

STATUTORY RULES.

1944. No. 82

REGULATIONS UNDER THE DEFENCE ACT 1903-1941.*

I THE GOVERNOR-GENERAL in and over the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Regulations under the *Defence Act* 1903-1941.

Dated this *thirty-first*
day of *May*, 1944.

(Sd.) GOWRIE

Governor-General.

By His Excellency's Command,

(Sd.) J. M. Fraser

ACTING Minister of State for the Army.

AMENDMENTS OF THE WAR FINANCIAL (MILITARY FORCES) REGULATIONS.†

1.—(1.) Regulation 4 of the War Financial (Military Forces) Regulations is amended by inserting after the definition “prescribed authority” the following definition:—

“‘proficient’, when applied to a Lance Corporal, Lance Bombardier, Trooper, Gunner, Sapper, Signaller or Private who is not in receipt of the pay prescribed for a qualified parachutist or for a Tradesman or Specialist, means a soldier who—

- (a) has completed at least six months' continuous war service;
- (b) is of good conduct; and
- (c) has demonstrated his proficiency to the satisfaction of the Military Board, and is classified ‘proficient’;”.

(2.) The amendment effected by this regulation shall be deemed to have come into operation on the first day of July, 1943.

* Notified in the *Commonwealth Gazette* on _____, 1944.
† Statutory Rules 1941, No. 218, as amended by Statutory Rules 1942, Nos. 136 and 347; 1943, No. 287; and 1944, No. 65.

2.—(1.) After regulation 7 of the War Financial (Military Forces) Regulations the following regulations are inserted:—

“7A. The pay which may be drawn by a member while he is a patient in a military hospital or convalescent in a convalescent home or depot may be restricted to such amounts within his credit as are fixed from time to time by the Commanding Officer of the military hospital or convalescent home or depot in which the member is a patient or convalescent. Restriction of pay in hospital.

“7B.—(1.) A member who qualifies as a parachutist shall, on the date upon which he so qualifies, be entitled to payment of— Pay of parachutists.

(a) two shillings per day from and including the date upon which he commenced training as a parachutist up to and including the day prior to the date on which he qualifies as a parachutist; and

(b) a further sum of one shilling for each day during his course of training on which he made one or more parachute descents from an aircraft,

in addition to the pay of the member's rank, appointment or classification.

“(2.) A member who, as a result of injuries or illness not caused by his own wilful act or default, is prevented from completing his training shall be entitled to payment at the rates set out in sub-regulation (1.) of this regulation from the date on which he commenced training as a parachutist until—

(a) his service is terminated; or

(b) he is transferred to other duties.

“(3.) Subject to such conditions as are approved by the Military Board, a member who has qualified as a parachutist shall, while he is a member of a Parachute Unit, be entitled to payment of an amount of three shillings per day in addition to the pay of his rank, appointment or classification, as set out in the First Schedule.

“7c. When a member's active pay account is overdrawn in consequence of— Minimum drawing rate.

(a) any forfeiture of pay referred to in regulation 23 or 25 of these Regulations; or

(b) the recovery of—

(i) any fine inflicted upon, or sum of money ordered or awarded to be paid by, or stopped from the pay of, a member, either by award of his Commanding Officer or by court-martial; or

(ii) any amount equal to the member's allotment paid to the member's allottee in pursuance of these Regulations during any period of forfeiture; or

(iii) any amount paid by way of dependants allowance in respect of the member's allotment, after the date of the notice prescribed by paragraph (b) of sub-regulation (1.) of regulation 54 of these Regulations; or

(iv) any amount agreed by the member to be deducted from his pay in respect of the loss of, or damage to, Commonwealth property on issue to him,

that member shall, in respect of each day during which his account shall remain overdrawn, be entitled to draw, as an advance against future active pay, an amount equal to—

- (c) one-tenth of his daily rate of pay (excluding deferred pay);
- or
- (d) (i) if he is serving in Australia—One shilling in Australian currency per day; or
- (ii) if he is serving outside Australia—One shilling in English currency per day,

whichever is the greater :

Provided that a member shall not be entitled to any such advance during any period in which he is undergoing sentence of penal servitude, imprisonment, detention, or field punishment in custody, or is absent without leave.”

(2.) The portion of this regulation which provides for the insertion in War Financial (Military Forces) Regulations of regulation 7B shall be deemed to have come into operation on the twenty-fourth day of December, 1942.

3. Regulation 14 of the War Financial (Military Forces) Regulations is repealed and the following regulation is inserted in its stead:—

“14.—(1.) A member holding the appointment of a Chaplain-^{Chaplains.} General shall, in respect of any period after the thirtieth day of November, 1942, be paid at the rates of pay and pay allowances prescribed by these Regulations for the rank of Lieutenant-Colonel.

“(2.) A member holding the appointment of a Chaplain shall, irrespective of his classification, be paid at the rates of pay and pay allowances prescribed by these Regulations for the rank of Captain:

Provided that, in the case of a Chaplain classified as higher than 4th Class under Regulation 594 of the Australian Military Regulations, the Military Board may authorize the payment to that Chaplain of pay and pay allowances at the rates prescribed by these Regulations for the rank of Major.”

4. Regulation 24 of the War Financial (Military Forces) Regulations is amended by omitting the words “Military Board” and inserting in their stead the word “Minister” ^{Remission of forfeiture in event of death.}

5. Regulation 25 of the War Financial (Military Forces) Regulations is repealed and the following regulation inserted in its stead:—

“25.—(1.) Subject to sub-regulation (2.) of this regulation, a member shall forfeit one-third of his daily rate of pay and pay allowances for each day during which he is absent from duty suffering from acquired venereal disease. ^{Venereal disease.}

“(2.) No forfeiture under the last preceding sub-regulation shall be made in the case of a member—

- (a) on the first occasion after the thirty-first day of January, 1944, upon which he is so absent—for a period not exceeding thirty-five days;
- (b) on any subsequent occasion on which he is so absent, unless such absence is occasioned by a subsequent re-infection acquired after the contraction of the disease which

necessitated the absence referred to in paragraph (a) of this sub-regulation, for—

- (i) the period of that absence; or
- (ii) such part of that absence as will, when added to any previous period or periods of absence after the thirty-first day of January, 1944, during which he was absent from duty suffering from the disease, equal thirty-five days, whichever is the lesser;
- (c) who acquired the disease while acting in the course of his duty; or
- (d) who is suffering from the disease if the disease is congenital.”.

6.—(1.) Regulation 38 of the War Financial (Military Forces) Regulations is amended by adding the following proviso:— Proof of dependence.

“Provided that, where a wife who is deserted by her husband subsequent to his becoming a member was, prior to such desertion, in receipt of dependants allowance in respect of the member, proof of dependence shall not be required unless a prescribed authority so directs.”.

(2.) The amendment effected by this regulation shall be deemed to have come into operation on the thirty-first day of December, 1943.

7.—(1.) Regulation 39 of the War Financial (Military Forces) Regulations is amended by inserting, after the word “applies,” the words “or persons in respect of whom, under the proviso to regulation 38 of these Regulations, proof of dependence is not required,” Degree of dependence.

(2.) The amendment effected by this regulation shall be deemed to have come into operation on the thirty-first day of December, 1943.

8. Regulation 43 of the War Financial (Military Forces) Regulations is amended— Manner of payment of allotments and dependants allowances.

(a) by omitting sub-regulation (1.) and inserting the following sub-regulation in its stead:—

“(1.) Any sum payable by way of allotment or dependants allowance in accordance with these Regulations may, if a prescribed authority so directs, be paid by fortnightly instalments—

(a) into a bank account approved by a prescribed authority; or

(b) to the person to whom the sum is payable—

(i) by cheque, money order or bank draft, or

(ii) in currency, through a postmaster or other officer.”; and

(b) by omitting from sub-regulation (2.) the words “, in fortnightly instalments.”.

9. Regulation 48 of the War Financial (Military Forces) Regulations is amended— Recovery of amount paid on account of allotment during forfeiture of pay.

(a) by omitting sub-regulation (2.); and

(b) by re-numbering sub-regulation (3.) as (2.).

10. Regulation 49 of the War Financial (Military Forces) Regulations is amended by omitting sub-regulation (2.). Recovery of fines, &c.

11. Regulation 51 of the War Financial (Military Forces) Regulations is amended by omitting from sub-regulation (2.) the words "sub-regulation (2.) of" ^{Death of member.}

12.—(1.) Regulation 52 of the War Financial (Military Forces) Regulations is repealed and the following regulation inserted in its stead:—

"52.—(1.) If a member who had made an allotment payable to, or for the benefit of, a dependant and in respect of whom dependants allowance is payable is reported 'missing', payment of the allotment and dependants allowance may, subject to this regulation and with the approval of the prescribed authority concerned, be continued for six months from the date of notification to the prescribed authority that the member is 'missing' and, if the member is still 'missing' at the expiration of that period the allotment and dependants allowance shall (subject to sub-regulation (3.) of this regulation) cease. ^{Member reported "missing".}

"(2.) Notwithstanding that a member has been reported 'missing', the Minister or an authorized officer may, in pursuance of the powers conferred by regulation 33 of these Regulations or regulation 6 of the National Security (Military Forces) Regulations, make an order authorizing a deduction from the pay of the member and the payment of the sums deducted to or for the benefit of any person who, in the opinion of the Minister or the authorized officer, as the case may be, is wholly or partly dependent upon, or has a claim for maintenance against the member, in accordance with the relevant regulation, and any sum deducted in pursuance of the order shall, for the purposes of these Regulations, be deemed to be an allotment, and there shall be credited to the member pay sufficient to provide for the amount of such allotment. The allotment and any dependants allowance granted may, subject to this regulation, be continued for six months from the date of the order.

"(3.) If, at the expiration of the period stipulated in sub-regulation (1.) or (2.) (as the case may be) of this regulation, it is not possible to establish the fate of the member, the Minister may authorize payment of the allotment and dependants allowance to be continued for a further period, or periods, at such rate as he considers reasonable.

"(4.) If, at any time during the period for which payment is made under sub-regulation (1.), (2.) or (3.) of this regulation, the member is ascertained to be dead, the matter of payment of the allotment and dependants allowance shall be dealt with in accordance with sub-regulation (1.) of regulation 51 of these Regulations.

"(5.) If a member who has made an allotment in relation to which no dependants allowance is payable is reported 'missing', payment of the allotment may, subject to the approval of the prescribed authority concerned, be continued for a period of three months from the date of notification to the prescribed authority that the member is 'missing' and, if the member is still 'missing' at the expiration of that period, the allotment shall cease:

Provided that, if, at the expiration of that period, it is not possible to establish the fate of the member, the prescribed authority may authorize payment to be continued for a further period of three months at such rate as he considers reasonable, if he is satisfied that the allottee is to some extent dependent on the member or that hardship would be caused by the cessation of the payment:

Provided also that, if, at the expiration of the further period of three months, it is not possible to establish the fate of the member, the Minister may authorize payment to be continued for such additional period, or periods, and at such rate, as he considers reasonable:

Provided also that, if, at any time during the period for which payment is made under this sub-regulation, the member is ascertained to be dead, the matter of payment of the allotment shall be dealt with in accordance with regulation 51 of these Regulations.

“(6.) If a member has been reported ‘missing’ and is subsequently found to be alive, any allotment made by him and dependants allowance (if any) may, subject to these Regulations, be reinstated and paid as from the day on which payment ceased.”

13. Regulation 54 of the War Financial (Military Forces) Regulations is amended— Absence
without leave.

(a) by omitting sub-regulation (1.) and inserting the following sub-regulation in its stead:—

“(1.) If a member is declared in pursuance of the Australian Military Regulations to be illegally absent, the prescribed authority shall be notified in such manner as the Military Board approves and upon receipt of such notification shall—

(a) if the member has made an allotment in relation to which no dependants allowance is payable—suspend payment of the allotment as from the earliest possible date; or

(b) if the member has made an allotment in relation to which dependants allowance is payable—forthwith forward a notice to the allottee that payment of the allotment and dependants allowance will be suspended on and from a specified date, being such date subsequent to the date of that notice as will permit of the payment of two instalments of allotment and dependants allowance in accordance with regulation 43 of these Regulations inclusive of the instalment (if any) payable on the date of the notice, and payment shall be suspended accordingly unless the member returns to duty or is apprehended before the date of suspension:

Provided that—

(i) if the amount of the allotment or the total amount of the allotments made by the member exceeds the standard rate, the amount payable to the allottee or allottees in respect of any day subsequent to the date of the notice shall be reduced by a prescribed authority to an amount equal to the standard rate and dependants allowance; and

(ii) the amount paid to the allottee or allottees in respect of the allotment or allotments and dependants allowance for any day subsequent to the date of the notice shall be a charge against, and may be recovered from, any moneys which are or may become due to the member.”;

(b) by omitting sub-regulation (3.) and inserting the following sub-regulation in its stead:—

“(3.) If a member who has been declared to be illegally absent is subsequently reported to be dead, missing, or a prisoner of war, the payment of allotment and dependants allowance (if any) shall be dealt with in accordance with regulations 51, 52 or 53 of these Regulations, as the case may be.”; and

(c) by omitting sub-regulation (4.).

14. The First Schedule to the War Financial (Military Forces) Regulations is amended by deleting the words and figures—

“Lance Corporal or Lance Bombardier (not classed as a tradesman or specialist)	0 6 6	0 6 6	2 0
Trooper, Gunner, Sapper, Signaller or Private (not classed as a tradesman or specialist) ..	0 6 6	0 6 6	2 0”

shown in Part 4 under the heading “*Members other than members of the Women's Service*” and inserting in their stead the words and figures—

“Lance Corporal or Lance Bombardier (not classed as a tradesman or specialist)—			
Up to and including the thirtieth day of June, 1943	0 6 6	0 6 6	2 0
On and from the first day of July, 1943—			
If classified ‘proficient’ and not entitled to pay of a qualified parachutist as prescribed by regulation 7B of these Regulations	0 7 6	0 7 6	2 0
All others	0 7 0	0 7 0	2 0
Trooper, Gunner, Sapper, Signaller or Private (not classed as a tradesman or specialist)—			
Up to and including the thirtieth day of June, 1943	0 6 6	0 6 6	2 0
On and from the first day of July, 1943—			
If classified ‘proficient’ and not entitled to pay of a qualified parachutist as prescribed by regulation 7B of these Regulations	0 7 0	0 7 0	2 0
All others	0 6 6	0 6 6	2 0”.