

NATIONAL SERVICE (NO. 2).

No. 63 of 1951.

An Act to amend the *National Service Act 1951*.

[Assented to 11th December, 1951.]

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

Short title
and citation.

1.—(1.) This Act may be cited as the *National Service Act (No. 2)* 1951.

(2.) The *National Service Act 1951** is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *National Service Acts 1951*.

Commencement.

2. This Act shall come into operation on the day on which it receives the Royal Assent.

Parts.

3. Section three of the Principal Act is amended by omitting the figures “35” and inserting in their stead the figures and letter “35B”.

Time for
registration.

4. Section eleven of the Principal Act is amended by inserting after sub-section (2.) the following sub-sections :—

“(2A.) Where a person who would, but for the operation of section eighteen of this Act, have been required to register under this Act ceases to be within a class of persons specified in that section, that person shall register under this Act within fourteen days after the date on which he ceases to be within that class of persons.

“(2B.) The last preceding sub-section does not apply to a person who has served in the Permanent Naval Forces, the Permanent Military Forces or the Permanent Air Force for more than one hundred and seventy-six days.”.

5. Section twenty of the Principal Act is repealed and the following section inserted in its stead :—

Medical
Boards.

“20.—(1.) Subject to the next succeeding sub-section, a Medical Board shall consist of not less than two registered medical practitioners selected as the Minister directs.

“(2.) Where the Minister is of opinion that, if a person were required to submit himself for medical examination before a Medical Board consisting of two registered medical practitioners, that person would be caused undue inconvenience or would be required to travel an excessive distance, the Minister may direct that a Medical Board shall, for the purpose of the examination of that person, consist of one registered medical practitioner selected as the Minister directs.”.

* Act No. 2, 1951.

6. Section thirty of the Principal Act is amended by omitting the words “, by virtue of the last preceding section,”.

Voluntary
service by
exempt
persons.

7. Section thirty-four of the Principal Act is amended—

Calculation of
service.

(a) by omitting from sub-section (1.) the words “ascertaining the end of any term during which, under the last preceding section, a person is required to render service,” and inserting in their stead the words “calculating the one hundred and seventy-six days’ service referred to in this Act,”; and

(b) by omitting from sub-section (2.) the words “the last preceding section” and inserting in their stead the words “this Act”.

8. Section thirty-five of the Principal Act is repealed and the following sections are inserted in its stead :—

“35. A person who is liable to be called up for service under this Act may, whether or not he has been so called up, enlist in the Permanent Forces.

Enlistment in
the Permanent
Forces.

“35A. A person who has served in the Permanent Forces is liable to render service under this Act only for the number of days (if any) by which the number of days that he has served in those Forces is less than one hundred and seventy-six.

Extent of
liability for
service of
persons who
serve in the
Permanent
Forces.

“35B.—(1.) A person who is deemed to have been enlisted for service under this Act and—

Discharge of
certain persons.

(a) in accordance with conditions determined by the Naval Board, the Military Board or the Air Board, as the case requires, is found to be permanently medically unfit for further service in the part of the Citizen Forces in which he is deemed to have been so enlisted; or

(b) in the opinion of the Naval Board, the Military Board or the Air Board, as the case requires, is unsuitable for further service,

may, notwithstanding the provisions of section thirty-three of this Act, be discharged from the part of the Citizen Forces in which he is deemed to have been enlisted.

“(2.) Subject to the next succeeding sub-section, a person so discharged is not liable to render further service under this Act.

“(3.) A person who is discharged by reason of being found to be permanently medically unfit for further service in the part of the Citizen Forces in which he is deemed to have been enlisted, but is found by a Medical Board to be medically fit for service in another part of those Forces, is liable to render service under this Act only for the number of days by which the number of days for which he has served in the first-mentioned part of the Citizen Forces is less than one hundred and seventy-six.”.

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Re-instatement
in employment
of persons who
have rendered
service under
this Act.

9. Section forty of the Principal Act is amended by omitting from sub-paragraph (i) of paragraph (b) of sub-section (4.) the words "reasonably practicable" and inserting in their stead the words "reasonable or practicable".

10. Section fifty-one of the Principal Act is repealed and the following section inserted in its stead :—

Failure to
render service.

" 51.—(1.) A person on whom a notice under section twenty-six of this Act has been served who fails to comply with the requirements of the notice or to render the service which he is liable to render under this Act is guilty of an offence and, upon conviction, is liable to a fine not exceeding Fifty pounds and to committal, for the purpose of rendering service in accordance with this section, to the custody of a prescribed authority specified by the court.

" (2.) Where a person is convicted, under the last preceding sub-section, of having failed to comply with the requirements of a notice under section twenty-six of this Act, the court may, instead of committing the convicted person to the custody of a prescribed authority, order—

(a) that the convicted person be released upon his entering into a recognizance, with or without a surety, to the satisfaction of the court, that he will comply with the requirements of any notice which is subsequently served on him under section twenty-six of this Act; and

(b) that, if the convicted person or a surety fails to enter into the recognizance to the satisfaction of the court, the convicted person be committed to the custody of a prescribed authority.

" (3.) A person who is released upon his entering into a recognizance under this section and fails to comply with the conditions specified in the recognizance is guilty of an offence and, upon conviction, is liable to a fine not exceeding Fifty pounds and to committal, for the purpose of rendering service in accordance with this section, to the custody of a prescribed authority specified by the court.

" (4.) Where a person is committed to the custody of a prescribed authority, a member of the Permanent Naval Forces, the Permanent Military Forces or the Permanent Air Force authorized so to do by the prescribed authority shall, as soon as practicable after the making of the order, take that person into his custody and convey and deliver that person to the custody of the prescribed authority.

" (5.) The court shall, where it is necessary so to do, order that the person be detained in such custody as the court thinks fit until he is taken into custody under the last preceding sub-section.

" (6.) A person who has failed to comply with the requirements of a notice under section twenty-six of this Act and has been committed to the custody of a prescribed authority shall, as from the time when

he is taken into custody by a member of the Permanent Forces under sub-section (4.) of this section, be deemed to have been enlisted for service in the part of the Citizen Forces specified in the notice.

“(7.) A person who is deemed by this section to have been enlisted in the Citizen Naval Forces shall render service in those Forces for one hundred and seventy-six days as prescribed by regulations under the *Naval Defence Act 1910-1949*.

“(8.) A person who is deemed by this section to have been enlisted in the Citizen Military Forces shall render service in those Forces for one hundred and seventy-six days as prescribed by regulations under the *Defence Act 1903-1951*.

“(9.) A person who is deemed by this section to have been enlisted in the Citizen Air Force shall render service in that Force for one hundred and seventy-six days as prescribed by regulations under the *Air Force Act 1923-1950*.

“(10.) A member of the Citizen Forces who is, upon conviction for an offence against sub-section (1.) of this section, committed to the custody of a prescribed authority shall render service, as prescribed by regulations under the *Naval Defence Act 1910-1949*, the *Defence Act 1903-1951* or the *Air Force Act 1923-1950*, whichever is applicable, in the part of the Citizen Forces of which he is a member for the number of days by which the number of days on which he has rendered service under this Act is less than one hundred and seventy-six.

“(11.) Except as prescribed by the regulations referred to in whichever of the last four preceding sub-sections is applicable, the service required to be rendered by a person who has been committed to the custody of a prescribed authority shall be rendered continuously from the time when that person is taken into custody by a member of the Permanent Forces under sub-section (4.) of this section.

“(12.) A prescribed authority may, by order in writing under his hand—

- (a) direct that a person who has been committed to the custody of a prescribed authority under this section be transferred from the custody of the prescribed authority in whose custody that person is to the custody of another prescribed authority specified in the order; or
- (b) direct that the person be detained in a prescribed place.

“(13.) Notwithstanding anything contained in section thirty-four of this Act, the period for which a person is detained in a prescribed place under the last preceding sub-section shall be taken into account in calculating the period of service rendered by that person.

“(14.) A person who escapes from the custody of a prescribed authority or from a prescribed place may be arrested without warrant by a member of the police force of a State or Territory of the Commonwealth or by a member of the Permanent Forces and returned to the custody of the prescribed authority or to the prescribed place.”.

11. Section fifty-seven of the Principal Act is repealed and the following section inserted in its stead :—

Evidence.

“ 57.—(1.) The production of the *Gazette*, or of a document purporting to be an extract from the *Gazette* and to be printed or published by the Government Printer, containing a copy of an instrument made or given under this Act is evidence that the instrument was duly made or given in the terms set out in the *Gazette* or in the document and that the instrument is in force.

“(2.) A Registrar may, by writing under his hand, certify that a person specified in the certificate was, on a date so specified, deemed to be registered under this Act.

“(3.) The Secretary may, by writing under his hand, certify that a prescribed form of registration, or notification of change of address, has not been received from a person specified in the certificate.

“(4.) The Secretary, or a person to whom the Secretary has delegated his powers and functions under section nineteen, twenty-two, twenty-six or fifty-two of this Act, may, by writing under his hand, certify that, on a date specified in the certificate, a notice under one of those sections was served on a person so specified and that a document annexed to the certificate is a true copy of the notice.

“(5.) In a prosecution for an offence against this Act—

(a) a certificate given under this section—

- (i) is evidence of the facts stated in the certificate ; and
- (ii) shall, unless the contrary is proved, be deemed to have been signed by the person by whom it purports to be signed ; and

(b) that person shall, unless the contrary is proved, be deemed to be a person authorized by this section to give the certificate.

“(6.) In a prosecution for an offence against this Act, a person who has commenced to render service in accordance with this Act shall, unless the contrary is proved, be deemed to be a person liable to render service under this Act and to be a person on whom a notice under section twenty-six of this Act has been served.”.