant of a member should have the benefit of this section, the court shall grant leave.

(6.) This section shall not apply in relation to any goods being purchased under a hire-purchase agreement where the member of the Forces or female dependant of a member has purported to sell or otherwise dispose of, or has parted with the possession of, the goods before payment therefor has been completed.

(7.) In any prosecution for an offence arising under this section, an order may be made for the return of any goods seized or taken possession of in contravention of this section, or for payment of their value.

(8.) Any such order providing for the payment of the value of any goods may be enforced in the same manner as an order or judgment for the payment or recovery of money made by the court in the exercise of its civil jurisdiction.

(9.) Where any such order provides for the return of any goods, any constable may take possession of the goods and return them to the person to whom the court directed them to be returned, and for that purpose may, and if need be by force and with such assistance as is necessary, break open, enter and search any premises in which he has reason to believe or suspects the goods to be.

(10.) A person shall not hinder or obstruct any constable in the exercise of his powers under the last preceding sub-section.

120.—(1.) The protection afforded by the last three preceding sections shall continue until the expiration of the period—

*Continuation
of protection
afforded.*

(a) immediately following the date on which the member ceases (otherwise than by his death) to be engaged on war service equal to the period during which he was so engaged ; or

(b) of twelve months immediately following that date, whichever is the shorter.

(2.) Where the person protected is a member of the Forces or a female dependant of a member (not being the widow of a member of the Forces who died while engaged on war service) and the member dies while engaged on war service, the protection shall continue until the expiration of the period of twelve months immediately following the date of his death.

(3.) Where the person protected is the widow of a member of the Forces who died while engaged on war service, the protection shall continue until the expiration of the period of twelve months immediately following the date on which His Majesty ceases to be engaged in all the wars in which His Majesty was engaged at the date of commencement of this Part.

(4.) Where the person protected is a female dependant of a member, and she dies while the member continues to be engaged on war service, the protection shall cease at the expiration of twelve months after her

death, unless, in the meantime, the member becomes protected in respect of the matter with respect to which the female dependant received protection, in which case the protection shall continue in accordance with the provisions of sub-section (1.) or (2.) of this section.

(5.) For the purposes of sub-section (1.) of this section, where a member of the Forces has been engaged on war service during two or more periods he shall be deemed to have been engaged on war service during a period equal in duration to the aggregate of the periods during which he was so engaged.

Postponement
of payment
of interest
and rates.

121.—(1.) An appropriate court may, upon application by or on behalf of a member of the Forces or a female dependant of a member, made in the manner prescribed in section one hundred and seventeen of this Act, order the postponement of the time for payment—

- (a) of any interest payable under a mortgage or agreement to which section one hundred and nine of this Act applies ; or
- (b) of any rates on land payable by the member or female dependant.

(2.) In determining an application under paragraph (a) of the last preceding sub-section, the court shall consider whether the making of the order applied for would cause hardship to the mortgagee or vendor, or to some person towards whom, with respect to the mortgage or agreement, the mortgagee or vendor stands in the position of a trustee, and in determining an application under paragraph (a) or (b) of that sub-section the court shall consider whether the refusal of the application would cause hardship to the member or female dependant, and for the purpose of determining the facts the court may procure the attendance of, and examine, the member or female dependant or any other person having knowledge of the facts.

(3.) If, having regard to the considerations mentioned in the last preceding sub-section, and to all other relevant considerations, the court is of opinion that it is equitable so to do, it may—

- (a) postpone the time for payment of all or any such interest or rates in such manner and for such time as the court thinks just in the circumstances of the case ; or
- (b) refuse to grant the application.

(4.) The costs of an application under this section shall be borne by the applicant unless the court orders otherwise.

Power of
courts to
prohibit
issue of
process in
certain
cases.

122. Where it appears to any court of a State or Territory of the Commonwealth, on motion made by or on behalf of any member of the Forces or female dependant of a member, that any writ or other legal process has been issued or is proposed to be issued out of the court in respect of any liability of any member of the Forces or female dependant of a member under any contract or agreement, and that the contract or agreement is, so far as the member or female dependant is concerned, unduly onerous, the court may make such

- (b) where the matter at issue exceeds in value the sum of Five hundred pounds but does not exceed in value the sum of Two thousand pounds—a District Court, County Court or Local Court of Full Jurisdiction in the State or Territory of the Commonwealth (other than the Territory of New Guinea) in which the transaction was entered into, or, if there is no such court, or the transaction was entered into in the Territory of New Guinea, the High Court, or the Supreme Court of the State or Territory of the Commonwealth in which the transaction was entered into; and
- (c) in any other case—the High Court, or the Supreme Court of the State or Territory of the Commonwealth in which the transaction was entered into.

Division 4.—General.

128. The Registrar of Titles of any State or Territory of the Commonwealth may, upon submission to him of evidence of re-entry by a lessor, require such evidence as he deems necessary that the re-entry does not contravene any provision of this Part or of the previous Regulations and may refuse to note the re-entry until evidence accordingly is submitted to him.

Power of Registrar of Titles to require evidence.

129.—(1.) Any person (in this section referred to as “the claimant”) who desires to do, or to continue or complete the doing of, any act against any person (in this section referred to as “the respondent”) may, if the respondent is resident in Australia—

Part VIII. not to apply in certain cases.

- (a) where the act is the compulsory acquisition of land, and the respondent is not, to the knowledge of the claimant, a member of the Forces—serve on the respondent, in the manner provided by this section, a notice (in accordance with a form prescribed) requiring the respondent to inform the claimant, within fourteen days after the receipt of the notice, whether or not the respondent is a member of the Forces as defined by this Part; or
- (b) where the act is in respect of any mortgage, contract, agreement, judgment, debt, obligation, bill of sale or writ of execution or other process, and the respondent is not, to the knowledge of the claimant, a member of the Forces or a female dependant of a member—serve on the respondent in the manner provided by this section, a notice (in accordance with a form prescribed) requiring the respondent to inform the claimant, within fourteen days after the receipt of the notice, whether or not the respondent is a member of the Forces or a female dependant of a member as defined by this Part.

(2.) A notice under the last preceding sub-section shall be served personally or by registered letter sent to the respondent's last place of abode known to the claimant.

order upon such terms and conditions as it thinks fit prohibiting or suspending the issue of the process, or, if the process has already been issued, prohibiting or suspending further proceedings in pursuance of the process.

123. If in relation to any transaction it appears to the appropriate court, on application made by or on behalf of a member of the Forces or female dependant of a member, that the transaction is, so far as the member or female dependant is concerned, unduly onerous, or is such that a court of equity would give relief, the court may re-open the transaction and take an account between the member or female dependant and the other party to the transaction, and make such order as it thinks just as regards the transaction, and as regards any property affected by the transaction, and any such order shall be of full force and effect, and shall be complied with by the parties to the transaction.

Re-opening of transactions between members of the Forces and others.

124. Any matter arising under either of the last three preceding sections may be disposed of in chambers.

Exercise of jurisdiction in chambers.

125.—(1.) A person shall not, without leave of a court having jurisdiction in bankruptcy or insolvency, issue a bankruptcy notice (or, in the Territory of Papua or the Territory of New Guinea, a debtor's summons) or present a bankruptcy petition or petition for adjudication in insolvency, against a member of the Forces or a female dependant of a member, where the judgment or final order in respect of which the bankruptcy notice would be issued is, or the debtor's summons would be issued or the petition presented, in respect of a debt or obligation which arose before the member at any time became engaged on war service.

Bankruptcy proceedings against a member of the Forces and female dependants of members.

(2.) The court shall not grant leave unless the court is satisfied that, having regard to all the circumstances of the case (including the conduct and financial position of the member of the Forces or female dependant of a member and of the applicant), it would be inequitable to refuse to grant leave.

(3.) Where a bankruptcy petition or petition for adjudication in insolvency has been presented against any member of the Forces or a female dependant of a member, and the member or female dependant satisfies the court to which the petition was presented that his inability to pay his debts is due to circumstances directly or indirectly attributable to his having been engaged on war service, the court may, after considering all the circumstances of the case and the position of all the parties, at any time stay the proceedings under the petition for such time and subject to such conditions as the court thinks fit.

(4.) Where a court is satisfied that—

(a) a person against whom the court has, on the petition of a creditor, made a sequestration order or an adjudication of insolvency is a member of the Forces or a female dependant of a member; and

(b) if the sequestration order or adjudication of insolvency is revoked—

- (i) the business (if any) of that person will continue to be carried on by or on behalf of that person ; and
- (ii) there will be a reasonable prospect of that business being carried on successfully,

the court may make an order revoking the sequestration order or adjudication of insolvency.

(5.) Any order made in pursuance of the last preceding subsection may be made on such conditions (including the reimbursement of the costs incurred by the petitioning creditor in the bankruptcy or insolvency proceedings) as the court thinks just.

Restriction of proceedings for dissolution, &c., of certain partnerships.

126.—(1.) A person shall not take or continue against a partner who is a member of the Forces any proceedings or other action, whether in pursuance of a partnership agreement or otherwise, for the dissolution of any partnership or for the expulsion of that partner, or for the forfeiture of his share in the partnership, unless and until the Attorney-General or all the partners consent to the taking or continuance of the proceedings or other action.

(2.) This section shall apply, in relation to a person who has been a member of the Forces, in the same manner as it applies in relation to a member of the Forces, for a period—

- (a) immediately following the date on which the member ceased or ceases to be engaged on war service equal to the period during which he was so engaged ; or
- (b) of twelve months immediately following that date,

whichever is the shorter.

Interpretation.

127. In this Division—

“ hire-purchase agreement ” includes a letting of goods with an option to purchase, an agreement for the payment for goods by instalments, and any other agreement for the purchase of goods whether or not the property in the goods passes, on delivery, to the purchaser, and any goods the subject of any hire-purchase agreement shall, for the purposes of this section, be deemed to belong to the purchaser ;

“ the appropriate court ” means—

- (a) where the matter at issue does not exceed in value the sum of Five hundred pounds—~~the~~ court of limited civil jurisdiction in the State or Territory of the Commonwealth in which the transaction was entered into constituted by a Police, Stipendiary or Special Magistrate or by a barrister, solicitor, attorney or proctor, or, if there is no such court, the High Court, or the Supreme Court of that State or Territory ;

(3.) If, within the period specified in sub-section (1.) of this section, a statutory declaration by the respondent or by some person having knowledge of the facts stating—

(a) in the case of a notice served under paragraph (a) of that sub-section—that the respondent is a member of the Forces as defined by this Part; or

(b) in the case of a notice served under paragraph (b) of that sub-section—that the respondent is a member of the Forces or a female dependant of a member as so defined,

is not furnished to the claimant then, notwithstanding that the respondent is, or at any subsequent time becomes, a member of the Forces or a female dependant of a member, this Part shall not apply in respect of the doing, or in respect of the continuance or completion of the doing, of an act of the kind referred to in sub-section (1.) of this section, provided the claimant commences to do, or to continue or complete the doing of, the act within three weeks after the expiration of the period specified in that sub-section.

(4.) For the purposes of the last preceding sub-section, where the doing of any act is dependent on the completion of any preliminary act, the commencement of the doing, or the continuance or completion of the doing, of the preliminary act shall be deemed to be the commencement of the doing of the first-mentioned act.

(5.) If the claimant produces evidence (supported by statutory declaration) to the satisfaction of a prescribed officer that the respondent—

(a) has abandoned the property in respect of which the claimant desires to do, or to continue or complete the doing of, any act; or

(b) cannot be found and that the claimant has made reasonable efforts to ascertain his whereabouts, and that the claimant is not aware that the respondent is a member of the Forces or a female dependant of a member,

the officer may issue to the claimant a certificate to that effect and thereupon this Part shall not apply in respect of the doing, or in respect of the continuance or completion of the doing, of the act by the claimant.

(6.) A certificate purporting to be issued in pursuance of the last preceding sub-section shall, in the absence of proof to the contrary, be deemed to have been duly issued.

Validation.

130.—(1.) Subject to this section, no transaction or proceeding shall be invalidated by reason only that it has been entered into or taken in contravention of this Part, but nothing in this section shall affect the liability of any person to a penalty in respect of any such contravention.

(2.) The appropriate court may, on the application of the Attorney-General or of any person interested, make an order that a transaction or proceeding entered into or taken in contravention of this Part shall be invalidated, but the court shall not make any such order if the court is satisfied that the effect of the order (if made) would be to prejudice the rights of a person in respect of, or arising out of, the transaction or proceeding which are acquired *bona fide* and without notice of the contravention.

(3.) In this section, "the appropriate court" means the High Court, or the Supreme Court of the State or Territory of the Commonwealth in which the transaction or proceeding was entered into or taken.

131. In calculating the time fixed by any Statute of Limitations or other Act, State Act, or law of a Territory of the Commonwealth within which any action may be commenced or other remedy may be pursued, account shall not be taken of any period during which the time for payment of any money is postponed, or during which any proceedings, or proposed proceedings, are stayed, prohibited or suspended, under this Part or under the previous Regulations.

Period of postponement, &c., not to be taken into account for purposes of any Statute of Limitations.

132.—(1.) Any right to commence any action, suit or other proceeding, or to enforce, exercise or pursue any right, power or remedy, which, whether before or after the commencement of this section, was or is possessed by a member of the Forces or by a person who, after he became or becomes possessed of the right, became or becomes a member of the Forces, shall not be barred by the expiration, during the prescribed period, of any period of limitation fixed by any law (whether of the Commonwealth or of a State or a Territory of the Commonwealth) in force in Australia or any part thereof, or by any agreement, mortgage or instrument with respect to any such right, and the action, suit or other proceeding may be commenced, or the right, power or remedy may be enforced, exercised or pursued, at any time before the expiration of the prescribed period.

Preservation of rights possessed by members of the Forces.

(2.) In this section, "the prescribed period" means any period during which the member of the Forces is or was engaged on war service, together with—

(a) the period immediately following the date on which he ceases or ceased to be engaged on war service equal to the period during which he was so engaged; or

(b) the period of twelve months immediately following that date, whichever is the shorter.

133.—(1.) If, on any application to a court under this Part, any objection (based on the amount of principal or purchase money outstanding, or on the value of the matter at issue) is taken to the jurisdiction of the court, the court shall determine the objection summarily, but the decision of the court shall not operate as an estoppel between the parties or their privies in any subsequent proceeding.

Jurisdiction of courts.

(2.) An order made by a court under this Part shall not be appealed against, questioned or reviewed in any manner whatsoever, or be restrained or removed by prohibition, injunction, certiorari or otherwise howsoever, by reason of any want of jurisdiction arising out of the amount of principal or purchase money outstanding, or the value of the matter at issue, as the case may be.

Part not to
apply to
trustees.

134. This Part shall not apply to, or in relation to, any obligation of a member of the Forces or of a female dependant of a member under or by virtue of a mortgage, contract, agreement or bill of sale which he has given or entered into as a trustee or in any representative capacity, or in respect of any liability which he has incurred as a trustee or in any such capacity.

Offences.

135. A person who contravenes, or fails to comply with, any provision of this Part shall be guilty of an offence punishable on conviction by a fine not exceeding One hundred pounds or imprisonment for a period not exceeding six months, or both.

PART XI.—MISCELLANEOUS.

Prescribed
allowances.

136. The regulations may make provision for and in relation to—

- (a) the payment by the Commonwealth of such allowances and expenses as are prescribed, to such classes of persons as are prescribed ;
- b) the supply by the Commonwealth of household furniture, not exceeding the prescribed value, to such classes of persons as are prescribed ; and
- (c) the supply of tools of trade, plant and equipment, professional instruments and other articles of personal equipment (other than clothing), not exceeding the prescribed value, to such classes of persons as are prescribed.

Regulations.

137.—(1.) The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which are by this Act 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 penalties not exceeding a fine of Fifty pounds for any offence against the regulations.

(2.) Regulations may be made providing for the repeal or amendment of, or the addition to, any of the provisions of this Act.

(3.) Any regulations made in pursuance of the last preceding sub-section shall, by force of this sub-section, if not sooner repealed, be repealed at the termination of all the wars in which His Majesty was engaged at the date of commencement of this Part.

(4.) Upon the repeal of regulations by virtue of the last preceding sub-section, the provisions of this Act shall have effect as if no regulation had been made in pursuance of sub-section (2.) of this section.