

SCHEDULE A—continued.

Tariff Item.	Tariff on Goods the Produce or Manufacture of Australia.
<p>62. Rice, uncleaned, unhulled or paddy ..</p> <p>The Governor-in-Council, when satisfied that Australia can supply Canadian requirements, may, by Order-in-Council, direct that there be substituted for tariff item 62 in Schedule A of the Customs Tariff, 1907, and the enumeration of goods and the rates of duties of customs set opposite the said item in Schedule A the following:—</p>	Free.
<p>62a. Rice, uncleaned, unhulled or paddy ..</p> <p>British Preferential Tariff 25 % ad valorem. Intermediate Tariff 25 % ad valorem. General Tariff 25 % ad valorem.</p> <p>From and after the publication of such Order-in-Council in "The Canada Gazette" tariff item 62 as it appears in the said Schedule at the time of the publication of the said Order shall be repealed and the provisions of tariff item 62a. shall be substituted therefor.</p>	Free.
<p>Ex. 92. Fruits, fresh, in their natural state, the weight of the packages to be included in the weight for duty:</p>	
(a) Apricots .. .. .	Free during the months of January and February; British Preferential Tariff during the other months of the year.
(e) Pears .. .. .	Free during the months of February, March and April; British Preferential Tariff during the other months of the year.
(i) Quinces and Nectarines .. .. .	Free during the months of March, April and May; British Preferential Tariff during the other months of the year.
<p>94. Grapes, fresh, in their natural state, the weight of the packages to be included in the weight for duty</p>	Free during the months of February, March, April, May and June; British Preferential Tariff during the other months of the year.
Ex. 96. Passion fruit ( <i>Passiflora Edulis</i> ) .. .. .	Free.
Ex. 99a. Prunes, dried, unpitted, in bulk .. .. .	Free.
Ex. 99b. Apricots, nectarines, pears and peaches, dried, desiccated, evaporated or dehydrated .. .. .	Free.
99c. Raisins and dried currants .. .. .	Free.
Ex. 101. Oranges .. .. .	Free during the months of May, June, July, August, September and October; British Preferential Tariff during the other months of the year.

## SCHEDULE A—continued.

Tariff Item.	Tariff on Goods the Produce or Manufacture of Australia.
Ex. 105. Fruit pulp, other than grape pulp, not sweetened, in air-tight cans or other air-tight packages .. .. .	Free.
106. Fruits, prepared, in air-tight cans or other air-tight containers, the weight of the containers to be included in the weight for duty:	
(a) Apricots, peaches and pears .. .. .	1 cent per pound.
(b) Pineapples .. .. .	1 cent per pound.
(c) Not otherwise provided for .. .. .	1 cent per pound.
109a. Peanuts, green, in the shell or not further processed than shelled .. .. .	Free.
The Governor-in-Council, when satisfied that Australia can supply Canadian requirements, may, by Order-in-Council, direct that there be substituted for tariff item 109a in Schedule A of the Customs Tariff, 1907, and the enumeration of goods and the rates of duties of customs set opposite the said item in Schedule A the following:—	
109b. Peanuts, green, in the shell or not further processed than shelled.	Free.
British Preferential Tariff	
4 cents per pound.	
Intermediate Tariff	
4 cents per pound.	
General Tariff	
4 cents per pound.	
From and after the publication of such Order-in-Council in "The Canada Gazette" tariff item 109a as it appears in the said Schedule at the time of the publication of the said Order shall be repealed and the provisions of tariff item 109b shall be substituted therefor.	
Ex. 135. Sugar, above No. 16 Dutch standard in colour when imported or purchased in bond in Canada by a recognized sugar refiner, for refining purposes only, under regulations by the Minister, when exceeding 98 degrees, but not exceeding 99 degrees polarization .. .. .	31.64 cents per 100 pounds.
Ex. 152. Orange, lemon and passion fruit ( <i>Passiflora Edulis</i> ) juices .. .. .	Free.
Ex. 156. Brandy .. .. .	\$8.00 per proof gallon.
Ex. 163. Wines of the fresh grape of all kinds, not sparkling, imported in barrels or in bottles, containing more than 23% proof spirit and less than 35% proof spirit .. .. .	25 cents per gallon.
165. Champagne and all other sparkling wines:	
(a) In bottles containing each not more than a quart but more than a pint (old wine measure) .. .. .	\$7.44 per dozen bottles.
(b) In bottles containing not more than a pint each, but more than one-half pint (old wine measure) .. .. .	\$3.72 per dozen bottles.
(c) In bottles containing one-half pint each or less (old wine measure) .. .. .	\$1.86 per dozen bottles.
(d) In bottles containing over one quart each (old wine measure) .. .. .	\$3.60 per gallon.

SCHEDULE A—continued.

Tariff Item.	Tariff on Goods the Produce or Manufacture of Australia.
Ex. 507. Veneers, viz.:—Australian blackwood, walnut, silky oak, silkwood, black bean, maple, Tasmanian myrtle, and eucalyptii, single ply and not over three thirty-seconds of an inch in thickness .. ..	Free.
Ex. 711. Gelatine, edible .. ..	12½% ad valorem.
782. Eucalyptus oil .. ..	Free.

SCHEDULE B.

Tariff Item.	Tariff on Goods the Produce or Manufacture of Canada.
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DIVISION IV.—AGRICULTURAL PRODUCTS AND GROCERIES.

51 (c) Fish preserved in tins or other air-tight vessels including the weight of liquid contents .. ..	British Preferential Tariff.
57 (A) Wheat .. ..	General Tariff.
58 (B) Wheaten flour .. ..	General Tariff.

DIVISION VI.—METALS AND MACHINERY.

162. Chaffcutters and horse gears; corn shellers; corn huskers; cultivators, n.e.i.; harrows; ploughs, other; plough shares; plough mouldboards; scarifiers .. ..	General Tariff.
163 (A) Combined corn sheller husker and bagger; combined corn sheller and husker; disc cultivators; drills (fertilizer seed and grain) n.e.i.; stump jump ploughs; winnowers (horse and other power); seats, poles, swingle-bars, yokes, and trees for agricultural machines, when imported separately .. ..	General Tariff.
165. (A) Reaper threshers and harvesters n.e.i. ..	General Tariff.
(B) Stripper harvesters .. ..	General Tariff.
167. Metal parts of reaper threshers, stripper harvesters, strippers, and harvesters n.e.i.	General Tariff.
171. Machinery, machines, and appliances :—	
(A) Hay rakes, horse .. ..	General Tariff.
(B) Reapers and binders .. ..	General Tariff.
(C) Mowers .. ..	General Tariff.
(D) Metal parts, n.e.i., of—	
(1) Reapers and binders .. ..	General Tariff.
(2) Hay rakes (horse) and mowers .. ..	General Tariff.

DIVISION IX.—DRUGS AND CHEMICALS.

273. Carbide of Calcium .. ..	British Preferential Tariff.
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## SCHEDULE B—continued.

Tariff Item.	Tariff on Goods the Produce or Manufacture of Canada.
<b>DIVISION N.—WOOD, WICKER, AND CANE.(a)</b>	
<b>Ex. 291. Timber, viz. :—</b>	
(c) Logs, not sawn, viz. :—	
(2) For use in the manufacture of plywood and veneers, as prescribed by Departmental by-laws .. ..	Intermediate Tariff.
(3) Other .. ..	Intermediate Tariff.
(d) Spars, in the rough .. ..	Intermediate Tariff.
(f) Timber, undressed, n.e.i., viz. :—Redwood ( <i>Sequoia Sempervirens</i> ) and Western Red Cedar ( <i>Thuja Plicata</i> )—	
(1) In sizes of 12 inches x 6 inches (or its equivalent) and over .. ..	Intermediate Tariff.
(2) In sizes of 8 inches x 2 inches (or its equivalent) and upwards, and less than 12 inches x 6 inches (or its equivalent) .. ..	Intermediate Tariff.
(3) In sizes less than 8 inches x 2 inches (or its equivalent) .. ..	Intermediate Tariff.
(h) Timber, undressed, n.e.i., viz. :—	
Other—	
(1) In sizes of 12 inches x 10 inches (or its equivalent) and over .. ..	Intermediate Tariff.
(2) In sizes of 7 inches x 2½ inches (or its equivalent) and upwards, and less than 12 inches x 10 inches (or its equivalent) .. ..	Intermediate Tariff.
(3) In sizes less than 7 inches x 2½ inches (or its equivalent) .. ..	Intermediate Tariff.
(i) (1) Timber, undressed, n.e.i., in sizes not less than 4 inches in width and not less than 3 inches in thickness for the manufacture of boxes, as prescribed by Departmental by-laws .. ..	Intermediate Tariff.
(2) Timber, undressed, cut to size for making boxes .. ..	Intermediate Tariff.
(j) Timber, for making boxes, being cut to size, and dressed or partly dressed .. ..	Intermediate Tariff.
(k) Timber, bent or cut into shape, dressed or partly dressed, n.e.i. .. ..	Intermediate Tariff.
(l) Timber, dressed or moulded, n.e.i.; timber tongued or grooved or tongued and grooved; weather-boards .. ..	Intermediate Tariff.
(m) Plywood including plywood veneered with any material :—	
(1) Not exceeding three-sixteenths of an inch in thickness .. ..	Intermediate Tariff.
(2) Exceeding three-sixteenths of an inch in thickness but not exceeding seven-eighths of an inch in thickness .. ..	Intermediate Tariff.
(3) N.e.i. .. ..	Intermediate Tariff.
(n) Veneers .. ..	Intermediate Tariff.

(a) N.B. the Schedule to the Customs Tariff (Canadian Preference) 1934 (*infra*, p. 671).



SCHEDULE B—continued.

Tariff Item.	Tariff on Goods the Produce or Manufacture of Canada.
DIVISION X.—WOOD, WICKER, AND CANE—continued.	
Ex. 292. Timber, viz.:—	
(B) Laths for plastering .. ..	Intermediate Tariff.
(c) Palings .. ..	Intermediate Tariff.
(F) Shingles .. ..	Intermediate Tariff.
293. (A) Timber, undressed, in sizes less than 7 feet 6 inches x 10½ inches x 2½ inches for use in the manufacture of doors, as prescribed by Departmental by-laws ..	Intermediate Tariff.
(B) Doors of wood (including fly doors) wholly or partly made up .. ..	Intermediate Tariff.
(c) Plywood door panels of redwood ( <i>Sequoia sempervirens</i> ) and Douglas fir ( <i>Pseudotsuga Douglasii</i> ) cut to sizes not exceeding 2 feet x 2 feet (or its equivalent) for use in the manufacture of doors, as prescribed by Departmental by-laws ..	Intermediate Tariff.
294 (A) Staves, undressed, n.e.i. .. ..	Intermediate Tariff.
(A) Staves, dressed or partly dressed, but not shaped .. ..	Intermediate Tariff.
303 (c) Wood wool .. ..	British Preferential Tariff.

DIVISION XII.—HIDES, LEATHER, AND RUBBER.<sup>(a)</sup>

328. Goloshes, rubber sand boots and shoes and plimsolls .. ..	Intermediate Tariff.
330. Boots, rubber, viz.:—gum and wading boots .. ..	General Tariff.
333 (A) Pneumatic rubber tyres, and tubes therefor, valved or unvalved.. ..	General Tariff.
(B) Rubber tyres other than pneumatic, including compositions made up in form and size suitable for use with pneumatic tyre covers as a substitute for the inner tube .. ..	General Tariff.

DIVISION XIII.—PAPER AND STATIONERY.

334. Paper, viz.:—	
(a) (1) Wrapping, of all colours (glazed, unglazed, or millglazed), browns, caps not elsewhere specified, casings, sealings, nature or ochre browns, sulphites, sugars, and all other bag papers, candle carton paper; paper felt and carpet felt paper irrespective of weight .. ..	General Tariff.

(a) N.B. the Schedule to the Customs Tariff (Canadian Preference) 1931 (*infra*, p. 671).

## SCHEDULE B—continued.

Tariff Item.	Tariff on Goods the Produce or Manufacture of Canada.
DIVISION XIV.—VEHICLES. <sup>(a)</sup>	
Ex. 359. Vehicle parts, viz.:—	
(D) Parts of vehicles with self-contained power propelled by petrol, steam, electricity, oil, gas, or alcohol, n.e.i., whether incorporated in the complete vehicle or separate, viz.:—	
(1) Single-seated bodies ..	General Tariff.
(2) Double-seated bodies ..	General Tariff.
(3) Bodies with fixed or movable canopy tops, e.g., landaulette, limousine, taxi-cab, and similar types, and n.e.i.	General Tariff.
(4) Chassis, but not including rubber tyres and tubes, storage batteries, shock absorbers, steering dampers, bumper bars, sparking plugs, springs, spring hangers, shackle bolts, pins and assemblies, U bolts, king pins, tie rod pins, tie rod ball pins, tie rod ball studs, high tension ignition coils, gaiters for springs, bonnets, instrument boards, and radiator shells—	
(a) Unassembled ..	Intermediate Tariff.
(b) Assembled ..	Intermediate Tariff.
The word "Bodies" in paragraphs (1), (2), and (3) of this sub-item includes dashboards, footboards, and mudguards, when imported with bodies of which they form a part.	
(E) Parts of bodies enumerated in sub-items (D) (1), (D) (2), and (D) (3), being complete sets of Metal panels:—	
(1) For single-seated bodies ..	General Tariff.
(2) For double-seated bodies ..	General Tariff.
(3) For bodies with fixed or moveable canopy tops and bodies n.e.i. ..	General Tariff.
(F) (4) Gears for motor vehicles other than railway and tramway vehicles, viz.:—crown wheels and pinions, transmission gears, differential gears, worms and worm wheels, internal tooth gears, jack shaft pinions and flywheel starter bands ..	General Tariff.
(17) Shock absorbers ..	General Tariff.

<sup>(a)</sup> N.B. the Schedule to the Customs Tariff (Canadian Preference) 1934 (*infra*, p. 671).

SCHEDULE B—continued.

Tariff Item.	Tariff on Goods the Produce or Manufacture of Canada.
DIVISION XV.—MUSICAL INSTRUMENTS.	
365. Pianos and parts thereof—	
(A) Grand, with or without player mechanism .. .. .	General Tariff.
(B) Upright, player or with provision for incorporating the player mechanism	General Tariff.
(C) Upright, n.e.i. .. .. .	General Tariff.
(D) Keyboards, complete or incomplete ..	General Tariff.
(E) Parts, n.e.i., as prescribed by Departmental by-laws .. .. .	General Tariff.
DIVISION XVI.—MISCELLANEOUS.	
380 (B) Vacuum cleaners for use in household ..	British Preferential Tariff.

CUSTOMS TARIFF (CANADIAN PREFERENCE) 1934.

No. 5 of 1934.

An Act relating to Preferential Duties of Customs on Goods, the Produce or Manufacture of the Dominion of Canada.

[Assented to 12th July, 1934.]

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

1. This Act may be cited as the *Customs Tariff (Canadian Preference) 1934.* Short title.

2. The *Customs Act 1901–1930*<sup>(a)</sup> shall be incorporated and read as one with this Act. Incorporation.

3. Notwithstanding anything to the contrary contained in the *Customs Tariffs 1933*,<sup>(b)</sup> there shall be imposed on the importation into Australia of the undermentioned goods (being the produce or manufacture of the Dominion of Canada), when— Imposition of duty on imports from Canada.

(i) those goods have been shipped from that Dominion to Australia and have not been transhipped; or

(a) *Supra*, p. 490.

(b) *Supra*, p. 546.

- (ii) those goods, having been so shipped, have been transhipped, and it is proved to the satisfaction of the Collector of Customs that the intended destination of the goods when originally shipped was Australia ;

Duties of Customs as follows :—

- (a) On the goods specified in the column headed "Tariff Item" in the Schedule hereto Duties of Customs at the rates respectively specified in the column headed "Tariff on goods the produce or manufacture of Canada" in the Schedule hereto ;
- (b) On such goods as are specified in Schedule B to the Trade Agreement between Canada and Australia a copy of which is set forth in the Schedule to the *Customs Tariff (Canadian Preference)* 1931<sup>(a)</sup> and as are, by that Act, dutiable at the rates specified in the General Tariff, Duties of Customs at the rates in force under the General Tariff on the dates on which the goods are respectively entered for home consumption ; and
- (c) On all goods other than those covered by paragraphs (a) and (b), Duties of Customs at the rates in force under the British Preferential Tariff on the dates on which the goods are respectively entered for home consumption.

Time of  
imposition of  
duties.

4. The Duties of Customs imposed by this Act shall be charged, collected and paid to the King for the purposes of the Commonwealth on all goods subject to those duties which are imported on or after the eighth day of December, One thousand nine hundred and thirty-three, or which, having been imported before that date, are entered for home consumption on or after that date.

Duties to be  
in lieu of those  
under *Customs  
Tariff  
(Canadian  
Preference)* 1931.  
Validation.

5. The Duties of Customs imposed by this Act shall be in lieu of the duties payable upon those goods under the *Customs Tariff (Canadian Preference)* 1931.<sup>(a)</sup>

6. All Duties of Customs demanded or collected on goods the produce or manufacture of the Dominion of Canada pursuant to the Customs Tariff (Canadian Preference) proposals introduced into the House of Representatives on the thirteenth day of October, One thousand nine hundred and thirty-two, shall be deemed to have been lawfully imposed and lawfully demanded and collected.

Power to  
suspend  
application of  
preference rates  
to particular  
goods.

7.—(1.) If at any time—

- (a) His Majesty's Government in the Commonwealth gives notice in writing to His Majesty's Government in the Dominion of Canada that in consequence of the importation into Australia of goods, of a kind specified in the notice, being the produce or manufacture of the Dominion of Canada, the sale of similar goods produced in Australia is being prejudicially or injuriously affected, and

(a) *Supra*, p. 658.

(b) measures, sufficient in the opinion of His Majesty's Government in the Commonwealth, are not put into effect by His Majesty's Government in the Dominion of Canada, within three months after the date of the notice,

then, from a time and date to be fixed by Proclamation, goods of the kind specified in the notice shall, when imported from the Dominion of Canada, be subject to the rates of duty set out in the General Tariff.

(2.) Upon the withdrawal of any notice given in pursuance of the last preceding sub-section, goods of the kind specified in the notice shall, when imported from the Dominion of Canada after a time and date to be fixed by Proclamation, again become subject to the rates of duty which would have been applicable to them if the notice had not been given.

### THE SCHEDULE.

Tariff Item.	Tariff on goods the produce or manufacture of Canada.
<b>DIVISION X.—WOOD, WICKER, AND CANE.</b>	
Ex. 291. . . Timber, viz. :—	
(a) Logs, not sawn, viz. :—	
(1) For use in the manufacture of Plywood and Veneers, as prescribed by Departmental By-laws - ad val.	5 per cent.
(2) Other . . . . . - ad val.	20 per cent.
(p) Spars in the rough . . . . . - ad val.	20 per cent.
(r) Timber, undressed, n.e.i., viz. :—Redwood ( <i>Sequoia Sempervirens</i> ) and Western Red Cedar ( <i>Thuja Plicata</i> )—	
(1) In sizes of 12 inches x 6 inches (or its equivalent) and over . . . per 100 super. feet	2s.
(2) In sizes of 8 inches x 2 inches (or its equivalent) and upwards, and less than 12 inches x 6 inches (or its equivalent) . . . per 100 super. feet	3s. 6d.
(3) In sizes less than 8 inches x 2 inches (or its equivalent) . . . per 100 super. feet	8s.
(H) Timber, undressed, n.e.i., viz. :—	
Other—	
(1) In sizes of 12 inches x 10 inches (or its equivalent) and over . . . per 100 super. feet	10s. 6d.
(2) In sizes of 7 inches x 2½ inches (or its equivalent) and upwards, and less than 12 inches x 10 inches (or its equivalent) . . . per 100 super. feet	12s.
(3) In sizes less than 7 inches x 2½ inches (or its equivalent) . . . per 100 super. feet	13s. 6d.
(i) (1) Timber, undressed, n.e.i., in sizes not less than 4 inches in width and not less than 3 inches in thickness for the manufacture of boxes, as prescribed by Departmental By-laws . . .	Free
(2) Timber, undressed, cut to size for making boxes . . . per 100 super. feet	12s.
(j) Timber, for making boxes, being cut to size, and dressed or partly dressed . . . per 100 super. feet	14s.
(k) Timber, bent or cut into shape, dressed or partly dressed, n.e.i. . . . . - ad val.	55 per cent.
(L) Timber, dressed or moulded, n.e.i.; Timber tongued or grooved or tongued and grooved; Weatherboards . . . per 100 super. feet	22s.



## THE SCHEDULE—continued.

Tariff Item.		Tariff on goods the produce or manufacture of Canada.
<b>Division X.—Wood, Wicker, and Cane—continued.</b>		
(M) Plywood including Plywood veneered with any material:—		
(1) Not exceeding three-sixteenths of an inch in thickness . . . . .		5s.
or ad val.		55 per cent.
whichever rate returns the higher duty.		
(2) Exceeding three-sixteenths of an inch in thickness but not exceeding seven-eighths of an inch in thickness . . . . .		5s.
per 100 square feet		
with an additional duty for each one-sixteenth of an inch in thickness in excess of three-sixteenths of an inch . . . . .		1s. 6d.
per 100 square feet		
or, as an alternative to the cumulative fixed rates provided above . . . . .		55 per cent.
whichever rate returns the higher duty.		
(3) N.E.I. . . . .		55 per cent.
- ad val.		55 per cent.
Ex. 292	(N) Veneers . . . . .	
..	Timber, viz.:—	
	(B) Laths for Plastering . . . . .	10s.
	(C) Palings . . . . .	14s.
	(F) Shingles . . . . .	3s.
293	(A) Timber, undressed, in sizes less than 7 feet 6 inches x 10½ inches x 2½ inches for use in the manufacture of Doors, as prescribed by Departmental By-laws . . . . .	4s.
	per 100 super. feet	
	(B) Doors of wood (including Fly Doors) wholly or partly made up . . . . .	8s.
	each	
	or per super. foot	4d.
	whichever rate returns the higher duty.	
	(C) Plywood Door Panels of Redwood ( <i>Sequoia Sempervirens</i> ) and Douglas Fir ( <i>Pseudotsuga Douglasii</i> ) cut to sizes not exceeding 2 feet x 2 feet (or its equivalent) for use in the manufacture of Doors, as prescribed by Departmental By-laws . . . . .	5s.
	per 100 square feet	
Ex. 294	(A) Staves, undressed, n.e.i. . . . .	8s.
..	(B) Staves, dressed or partly dressed, but not shaped . . . . .	11s.
	per 100	
<b>DIVISION XII.—HIDES, LEATHER, AND RUBBER.</b>		
328	Goloshes, Rubber Sand Boots and Shoes and Plimsolls . . . . .	1s. 9d.
	per pair	
	or ad val.	30 per cent.
whichever rate returns the higher duty.		
<b>DIVISION XIV.—VEHICLES.</b>		
Ex. 359	Vehicle parts, viz.:—	
(D) ..	Parts of vehicles with self-contained power propelled by petrol, steam, electricity, oil, gas, or alcohol, n.e.i., whether incorporated in the complete vehicle or separate, viz.:—	
	(4) Chassis, but not including Rubber Tyres and Tubes, Storage Batteries, Shock Absorbers excepting Steering Dampers, Bumper Bars, Sparking Plugs, Springs, Spring Hangers, Shackle Bolts Pins and Assemblies, U Bolts, King Pins, Tie Rod Pins, Tie Rod Ball Pins, Tie Rod Ball Studs and High Tension Ignition Coils:—	
	(a) Unassembled . . . . .	15 per cent.
	(b) Assembled . . . . .	35 per cent.
	- ad val.	
	- ad val.	



CUSTOMS TARIFF (CANADIAN PREFERENCE) VALIDATION ACT 1935.

**No. 21 of 1935.**

An Act to provide for the Validation of Collections of Duties of Customs under Customs Tariff (Canadian Preference) Proposals.

[Assented to 13th April, 1935.]

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

1. This Act may be cited as the *Customs Tariff (Canadian Preference) Validation Act 1935.* Short title.

2. All duties of Customs demanded or collected, on or before the thirtieth day of November, One thousand nine hundred and thirty-five, pursuant to the Customs Tariff (Canadian Preference) proposals introduced into the House of Representatives on the sixth day of December, One thousand nine hundred and thirty-four, shall be deemed to have been lawfully imposed and lawfully demanded or collected. Validation of collections under Tariff proposals.

CUSTOMS TARIFF (EXCHANGE ADJUSTMENT) ACT 1933-1934.<sup>(a)</sup>

An Act to provide for Adjustments in Duties of Customs consequent upon depreciation in the value of Australian currency in relation to the currencies of countries to goods of which the British Preferential Tariff applies.

[Assented to 4th December, 1933.]<sup>(b)</sup>

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

1. This Act may be cited as the *Customs Tariff (Exchange Adjustment) Act 1933-1934.*<sup>(a)</sup> Short title.

2. The *Customs Act 1901-1930*<sup>(c)</sup> shall be incorporated and read as one with this Act. Short title amended, No. 32, 1918, s. 2.  
Incorporation.

(a) The *Customs Tariff (Exchange Adjustment) Act 1933-1934* comprises the *Customs Tariff (Exchange Adjustment) Act 1933* (No. 29 of 1933) as amended by the *Customs Tariff (Exchange Adjustment) Act 1934* (No. 3 of 1934). See Act No. 3, 1934, s. 1.

(b) This is the date of assent to the *Customs Tariff (Exchange Adjustment) Act 1933*. The *Customs Tariff (Exchange Adjustment) Act 1934* was assented to on 6th July, 1934 (see footnote (a), on following page).

(c) *Supra*, p. 490.

## Definitions.

3. In this Act, except where otherwise clearly intended—

“Customs Tariff proposals” means Customs Tariff proposals (not being proposals relating to primage duty) introduced into the House of Representatives on or after the thirteenth day of October, One thousand nine hundred and thirty-two, and includes any amendment of such proposals;

“goods to which protective duties apply” shall be deemed to be the goods specified in the Schedule to this Act or covered by the Customs Tariff Items so specified;

“the British Preferential Tariff” means the Tariff from time to time in force applying to goods the produce or manufacture of the United Kingdom.

## Time of variation of duties.

4. The time of the variation of Duties of Customs effected in accordance with this Act is the fifth day of October, One thousand nine hundred and thirty-three at nine o'clock in the forenoon, reckoned according to standard time in the Territory for the Seat of Government, and this Act shall be deemed to have come into operation at that time.<sup>(a)</sup>

## Adjustment in duties of Customs.

5. The duties of Customs (other than primage duty and duty imposed by the *Customs Tariff (Industries Preservation) Act 1921-1922*<sup>(b)</sup> or any Act amending or in substitution for that Act) which would, but for the provisions of this Act, be payable on goods to which protective duties apply and which are admissible under the British Preferential Tariff and which are entered for home consumption on or after the fifth day of October, One thousand nine hundred and thirty-three, shall be varied<sup>(a)</sup> in accordance with the following provisions:—

(a) Whenever at the date of exportation of any such goods Australian currency is depreciated to the extent of not less than sixteen and two-thirds per centum in relation to the currency of the British country from which those goods are imported, a deduction from the amount of duty payable on those goods in accordance with any law of the Commonwealth for the time being in force imposing Duties of Customs (other than primage duty and duty imposed by the *Customs Tariff (Industries Preservation) Act 1921-1922*<sup>(b)</sup> or any Act amending or in substitution for that Act) or in accordance with Customs Tariff proposals shall be made of—

- (i) one-fourth of that amount of duty; or
- (ii) twelve and one-half per centum of the value for duty, whichever is the less; and

(a) Section 3 of the *Customs Duty (Exchange Adjustment) Act 1934* reads:—

“All duties of Customs (other than primage duty and duty imposed by the *Customs Tariff (Industries Preservation) Act 1921-1933*, or any Act amending or in substitution for that Act), as varied in accordance with the *Customs Tariff (Exchange Adjustment) Act 1933*, are further varied in the manner provided by the last-mentioned Act in respect of the goods specified in the Schedule to that last-mentioned Act, as amended by this Act, or covered by the Customs Tariff Items so specified, as on and after the fourth day of November, One thousand nine hundred and thirty-three, at nine o'clock in the forenoon, reckoned according to standard time in the Territory for the Seat of Government, and this Act shall be deemed to have come into operation at that time.”

(b) *Infra*, p. 686.

(b) Whenever at the date of exportation of any such goods Australian currency is depreciated to the extent of not less than eleven and one-ninth per centum and less than sixteen and two-thirds per centum in relation to the currency of the British country from which those goods are imported, a deduction from the amount of duty payable on those goods in accordance with any law of the Commonwealth for the time being in force imposing Duties of Customs (other than primage duty and duty imposed by the *Customs Tariff (Industries Preservation) Act 1921-1922* <sup>(a)</sup> or any Act amending or in substitution for that Act) or in accordance with Customs Tariff proposals shall be made of—

- (i) one-eighth of that amount of duty ; or
- (ii) six and one-quarter per centum of the value for duty, whichever is the less.

6. In respect of duty paid, prior to the date upon which this Act receives the Royal Assent, on goods to which protective duties apply, the variation made in that duty by way of exchange adjustment as provided in this Act shall not be such as to reduce the duty below that payable under the *Customs Tariff 1921-1930*.<sup>(b)</sup>

Variations prior to the dates of Assent to this Act.

## THE SCHEDULE.

Customs Tariff Item—

2,	44 (F),	64 (A),
4,	46,	65,
5,	47,	67,
6 (B) (as to deferred duty),	49,	68,
	50,	69 (c),
7,	51 (c) (2),	70,
8,	51 (E),	71,
9,	52,	72,
10,	53 (A),	74,
11,	53 (c),	75,
16,	53 (D),	76,
17,	54 (A) (1),	78 (D),
27,	54 (A) (2),	78 (E),
28,	54 (A) (3),	78 (F),
29,	54 (A) (4),	78 (G),
30,	54 (A) (5),	78 (H) (1),
31,	54 (B),	78 (H) (3),
33,	56 (B),	79,
36,	56 (c),	80,
37,	57 (B),	81,
38,	57 (c),	82 (A),
39,	57 (D),	82 (B),
40,	58 (A),	82 (c),
41,	58 (c),	82 (D),
42,	58 (D),	82 (E),
44 (B) (2),	59,	82 (F),
44 (c) (2),	60,	82 (G),
44 (c) (3),	61,	82 (H),
44 (D),	62,	83,
44 (E),	63 (A),	84,

Amended by No. 3, 1934, s. 2 and Schedule.

(a) *Infra*, p. 686.

(b) *Supra*, p. 546.

THE SCHEDULE—*continued.*

## Customs Tariff Item—

85,	136 (A),	176 (D),
87 (A),	136 (B),	176 (E),
88,	136 (C),	176 (F),
89 (B),	136 (D),	176 (H),
91 (B),	136 (E),	176 (I),
93,	136 (F) (1),	177 (A),
94,	136 (F) (2) (as to deferred	177 (B) (3),
96 (B),	duty),	178 (B),
97,	136 (G),	178 (C),
98,	137 (A) (2),	178 (D) (1),
99,	137 (B),	178 (E),
101,	138,	178 (F) (2) (b),
102,	139,	178 (F) (3) (b),
103 (A),	140,	179 (A),
104,	141,	179 (B) (6) only as to
105 (A) (1) (b),	143,	those goods the rate of
105 (AA) (2),	144 (A),	duty on which, for the
105 (F) (1),	144 (B),	purposes of the Customs
105 (F) (2),	146,	Tariff proposals
105 (F) (4),	147 (as to deferred duty),	or of any law passed to
105 (F) (5),	148 (A),	give effect to those
105 (G),	152 (A) (2),	proposals, is deter-
105 (H) (1),	152 (A) (3),	mined by an item
105 (H) (2) (a),	152 (B),	specified in this
105 (J) (1),	152 (C),	Schedule,
105 (J) (2) (b),	153,	179 (B) (7),
106 (D) (2),	154,	179 (C),
106 (E) (2),	155,	179 (D) (1) (a) (1) (a),
106 (E) (3),	156 (B),	179 (D) (1) (a) (1) (b)
106 (F) (2),	157,	(when not exceeding
106 (F) (3),	159 (B),	175 horse-power),
107 (A),	161 (A),	179 (D) (1) (a) (4) (a),
108 (B),	161 (B) (1),	179 (D) (1) (b) (1),
109,	161 (B) (2),	179 (D) (1) (c) (1),
110,	161 (C),	179 (D) (1) (c) (2),
111,	162,	179 (D) (1) (c) (4) (a),
112 (A),	163 (A),	179 (D) (1) (d),
112 (B) (2),	164,	179 (D) (2) (a) (1),
113 (A),	165,	179 (D) (2) (a) (2) (when
114 (B),	166,	not exceeding 12,750
114 (C),	167,	k.v.a.),
114 (D),	168 (B) (1) only as to	179 (D) (2) (b) (1),
114 (E),	those goods the rate of	179 (D) (2) (b) (2) (when
114 (F),	duty on which, for the	not exceeding 1,275
114 (G),	purposes of the Customs	k.v.a.),
114 (H),	Tariff proposals	179 (D) (2) (c) (1),
115,	or of any law passed to	179 (D) (2) (d),
116,	give effect to those	179 (D) (3) (a),
117,	proposals, is deter-	179 (D) (3) (c) (as to
118 (B),	mined by an item	deferred duty),
118 (C),	specified in this	179 (D) (4),
119,	Schedule,	179 (D) (5),
120 (A),	170 (A) (1),	179 (E) only as to those
120 (AA),	170 (A) (2) (a),	goods the rate of duty
120 (B),	170 (A) (2) (b),	on which, for the pur-
120 (C) (1) (b),	170 (B),	poses of the Customs
120 (E),	170 (C),	Tariff proposals or of
121 (A),	170 (D),	any law passed to give
122,	171 (A),	effect to those
123,	171 (B),	proposals, is deter-
124,	171 (C),	mined by an item
126 (B),	171 (D),	specified in this
130 (A),	172 (B),	Schedule,
131,	173 (A),	179 (F),
133,	176 (C),	

THE SCHEDULE—continued.

Customs Tariff Item—

180 (A) (2),	231 (B) (2),	277,
180 (B) (1),	231 (C),	278 (A) (1),
180 (B) (2) (b),	231 (D),	278 (B),
180 (C),	231 (E),	278 (C),
180 (D),	231 (F),	279 (A) (as to deferred
180 (E),	231 (G),	duty),
180 (F),	231 (H),	279 (B),
180 (G),	232 (A),	280 (B),
180 (H),	232 (B),	280 (D) (1),
180 (I),	232 (C),	281 (A),
180 (J),	233,	281 (B),
180 (K),	234,	281 (C),
180 (L),	235,	281 (D),
180 (M),	237 (C),	281 (E),
180 (N),	239,	281 (F),
181 (A A),	240,	281 (G),
181 (B),	241 (B),	281 (H),
181 (C),	241 (C),	281 (L) (2),
182,	242 (B) (as to deferred	281 (M),
184,	duty),	281 (N),
185,	242 (C),	281 (O),
186 (as to deferred duty),	242 (F),	283,
187 (B),	242 (G),	284 (B),
187 (C),	244 (B),	285 (A) (as to ad valorem
187 (D),	244 (C),	rates only),
188,	249 (B),	286 (B),
190,	250 (B),	286 (C),
191,	250 (C),	289 (A),
192,	250 (E),	289 (B),
194 (B) (2),	250 (F),	290 (C) (1),
194 (C),	251 (A),	290 (C) (2) (as to ad
197 (A),	251 (C),	valorem rates only),
199,	252,	290 (E),
200,	254 (B),	291 (C) (2),
201,	255,	291 (D),
203,	256,	291 (F) (2),
204 (B),	257,	291 (F) (3),
206,	258,	291 (H),
208 (A),	259,	291 (I) (2),
208 (C),	262 (B) (2),	291 (J),
208 (D),	262 (C),	291 (K),
208 (E),	262 (D),	291 (L),
209,	262 (E),	291 (M),
210 (A),	262 (F),	291 (N),
211,	264 (A),	292,
213,	264 (B),	293 (B),
215 (B),	264 (C),	293 (C),
216 (B),	264 (D) (1),	294 (A),
219 (A),	265,	294 (B),
219 (B),	266 (A),	295,
220 (B),	266 (B),	296,
222,	266 (C),	297,
225,	267 (A),	298 (B),
226,	268,	299,
227 (A) (as to tallow	269 (A),	300 (A),
only),	269 (B),	300 (B),
227 (B),	269 (C),	300 (C),
228 (D),	270,	300 (D),
229 (F) (2),	271,	300 (E),
229 (H) (1),	272,	300 (G),
229 (H) (2),	273,	300 (H),
230,	275 (B),	300 (I),
231 (B) (1),	276,	300 (J),



THE SCHEDULE—*continued.*

## Customs Tariff Item—

301 (D),	334 (S),	376 (E) only as to those
302,	334 (T),	goods the rate of duty
303,	334 (U),	on which, for the
304,	336 (B),	purposes of the Customs
305,	337 (B),	Tariff proposals
306,	338 (A),	or of any law passed to
318 (A) (1),	340,	give effect to those
318 (A) (2),	341,	proposals, is deter-
318 (A) (4) (a),	342,	mined by an item
319 (A) (1),	343,	specified in this
319 (A) (2),	344 (A),	Schedule,
319 (A) (4),	344 (C),	376 (F),
319 (A) (5),	346 (D),	376 (G),
319 (B) (1),	346 (E),	380 (A) (1),
320 (B),	346 (F),	381 (B),
322,	352 (A) (1),	381 (C),
323 (B),	352 (A) (4),	381 (E),
324 (A),	352 (B),	384 (A),
324 (C),	353,	385,
324 (D),	354 (A),	386,
325,	355,	388 (B),
326,	356,	390 (A),
328,	357,	391,
329,	359 (B),	392 (A) (4),
330,	359 (C),	392 (C),
331 (B) (2) (a),	359 (D) (1),	392 (D),
331 (C),	359 (D) (2),	392 (E),
332 (A),	359 (D) (3),	392 (F) (1),
332 (B),	359 (E),	393 (A),
332 (C),	359 (F) (1),	393 (D),
332 (D) only as to those	359 (F) (2),	394 (B),
goods the rate of duty	359 (F) (3),	394 (C),
on which, for the	359 (F) (5),	394 (D),
purposes of the Customs	359 (F) (7),	397 (A),
Tariff proposals	359 (F) (8),	397 (B),
or of any law passed	359 (F) (9),	397 (C),
to give effect to those	359 (G) (1),	397 (F),
proposals, is deter-	359 (G) (2),	398,
mined by an item	359 (G) (3),	402,
specified in this	359 (G) (4),	403 (B),
Schedule,	359 (G) (5),	410 (B) (3),
332 (E),	360,	410 (D),
332 (F),	363,	411,
332 (G),	364,	419 (B),
333,	365 (A),	419 (D),
334 (F) (1) (as to deferred	365 (B),	420,
duty),	365 (C),	422 (A),
334 (F) (2),	365 (D),	424 (A),
334 (G) (1) (a),	374 (B),	424 (B) (1),
334 (G) (3),	374 (C),	424 (D),
334 (I),	374 (D) (1),	425,
334 (J) (as to blotting	374 (D) (3),	426 (B),
paper only),	375 (B),	427 (C),
334 (L) (2),	375 (C),	428,
334 (L) (3),	376 (A),	429,
334 (M) (1),	376 (B),	430,
334 (N),	376 (C),	431,
334 (O) (1),	376 (D),	432 (A),
334 (O) (4),		432 (B),
334 (Q),		433.



Customs demanded or collected in accordance with those variations as so altered shall be deemed to have been lawfully imposed and lawfully demanded or collected.

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CUSTOMS TARIFF (EXCHANGE ADJUSTMENT) VALIDATION ACT  
(No. 2) 1935.

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**No. 32 of 1935.**

**An Act to provide for the Validation of Adjustments in Duties of Customs under Customs Tariff (Exchange Adjustment) Proposals.**

[Assented to 27th September, 1935.]

**B**E 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.

1. This Act may be cited as the *Customs Tariff (Exchange Adjustment) Validation Act (No. 2) 1935*.

Validation of alterations in variations of duty.

2. Any alteration in the variations of duties of Customs provided for by the *Customs Tariff (Exchange Adjustment) Act 1933–1934<sup>(a)</sup>* made, on or before the thirtieth day of November, One thousand nine hundred and thirty-five, in accordance with the Customs Tariff (Exchange Adjustment) proposals introduced into the House of Representatives on the twenty-eighth day of March, One thousand nine hundred and thirty-five, shall be deemed to have been lawfully made and all duties of Customs demanded or collected in accordance with those variations as so altered shall be deemed to have been lawfully imposed and lawfully demanded or collected.

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CUSTOMS TARIFF (INDUSTRIES PRESERVATION) ACT 1921–1933.<sup>(b)</sup>

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**An Act relating to certain Special Duties of Customs.<sup>(c)</sup>**

[Assented to 16th December, 1921.]<sup>(d)</sup>

**B**E 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.

1. This Act may be cited as the *Customs Tariff (Industries Preservation) Act 1921–1933.<sup>(b)</sup>*

Short title amended.  
No. 32, 1918,  
s. 2.

(a) *Supra*, p. 673.

(b) The *Customs Tariff (Industries Preservation) Act 1921–1933* comprises the *Customs Tariff (Industries Preservation) Act 1921* (No. 28 of 1921) as amended by the *Customs Tariff (Industries Preservation) Act 1922* (No. 20 of 1922) and by the *Customs Tariff (Industries Preservation) Act 1933* (No. 30 of 1933). See Acts No. 20, 1922, s. 1, and No. 30, 1933, s. 1.

(c) Validity of Act considered and upheld by the High Court, see footnote (b) (*infra*, p. 684).

(d) This is the date of assent to the *Customs Tariff (Industries Preservation) Act 1921*; the *Customs Tariff (Industries Preservation) Act 1922* was assented to on 9th October, 1922, and the *Customs Tariff (Industries Preservation) Act 1933* on 4th December, 1933.

2. The *Customs Act 1901-1920*<sup>(a)</sup> shall be incorporated and read as one with this Act. Incorporation.

3. In this Act, except where otherwise clearly intended— Definitions.

“Ballast rates” means special rates chargeable on any goods shipped as ballast or stiffening for any vessel, and being lower than the rates chargeable on those goods when carried as ordinary cargo ;

“Subsidized ship” means any ship to the Master, Owners, Agents or Charterers of which there is paid any Government or other subsidy, bonus or bounty (not being payment for the actual carriage of mail matter at rates which the Minister considers to be fair and reasonable) which will permit of goods being carried at a rate of freight lower than would be the case if such subsidy, bonus or bounty were not paid ;

“the Export price” of goods exported to Australia means the price at which the goods are sold by the exporter to the importer in Australia (including the free on board charges in the country of export) ;

“the Fair Market Value” of goods means the fair market value of the goods, or of goods of the same class or kind, sold in the country of export in relation to which the expression is used, for home consumption in the usual and ordinary course of trade plus free on board charges in that country, but not including any Excise duties payable in that country ;

“the Tariff” means the Customs Tariff in force for the time being ; and

“the Tariff Board” or “the Board” means the Tariff Board appointed under the *Tariff Board Act 1921*<sup>(b)</sup>.

4.—(1.) If the Minister is satisfied, after inquiry and report by the Tariff Board, that goods exported to Australia, which are of a class or kind produced or manufactured in Australia, have been or are being sold to an importer in Australia at an export price which is less than the fair market value of the goods at the time of shipment, and that detriment may thereby result to an Australian industry, the Minister may publish a notice in the *Gazette* specifying the goods as to which he is so satisfied. Dumping duty.

(2.) Upon the publication of the notice there shall be charged collected and paid to the use of the King for the purposes of the Commonwealth, on those goods imported into Australia a special duty (in this section referred to as “the dumping duty”).

(3.) The amount of the dumping duty in each case shall be the sum which represents the difference between the fair market value of the goods at the time of shipment and the export price :

Provided that where the importer satisfies the Minister that he purchased the goods within six months prior to the time of shipment and that after the date of purchase and prior to the date of shipment

(a) *Supra*, p. 490.

(b) *Infra*, p. 734.

the fair market value of the goods had increased, the fair market value to be taken for the purposes of this section shall be the fair market value at the date of purchase.

(4.) The regulations may provide for the exemption of the following goods from the dumping duty :—

- (a) any goods or class of goods in respect of which the Minister is satisfied after report by the Tariff Board, that the goods or classes of goods are not made in Australia in substantial quantities and offered for sale to all purchasers on equal terms under like conditions having regard to the custom and usage of trade ;
- (b) any goods in respect of which the difference between the fair market value and the export price does not exceed five per centum of the fair market value ;
- (c) any goods in respect of which the difference between the fair market value and the export price does not exceed ten per centum of the fair market value, if the Minister is satisfied, after report by the Tariff Board, that the exemption would not be detrimental to any Australian industry ; and
- (d) goods, being articles of merchandise, for use *bonâ fide* as samples for the sale of similar goods.

Dumping below  
cost duty.

5.—(1.) If the Minister is satisfied, after inquiry and report by the Tariff Board, that goods produced or manufactured outside Australia have been or are being sold to an importer in Australia at an export price which is less than a reasonable price, and that detriment may thereby result to an Australian industry, the Minister may publish a notice in the *Gazette* specifying the goods as to which he is so satisfied.

(2.) Upon the publication of the notice, there shall be charged, collected and paid to the use of the King for the purposes of the Commonwealth, on those goods imported into Australia, a special duty (in this section referred to as “the dumping below cost duty”).

(3.) The amount of the dumping below cost duty in each case shall be the sum which represents the difference between a reasonable price of the goods at the time of shipment and the export price of the goods.

Amended by No.  
20, 1922, s. 2.

(4.) In this section “a reasonable price” means such a price as represents the cost of production of the goods, plus such addition, not exceeding twenty per centum, as is determined by the Minister after inquiry and report by the Tariff Board, plus free on board charges.

(5.) In the absence of satisfactory evidence as to the cost of production the Minister may, after report by the Tariff Board, fix such amount as he thinks fit as the cost of production, and the amount so fixed shall, for the purposes of this section, be deemed to be the cost of production.

Provisions in  
case of goods  
on consignment.

6.—(1.) If the Minister is satisfied, after inquiry and report by the Tariff Board, that goods have been or are being consigned to Australia for sale, and that they may be sold at less than a reasonable



selling price, and that detriment may thereby result to an Australian industry, the Minister may publish a notice in the *Gazette* specifying the goods as to which he is so satisfied.

(2.) Upon the publication of the notice in the *Gazette*, there shall be charged, collected, and paid to the use of the King, for the purposes of the Commonwealth, on those goods imported into Australia, a special duty (in this section referred to as "the dumping consignment duty").

(3.) The amount of the dumping consignment duty in each case shall be the sum which represents the difference between the wholesale selling price in Australia and a reasonable selling price.

(4.) In this section "a reasonable selling price" means the price ascertained upon the following basis, namely:—To the fair market value of the goods there shall be added the freight, insurance, landing and other charges, together with the amount of duty payable under the Customs Tariff, together with such addition, not exceeding fifteen per centum on the aggregate of all the items mentioned, as is determined by the Minister after inquiry and report by the Tariff Board.

Amended by No. 20, 1922, s. 3.

(5.) If the evidence of the fair market value is, in the opinion of the Minister, insufficient, the Minister may, for the purposes of the last preceding sub-section, substitute in lieu thereof the ascertained cost of production plus such addition, not exceeding twenty per centum of such cost, as is determined by the Minister after inquiry and report by the Tariff Board, or, if the cost of production is not ascertainable, the cost of production estimated from such information as is available, plus such addition, not exceeding twenty per centum of such estimated cost, as is determined by the Minister after inquiry and report by the Tariff Board.

Amended by No. 20, 1922, s. 3.

7.—(1.) If the Minister is satisfied, after inquiry and report by the Tariff Board, that any goods exported to Australia, of a class or kind produced or manufactured in Australia, have been or are being carried—

Dumping freight duty

- (a) in subsidized ships at rates of freight lower than the rates of freight prevailing at the date of shipment; or
- (b) at ballast rates of freight, being rates lower than the rates of freight prevailing at the date of shipment; or
- (c) freight free,

or that by reason of the granting of rebates, refunds, or other allowances the net amount of freight payable on goods exported to Australia, of a class or kind produced or manufactured in Australia, is lower than the rates of freight prevailing at the date of shipment, and that in any such case detriment may thereby result to an Australian industry, the Minister may publish a notice in the *Gazette* specifying the goods as to which he is so satisfied.

(2.) Upon the publication of the notice, there shall be charged, collected and paid to the use of the King, for the purposes of the Commonwealth, on those goods imported into Australia a special duty (in this section referred to as "the dumping freight duty").

(3.) The rate of the dumping freight duty shall be five per centum of the fair market value of the goods at the time of shipment.

Exchange  
special duty.  
Substituted by  
No. 30, 1933,  
s. 2.

8.—(1.) If the Minister is satisfied, after inquiry and report by the Tariff Board, that the exchange value of the currency of the country of origin of any goods has depreciated in relation to Australian currency, and that by reason of such depreciation goods have been or are being sold to an importer in Australia at prices which will be detrimental to an Australian industry, the Minister may publish a notice in the *Gazette* specifying the country as to the exchange value of the currency of which he is so satisfied, and the goods<sup>(a)</sup> originated in that country to which in his opinion the provisions of this section should apply.

(2.) Upon the publication of the notice, there shall be charged, collected and paid to the use of the King, for the purposes of the Commonwealth, on all goods specified in the notice and produced or manufactured in the country specified therein, a special duty ascertained as follows<sup>(b)</sup> :—

- (a) From the nominal par value in sterling of a unit of the currency of the country of origin of the goods there shall be deducted the value in Australian currency of the same unit at the date of exportation of the goods ;
- (b) The amount ascertained under the last preceding paragraph shall be divided by the value in Australian currency of a unit of the currency of the country of origin of the goods at the date of exportation of the goods ; and
- (c) The figure ascertained under the last preceding paragraph shall be multiplied by the value for duty of the goods assessed in accordance with the *Customs Act* 1901–1930.<sup>(c)</sup>

Dumping  
preference duty.

9.—(1.) If the Minister is satisfied, after inquiry and report by the Tariff Board, that, by reason of the depreciation in exchange value of the currency of the country of origin or export of any goods, in comparison with the currency of the United Kingdom, goods exported to Australia, which have been produced or manufactured in any country other than the United Kingdom, and are of a class or kind produced or manufactured in the United Kingdom, have been or are being sold to an importer in Australia at an export price which is less than the fair market value of goods of like character or quality made in the United Kingdom, when sold for home consumption therein in the usual and ordinary trade course, plus the ordinary free on board charges therein (in this section referred to as “the fair market value in the United Kingdom”), the Minister may publish a notice in the *Gazette* specifying the goods as to which he is so satisfied.

(a) Held by the High Court that, particularly when construed with s. 13, the power to specify goods is not confined to some specific importation. *Nott Bros. and Co. Ltd. v. Barkley*, (1925) 36 O.L.R. 20 ; 31 A.L.R. 256.

(b) In *Nott Bros. and Co. Ltd. v. Barkley* (*supra*), the validity of this Act (and of the section for which this section was substituted in 1933 in particular) was challenged on the grounds that, (i) the Act contains provisions dealing with matters other than taxation and therefore contravenes s. 50 (1) of the Constitution, (ii) the Act, contrary to s. 50 (2) of the Constitution, is not confined to duties of customs only, and (iii) the discretion conferred on the Minister is contrary to s. 90 of the Constitution which provides that the power of the Parliament to impose duties of Customs is exclusive. The High Court disallowed all three objections and held that s. 8 was *intra vires* the Parliament.

(c) *Supra*, p. 490.

(2.) Upon the publication of the notice, there shall be charged collected and paid to the use of the King for the purposes of the Commonwealth, on those goods imported into Australia, a special duty (in this section referred to as "the dumping preference duty").

(3.) The amount of the dumping preference duty in each case shall be the sum which represents the difference between the fair market value in the United Kingdom and the export price.

(4.) Notwithstanding anything contained in the *Customs Act* 1901-1920, the value for duty under that Act of goods dutiable under this section shall be the value ascertained in accordance with that Act plus the dumping preference duty imposed under this section.

Added by No. 20,  
1922, s. 5.

10.—(1.) If the Minister is satisfied, after inquiry and report by the Tariff Board, that goods have been or are being sold to an importer in Australia, which were manufactured wholly or in part from material supplied from any country whose currency has depreciated by comparison with the currency of the country to which the material was supplied, and that the manufactured goods have been or are being sold to an importer in Australia at a price below the price at which the same goods could have been manufactured in the country of manufacture if made from material of such country of manufacture, and allowing for a reasonable profit, the Minister may publish a notice in the *Gazette* specifying the goods as to which he is so satisfied.

Dumped  
materials  
duty.

(2.) Upon the publication of the notice there shall be charged, collected and paid to the use of the King, for the purposes of the Commonwealth, on those goods imported into Australia, a special duty (in this section referred to as "the dumped materials duty").

(3.) The amount of the dumped materials duty shall be the sum which represents the difference between the price at which the goods were or are being sold to Australia, and the price representing what would have been the fair market value of the same goods if the goods had been manufactured wholly in the country of export from materials of that country.

11. If the Minister is satisfied, after inquiry and report by the Tariff Board, that the duty imposed by either of the last three preceding sections is likely to be evaded by the consignment of goods to Australia for sale, he may direct that there shall be payable on any goods specified by him, by notice published in the *Gazette*, which have been consigned to Australia for sale, a duty in an amount which will in his opinion assure that the goods will not be sold in Australia at less than a reasonable selling price as defined in section six, and duty in that amount shall thereupon be charged, collected, and paid to the King for the purposes of the Commonwealth on such goods.

Evasion of duty  
under sections 9  
and 10 by  
consignment.  
Amended by No.  
20, 1922, s. 6.

12. The various duties imposed by this Act shall be separately charged, notwithstanding that more duties than one may apply to any particular goods:

Duties to be  
collected  
separately.

Provided that, where duty has been imposed, under section eight or section nine of this Act, upon any particular goods, duty shall not be imposed upon those goods under the other of those sections.

Proviso  
substituted by  
No. 20, 1922,  
s. 7.



Power to  
specify goods.

13. The powers given by this Act to the Minister to publish notices specifying goods shall extend to the publication of notices specifying goods of any particular class or kind or to any particular shipment of goods or to goods exported by any particular exporter or to goods specified in such other manner as the Minister thinks fit, and, if the notice so provides, to all or any goods entered for home consumption on or before the date of issue of the notice as well as to goods entered for home consumption after that date.<sup>(a)</sup>

Power to  
revoke notices.

14.—(1.) Any notice published in pursuance of this Act may be revoked at any time if the Minister is satisfied that the conditions which occasioned the publication of the notice no longer exist, and that it is desirable that the notice should be revoked.

(2.) Upon the revocation of the notice the duties charged in consequence of the publication of the notice shall no longer be collected.

Special duties  
to be additional  
to ordinary  
duties.

15. The special duties payable under this Act shall be in addition to such other duties (if any) as are payable under the Tariff.

Special duties  
may be  
collected by  
post entry.

16. Where at the time of the entry for home consumption of any goods dutiable under this Act, the duty payable under this Act was not paid, the Collector may at any time call upon the importer to pay the duty, and the importer shall pay the duty accordingly.

Regulations.

17. The Governor-General may make regulations, not inconsistent with this Act, for carrying out or giving effect to this Act.

Schedule  
repealed by  
No. 30, 1933  
s. 3.

\* \* \* \* \*

## CUSTOMS TARIFF (NEW ZEALAND PREFERENCE) 1933-1934.<sup>(b)</sup>

### An Act relating to Preferential Duties of Customs on Goods the Produce or Manufacture of the Dominion of New Zealand and for other purposes.

[Assented to 24th November, 1933.]<sup>(c)</sup>

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

1. This Act may be cited as the *Customs Tariff (New Zealand Preference) 1933-1934*.<sup>(b)</sup>

Short title.  
Short title  
amended.  
No. 32, 1918,  
s. 2.

(a) See footnote (a) (*supra*, p. 684.)

(b) The *Customs Tariff (New Zealand Preference) 1933-1934* comprises the *Customs Tariff (New Zealand Preference) 1933* (No. 26 of 1933) as amended by the *Customs Tariff (New Zealand Preference) 1934* (No. 2 of 1934). See Act No. 2, 1934, s. 1.

(c) This is the date of assent to the *Customs Tariff (New Zealand Preference) 1933*. The *Customs Tariff (New Zealand Preference) 1934* was assented to on 30th June, 1934. (Proclaimed to commence on 3rd July, 1934; see *Gazette*, 1934, p. 999.)

2. This Act shall commence on a date to be fixed by Proclamation.<sup>(a)</sup> Commencement.

3. The following Acts are repealed as from the time and date fixed by the Proclamation issued under section five of this Act as being the time and date from and after which duties of Customs shall be payable in accordance with the provisions of that section:— Repeal.

The Customs Tariff (New Zealand Preference) 1922 ;  
The Customs Tariff (New Zealand Preference) 1922 (No. 2) ;  
The Customs Tariff (New Zealand Preference) 1926 ; and  
The Customs Tariff (New Zealand Preference) 1928.

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

Definitions.

“ Proclamation ” means a Proclamation by the Governor-General, acting with the advice of the Federal Executive Council, published in the *Gazette* ;

“ the New Zealand British Preferential Tariff ” means the the British Preferential Tariff in force in the Dominion of New Zealand on the date on which any goods in relation to which the expression is used are entered for home consumption in that Dominion ; and

Inserted by  
No. 2, 1934,  
s. 3.

“ the British Preferential Tariff ” means the British Preferential Tariff in force in the Commonwealth of Australia on the date on which any goods in relation to which the expression is used are entered for home consumption.

5.—(1.) From and after a time and date to be fixed by Proclamation,<sup>(b)</sup> there shall be payable on the importation into Australia of the undermentioned goods (being the produce or manufacture of the Dominion of New Zealand), when—

Rates of  
duty on  
imports from  
the Dominion  
of New  
Zealand;

- (i) those goods have been shipped from that Dominion to Australia and have not been transhipped, or
- (ii) those goods, having been so shipped have been transhipped, and it is proved to the satisfaction of the Collector of Customs that the intended destination of the goods when originally shipped was Australia,

Duties of Customs as follows:—

- (a) On all goods specified in the Schedule to this Act in the column headed “ Tariff Item ”—duties at the rates indicated in that Schedule in the column headed “ Tariff Rates on Goods the Produce or Manufacture of New Zealand ”, and
- (b) on all goods other than those provided for in the last preceding paragraph—duties at the rates in force under the British Preferential Tariff.

<sup>(a)</sup> Proclaimed to commence on 1st December, 1933, see *Gazette* 1933, p. 1649.

<sup>(b)</sup> The time and date fixed by Proclamation was 9 a.m. on 1st December, 1933 ; see *Gazette* 1933, p. 1649.

Inserted by  
No. 2, 1934,  
s. 4.

(1A.) Notwithstanding the provisions of the last preceding sub-section, where the rate of duty under the New Zealand British Preferential Tariff on any specific class of goods not specified in the Schedule to this Act and imported into the Dominion of New Zealand is less than the rate of duty on the same class of goods under the British Preferential Tariff, and His Majesty's Government in New Zealand has requested His Majesty's Government in the Commonwealth to admit into the Commonwealth goods of that class (being the produce or manufacture of the Dominion of New Zealand), at the rate of duty chargeable on goods of that class under the New Zealand British Preferential Tariff, the Governor-General may, by Proclamation, declare that there shall be payable, as from a time and date specified in the Proclamation,<sup>(a)</sup> on the importation into Australia of goods of that class (being the produce or manufacture of the Dominion of New Zealand), Duties of Customs at the rate specified in the Proclamation, and Duties of Customs shall be payable accordingly on goods of that class instead of the Duties of Customs payable under the last preceding sub-section.

(2.) The duties imposed by this section on the goods specified therein shall be in lieu of the duties payable upon those goods under the *Customs Tariff (New Zealand Preference) 1922*, as amended by the *Customs Tariff (New Zealand Preference) 1922 (No. 2)*, the *Customs Tariff (New Zealand Preference) 1926* and the *Customs Tariff (New Zealand Preference) 1928*.

Rates of  
duty on goods  
re-exported  
from New  
Zealand.

6. Duties of Customs on the undermentioned goods (not being goods the produce or manufacture of the Dominion of New Zealand) namely, goods—

- (a) which are imported into Australia from New Zealand, and
- (b) upon which, if they had been imported into Australia direct from the country of origin there would have been payable duties of Customs at the rates in force under the British Preferential Tariff,

shall be payable at the rates of duty in force under the British Preferential Tariff.

Exemption  
from duty of  
publicity  
films.

7. Publicity films (either positives or negatives), as to which a certificate is given by a Department of State of New Zealand that they were produced in New Zealand by or for the Government of New Zealand for publicity purposes, shall be admitted free of duty, irrespective of the ownership of the films at the time of importation.

Exemption  
from duty of  
cocoa beans  
the produce of  
Western  
Samoa.

8. Cocoa beans the produce of Western Samoa shall not be subject, upon importation into Australia, to any higher duties of Customs than those paid on cocoa beans the produce of any British non-self-governing Colony or Protectorate or of any Territory governed under British mandate.

(a) For proclamations fixing the times of commencement in respect of certain specified goods see *Gazette* 1934, pp. 999 and 1696 and *Gazette* 1935, pp. 351, 1103 and 1450.

9. Goods, the produce or manufacture of the Dominion of New Zealand, shall be exempt from primage duty. Exemption of goods from primage duty.

10. Nothing in this Act shall apply to goods, being the produce or manufacture of Cook Islands, imported into Australia. Goods from Cook Islands.

11. For the purposes of this Act goods shall be deemed to be the produce or manufacture of the Dominion of New Zealand if conforming with the laws or regulations in force in Australia which apply to such goods when imported under the British Preferential Tariff, except that, in relation to such goods imported from New Zealand, paragraph (b) of sub-section (1.) of section one hundred and fifty-one A of the *Customs Act 1901-1930*<sup>(a)</sup> shall be read as if the words "fifty per centum" were substituted for the words "seventy-five per centum". Conditions of preference.

12. The rates of duty imposed by this Act shall be charged collected and paid to the King for the purposes of the Commonwealth on all goods subject to those rates which are imported into Australia after the time and date fixed by the Proclamation issued under section five of this Act, or are imported into Australia before that time and are not entered for home consumption until after that time. Time of imposition of duties.

### THE SCHEDULE.

Consecutive No.	Tariff Item.	Tariff Rates on Goods the Produce or Manufacture of New Zealand.
1	Ex 12 } Wine, New Zealand, containing not more Ex 13 } than 40 per cent. of proof spirit, viz. :— (1) Sparkling, all kinds : per gallon or for six reputed quart bottles, or the reputed equivalent in bottles of a larger or smaller reputed capacity .. .. (2) Other kinds : per gallon or for six reputed quart bottles, or the reputed equivalent in bottles of a larger or smaller reputed capacity .. ..	10s.      4s.
2	37 Bacon and Hams, partly or wholly cured ..	2d. per lb.
3	Ex 41 (A) Cheese, viz. :— (1) Stilton .. .. (2) Other kinds .. ..	Free 6d. per lb.
4	43 (B) Coffee, roasted or ground ; in liquid form ; or mixed with milk or other substance ..	6d. per lb.
5	44 (E) Confectionery, n.e.i., including Cocoa and Chocolate prepared for edible use, or potable use (not in powdered or granu- lated form) ; Bon-bons and mixed packets of Confectionery containing trinkets (gross weights) ; Sugar Candy ; Medicated Confectionery ; Cachous ; and Crystallized or Candied Fruits ..	2d. per lb.

(a) *Supra*, p. 515.



## THE SCHEDULE—continued.

Consecutive No.	Tariff Item.	Tariff Rates on Goods the Produce or Manufacture of New Zealand.
6	51 Fish, viz.:— (B) Fresh, smoked or dried (but not salted), or preserved by cold process .. .. (c) Preserved in tins or other air-tight vessels including the weight of liquid contents— (1) Salmon .. .. (2) Crustaceans .. .. (3) Sardines .. .. (4) Other .. .. Ex (D) Fish Pastes .. .. (E) Oysters, fresh, in the shell .. .. (F) N.E.I. .. ..	Free   } Free Free Free Free
7	54 (A) Fruits and vegetables, n.e.i., including Ginger, n.e.i., (preserved in liquid, or partly preserved or pulped)— (1) Quarter-pints and smaller sizes (2) Half-pints and over quarter-pints (3) Pints and over half-pints .. (4) Quarts and over pints .. (5) Exceeding a quart .. .. (6) When preserved in spirituous liquid, additional duty to be paid on the liquid .. ..	35 per cent. ad val. 35 per cent. ad val. 35 per cent. ad val. 35 per cent. ad val. 35 per cent. ad val. 30s. per gal.
8	57 Grain and pulse, not prepared or manufactured, viz.:— Ex (D) Oats .. .. Ex (D) Peas, viz.:— (a) Wrinkled garden seed peas (b) Other .. ..	1s. 6d. per cental Free 1s. 6d. per cental
9	Grain and pulse, prepared or manufactured, viz.:— Ex 58 (D) } Oatmeal and Rolled Oats .. .. Ex 79 }	2s. 6d. per cental
10	59 Hay and Chaff .. ..	Free
11	61 (B) Jams, and Jellies, including Calves' Foot, but not Meat Jellies .. ..	2½d. per lb.
12	62 Hops .. ..	9d. per lb.
13	66 } Linseed .. .. 68 }	Free
14	Ex 74 Meats, viz.:— (A) Fresh or Smoked .. .. (B) Potted or concentrated, including extracts of, and Meat Jellies .. .. (c) Preserved in tins or other airtight vessels, including the weight of the liquid contents .. .. (D) Preserved by cold process .. ..	10 per cent. ad val. 20 per cent. ad val. 2d. per lb. 10 per cent. ad val.
15	Ex 74 (B) and (c) Soup, viz.:— (a) Toheroa soup, oyster soup and other fish soup, in powder or otherwise and whether in admixture with other substances or not .. .. (b) Preparations other, in dry form for making soup .. ..	Free 20 per cent. ad val.
16	Ex 75 (A) Milk, preserved, condensed, or concentrated, sweetened or unsweetened .. ..	25 per cent. ad val.

THE SCHEDULE—continued.

[illegible]



THE SCHEDULE—continued.

Consecutive No.	Tariff Item.	Tariff Rates on Goods the Produce or Manufacture of New Zealand.
24— contd.	110 (A) Apparel, other than knitted— <i>continued</i> . (4) Coats— (a) Girls', n.e.i., i.e., measuring 42 inches or less from collar seam to foot of coat, viz.:— (1) Cotton, linen, or other material n.e.i. .. .. (2) Wool or containing wool .. .. (3) Silk or containing silk but not containing wool .. .. (b) Women's, n.e.i., viz.:— (1) Cotton, linen, or other material n.e.i. .. .. (2) Wool or containing wool .. .. (3) Silk or containing silk but not containing wool .. .. (5) Costumes, Dresses, or Robes, but not including Dresses or Robes for infants in arms or such articles when not exceeding 22 inches in length, viz.:— (a) Cotton, linen, or other material n.e.i. .. .. (b) Wool or containing wool .. .. (c) Silk or containing silk but not containing wool .. ..	    25 per cent. ad val. 25 per cent. ad val. 25 per cent. ad val.  25 per cent. ad val. 25 per cent. ad val. 25 per cent. ad val.  25 per cent. ad val. 25 per cent. ad val. 25 per cent. ad val.
	110 (B) Apparel, knitted, and Apparel made from knitted or lock-stitched piece goods, viz.:— (1) Blouses, Skirts, Underwear, and Bathing Costumes— (a) Cotton or other material n.e.i. .. .. (b) Wool or silk or containing wool or silk .. .. (2) Coats, Jumpers, Cardigans, Sweaters, and similar garments— (a) Girls' or Boys', i.e., with chest measurement under 34 inches .. .. (b) Women's or Men's, i.e., with chest measurement 34 inches and over .. .. (3) Costumes, Dresses or Robes— (a) Cotton or other material n.e.i. .. .. (b) Wool or containing wool but not containing silk .. .. (c) Silk or containing silk .. ..	   25 per cent. ad val. 25 per cent. ad val.  25 per cent. ad val. 25 per cent. ad val.  25 per cent. ad val. 25 per cent. ad val. 25 per cent. ad val.

THE SCHEDULE—continued.

Consecutive No.	Tariff Item.	Tariff Rates on Goods the Produce or Manufacture of New Zealand.
24— <i>contd.</i>	110— <i>continued.</i> (c) Corsets .. .. .  (d) Apparel, n.e.i., for the human body, partly or wholly made up, including materials cut into shape therefor; also material bearing any pattern design or marking for the purpose of indicating that it is to be made up into separate articles of apparel; Boxed Robes; Apparel not otherwise subject to a lower rate of duty and not imported for sale or trade and not exceeding a total value of £5 ..  (e) Neck Ties for human wear .. ..	 25 per cent. ad val.         25 per cent. ad val.  25 per cent. ad val.
25	112 Furs and other skins and Articles made thereof :— (A) Apparel or Attire or other Articles in part or wholly made up, including Furs or other Skins sewn together, parts of furs or other skins sewn together, fur trimmings and imitation fur tails .. .. .	         25 per cent. ad val
26	113 Gloves (except of rubber), viz. :— (A) Harvesting, Driving, Housemaids', and Gardening .. ..	    25 per cent. ad val.
27	114 Hats, Caps, and Bonnets— (B) Wool Felt Hats in any stage of manufacture for men and boys, including wool felt hoods therefor (C) Fur Felt Hats in any stage of manufacture for men and boys, including fur felt hoods therefor (D) Caps n.e.i. .. .. . (E) Hoods for girls' and women's hats, viz. :— (1) Wool Felt Hoods .. .. (2) Fur Felt Hoods and Velour Hoods .. .. For the purposes of paragraph (1) of this sub-item the term “Hoods” includes hoods in any stage of manufacture up to but not including the defining of the brim. (F) (1) Felt Capelines for girls' and women's hats .. .. (2) Felt Hats for girls and women; Berets; Girls' and Women's Caps (other than bathing) of any material; Hats n.e.i. and Bonnetts .. .. (G) Hoods other than of felt .. ..	    25 per cent. ad val.  25 per cent. ad val. 25 per cent. ad val.  25 per cent. ad val.  25 per cent. ad val.         25 per cent. ad val.    25 per cent. ad val. 25 per cent. ad val.

## THE SCHEDULE—continued.

Consecutive No.	Tariff Item.	Tariff Rates on Goods the Produce or Manufacture of New Zealand.
28	Ex 118 (A) Floor rugs of wool or containing wool ..	Free
29	Ex 117 Blankets, Blanketing, and Rugs (other than floor rugs), of wool or containing wool .. .. .	25 per cent. ad val.
30	136 Iron and Steel— (A) Pig Iron .. .. .	Free
31	Ex 141 Lead Piping, and Composition Piping ..	4s. 6d. per cwt.
	Agricultural Machines and Implements, namely:—	
32	Ex 176 (F) } Ex 208 (A) } Ex 303 (A) } Wool-presses	Free
33	Ex 161 (A) Hay and Straw Baling Presses	
34	Ex 160 (A) Threshing-machines and Threshing-mills	
35	Ex 161 (A) } Ex 176 (F) } Ex 208 (A) } Fibre-scutching Machines, Fibre Strippers Washers and Presses	
36	Ex 161 (A) } Ex 162 } Ex 163 } Ploughs, Harrows other than disc, Potato Diggers and Sorters, Grubbers other than spring tined, Ridgers for preparing ridges, and without any sowing attachments, Turnip-thinners, Turnip-pickers, Turnip-cutters, and Root-pulpers	
37	Ex 163 (A) Stump Jump Ploughs	
38	Ex 162 Chaff-cutters, with or without bagging attachments, also parts and fittings peculiar to the foregoing	
39	171 (A) Hay-rakes (Horse)	
40	Ex 162 } Ex 163 (A) } Spring-tined Cultivators, Disc Harrows, Seed and Fertilizer Sowers or Drills combined or separate	
41	Ex 161 (A) } Ex 176 (F) } Seed-cleaners and Seed-separators	
42	Ex 164 Dairying Machines and Implements, viz.:—Churns, Cheese-presses, and Dairy-coolers .. .. .	Free
43	Ex 176 (F) Cardmills, Card agitators, Card mixers, Butter-packers, Butter-workers, Butter-pounders .. .. .	Free
44	Ex 161 (A) Milking Machines .. .. .	Free
45	Ex 164 Pasteurizers .. .. .	Free
46	Ex 153 (C) } Ex 153 (D) } Ex 208 (A) } Knees, bends, elbows, junction and inspection boxes and covers, and other fittings, of cast-iron, for pipes, tubes, and tubing exceeding 3 inches in internal diameter	30 per cent. ad val.
47	Ex 161 or 176 (F) Earthscoops and Ditching Machines ..	10 per cent. ad val.
48	Ex 170 (A) Machinery, Dredging, and Excavating; and Grabs.. .. .	10 per cent. ad val.
49	172 (B) Clothes wringers for household use ..	20 per cent. ad val.
50	Ex 176 (F) Washing-machines, clothes-washers, mangles, and clothes-wringers, other than for household use .. .. .	20 per cent. ad val.

THE SCHEDULE—continued.

Consecutive No.	Tariff Item.	Tariff Rates on Goods the Produce or Manufacture of New Zealand.
51	Ex 176 (F) Wool-scouring Machines .. ..	20 per cent. ad val.
52	173 (A) Weighing Machines, including Computing Weighing Machines; Weighbridges; Scales and Balances, n.e.i., including Computing Scales and Balances; Tanners' Measuring Machines; Chemists' Counter Scales; Spring Balances and Steelyards; Weights n.e.i.; Combined Bagging, Weighing, and Sewing Machines .. ..	20 per cent. ad val.
53	Ex 176 (F) Pumps for raising or distributing liquids; vacuum-pumps, excluding those suitable for use with milking machines ..	20 per cent. ad val.
54	Ex 176 (F) Vacuum pumps suitable for use with milking machines, imported separately	Free
55	176 (I) (1) Pumps of the type used for vending petrol .. ..	20 per cent. ad val.
	(2) Mechanical pumping units for pumps of the type used for vending petrol ..	20 per cent. ad val.
56	Ex 176 (F) } Coil Pipes .. ..	20 per cent. ad val.
	Ex 213 }	
57	Ex 176 (F) Machines for mixing, such as Concrete, Cement, or Manure Mixers .. ..	20 per cent. ad val.
58	Ex 176 (F) Transmission Gear including plunger-blocks, couplings, collars, and friction-clutches, to connect engines with machinery for whatever purpose the machinery may be used .. ..	20 per cent. ad val.
59	Ex 176 (D) Stone-crushing Machines, viz.:—Jaw-crushers (not including Elevators, Screens, or Separators) .. ..	20 per cent. ad val.
60	Ex 176 (F) } Coal-screening Machinery; Screens, Metal, all kinds .. ..	20 per cent. ad val.
	Ex 208 (A) }	
61	Ex 176 (D) } Elevators, and Conveyors, including Mechanical Stokers .. ..	20 per cent. ad val.
	Ex 176 (F) }	
62	Ex 176 (D) } Winches, Cranes, Capstans, Windlasses, and Hoists .. ..	20 per cent. ad val.
	Ex 176 (E) }	
	Ex 176 (F) }	
63	Ex 176 (F) Hydro-extractors, Wool-drying Machines, and Manure-drying Machines, not including Fans or Blowers .. ..	20 per cent. ad val.
64	Ex 177 (A) (2) Locomotives .. ..	20 per cent. ad val.
65	Ex 178 (E) Boilers, land, and marine; Feed-water Heaters; Steam Superheaters ..	20 per cent. ad val.
66	Ex 178 Oil-engines not exceeding 100 brake-horse-power .. ..	15 per cent. ad val.
67	Ex 176 (F) } Suction-gas Producers, Digesters ..	20 per cent. ad val.
	Ex 178 (E) }	
68	Ex 178 (E) Windmills .. ..	20 per cent. ad val.
69	Ex 180 (C) Gas Cooking and Heating Appliances, including Gas Ranges .. ..	35 per cent. ad val.
70	187 Nails, viz.:— (B) Rail-dogs or Brobs, Spikes .. .. Ex (c) Wire and other Nails n.e.i. ..	£2 per ton £2 per ton

## THE SCHEDULE—continued.

Consecutive No.	Tariff Item.	Tariff Rates on Goods the Produce or Manufacture of New Zealand.
71	Ex 187 (c) Lead-headed Nails, and Galvanized Cup-headed Roofing-nails .. ..	25 per cent. <b>ad val.</b>
72	191 (A) Metal Bedsteads and Cots .. ..	25 per cent. <b>ad val.</b>
	(B) Metal Fenders and Fire-irons .. ..	25 per cent. <b>ad val.</b>
73	192 Brasswork Bronzework and Gunmetal work for general engineering and plumbing and other trades (other than Valves, Taps, Tobies, Hydrants, and similar articles of any material) ..	25 per cent. <b>ad val.</b>
74	Ex 192 } Valves, Taps, Tobies, Hydrants, and	
	Ex 208 (A) } similar articles, or any material ..	30 per cent. <b>ad val.</b>
75	197 (A) Platedware, n.e.i.; Spoons, Forks, Butter Fish and Fruit Knives plated or of mixed-metal; Cutlery, Spoons and Forks, partly or wholly of gold or silver, except when gold ferruled or silver ferruled only .. ..	25 per cent. <b>ad val.</b>
76	199 } Stereotypes, Electrotypes, Matrices, Half-	
	340 (D) } tone and Line Blocks .. ..	25 per cent. <b>ad val.</b>
77	Ex 208 (A) Galvanized-iron manufactures, made up from galvanized iron, or from plain sheet-iron, and then galvanized ..	30 per cent. <b>ad val.</b>
78	Ex 208 (A) Japanned and Lacquered Metalware ..	30 per cent. <b>ad val.</b>
79	Ex 208 (A) } Tinware, and Tin Manufactures ..	30 per cent. <b>ad val.</b>
	Ex 208 (D) }	
80	Ex 208 (A) Upholsterers' spiral sofa-springs and similar upholsterers' springs .. ..	25 per cent. <b>ad val.</b>
81	Ex 208 (A) } Vacuum-pans, other than glass, porcelain,	
	Ex 204 (B) } or enamel-lined, Heating Boilers,	
		25 per cent. <b>ad val.</b>
82	Ex 227 (A) Tallow, inedible—	
	In packages exceeding 4 lb. net weight ..	Free
83	Ex 228 Whale Oil .. ..	Free
84	Ex 229 (r) Oils in vessels exceeding one gallon—	
	Compounded rust resisting oil for the treatment of metal .. ..	Free
85	231 Paints and Colours, viz.:—	
	(D) Kalsomine, Water Paints and Dis-	
	tempers, in powder form .. ..	20 per cent. <b>ad val.</b>
	(G) (1) Ground in liquid; Paints and Colours prepared for use; Sheep Marking Oils; Enamels; Enamel Paints and Glosses ..	20 per cent. <b>ad val.</b>
86	232 (A) Varnishes; Varnish and Oil Stains; Lacquers; Japans; Berlin, Brunswick and Stoving Blacks and substitutes therefor; Liquid Sizes; Patent Knotting; Oil and Wood Finishes; Petrifying Liquids; Lithographic Varnish; Printers' Ink Reducer; Terebine; Liquid Dryers; Gold Size; Liquid Stain for Wood .. ..	20 per cent. <b>ad val.</b>
	(B) Damp Wall Compositions including compositions for waterproofing cement ..	20 per cent. <b>ad val.</b>
	(C) Compounded Thinners for nitro-cellulose and <b>acetyl-cellulose</b> varnishes and lacquers, n.e.i. .. ..	20 per cent. <b>ad val.</b>





THE SCHEDULE—*continued*.

Consecutive No.	Tariff Item.	Tariff Rates on Goods the Produce or Manufacture of New Zealand.
94	291 Timber— <i>continued</i> . (1) (1) Timber, undressed, n.e.i., in sizes not less than 4 inches in width and not less than 3 inches in thickness for the manufacture of boxes .. (2) Timber, undressed, cut to size for making boxes .. ..	Free Free
95	293 (A) Timber, undressed, in sizes less than 7 feet 6 inches x 10½ inches x 2½ inches for use in the manufacture of doors ..	Free
96	299 (A) Broom Stocks, being square timber rough sawn into sizes suitable for the manufacture of broom handles .. ..	Free
97	Ex 292 (G) } Picture and room mouldings .. .. 292 (H) }	25 per cent. ad val.
98	Ex 314 Jewellery, rolled gold and imitation ..	25 per cent. ad val.
99	Ex 315 Jewellery, n.e.i., and Plate, gold or silver ..	25 per cent. ad val.
100	Ex 320 (B) Kinematographs n.e.i., including sound reproducing apparatus .. ..	20 per cent. ad val.
101	Ex 179 (C) Accessories for kinematographs, viz.:— Ex 180 (E) (17) Amplifiers, volume controls, loud speakers and switchboards, whether imported with kinematographs or separately .. ..	Free
102	Ex 324 Leather, viz.:— (A) Chamois Leather .. .. (C) (3) Calf, other than Patent and Enamelled .. .. (4) N.E.I. .. .. (D) Belt Butts .. ..	15 per cent. ad val. 15 per cent. ad val. or 3d. per lb. whichever rate returns the higher duty
103	325 (A) Leather Manufactures n.e.i.; Leather cut into shape; Harness n.e.i.; Razor Straps; Whips, including handles, keepers, thongs and lashes .. ..	25 per cent. ad val.
104	(B) Harness and Buggy Saddles .. .. Ex 326 Leather belting .. ..	20 per cent. ad val. 15 per cent. ad val. or 3d. per lb. whichever rate returns the higher duty
105	329 Boots, Shoes, Slippers, Clogs, Pattens, and other Footwear (of any material), n.e.i.; Boot and Shoe Uppers and Tops (except of felt); Cork, Leather, or other Socks or Soles n.e.i. .. ..	35 per cent. ad val.
106	334 (G) (3) Paper Bags, n.e.i. .. ..	30 per cent. ad val.
107	Ex 334 (D) (2) Wrapping-paper, all kinds, glazed, mill-glazed, or unglazed, including browns, caps, casings, sulphites, sugars and all other bag papers, candle carton paper, tissues, and tinfoil paper, not printed, viz.:—In sheets not less than 20 in. by 15½ in. or the equivalent, or in rolls not less than 10 in. wide .. ..	6s. per cwt.

THE SCHEDULE—continued.

Consecutive No.	Tariff Item.	Tariff Rates on Goods the Produce or Manufacture of New Zealand.
108	340 (A) Stationery, manufactured; Bill Files and Letter Clips; Papers ruled or bordered by waterline or likewise; Date Cases and Cards; Albums of all kinds; Cards, and Booklets, viz., Printers', Menu, Christmas, and similar kinds; Scraps; Ink Bottles; Ink-wells; Ink Stands; Paper Knives; Memo. Slates and Tablets; Sealing and Bottling Wax; Postcards n.e.i.; Book-markers; Writing Desks (not being furniture); Writing Cases; Stationery Cases; Paper Binders; Card Hangers; Pen Racks; Book-binders' Staples ..	25 per cent. ad val.
109	340 (B) Books, viz.:—Account, Betting, Cheque, Copy, Copying, Drawing, Exercise, Guard, Letter, Memo., Pocket, Receipt, Sketch, and the like ..	25 per cent. ad val.
110	Ex 357 } Carriages, Carts, Drays, Wagons, Ex 359 (F) (1) } Perambulators, and the like Ex 360 } Vehicles, and Wheels for the same ..	20 per cent. ad val.
111	Ex 360 Cars, Wagons, and Trucks, Railway and Tramway ..	20 per cent. ad val.
112	Ex 376 Camera Covers and Cases of Leather ..	25 per cent. ad val.
113	Ex 376 Leather Bags, Cases, Trunks, Portman- teaux, Purses, Wallets, Handbags, Purse-bags, Companions, Reticules, Satchels, or Valises, with or without fittings ..	25 per cent. ad val.
114	381 Brushware and Materials therefor:— (c) Brushmakers' Horseshair Drafts .. (e) (1) Hair and Cloth Brushes .. (2) Tooth, Scrubbing, Paint and Varnish Brushes .. (3) Nail Brushes .. (4) Brushes n.e.i. ..	25 per cent. ad val. 25 per cent. ad val. 25 per cent. ad val. 25 per cent. ad val. 25 per cent. ad val.
115	Ex. 390 (A) (1) Cordage, Rope, and Twine, n.e.i. (except- ing Reaper and Binder Twine and Yarn) ..	20 per cent. ad val.
116	391 Reaper and Binder Twine and Yarn ..	6s. per cwt.
117	Ex 397 (A) Cartridges, viz., shot gun ..	Free
118	Ex 424 Ships which are to the satisfaction of the Minister of Customs of Australia, <i>bona fide</i> owned and registered in New Zealand, when employed in Australian waters for the replacement of New Zealand owned and registered ships, or for any other purpose as approved by the Minister for any continuous period not exceeding six months ..	Free

CUSTOMS TARIFF (NEW ZEALAND PREFERENCE) AGREEMENT  
ACT 1933.

No. 24 of 1933.

An Act to ratify an Agreement between the Commonwealth of Australia and the Dominion of New Zealand in relation to Preferential Duties of Customs and certain other matters.

[Assented to 24th November, 1933.]

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.

1. This Act may be cited as the *Customs Tariff (New Zealand Preference) Agreement Act 1933*.

Ratification  
of agreement  
with New  
Zealand.

2. The Agreement made between His Majesty's Government in the Commonwealth of Australia and His Majesty's Government in the Dominion of New Zealand (a copy of which Agreement is set forth in the First Schedule to this Act) is hereby ratified and confirmed subject to the conditions and undertakings contained in the correspondence of which a copy is set forth in the Second Schedule to this Act.

THE SCHEDULES.

THE FIRST SCHEDULE.

TRADE AGREEMENT BETWEEN THE COMMONWEALTH OF  
AUSTRALIA AND THE DOMINION OF NEW ZEALAND.

His Majesty's Government in the Commonwealth of Australia and His Majesty's Government in the Dominion of New Zealand, being desirous of improving and extending the commercial relations existing between Australia and New Zealand, and affirming the principle of granting tariff preferences the one to the other on goods of their produce or manufacture for their mutual advantage, have agreed upon the following Articles:—

ARTICLE I.

1. The terms "British Preferential Tariff" and "General Tariff" as used in this Agreement and the Schedules hereto shall in relation to any goods be deemed to mean the British Preferential Tariff and the General Tariff of Australia or of New Zealand in force on the date on which such goods are entered for home consumption in Australia or New Zealand, as the case may be.

2. The items in Schedule A or Schedule B hereto shall, where taken from the Tariff of Australia or New Zealand, be interpreted in the same way as they would be interpreted in the Tariff from which they are taken.



THE FIRST SCHEDULE—*continued.*

TRADE AGREEMENT BETWEEN THE COMMONWEALTH OF AUSTRALIA AND THE  
DOMINION OF NEW ZEALAND—*continued.*

ARTICLE II.

1. Subject to the provisions of the Customs Tariff of Australia, and except as hereinafter in this Agreement provided, Australia grants:—

- (a) To goods of the kinds or classes enumerated in Schedule A hereto, being the produce or manufacture of New Zealand, when imported into Australia, the tariff rates indicated in the said Schedule A;
- (b) To all other goods being the produce or manufacture of New Zealand, when imported into Australia, the benefits of the British Preferential Tariff.

2. The tariff advantages conceded by Clause 1 of this Article shall apply only to goods which have been shipped from New Zealand to Australia and have not been transhipped, or, if transhipped, then only if it is proved to the satisfaction of the Collector of Customs that the intended destination of the goods when originally shipped from New Zealand was Australia.

ARTICLE III.

1. Subject to the provisions of the Customs Tariff of New Zealand, and except as hereinafter in this Agreement provided, New Zealand grants:—

- (a) To goods of the kinds or classes enumerated in Schedule B hereto, being the produce or manufacture of Australia, when imported into New Zealand, the tariff rates and provisions indicated in the said Schedule B;
- (b) To all other goods being the produce or manufacture of Australia, when imported into New Zealand, the benefits of the British Preferential Tariff.

2. The tariff advantages conceded by Clause 1 of this Article shall apply only to goods which after shipment from Australia have not entered into the commerce of or been subjected to any process of manufacture in any country the produce or manufactures of which are not entitled to be entered for duty under the British Preferential Tariff.

ARTICLE IV.

1. With respect to goods of the kinds or classes enumerated in Schedule A hereto, and being the produce or manufacture of New Zealand, the Government of Australia shall not impose any Customs duty on any such goods admissible free of duty or increase the rate of any Customs duty on any other such goods entering Australia from New Zealand, except in either such case by mutual agreement or until after six calendar months' notice to the Government of New Zealand.

2. With respect to the goods of the kinds or classes enumerated in Schedule B hereto, and being the produce or manufacture of Australia the Government of New Zealand shall not impose any Customs duty on any such goods admissible free of duty or increase the rate of any Customs duty on any other such goods entering New Zealand from Australia, except in either such case by mutual agreement or until after six calendar months' notice to the Government of Australia.

ARTICLE V.

Nothing in this Agreement shall be construed to affect the right of Australia or of New Zealand to impose new duties upon any goods for the protection of any new industry established or proposed to be established in Australia or New Zealand as the case may be; provided that such new duties do not exceed the duties for the time being in force with respect to similar goods imported from the United Kingdom into Australia or New Zealand as the case may be.

ARTICLE VI.

Nothing in this Agreement shall be construed to affect the right of Australia or New Zealand to collect or impose dumping duties or analogous special duties to meet abnormal trading conditions.

ARTICLE VII.

1. Goods, the produce or manufacture of New Zealand, shall on importation into Australia be exempt from primage duty.

2. Goods, the produce or manufacture of Australia, shall on importation into New Zealand be liable to the primage duty for the time being in force in New Zealand, provided only—

- (a) That such duty does not exceed the primage duty chargeable on similar goods, the produce or manufacture of the United Kingdom; and
- (b) That New Zealand undertakes to abolish such duty in so far as it relates to goods being the produce or manufacture of Australia as soon as financial conditions permit.

THE FIRST SCHEDULE—*continued.*TRADE AGREEMENT BETWEEN THE COMMONWEALTH OF AUSTRALIA AND THE  
DOMINION OF NEW ZEALAND—*continued.*

## ARTICLE VIII.

1. Goods imported into Australia and thereafter shipped to New Zealand, which if they had been imported direct from the country of origin to New Zealand would have been entitled to be entered under the British Preferential Tariff in New Zealand, shall, upon production of a certificate from the Customs Department of Australia stating the country of origin of the goods and such other information as is required, be entitled to be entered under the British Preferential Tariff in New Zealand.

2. Goods imported into New Zealand, and thereafter shipped to Australia, which if they had been imported direct from the country of origin to Australia would have been entitled to be entered under the British Preferential Tariff in Australia, shall, upon production of a certificate from the Customs Department of New Zealand stating the country of origin of the goods and such other information as is required, be entitled to be entered under the British Preferential Tariff in Australia.

## ARTICLE IX.

1. Where with respect to any specific class of goods not enumerated in Schedule B to this Agreement and imported into New Zealand the rate of duty thereon under the New Zealand British Preferential Tariff is less than the rate of duty under the Australian British Preferential Tariff the following provisions shall apply—

(a) His Majesty's Government in New Zealand may request His Majesty's Government in Australia to admit into Australia goods of such class being the produce or manufacture of New Zealand at the rate of duty chargeable on goods of that class under the New Zealand British Preferential Tariff.

(b) If within three calendar months after the receipt of such request His Majesty's Government in Australia does not comply therewith His Majesty's Government in New Zealand may, without further notice, impose on goods of such class being the produce or manufacture of Australia a rate of duty not greater than the rate of duty for the time being in force in Australia on the like goods under the Australian British Preferential Tariff.

2. Where with respect to any specific class of goods not enumerated in Schedule A to this Agreement and imported into Australia the rate of duty thereon under the Australian British Preferential Tariff is less than the rate of duty under the New Zealand British Preferential Tariff the following provisions shall apply—

(a) His Majesty's Government in Australia may request His Majesty's Government in New Zealand to admit into New Zealand goods of such class being the produce or manufacture of Australia at the rate of duty chargeable on goods of that class under the Australian British Preferential Tariff.

(b) If within three calendar months after the receipt of such request His Majesty's Government in New Zealand does not comply therewith His Majesty's Government in Australia may, without further notice, impose on goods of such class being the produce or manufacture of New Zealand a rate of duty not greater than the rate of duty for the time being in force in New Zealand on the like goods under the New Zealand British Preferential Tariff.

## ARTICLE X.

For the purposes of this Agreement, goods shall be deemed to be the produce or manufacture of Australia or of New Zealand, as the case may be, if conforming with the laws or regulations in force in the country of importation which apply to such goods when imported under its British Preferential Tariff except that:—

(1) In relation to goods imported into New Zealand which have been partially produced or partially manufactured in Australia the expenditure in material produced in Australia and/or labour performed within Australia in each and every article shall not be less than one-half of the factory or works cost of such article in its finished state.

(2) In relation to goods imported into Australia from New Zealand paragraph (b) of sub-section 1 of Section 151A of the *Customs Act 1901-1930* shall be read as if fifty per centum were substituted for seventy-five per centum.

## ARTICLE XI.

1. If in Australia goods of any class or kind the produce or manufacture of Australia are exempt from sales tax, goods of that class or kind the produce or manufacture of New Zealand shall, if imported into or sold in Australia, be exempt from sales tax.

THE FIRST SCHEDULE—*continued.*

TRADE AGREEMENT BETWEEN THE COMMONWEALTH OF AUSTRALIA AND THE  
DOMINION OF NEW ZEALAND—*continued.*

2. If in New Zealand goods of any class or kind the produce or manufacture of New Zealand are exempt from sales tax goods of that class or kind the produce or manufacture of Australia shall, if imported into or sold in New Zealand, be exempt from sales tax.

ARTICLE XII.

No special rebate or bounty shall be granted by Australia or any State Government or any officially constituted body in Australia or by the Government of New Zealand or any officially constituted body in New Zealand in respect of the sugar contained in any goods exported from Australia or New Zealand as the case may be to New Zealand or Australia, if the result of such rebate or bounty would in effect be to reduce the price of refined sugar below the import parity of similar types of sugar (such import parity to include the amount of import duty on refined sugar for the time being levied in New Zealand).

ARTICLE XIII.

1. Nothing in this Agreement shall apply to goods being the produce or manufacture of Norfolk Island imported into New Zealand or to goods being the produce or manufacture of New Zealand imported into Norfolk Island.

2. Nothing in this Agreement shall apply to goods being the produce or manufacture of the Cook Islands imported into Australia or to goods being the produce or manufacture of Australia imported into the Cook Islands.

3. Cocoa beans the produce of Western Samoa imported into Australia shall not be subjected to any higher duties of Customs than those paid on cocoa beans the produce of any British non-self-governing Colony or Protectorate or of any Territory governed under British mandate.

ARTICLE XIV.

1. Publicity films (either positives or negatives) produced by or for the Government of the Commonwealth of Australia or produced by or for the Government of any State of the Commonwealth of Australia shall be admitted free of duty into New Zealand.

2. Publicity films (either positives or negatives) produced by or for the Government of New Zealand shall be admitted free of duty into Australia.

3. The exemption from duty stipulated in paragraphs 1 and 2 of this Article shall have effect, irrespective of the ownership of the films at the time of importation or whether or not they are to be exhibited through public theatres, provided that a certificate is given by a Department of State in the country in which the films were manufactured that such films were produced by or for the Government of that country for publicity purposes.

ARTICLE XV.

This Agreement shall be subject to the approval of the Parliaments of Australia and New Zealand. Upon approval being given it shall be brought into force upon a date to be agreed upon between the Governments of Australia and New Zealand and shall remain in force until the expiration of six months from the date on which either Government shall have given to the other notice in writing of its intention to terminate the Agreement.

ARTICLE XVI.

On this Agreement being brought into force as herein provided, the Agreement made between the Commonwealth of Australia and the Dominion of New Zealand on the eleventh day of April, one thousand nine hundred and twenty-two, shall cease to have effect.

DATED this fifth day of September One thousand nine hundred and thirty-three.

SIGNED on behalf of His Majesty's Government in the Commonwealth of Australia.	} J. A. LYONS THOMAS W. WHITE
SIGNED on behalf of His Majesty's Government in the Dominion of New Zealand.	} J. G. COATES E. A. RANSOM

THE FIRST SCHEDULE—*continued.*

## SCHEDULE A.

TRADE AGREEMENT BETWEEN THE COMMONWEALTH OF AUSTRALIA AND THE  
DOMINION OF NEW ZEALAND—*continued.*

Consec. No.	Tariff Item.		Tariff Rates on Goods the Produce or Manufacture of New Zealand.
1	Ex 12 Ex 13	Wine, New Zealand, containing not more than 40 per cent. of proof spirit, viz.:— (1) Sparkling, all kinds: per gallon or for six reputed quart bottles, or the reputed equivalent in bottles of a larger or smaller reputed capacity .. .. (2) Other kinds: per gallon or for six reputed quart bottles, or the reputed equivalent in bottles of a larger or smaller reputed capacity .. ..	10s. 4s.
2	37	Bacon and Hams, partly or wholly cured ..	2d. per lb.
3	Ex 41 (A)	Cheese, viz.:— (1) Stilton .. .. (2) Other kinds .. ..	Free 6d. per lb.
4	43 (B)	Coffee, roasted or ground; in liquid form; or mixed with milk or other substance ..	6d. per lb.
5	44 (E)	Confectionery, n.e.i., including Cocoa and Chocolate prepared for edible use, or potable use (not in powdered or granulated form); Bon-bons and mixed packets of Confectionery containing trinkets (gross weights); Sugar Candy; Medicated Confectionery; Cachous; and Crystallized or Candied Fruits ..	2d. per lb.
6	51	Fish, viz.:— (B) Fresh, smoked or dried (but not salted), or preserved by cold process .. .. (C) Preserved in tins or other air-tight vessels including the weight of liquid contents— (1) Salmon .. .. (2) Crustaceans .. .. (3) Sardines .. .. (4) Other .. .. Ex (D) Fish pastes .. .. (E) Oysters, fresh, in the shell .. .. (F) N.E.I. .. ..	Free Free Free Free
7	54 (A)	Fruits and vegetables, n.e.i., including Ginger, n.e.i., (preserved in liquid, or partly preserved or pulped)— (1) Quarter-pints and smaller sizes .. .. (2) Half-pints and over quarter-pints .. .. (3) Pints and over half-pints .. .. (4) Quarts and over pints .. .. (5) Exceeding a quart .. .. (6) When preserved in spirituous liquid, additional duty to be paid on the liquid .. ..	35 per cent. ad val. 35 per cent. ad val. 35 per cent. ad val. 35 per cent. ad val. 35 per cent. ad val. 30s. per gal.



THE FIRST SCHEDULE—continued.

TRADE AGREEMENT BETWEEN THE COMMONWEALTH OF AUSTRALIA AND THE  
DOMINION OF NEW ZEALAND—continued.

Consec. No.	Tariff Item.	Tariff Rates on Goods the Produce or Manufacture of New Zealand.
8	57 Grain and pulse, not prepared or manu- factured, viz.:— Ex. (D) Oats .. .. Ex. (D) Peas, viz.— (a) Wrinkled garden seed peas .. .. (b) Other .. ..	1s. 6d. per cental  Free 1s. 6d. per cental
9	Grain and pulse, prepared or manufac- tured, viz.:— Ex 58 (D) } Oatmeal and Rolled Oats .. .. Ex 79 }	2s. 6d. per cental
10	59 Hay and Chaff .. ..	Free
11	61 (B) Jams, and Jellies, including Calves' Foot, but not Meat Jellies .. ..	2½d. per lb.
12	62 Hops .. ..	9d. per lb.
13	66 } Linseed .. .. 68 }	Free
14	Ex 74 Meats, viz.:— (A) Fresh or Smoked .. .. (B) Potted or concentrated, including extracts of, and Meat Jellies .. .. (C) Preserved in tins or other airtight vessels, including the weight of the liquid contents .. .. (D) Preserved by cold process .. ..	10 per cent. ad val. 20 per cent. ad val. 2d. per lb. 10 per cent. ad val.
15	Ex 74 (B) and (C) Soup, viz.:— (a) Toheroa soup, oyster soup and other fish soup, in powder or otherwise and whether in admixture with other substances or not .. .. (b) Preparations other, in dry form for making soup .. ..	Free 20 per cent. ad val.
16	Ex 75 (A) Milk, preserved, condensed, or concen- trated, sweetened or unsweetened .. ..	25 per cent. ad val.
17	75 (B) Milk, dried or in powder form, and the same in combination with caseine, sugar of milk, or other milk products .. ..	25 per cent. ad val.
18	80 Onions in their natural state .. ..	£1 per ton
19	93 Seed—Lucerne .. ..	Free
20	94 Soap:— (A) Toilet, fancy, or medicated .. .. (B) N.E.I.: Soap substitutes and com- pounded detergents for washing and cleansing purposes, not including saponaceous disinfec- tants .. ..	30 per cent. ad val. 30 per cent. ad val.



THE FIRST SCHEDULE—*continued*.

TRADE AGREEMENT BETWEEN THE COMMONWEALTH OF AUSTRALIA AND THE  
DOMINION OF NEW ZEALAND—*continued*.

Consec. No.	Tariff Item.	Tariff Rates on Goods the Produce or Manufacture of New Zealand.
24— <i>contd.</i>	110 (A) Apparel other than knitted— <i>continued</i> .	
	(4) (b) (2) Wool or containing wool ..	25 per cent. ad val.
	(3) Silk or containing silk but not containing wool ..	25 per cent. ad val.
	(5) Costumes, Dresses, or Robes, but not including Dresses or Robes for infants in arms or such articles when not exceeding 22 inches in length, viz. :—	
	(a) Cotton, linen, or other material n.e.i. ..	25 per cent. ad val.
	(b) Wool or containing wool ..	25 per cent. ad val.
	(c) Silk or containing silk but not containing wool ..	25 per cent. ad val.
	(B) Apparel, knitted, and Apparel made from knitted or lock-stitched piece goods, viz. :—	
	(1) Blouses, Skirts, Underwear, and Bathing Costumes—	
	(a) Cotton or other material n.e.i. ..	25 per cent. ad val.
	(b) Wool or silk or contain- ing wool or silk ..	25 per cent. ad val.
	(2) Coats, Jumpers, Cardigans, Sweaters, and similar gar- ments—	
	(a) Girls' or Boys', i.e., with chest measurement under 34 inches ..	25 per cent. ad val.
	(b) Women's or Men's, i.e., with chest measure- ment 34 inches and over ..	25 per cent. ad val.
	(3) Costumes, Dresses or Robes—	
	(a) Cotton or other material n.e.i. ..	25 per cent. ad val.
	(b) Wool or containing wool but not containing silk ..	25 per cent. ad val.
	(c) Silk or containing silk ..	25 per cent. ad val.
	(C) Corsets .. .. .	25 per cent. ad val.
	(D) Apparel, n.e.i., for the human body, partly or wholly made up, including materials cut into shape therefor; also material bearing any pattern design or marking for the purpose of indicating that it is to be made up into separate articles of apparel; Boxed Robes; Apparel not otherwise subject to a lower rate of duty and not imported for sale or trade and not exceeding a total value of £5 ..	25 per cent. ad val.
	(E) Neck Ties for human wear .. ..	25 per cent. ad val.

THE FIRST SCHEDULE—*continued.*TRADE AGREEMENT BETWEEN THE COMMONWEALTH OF AUSTRALIA AND THE  
DOMINION OF NEW ZEALAND—*continued.*

Consec. No.	Tariff Item.	Tariff Rates on Goods the Produce or Manufacture of New Zealand.
25	112 Furs and other skins and Articles made thereof :— (A) Apparel or Attire or other Articles in part or wholly made up, including Furs or other Skins sewn together, parts of furs or other skins sewn together, fur trimmings and imitation fur tails .. .. .	25 per cent. ad val.
26	113 Gloves (except of rubber), viz. :— (a) Harvesting, Driving, Housemaids', and Gardening .. .. .	25 per cent. ad val.
27	114 Hats, Caps, and Bonnets— (B) Wool Felt Hats in any stage of manufacture for men and boys, including wool felt hoods therefor (c) Fur Felt Hats in any stage of manufacture for men and boys, including fur felt hoods therefor (D) Caps n.e.i. .. .. . (E) Hoods for girls' and women's hats, viz. :— (1) Wool Felt Hoods .. .. . (2) Fur Felt Hoods and Velour Hoods .. .. . For the purposes of paragraph (1) of this sub-item the term "Hoods" includes hoods in any stage of manufacture up to but not including the defining of the brim. (F) (1) Felt Capelines for girls' and women's hats .. .. . (2) Felt Hats for girls and women ; Berets ; Girls' and Women's Caps (other than bathing) of any material ; Hats n.e.i. and Bonnets .. .. . (G) Hoods other than of felt .. .. .	25 per cent. ad val.  25 per cent. ad val. 25 per cent. ad val. 25 per cent. ad val. 25 per cent. ad val. 25 per cent. ad val. 25 per cent. ad val. 25 per cent. ad val. 25 per cent. ad val.
28	Ex 118 (A) Floor rugs of wool or containing wool ..	Free
29	Ex 117 Blankets, Blanketing, and Rugs (other than floor rugs), of wool or containing wool .. .. .	25 per cent. ad val.
30	136 Iron and Steel— (A) Pig Iron .. .. .	Free
31	Ex 141 Lead Piping, and Composition Piping ..	4s. 6d. per cwt.



THE FIRST SCHEDULE—continued.

TRADE AGREEMENT BETWEEN THE COMMONWEALTH OF AUSTRALIA AND THE  
DOMINION OF NEW ZEALAND—continued.

Consignee, No.	Tariff Item.	Tariff Rates on Goods the Produce or Manufacture of New Zealand.
	Agricultural Machines and Implements, namely:—	
32	Ex 176 (F) } Ex 208 (A) } Ex 303 (A) } Wool-presses	Free
33	Ex 161 (A) } Hay and Straw Baling Presses	
34	Ex 160 (A) } Threshing-machines and Threshing- mills	
35	Ex 161 (A) } Ex 176 (F) } Ex 208 (A) } Fibre-scutching Machines, Fibre Strippers Washers and Presses	
36	Ex 161 (A) } Ex 162 } Ex 163 } Ploughs, Harrows other than disc, Potato Diggers and Sorters, Grubbers other than spring tined, Ridgers for preparing ridges, and without any sowing attachments, Turnip-thinners, Turnip-pickers, Turnip-cutters, and Root-pulpers	
37	Ex 163 (A) } Stump Jump Ploughs	
38	Ex 162 } Chaff-cutters, with or without bagging attachments, also parts and fittings peculiar to the foregoing	
39	171 (A) } Hay-rakes (Horse)	
40	Ex 162 } Ex 163 (A) } Spring-tined Cultivators, Disc Harrows, Seed and Fertilizer Sowers or Drills combined or separate	
41	Ex 161 (A) } Ex 176 (F) } Seed-cleaners and Seed-separators	
42	Ex 164 } Dairying Machines and Implements, viz.:—Churns, Cheese-presses, and Dairy-coolers .. .. .	Free
43	Ex 176 (F) } Curdmills, Curd agitators, Curd mixers, Butter-packers, Butter-workers, Butter- pounders .. .. .	Free
44	Ex 161 (A) } Milking Machines .. .. .	Free
45	Ex 164 } Pasteurizers .. .. .	Free
46	Ex 153 (C) } Ex 153 (D) } Ex 208 (A) } Knees, bends, elbows, junction and inspec- tion boxes and covers, and other fittings, of cast-iron, for pipes, tubes, and tubing exceeding 3 inches in internal diameter	30 per cent. ad val.
47	Ex 161 or } Earthscoops and Ditching Machines .. 176 (F)	10 per cent. ad val.
48	Ex 170 (A) } Machinery, Dredging, and Excavating; and Grabs.. .. .	10 per cent. ad val.
49	172 (B) } Clothes wringers for household use ..	20 per cent. ad val.
50	Ex 176 (F) } Washing-machines, clothes-washers, mangles, and clothes-wringers, other than for household use .. .. .	20 per cent. ad val.
51	Ex 176 (F) } Wool-scouring Machines .. .. .	20 per cent. ad val.

THE FIRST SCHEDULE—*continued.*TRADE AGREEMENT BETWEEN THE COMMONWEALTH OF AUSTRALIA AND THE  
DOMINION OF NEW ZEALAND—*continued.*

Consec. No.	Tariff Item.	Tariff Rates on Goods the Produce or Manufacture of New Zealand.
52	173 (A) Weighing Machines, including Computing Weighing Machines; Weighbridges; Scales and Balances, n.e.i., including Computing Scales and Balances; Tan-ners' Measuring Machines; Chemists' Counter Scales; Spring Balances and Steelyards; Weights n.e.i.; Combined Bagging, Weighing, and Sewing Machines .. .. .	20 per cent. ad val.
53	Ex 176 (F) Pumps for raising or distributing liquids; vacuum-pumps, excluding those suit-able for use with milking machines ..	20 per cent. ad val.
54	Ex 176 (F) Vacuum pumps suitable for use with milking machines, imported separately	Free
55	176 (I) (1) Pumps of the type used for vending petrol .. .. .	20 per cent. ad val.
	(2) Mechanical pumping units for pumps of the type used for vending petrol ..	20 per cent. ad val.
56	Ex 176 (F) } Coil Pipes .. .. .	20 per cent. ad val.
	Ex 213 }	
57	Ex 176 (F) Machines for mixing, such as Concrete, Cement, or Manure Mixers .. ..	20 per cent. ad val.
58	Ex 176 (F) Transmission Gear including plumm-er-blocks, couplings, collars, and friction-clutches, to connect engines with machinery for whatever purpose the machinery may be used .. ..	20 per cent. ad val.
59	Ex 176 (D) Stone-crushing Machines, viz.:—Jaw-crushers (not including Elevators, Screens, or Separators) .. ..	20 per cent. ad val.
60	Ex 176 (F) } Coal-screening Machinery; Screens, Metal,	
	Ex 208 (A) } all kinds .. .. .	20 per cent. ad val.
61	Ex 176 (D) } Elevators, and Conveyors, including	
	Ex 176 (F) } Mechanical Stokers .. ..	20 per cent. ad val.
62	Ex 176 (D) } Winches, Cranes, Capstans, Windlasses,	
	Ex 176 (E) } and Hoists .. .. .	20 per cent. ad val.
	Ex 176 (F) }	
63	Ex 176 (F) Hydro-extractors, Wool-drying Machines, and Manure-drying Machines, not includ-ing Fans or Blowers .. ..	20 per cent. ad val.
64	Ex 177 (A) (2) Locomotives .. ..	20 per cent. ad val.
65	Ex 178 (E) Boilers, land, and marine; Feed-water Heaters; Steam Superheaters ..	20 per cent. ad val.
66	Ex 178 Oil-engines not exceeding 100 brake-horse-power .. ..	15 per cent. ad val.
67	Ex 176 (F) } Suction-gas Producers, Digesters ..	20 per cent. ad val.
	Ex 178 (E) }	
68	Ex 178 (E) Windmills .. ..	20 per cent. ad val.
69	Ex 180 (C) Gas Cooking and Heating Appliances, including Gas Ranges .. ..	35 per cent. ad val.
70	187 Nails, viz.:— (B) Rail-dogs or Brobs, Spikes ..	£2 per ton
	Ex (C) Wire and other Nails n.e.i. ..	£2 per ton
71	Ex 187 (C) Lead-headed Nails, and Galvanized Cup-headed Roofing-nails .. ..	25 per cent. ad val.

THE FIRST SCHEDULE—continued.

TRADE AGREEMENT BETWEEN THE COMMONWEALTH OF AUSTRALIA AND THE  
DOMINION OF NEW ZEALAND—continued.

Conseq. No.	Tariff Item.	Tariff Rates on Goods the Produce or Manufacture of New Zealand.
72	191 (A) Metal Bedsteads and Cots .. ..	25 per cent. ad val.
	(B) Metal Fenders and Fire-irons .. ..	25 per cent. ad val.
73	192 Brasswork Bronzework and Gunmetal work for general engineering and plumbing and other trades (other than Valves, Taps, Tobies, Hydrants, and similar articles of any material) ..	25 per cent. ad val.
74	Ex 192 } Valves, Taps, Tobies, Hydrants, and Ex 208 (A) } similar articles, of any material ..	30 per cent. ad val.
75	197 (A) Platedware, n.e.i.; Spoons, Forks, Butter Fish and Fruit Knives, plated or of mixed-metal; Cutlery, Spoons and Forks, partly or wholly of gold or silver, except when gold ferruled or silver ferruled only .. ..	25 per cent. ad val.
76	199 } Stereotypes, Electrotypes, Matrices, Half- 340 (D) } tones and Line Blocks .. ..	25 per cent. ad val.
77	Ex 208 (A) Galvanized-iron manufactures, made up from galvanized iron, or from plain sheet-iron, and then galvanized ..	30 per cent. ad val.
78	Ex 208 (A) Japanned and Lacquered Metalware ..	30 per cent. ad val.
79	Ex 208 (A) } Tinware, and Tin Manufactures ..	30 per cent. ad val.
	Ex 208 (D) }	
80	Ex 208 (A) Upholsterers' spiral sofa-springs and similar upholsterers' springs .. ..	25 per cent. ad val.
81	Ex 208 (A) } Vacuum-pans, other than glass, porcelain, Ex 204 (B) } or enamel-lined, Heating Boilers, Washing Boilers .. ..	25 per cent. ad val.
82	Ex 227 (A) Tallow, inedible— In packages exceeding 4 lb. net weight..	Free
83	Ex 228 Whale Oil .. ..	Free
84	Ex 229 (I) Oils in vessels exceeding one gallon— Compounded rust resisting oil for the treatment of metal .. ..	Free
85	231 Paints and Colours, viz.:— (D) Kalsomine, Water Paints and Dis- tempers, in powder form .. ..	20 per cent. ad val.
	(G) (1) Ground in liquid; Paints and Colours prepared for use; Sheep Marking Oils; Enamels; Enamel Paints and Glosses ..	20 per cent. ad val.
86	232 (A) Varnishes; Varnish and Oil Stains; Lacquers; Japans; Berlin, Brunswick and Stoving Blacks and substitutes therefor; Liquid Sizes; Patent Knotting; Oil and Wood Finishes; Petrifying Liquids; Lithographic Varnish; Printers' Ink Reducer; Terebino; Liquid Dryers; Gold Size; Liquid Stain for Wood .. ..	20 per cent. ad val.
	(B) Damp Wall Compositions including com- positions for waterproofing cement ..	20 per cent. ad val.
	(C) Compounded Thinners for nitro-cellulose and acetyl-cellulose varnishes and lacquers, n.e.i. .. ..	20 per cent. ad val.

## THE FIRST SCHEDULE—continued.

TRADE AGREEMENT BETWEEN THE COMMONWEALTH OF AUSTRALIA AND THE  
DOMINION OF NEW ZEALAND—continued.

Consec. No.	Tariff Item.	Tariff Rates on Goods the Produce or Manufacture of New Zealand.
87	Ex 255 (B) Caseine .. .. .	20 per cent. ad val.
88	255 (A) } Glue and Gelatine .. .. .	20 per cent. ad val.
	255 (C) }	or 2d. per lb. whichever rate returns the higher duty
89	Ex 269 Insecticides for agricultural uses ..	Free
90	269 (A) Sheep, Cattle, and Horse Washes, in liquid or powder form .. .. .	Free
91	277 Carbonic Acid Gas, including the liquefied or compressed gas .. .. .	1½d. per lb.
92	281 Drugs and Chemicals, viz.:— (E) Lactose (sugar of milk) .. .. .	15 per cent. ad val.
93	Ex 285 (A) Medicines, viz.:— Preparations made from animal glands or tissues, viz.:— Liver extracts .. .. .	Free
94	291 Timber, viz.:— (c) Logs, not sawn .. .. .	Free
	(d) New Zealand White Pine, undressed, n.e.i., for use in the manufacture of butter boxes .. .. .	Free
	(f) Timber, undressed, n.e.i., viz.:— Redwood ( <i>Sequoia sempervirens</i> ) and Western Red Cedar ( <i>Thuja plicata</i> )— (1) In sizes of 12 inches x 6 inches (or its equiva- lent) and over .. .. .	Free
	(2) In sizes of 8 inches x 2 inches (or its equiva- lent) and upwards, and less than 12 inches x 6 inches (or its equiva- lent) .. .. .	Free
	(3) In sizes less than 8 inches x 2 inches (or its equiva- lent) .. .. .	Free
	(g) Timber, undressed, viz.:—Douglas Fir ( <i>Pseudotsuga Douglasii</i> ) in sizes 12 inches x 6 inches (or its equivalent) and over, for use underground for mining purposes	Free
	(h) Timber, undressed, n.e.i., viz.:— Other— (1) In sizes of 12 inches x 10 inches (or its equiva- lent) and over .. .. .	Free
	(2) In sizes of 7 inches x 2½ inches (or its equivalent) and upwards, and less than 12 inches x 10 inches (or its equivalent)	Free
	(3) In sizes less than 7 inches x 2½ inches (or its equivalent) .. .. .	Free

THE FIRST SCHEDULE—continued.

TRADE AGREEMENT BETWEEN THE COMMONWEALTH OF AUSTRALIA AND THE  
DOMINION OF NEW ZEALAND—continued.

Consolidated No.	Tariff Item.	Tariff Rates on Goods the Produce or Manufacture of New Zealand.
94— contd.	291 Timber—continued. (1) (1) Timber, undressed, n.e.i., in sizes not less than 4 inches in width and not less than 3 inches in thickness for the manufacture of boxes .. ..	Free
	(2) Timber, undressed, cut to size for making boxes .. ..	Free
95	293 (A) Timber, undressed, in sizes less than 7 feet 6 inches x 10½ inches x 2½ inches for use in the manufacture of doors ..	Free
96	299 (A) Broom Stocks, being square timber rough sawn into sizes suitable for the manufacture of broom handles .. ..	Free
97	Ex 292 (G) } Picture and room mouldings .. ..	25 per cent. ad val.
	292 (H) }	
98	Ex 314 Jewellery, rolled gold and imitation ..	25 per cent. ad val.
99	Ex 315 Jewellery, n.e.i., and Plate, gold or silver ..	25 per cent. ad val.
100	Ex 320 (B) Kinematographs n.e.i., including sound reproducing apparatus .. ..	20 per cent. ad val.
101	Ex 179 (C) Accessories for kinematographs, viz.:— Ex 180 (E) (17) Amplifiers, volume controls, loud Ex 180 (F) speakers and switchboards, whether imported with kinematographs or separately .. ..	Free
102	Ex 324 Leather, viz.:— (A) Chamois Leather .. .. (C) (3) Calf, other than Patent and Enamelled .. .. (4) N.E.I. .. .. (D) Belt Butts .. ..	15 per cent. ad val. 15 per cent. ad val. or 3d. per lb. whichever rate returns the higher duty
103	325 (A) Leather Manufactures n.e.i.; Leather cut into shape; Harness n.e.i.; Razor Straps; Whips, including handles, keepers, thongs and lashes .. ..	25 per cent. ad val.
	(B) Harness and Buggy Saddles .. ..	20 per cent. ad val.
104	Ex 326 Leather belting .. ..	15 per cent. ad val. or 3d. per lb. whichever rate returns the higher duty
105	329 Boots, Shoes, Slippers, Clogs, Pattens, and other Footwear (of any material), n.e.i.; Boot and Shoe Uppers and Tops (except of felt); Cork, Leather, or other Socks or Soles n.e.i. .. ..	35 per cent. ad val.
106	334 (G) (3) Paper Bags, n.e.i. .. ..	30 per cent. ad val.
107	Ex 334 (D) (2) Wrapping-paper, all kinds, glazed, mill-glazed, or unglazed, including browns, caps, casings, sulphites, sugars and all other bag papers, candle carton paper, tissues, and tinfoil paper, not printed, viz.:—In sheets not less than 20 in. by 15½ in. or the equivalent, or in rolls not less than 10 in. wide .. ..	6s. per cwt.



THE FIRST SCHEDULE—*continued.*TRADE AGREEMENT BETWEEN THE COMMONWEALTH OF AUSTRALIA AND THE  
DOMINION OF NEW ZEALAND—*continued.*

Consec. No.	Tariff Item.	Tariff Rates on Goods the Produce or Manufacture of New Zealand.
108	340 (A) Stationery, manufactured; Bill Files and Letter Clips; Papers ruled or bordered by waterline or likewise; Date Cases and Cards; Albums of all kinds; Cards, and Booklets, viz., Printers', Menu, Christmas, and similar kinds; Scraps; Ink Bottles; Ink-wells; Ink Stands; Paper Knives; Memo. Slates and Tablets; Sealing and Bottling Wax; Postcards n.e.i.; Book-markers; Writing Desks (not being furniture); Writing Cases; Stationery Cases; Paper Binders; Card Hangers; Pen Racks; Book-binders' Staples ..	25 per cent. ad val.
109	340 (B) Books, viz.:—Account, Betting, Cheque, Copy, Copying, Drawing, Exercise, Guard, Letter, Memo., Pocket, Receipt, Sketch, and the like .. ..	25 per cent. ad val.
110	Ex 357 } Carriages, Carts, Drays, Wagons, Ex 359 (F) (1) } Perambulators, and the like Ex 360 } Vehicles, and Wheels for the same ..	20 per cent. ad val.
111	Ex 360 Cars, Wagons, and Trucks, Railway and Tramway .. .. .	20 per cent. ad val.
112	Ex 376 Camera Covers and Cases of Leather ..	25 per cent. ad val.
113	Ex 376 Leather Bags, Cases, Trunks, Portman- teaux, Purses, Wallets, Handbags, Purse-bags, Companions, Reticules, Satchels, or Valises, with or without fittings .. .. .	25 per cent. ad val.
114	381 Brushware and Materials therefor:— (C) Brushmakers' Horsehair Drafts .. (E) (1) Hair and Cloth Brushes .. (2) Tooth, Scrubbing, Paint and Varnish Brushes .. .. (3) Nail Brushes .. .. (4) Brushes n.e.i. .. ..	25 per cent. ad val. 25 per cent. ad val. 25 per cent. ad val. 25 per cent. ad val. 25 per cent. ad val.
115	Ex 390 (A) (1) Cordage, Rope, and Twine, n.e.i. (except- ing Reaper and Binder Twine and Yarn) .. .. .	20 per cent. ad val.
116	391 Reaper and Binder Twine and Yarn ..	6s. per cwt.
117	Ex 397 (A) Cartridges, viz., shot gun ..	Free
118	Ex 424 Ships which are to the satisfaction of the Minister of Customs of Australia, <i>bona fide</i> owned and registered in New Zealand, when employed in Australian waters for the replacement of New Zealand owned and registered ships, or for any other purpose as approved by the Minister for any continuous period not exceeding six months .. ..	Free

## THE FIRST SCHEDULE—continued.

## SCHEDULE B.

TRADE AGREEMENT BETWEEN THE COMMONWEALTH OF AUSTRALIA AND THE  
DOMINION OF NEW ZEALAND—continued.

Consec. No.	Tariff Item.		Tariff Rates on Goods the Produce or Manufacture of Australia.
1	Ex	2 Cotton seed meal .. .. .	Free
2	Ex	2 Hay .. .. .	Free
3		3 Chaff .. .. .	Free
4		4 Grain and pulse, unground and unmanu- factured, viz. :—	
		Ex (4) Oats .. .. .	1s. 6d. per cential
		Ex (4) Peas, viz. :—(a) Wrinkled gar- den seed peas	Free
		(b) Other kinds ..	1s. 6d. per cential
5		5 Grain and pulse, ground or <i>manufactured</i> , viz. :—	
		Ex (6) Oatmeal and Rolled Oats ..	2s. 6d. per cential
6		6 Hops .. .. .	9d. per lb.
7		7 Onions .. .. .	£1 per ton
8		8 Potatoes .. .. .	£2 10s. per ton
9	Ex	11 Vegetables, viz. :—	
		(2) Fresh n.e.i. .. .. .	25 per cent. ad val.
10		18 Coffee, roasted .. .. .	5d. per lb.
11		19 Coffee, essence of, and essence of coffee mixed with milk or with any food substance whatsoever .. .. .	25 per cent. ad val.
12		25 Bacon and hams .. .. .	2d. per lb.
13		32 Confectionery including medicated con- fectionery, liquorice n.e.i., and sugared or crystallized fruits .. .. .	27½ per cent. ad val.
14		35 Fish, viz. :—	
		(2) Fish, fresh, smoked, dried, pickled, salted, preserved by cold process, or preserved by sulphurous acid, n.e.i. .. .. .	Free
		(3) Fish, potted, and preserved—viz., <i>salmon</i> , including any liquor, oil, or sauce .. .. .	Free
		(4) Fish, potted, and preserved, n.e.i., including any liquor, oil, or sauce (Note.—The term "fish" is used in the Tariff in its widest sense, and includes shell-fish, crustaceans, and other foods obtained from the fisheries.)	Free
15		36 Fruits, dried—viz. :—	
		Ex (1) Raisins .. .. .	Free
		With respect to raisins, the rate of Customs duty set forth in the General Tariff shall be deemed to be repealed and the following shall be substituted therefor, viz., 1d. per lb.	
16		37 Fruits, fresh—viz. :—	
		(2) (a) Apricots, grapes, medlars, neo- tarines, passion-fruit, peaches, plums, quinces, tomatoes ..	2d. per lb.
		(b) Cherries .. .. .	3d. per lb.

THE FIRST SCHEDULE—*continued.*TRADE AGREEMENT BETWEEN THE COMMONWEALTH OF AUSTRALIA AND THE  
DOMINION OF NEW ZEALAND—*continued.*

Consec. No.	Tariff Item.		Tariff Rates on Goods the Produce or Manufacture of Australia.
17	30	Fruits preserved in juice or syrup, viz.:— (1) Pineapples and prunes .. .. (2) Other kinds .. .. (Fruits preserved in juice or syrup, fortified with alcohol to any extent exceeding 40 per cent. of proof spirit, shall be charged 36s. per liquid gallon on such juice or syrup, in addition to the appropriate duty on the total value of the goods.)	25 per cent. ad val. 35 per cent. ad val.
18	45	Jams, jellies, marmalade, and preserves ..	2½d. per lb.
19	49	Meats, potted or preserved (not including mutton birds) .. ..	2d. per lb.
20	Ex 53	Fish Pastes .. ..	Free
21	Ex 61	Meats, fresh, smoked or preserved by cold process .. ..	10 per cent. ad val.
22	Ex 61	Soup, viz.:—Oyster soup and other fish soup, in powder or otherwise and whether in admixture with other sub- stances or not .. ..	Free
23	63	Soap, all kinds; soap-powder, extract of soap, dry soap, soft-soap, liquid soap, soap solution; washing or cleansing powders, crystals, pastes or liquids, n.e.i. .. ..	30 per cent. ad val.
24	Ex 72	Sugar of Milk .. ..	15 per cent. ad val.
25	Ex 90	Wine, Australian, containing not more than 40 per cent. of proof spirit, viz.:— (1) Sparkling, all kinds; per gallon, or for six reputed quart bottles, or the re- puted equivalent in bottles of a larger or smaller reputed capacity .. .. (2) Other kinds; per gallon, or for six reputed quart bottles, or the reputed equivalent in bottles of a larger or smaller reputed capacity .. ..	10s. 4s.
26	115	Essential oils, viz.:— (1) Eucalyptus .. ..	Free
27	116	Gases, liquefied or compressed, viz.:— (2) Carbon dioxide or carbonic acid gas	1½d. per lb.
28	128	Rennet, in tablet form, or in liquid form in containers having a capacity of 1 pint or under; rennet in powder, in <i>small</i> <i>packages</i> suitable for retail sale ..	25 per cent. ad val.
29	129	Rennet n.e.i. .. ..	15 per cent. ad val.
30	Ex 173	Rugs of wool or containing wool ..	25 per cent. ad val.
31	Ex 183	Textile piece-goods, of wool or containing wool, n.e.i. .. ..	25 per cent. ad val.
32	Ex 184	Blankets of wool or containing wool ..	25 per cent. ad val.

THE FIRST SCHEDULE—continued.

TRADE AGREEMENT BETWEEN THE COMMONWEALTH OF AUSTRALIA AND THE  
DOMINION OF NEW ZEALAND—continued.

Consec. No.	Tariff Item.	Tariff Rates on Goods the Produce or Manufacture of Australia.
33	Ex 196 (1) Boots and shoes composed of canvas with rubber soles solutioned to the uppers, including goloshes ..	25 per cent. ad val.
	(2) Boots, shoes, clogs, pattens, slippers, shoettes, sandals, overshoes, and other footwear n.e.i. ..	35 per cent. ad val.
34	200 Leather, viz.:—	
	(2) Chamois leather ..	15 per cent. ad val.
35	202 Leather laces; vamps, and uppers; leather cut into shapes; clog and patten soles; leather leggings ..	35 per cent. ad val.
36	Ex 204 Portmanteaux; trunks; travelling-bags, brief-bags of leather or leather-cloth, attache-cases, suit-cases, and similar receptacles, 10 in. in length and upwards (not including basketware, wickerware, or similar receptacles) ..	30 per cent. ad val.
37	Ex 246 Mouldings, in the piece, and panels, composed wholly of wood, suited for picture frames, cornices, walls, or ceilings ..	25 per cent. ad val.
38	Ex 282 Paper bags, all kinds, n.e.i. ..	30 per cent. ad val.
39	Ex 298 Wrapping-paper, all kinds, glazed, mill-glazed, or unglazed, including browns, caps, casings, sulphites, sugars and all other bag papers, candle carton paper, tissues, and tinfoil paper, not printed, n.e.i., viz.: In sheets not less than 20 inches by 15½ inches or the equivalent, or in rolls not less than 10 inches wide ..	6s. per cwt.
40	212 Building materials, viz.:—	
	(1) Roofing tiles, ridging, and finials, glass, and earthen ..	20 per cent. ad val.
41	Ex 327 Galvanized-iron manufactures, n.e.i., made up from galvanized iron, or from plain sheet iron, and then galvanized; japanned or lacquered metalware ..	30 per cent. ad val.
42	Ex 346 Vacuum pumps suited for use with milking machines, imported separately ..	Free
43	353 Machinery, machines, engines, and other appliances, n.e.i., viz.:—	
	Ex (1) Gas heating and gas cooking appliances ..	35 per cent. ad val.
	Ex (2) Oil-engines not exceeding 100 brake horse power ..	15 per cent. ad val.
	Ex (1) Valves, taps, tobies, hydrants, and (5) and similar articles, of any material ..	30 per cent. ad val.
	Ex (5) Elevators, and conveyors, including mechanical stokers ..	25 per cent. ad val.
	Ex (5) Heating boilers, washing boilers ..	25 per cent. ad val.
44	Ex 356 Brasswork, bronzework, and gunmetal work, for general engineering and plumbing and other trades ..	25 per cent. ad val.

THE FIRST SCHEDULE—*continued.*

TRADE AGREEMENT BETWEEN THE COMMONWEALTH OF AUSTRALIA AND THE  
DOMINION OF NEW ZEALAND—*continued.*

Consec. No.		Tariff Item.	Tariff Rates on Goods the Produce or Manufacture of Australia.
45	Ex 356	Metal bedsteads, cots, fenders, and fire- irons .. .. .	25 per cent. ad val.
46	361	Nails, lead-headed, and galvanized cup- headed roofing nails .. .. .	25 per cent. ad val.
47	362	Pipes, piping, tubes, and tubing (except coil pipes), viz. :—	
		(7) Lead or composition .. .. .	4s. 6d. per cwt.
48	373	Tinware, and tin manufactures, n.e.i. ..	30 per cent. ad val.
49	394	Oils in vessels capable of containing 1 gallon or more, viz. :—	
		Ex (11) Compounded rust-resisting oil for the treatment of metal	Free
50	399	Timber, viz. :—	
		Logs, round, <i>unworked</i> .. .. .	Free
51	404	Timber rough sawn or <i>rough hewn</i> ..	Free
52	405	Timber sawn dressed .. .. .	7s. 6d. per 100 super feet
53	Ex 419	Corn-millet brooms .. .. .	30 per cent. ad val.
54	Ex 425	Reaper and binder twine and yarn ..	6s. per cwt.

## THE SECOND SCHEDULE.

COPIES OF NOTES EXCHANGED BETWEEN THE RIGHT HONORABLE  
J. G. COATES, P.C., NEW ZEALAND MINISTER OF FINANCE AND  
CUSTOMS, AND SENATOR THE HONORABLE SIR WALTER MASSY  
GREENE, K.C.M.G., LEADER, AUSTRALIAN TRADE DELEGATION  
TO NEW ZEALAND.

[Copy.]

Dominion of New Zealand,  
Minister's Office, Customs Department,  
Wellington, 6th April, 1933.

DIVERSION OF NEW ZEALAND'S IMPORT TRADE FROM THE UNITED KINGDOM TO  
AUSTRALIA.

The matter of the diversion of New Zealand's import trade from the United  
Kingdom to Australia having been discussed between representatives of His Majesty's  
Government in Australia and His Majesty's Government in New Zealand, an agreement  
has been arrived at the terms of which are, for purposes of record, set out below.

(Signed) W. MASSY-GREENE,  
Leader, Australian Trade Delegation to New Zealand.

(Signed) J. G. COATES,  
Minister of Finance and Customs.

*Terms of Agreement as to Diversion of New Zealand's Import Trade from the United  
Kingdom to Australia.*

(1) If at any time after the 30th day of September, 1933, His Majesty's Government  
in New Zealand is satisfied in respect of any specific class or specific classes of goods,  
or in respect of goods comprised in any Tariff item that, since the 31st day of March,  
1933, there has been a substantial diversion of New Zealand's import trade from the  
United Kingdom to Australia, the fact of such diversion may be made the subject  
matter of an official communication from His Majesty's Government in New Zealand  
to His Majesty's Government in Australia. Both Governments undertake that they  
will then endeavour to devise a satisfactory method of checking such diversion.



THE SECOND SCHEDULE—*continued.*

either by means of the regulation of trade in the goods affected, or by such other means as may be mutually acceptable. If no such method is adopted within a reasonable time, being not less than in any case two months, the New Zealand Government may adopt such means as it thinks proper to prevent any further diversion of its trade in such goods from the United Kingdom. Where action is taken by means of the regulation of trade, such action shall not be designed to reduce the volume of trade between Australia and New Zealand as at the 31st day of March, 1933.

2. A substantial diversion of New Zealand's import trade from the United Kingdom to Australia shall, for the purposes of this arrangement, be deemed to have taken place in respect of any goods only if satisfactory evidence is produced of a substantial decline in any period in the value of such goods imported into New Zealand from the United Kingdom and of a substantial increase during the same period in the value of such goods imported into New Zealand from Australia. The basis of comparison of the value of the trade between New Zealand and the United Kingdom and New Zealand and Australia shall be the figures of the trade between the respective countries for the year 1st of April 1932 to 31st March 1933.

(Intd.) W.M.G.  
J.G.C.

[COPY.]

Midland Hotel,  
Wellington, New Zealand,  
Australian Trade Delegation,  
6th April 1933.

The Rt. Hon. J. G. Coates, P.C., M.C.,  
Wellington.

MY DEAR MINISTER,

In consideration of the imposition of a duty of one penny per lb. upon the importation into New Zealand of foreign sultanas and lexias, such duty being designed and intended to secure the whole of the market to fruit of this class from Empire sources, I hereby give on behalf of the Government of the Commonwealth of Australia an undertaking to your Government in the following terms:—

- (1) That the Australian industry would not in any way or at any time take advantage of the existence of the duty now suggested against foreign goods of this class and whether or not such duty be increased above the rate now proposed. In particular the Australian industry would not either directly or indirectly as a result of the imposition of the suggested duty at any time increase the prices at which supplies of these goods would be offered or sold to New Zealand purchasers.
- (2) That it would be clearly understood that the Government of New Zealand has the right to remove at any time the duty upon foreign fruit of this class if it appears to the Government of New Zealand that the undertaking is not being adhered to, and further that the decision of the New Zealand Government in this matter would be accepted as final and conclusive.
- (3) That it would be further understood that the Australian Government would not expect the duty to be maintained against foreign supplies of these goods if the Australian industry is at any time unable or refuses to supply or refrains from supplying all the reasonable requirements of New Zealand.
- (4) That the Australian Government would not expect the duty to be maintained against these foreign goods if the industry ceases to possess or to exercise through the Commonwealth Dried Fruits Export Control Board the statutory power now conferred upon it by the Government of the Commonwealth to regulate the prices at which these goods are sold.
- (5) That the Australian Government would agree that in the consideration of the foregoing conditions the New Zealand Government might have regard to all and any circumstances which in the opinion of the Government of New Zealand have at any time a bearing upon the matter of the prices at which and the terms and conditions upon which supplies of these goods are or may reasonably be purchased by importers in New Zealand.

THE SECOND SCHEDULE—*continued.*

It is asked that in the event of the New Zealand Government contemplating action to terminate the foregoing suggested arrangement due notice would be given to the Government of the Commonwealth in order that reasonable opportunities should be available to the Government of the Commonwealth to make representations and to offer information for consideration by the Government of New Zealand before definite action is adopted.

The Government of the Commonwealth of Australia would undertake that it would with the utmost possible promptitude deal with any such matter and make without delay such representations as it desired in order that the final decision of the New Zealand Government might be adopted without undue delay.

I shall be glad to learn on behalf of the Government of the Commonwealth of Australia whether the Government of New Zealand would concur in the arrangement above set out.

(Signed) W. MASSY GREENE,  
Leader, Australian Trade Delegation to New Zealand.

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[COPY.]

Dominion of New Zealand,  
Minister's Office, Customs Department,  
Wellington, 6th April, 1933.

Senator the Hon. W. Massy Greene,  
Wellington.

MY DEAR SENATOR,

This is to acknowledge the receipt of your letter of to-day's date in which you refer to the importation into New Zealand of sultanas and lexias, and to the undertaking given by the Commonwealth Government in consideration of our imposing a duty of one penny per lb. on foreign imports of these goods. I have to advise you that the New Zealand Government concurs in the arrangement set out in your letter.

Yours truly,  
(Signed) J. G. COATES.

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[COPY.]

Office of the Minister of Customs,  
Wellington, New Zealand, 6th April, 1933.

This is a memorandum to confirm the arrangement agreed upon with respect to the duty of one penny per pound on raisins of foreign origin as set out in Schedule B. to the Agreement initialled to-day on behalf of His Majesty's Government in Australia and His Majesty's Government in New Zealand.

It is understood that with respect to seeded raisins the duty will be maintained for a period of at least twelve months and that New Zealand may then remove it without further notice if the New Zealand Government are not satisfied that the seeded raisins supplied by Australia for consumption in New Zealand meet the reasonable requirements of the New Zealand market.

(Signed) W. MASSY GREENE,  
Leader of the Australian Trade Delegation.

(Signed) J. G. COATES,  
Minister of Finance and Customs, New Zealand.

THE SECOND SCHEDULE—*continued.*

[COPY.]

Dominion of New Zealand,  
Minister's Office, Customs Department,  
Wellington, 6th April, 1933.

Senator the Hon. W. Massey Greene,  
Wellington,

MY DEAR SENATOR,

DRIED TREE-FRUIT.

Following on our discussions with reference to the rate of customs duty to be levied on the importation into New Zealand of dried tree-fruits from Australia, I have on behalf of the Government of New Zealand to inform you that the Government undertake that, in the event of the Tariff Agreement of to-day's date being duly approved by the Parliaments of Australia and New Zealand and brought into force, they will take steps to ensure that such dried fruits, being the produce of Australia and imported into New Zealand on or after the 1st January, 1934, will be admitted into New Zealand at a rate of duty not exceeding the rate levied on similar fruit being the produce of any other country.

Yours truly,  
(Signed) J. G. COATES.

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CUSTOMS TARIFF (PAPUA AND NEW GUINEA PREFERENCE) 1934.

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**No. 4 of 1934.**

An Act relating to Customs Tariff preference on goods the produce of the Territory of Papua and on goods the produce of the Territory of New Guinea.

[Assented to 12th July, 1934.]

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

1. This Act may be cited as the *Customs Tariff (Papua and New Guinea Preference) 1934.* Short title.
2. This Act shall be deemed to have commenced on the tenth day of March One thousand nine hundred and thirty-three. Commencement.
3. The *Customs Tariff (Papua and New Guinea Preference) 1926* Repeal. is repealed.

Incorporation.

4. The *Customs Act* 1901-1930<sup>(a)</sup> shall be incorporated and read as one with this Act.

Certain imports  
from Papua and  
New Guinea  
to be free of  
duty.

5.—(1.) This section shall apply to the goods specified in the Schedule to this Act if produced or manufactured in the Territory of Papua or the Territory of New Guinea and imported direct from either of those Territories.

(2.) Goods to which this section applies shall—

(a) if imported into Australia on or after the tenth day of March One thousand nine hundred and thirty-three; or

(b) if imported into Australia before that date and not entered for home consumption until after that date,

be free of all duties of customs imposed on such goods by the *Customs Tariffs* 1933.<sup>(b)</sup>

### THE SCHEDULE.

Item No.	Item No. of Customs Tariffs 1933.	Item.
1	437	Arecanuts
2	44 (A)	Cocoa Beans, whole or broken, raw; Cocoa Shells, raw
3	43 (A)	Coffee, raw and kiln dried
4	287	Essential Oil, viz.:—Massoi oil
5	53 (A)	Fruits, dried, viz.:—Lychee
6	52 (B) and (C)	Fruits, Fresh, viz.:—Chicomamey, Lychee, Longan, Akee, Pulasan, Rambutan, Avocado, Mangosteen, Sapote, Sapodilla, Abiu, Star-apple, Langsat, Imbu, Ilima, Durian, Jaboticaba, Grumichama, Kao Pan Seedless Pummelo, and Jak Fruit
7	101 or 102	Fungi, edible
8	56 (A)	Ginger, green
9	56 (B)	Ginger, dry, unground
10	57 (D)	Grain and Pulse, viz.:—Rangoon Beans
11	78	Nuts, viz.:— (A) Coconuts, whole (B) Coconuts, prepared (C) Shelled or Unshelled
12	87 (B)	Sago and Tapioca, not being packed for household use
13	92	Seeds, viz.:—Kapok; Sesame
14	96 (A) (1)	Spices, unground, viz.:—Cardamom, Chillies, Cinnamon, Cloves, Mace, Nutmegs, Pepper, Pimento
15	438	Vanilla Beans
16	254 (C)	Balata, Gum Arabic, Gum Copal, Gum Damar, Gutta Percha, Jelutong, Sticklac and Seedlac

(a) *Supra*, p. 490.

(b) *Supra*, p. 546.

CUSTOMS TARIFF (PRIMAGE DUTIES) 1934.

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**No. 6 of 1934.**

**An Act relating to Primage Duties of Customs.**

[Assented to 14th July, 1934.]

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

1. This Act may be cited as the *Customs Tariff (Primage Duties) 1934.* Short title

2. The *Customs Act 1901–1930*<sup>(a)</sup> shall be incorporated and read as one with this Act. Incorporation.

3. In this Act, except where otherwise clearly intended—

Definitions.

“ British Preferential Tariff ” means the rates of duty set out in the Schedule to the *Customs Tariffs 1933*<sup>(b)</sup> in the column headed “ British Preferential Tariff ”;

“ Item ” means Tariff Item as set out in the Schedule to the *Customs Tariffs 1933*;<sup>(b)</sup>

“ the Schedule ” means the Schedule to this Act.

4.—(1.) The time of the imposition of the primage duties imposed by this Act, except in respect of goods in respect of which a later date is specified in the Schedule, is the fifth day of October, One thousand nine hundred and thirty-three, at nine o'clock in the forenoon, reckoned according to standard time in the Territory for the Seat of Government, and this Act shall be deemed to have come into operation at that time.

Time of  
imposition of  
Primage Duties.

(2.) The time of the imposition of the primage duties imposed by this Act in respect of goods in respect of which a date later than the fifth day of October, One thousand nine hundred and thirty-three is specified in the Schedule, is the later date so specified at nine o'clock in the forenoon, reckoned according to standard time in the Territory for the Seat of Government.

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(a) *Supra*, p. 490.

(b) *Supra*, p. 546.



Imposition  
of duties.

5. In addition to the duties of Customs collected in accordance with any other law of the Commonwealth for the time being in force, primage duties are hereby imposed at the rates and on the goods specified in the Schedule (except such goods as are by or under the Schedule exempt from primage duty) as from the respective times specified in section four of this Act, and shall respectively be deemed to have been imposed at those times, and shall be charged, collected and paid to the use of the King for the purposes of the Commonwealth on all goods dutiable under the Schedule which are entered for home consumption after the times when those duties are respectively deemed to have been imposed.

Validation of  
collections.

6. All duties of Customs demanded or collected pursuant to the proposals for the imposition of primage duties introduced into the House of Representatives on the twenty-fifth day of February, One thousand nine hundred and thirty-two, and on the thirteenth day of October, One thousand nine hundred and thirty-two, as varied from time to time by proclamations made in accordance with those proposals, shall be deemed to have been lawfully imposed and lawfully demanded or collected.

Validation of  
proclamations

7. All proclamations made by the Governor-General prior to the commencement of this Act exempting any goods from primage duty or adding to the list of goods upon which primage duty at the rate of four per centum is imposed, shall be deemed to have been lawfully made.

Validation of  
securities.

8. All securities required or given prior to the commencement of this Act that any goods will be used for any purpose specified in any proposal for the imposition of primage duties, shall be deemed to have been lawfully required or given.

Saving.

9. Nothing in this Act shall, on and after the first day of December, One thousand nine hundred and thirty-three, apply to any goods the produce or manufacture of the Dominion of New Zealand.

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## THE SCHEDULE.

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### 1. Goods exempt from primage duty—

Goods covered by Items 51 (A), 100, 129 (A), 157, 158, 160 (A), 162, 163, 164, 165, 166, 167, 171, 285 (c), 320 (c) (2) (b), 334 (c) (2), 338 (c), 339, 368, 370, 371, 371A, 372, 373, 394 (A), 400, 401, 409, 410 (B) (1), 410 (c), 417 (B), 423, 424 (E) and 427 (A);

Agricultural and horticultural seeds not covered by any Item;

**THE SCHEDULE—continued.**

Agricultural horticultural and viticultural spraying and dusting materials and preparations to be used in the checking of plant and seed insect pests and of plant and seed diseases ;  
 Annatto cheese cloth and rennet to be used in the cheese industry ;  
 Bags sacks packs and bales for bran, chaff, potatoes, onions, ore, coal, corn, flour, sugar and wool ;  
 Blue prints ;  
 Books and periodicals imported by or for :—  
     Any public library including the Mitchell Library of New South Wales,  
     The National Library, Federal Capital Territory,  
     The libraries of the Universities of Sydney, Melbourne, Adelaide, Queens-  
     land, Western Australia and Tasmania,  
     State Parliamentary Libraries ;  
 Bullion and specie ;  
 Calico for use in the manufacture of bags of a size capable of holding at least forty-five pounds of flour ;  
 Caustic soda and caustic potash for fellmongering purposes ;  
 Chemicals to be used in the recovery of metals by the flotation cyaniding and similar processes ;  
 Cream separators and parts thereof ;  
 Dips washes and drenches for live stock and materials for use in the manu-  
     facture of such dips washes and drenches ;  
 Fauna for Zoological Gardens at Sydney, Melbourne, Brisbane, Adelaide,  
     Perth and Hobart ;  
 Fishing nets and netting for fishing and twine for the manufacture or repair  
     of such nets or netting ;  
 Garden and field spraying machines and spray pumps ;  
 Hay presses ;  
 Historical records, in print picture or manuscript, imported by or for public  
     libraries, including the Mitchell Library of New South Wales ;  
 Linseed—On and after 8th December, 1933 ;  
 Literature published by or issued under the authority of the League of Nations ;  
 Machinery and parts thereof for use in the mining industry ;  
 Manures and fertilizers ;  
 Materials for use in the manufacture of agricultural horticultural and viti-  
     cultural spraying preparations ;  
 Materials for use in the manufacture of cornsacks floursacks and other sacks ;  
 Milking machines and parts thereof ;  
 Miners' hats and caps ;  
 Nitrate of soda } for use as a fertilizer or in the manufacture of fertilizers ;  
 Potash            }  
 Outside packages and outer coverings, including the sole containing package,  
     containing solely goods exempt from primage duty ;  
 Postage stamps ;  
 Potato raisers diggers sorters and planters ;  
 Rabbit poisons ;  
 Rabbit and dingo traps ;  
 Radium ;  
 Rape seed for pasture purposes ;  
 Rock phosphate ;  
 Rock salt ;  
 Sheep shearing machines and parts thereof ;  
 Soda ash covered by Item 278 (A) (2) (a) ;  
 Stockinette for use in the manufacture of meat wraps ;  
 Straw stackers ;  
 Stud stock, viz. :—horses, cattle, donkeys, sheep, pigs and poultry ;  
 Sub-surface packers for agricultural purposes ;  
 Sulphur ;  
 Tractors and parts thereof ;  
 Vessels exceeding 500 tons gross register ;  
 Water bore casings ;  
 Water pipes to be used in the agricultural, dairying, grazing and mining  
     industries ;  
 Wire, iron and steel, of gauges (Imperial Standard Wire Gauge) Nos. 8 to 14  
     both inclusive ;  
 Wool presses ;  
 Works of art for national art galleries ;

THE SCHEDULE—*continued.*

The following goods when admissible under the British Preferential Tariff:—

Goods covered by Items 174, 176 (J)—On and after 8th December, 1933, 178 (D) (2)—On and after 8th December, 1933, 178 (D) (3)—On and after 8th December, 1933, 178 (F) (1)—On and after 8th December, 1933, 178 (F) (2) (a)—On and after 8th December, 1933, 178 (F) (3) (a)—On and after 8th December, 1933, 179 (B) (1) to (5) inclusive, 179 (D) (1) (a) (1) (b) (when exceeding 175 horse-power)—On and after 8th December, 1933, 179 (D) (1) (a) (2)—On and after 8th December, 1933, 179 (D) (1) (a) (3)—On and after 8th December, 1933, 179 (D) (1) (a) (4) (b)—On and after 8th December, 1933, 179 (D) (1) (b) (2)—On and after 8th December, 1933, 179 (D) (1) (c) (3)—On and after 8th December, 1933, 179 (D) (1) (c) (4) (b)—On and after 8th December, 1933, 179 (D) (2) (a) (2) (when exceeding 12,750 k.v.a.)—On and after 8th December, 1933, 179 (D) (2) (b) (2) (when exceeding 1,275 k.v.a.)—On and after 8th December, 1933, 179 (D) (2) (c) (2)—On and after 8th December, 1933, 194 (A)—On and after 8th December, 1933, 194 (B) (1)—On and after 8th December, 1933, 219 (C), 278 (A) (2) (b), 294 (C)—On and after 8th December, 1933, 404, 404A and 415A;

Fuel oil and coal consumed in Australian waters;

Goods, not otherwise exempt from primage duty, for public hospitals; and

Any other goods which are from time to time exempted from primage duty by Proclamation made by the Governor-General acting with the advice of the Federal Executive Council and published in the *Gazette*; (a)

2. Goods subject to primage duty at the rate of four per centum ad valorem:—

Goods covered by Items 55, 108 (A), 334 (C), 335, 344 and 419 (C);

Fibres for use in the manufacture of binder twine;

Outside packages and outer coverings, including the sole containing package, containing any goods subject to primage duty at the rate of four per centum ad valorem but not containing any goods subject to primage duty at the rate of five per centum or ten per centum ad valorem;

Power kerosene;

The following goods when admissible under the British Preferential Tariff which are not exempt from primage duty:—

(Goods covered by Items 136 (F) (2) (first occurring), 358 (A) and 358 (B);

Covered cable and wire covered by Item 181 (A) (1);

Gelignite; blasting and dynamite gelatine;

Knitting machines and parts thereof;

The following goods when not admissible under the British Preferential Tariff which are not exempt from primage duty:—

Goods covered by Items 174, 176 (J)—On and after 8th December, 1933, 178 (D) (2)—On and after 8th December, 1933, 178 (D) (3)—On and after 8th December, 1933, 178 (F) (1)—On and after 8th December, 1933, 178 (F) (2) (a)—On and after 8th December, 1933, 178 (F) (3) (a)—On and after 8th December, 1933, 179 (B) (1) to (5) inclusive, 179 (D) (1) (a) (1) (b) (when exceeding 175 horse-power)—On and after 8th December, 1933, 179 (D) (1) (a) (2)—On and after 8th December, 1933, 179 (D) (1) (a) (3)—On and after 8th December, 1933, 179 (D) (1) (a) (4) (b)—On and after 8th December, 1933, 179 (D) (1) (b) (2)—On and after 8th December, 1933, 179 (D) (1) (c) (3)—On and after 8th December, 1933, 179 (D) (1) (c) (4) (b)—On and after 8th December, 1933, 179 (D) (2) (a) (2) (when exceeding 12,750 k.v.a.)—On and after 8th December, 1933, 179 (D) (2) (b) (2) (when exceeding 1,275 k.v.a.)—On and after 8th December, 1933, 179 (D) (2) (c) (2)—On and after 8th December, 1933, 194 (A)—On and after 8th December, 1933, 194 (B) (1)—On and after 8th December, 1933, 219 (C), 294 (C)—On and after 8th December, 1933, 404, 404A and 415A;

Fuel oil and coal consumed in Australian waters;

Goods for public hospitals; and

(a) For Proclamations exempting further goods see *Gazette*, 1934, pp. 1103, 2527 and 2529; *Gazette* 1935, pp. 350, 499, 1103, 1378, 1450, 1867 and 1954; and *Gazette*, 1936, p. 513.

THE SCHEDULE—continued.

Any other goods which are from time to time, by Proclamation made by the Governor-General acting with the advice of the Federal Executive Council and published in the *Gazette*, added to the list of goods upon which primage duty at the rate of four per centum is imposed; (a)

3. Goods subject to primage duty at the rate of five per centum ad valorem:—

Goods covered by Items 106 (c), 147, 224, 231 (A) (2), 281 (L) (1), 392 (A) (1), 392 (A) (2), 392 (A) (3), 392 (G) and 435, which are not subject to primage duty at the rate of four per centum ad valorem or exempt from primage duty:

Iron and steel boiler tubes;

Jute fibre;

The following goods when admissible under the British Preferential Tariff which are not subject to primage duty at the rate of four per centum ad valorem or exempt from primage duty:—

Goods covered by the following Items, viz.:—

2,	59,	105 (A) (1) (b),
4,	60,	105 (AA) (2),
5,	61,	105 (F) (1),
6 (B) (as to deferred	62,	105 (F) (2),
duty),	63 (A),	105 (F) (4),
7,	64 (A),	105 (F) (5),
8,	65,	105 (G),
9,	67,	105 (H) (1),
10,	68,	105 (H) (2) (a),
11,	69 (C),	105 (J) (1),
16,	70,	105 (J) (2) (b),
17,	71,	106 (D) (2),
27,	72,	106 (E) (2),
28,	74,	106 (E) (3),
29,	75,	106 (F) (2),
30,	76,	106 (F) (3),
31,	78 (D),	107—Up to and in-
33,	78 (E),	cluding 3rd Nov-
36,	78 (F),	ember, 1933,
37,	78 (G),	107 (A)—On and after
38,	78 (H) (1),	4th November,
39,	78 (H) (3),	1933,
40,	79,	108 (B),
41,	80,	109,
42,	81,	110,
44 (B) (2),	82 (A),	111,
44 (C) (2),	82 (B),	112 (A),
44 (C) (3),	82 (C),	112 (B) (2),
44 (D),	82 (D),	113 (A),
44 (E),	82 (E),	114 (B),
44 (F),	82 (F),	114 (C),
46,	82 (G),	114 (D),
47,	82 (H),	114 (E),
49,	83,	114 (F),
50,	84,	114 (G),
51 (C) (2),	85,	114 (H),
51 (E),	87 (A),	115,
52,	88,	116,
53 (A),	89 (B),	117,
53 (C),	91 (B),	118 (B),
53 (D),	93,	118 (C),
54,	94,	119,
56 (B),	96 (B),	120 (A),
56 (C),	97,	120 (AA),
57 (B),	98,	120 (B),
57 (C),	99,	120 (C) (1) (b),
57 (D),	101,	120 (E),
58 (A),	102,	121 (A),
58 (C),	103 (A),	122,
58 (D),	104,	123.

(a) For Proclamations specifying further goods upon which primage duty at the rate of four per centum is imposed see *Gazette*, 1934, pp. 1104 and 2528; *Gazette*, 1935, pp. 351, 500, 1379 and 1867; and *Gazette*, 1936, p. 513.

THE SCHEDULE—*continued.*Items—*continued.*

124,	179 (c),	187 (D),
126 (R),	179 (D) (1) (a) (1) (a),	188,
130 (A),	179 (D) (1) (a) (1) (b)	190,
131,	(when not exceed-	191,
133,	ing 175 horse-	192,
136 (A),	power),	194 (B) (2),
136 (B),	179 (D) (1) (a) (3) (a)	194 (c),
136 (C),	—Up to and in-	197 (A),
136 (D),	cluding 3rd Nov-	199,
136 (E),	ember, 1933,	200,
136 (F) (1),	179 (D) (1) (a) (4) (a)	201,
136 (F) (2) (as to de-	—On and after 4th	203,
ferred duty),	November, 1933,	204 (B),
136 (G),	179 (D) (1) (b) (1),	206,
137 (A) (2),	179 (D) (1) (c) (1),	208 (A),
137 (B),	179 (D) (1) (c) (2),	208 (C),
138,	179 (D) (1) (c) (3) (a)	208 (D),
139,	—Up to and in-	208 (E),
140,	cluding 3rd Nov-	209,
141,	ember, 1933,	210 (A),
143,	179 (D) (1) (c) (4) (a)	211,
144 (A),	—On and after 4th	213,
144 (B),	November, 1933,	215—Up to and in-
146,	179 (D) (1) (d),	cluding 3rd Nov-
148 (A),	179 (D) (2) (a) (1),	ember, 1933,
152 (A) (2),	179 (D) (2) (a) (2)	215 (B)—On and after
152 (A) (3),	(when not exceed-	4th November,
152 (B),	ing 12,750 k.v.a.),	1933,
152 (C),	179 (D) (2) (b) (1),	216 (B),
153,	179 (D) (2) (b) (2)	219 (A),
154,	(when not exceed-	219 (B),
155,	ing 1,275 k.v.a.),	222,
156 (B),	179 (D) (2) (c) (1),	225,
159 (B),	179 (D) (2) (d),	226,
161 (A),	179 (D) (3) (a),	227 (A) (as to tallow
161 (B) (1),	179 (D) (3) (c) (as to	only),
161 (B) (2),	deferred duty),	227 (B),
161 (C),	179 (D) (4),	228 (D),
170 (A) (1),	179 (D) (5),	229 (F) (2),
170 (A) (2) (a),	179 (F),	229 (H) (1),
170 (A) (2) (b),	180 (A) (2),	229 (H) (2),
170 (B),	180 (B) (1),	230,
170 (C),	180 (B) (2) (b),	231 (B) (1),
170 (D),	180 (C),	231 (B) (2),
172 (B),	180 (D),	231 (C),
173 (A),	180 (E),	231 (D),
176 (C),	180 (F),	231 (E),
176 (D),	180 (G),	231 (F),
176 (E),	180 (H),	231 (G),
176 (F),	180 (I),	231 (H),
176 (H),	180 (J),	232 (A),
176 (I),	180 (K),	232 (B),
177 (A),	180 (L),	232 (C),
178 (B),	180 (M),	233,
178 (C),	180 (N),	234,
178 (D) (1),	181 (AA),	235,
178 (E),	181 (B),	237 (C),
178 (F) (2) (b)—On	181 (C),	239,
and after 4th	182,	240,
November, 1933,	184,	241 (A),
178 (F) (3) (b)—On	185,	241 (C),
and after 4th	186 (as to deferred	242 (B) (as to deferred
November, 1933,	duty),	duty),
179 (A),	187 (B),	242 (C),
179 (B) (7),	187 (C),	242 (F),



THE SCHEDULE—continued.

Items—continued.

242 (G),	286 (C),	328,
244 (B),	289 (A),	329,
244 (C),	289 (B),	330,
249 (B),	290 (C),	331 (B) (2) (a),
250 (B),	290 (E),	331 (C),
250 (C),	291 (C) (2),	332 (A),
250 (E),	291 (D),	332 (B),
250 (F),	291 (F) (2),	332 (C),
251 (A),	291 (F) (3),	332 (E),
251 (C),	291 (H),	332 (F),
252,	291 (I) (2),	332 (G),
254 (B),	291 (J),	333,
255,	291 (K),	334 (F) (1) (as to
256,	291 (L),	deferred duty),
257,	291 (M),	334 (F) (2),
258,	291 (N),	334 (G) (1) (a),
259,	292,	334 (G) (3),
262 (B) (2),	293 (B),	334 (I),
262 (C),	293 (C),	334 (J) (as to blotting
262 (D),	294 (A),	paper only),
262 (E),	294 (B),	334 (L) (2),
262 (F),	295,	334 (L) (3),
264 (A),	296,	334 (M) (1),
264 (B),	297,	334 (N),
264 (C),	298 (B),	334 (O) (1),
264 (D) (1),	299,	334 (O) (4),
265,	300 (A),	334 (Q),
266 (A),	300 (B),	334 (S),
266 (B),	300 (C),	334 (T),
266 (C),	300 (D),	334 (U),
267 (A),	300 (E),	336 (B),
268,	300 (G),	337 (B),
269 (B),	300 (H),	338 (A),
269 (C),	300 (I),	340,
270,	300 (J),	341,
271,	301 (D),	342,
272,	302,	343,
273,	303,	346 (D),
275 (B),	304,	346 (E),
276,	305,	346 (F),
277,	306,	352 (A) (1),
278 (A) (1),	318 (A) (1),	352 (A) (4),
278 (B),	318 (A) (2),	352 (B),
278 (C),	318 (A) (4) (a),	353,
279 (A) (as to deferred	319 (A) (1),	354 (A),
duty),	319 (A) (2),	355,
279 (B),	319 (A) (3)—Up to	356,
280 (B),	and including 3rd	357,
280 (D) (1),	November, 1933,	359 (B),
281 (A),	319 (A) (4)—On and	359 (C),
281 (B),	after 4th Novem-	359 (D) (1),
281 (C),	ber, 1933,	359 (D) (2),
281 (D),	319 (A) (5),	359 (D) (3),
281 (E),	319 (A) (6)—Up to	359 (E),
281 (F),	and including 3rd	359 (F) (1),
281 (G),	November, 1933,	359 (F) (2),
281 (H),	319 (B) (1),	359 (F) (3),
281 (L) (2),	320 (B),	359 (F) (5),
281 (M),	322,	359 (F) (7),
281 (N),	323 (B),	359 (F) (8),
281 (O),	324 (A),	359 (F) (9),
283,	324 (C),	359 (G) (1),
284 (B),	324 (D),	359 (G) (2),
285 (A),	325,	359 (G) (3),
286 (B),	326,	359 (G) (4),

## THE SCHEDULE—continued.

## Items—continued.

359 (a) (5),	376 (c),	397 (b),
359 (a) (6) (a)—Up to	376 (d),	397 (c),
and including 3rd	376 (f),	397 (f),
November, 1933,	376 (g),	398,
359 (a) (7)—Up to	380 (A) (1),	402,
and including 3rd	381 (b),	410 (b) (3),
November, 1933,	381 (c),	410 (d),
359 (a) (8)—Up to	381 (e),	411,
and including 3rd	384 (A),	419 (b),
November, 1933,	385,	419 (d),
360,	386,	420,
363,	388 (b),	422 (A),
364,	390 (A),	424 (A),
365 (A),	391,	424 (b) (1),
365 (B),	392 (A) (4),	424 (d),
365 (C),	392 (c),	425,
365 (D),	392 (d),	426 (b),
374 (B),	392 (e),	427 (c),
374 (C),	392 (f) (1),	428,
374 (D) (1),	393 (A),	429,
374 (D) (3),	393 (D),	430,
375 (B),	394 (B),	431,
375 (C),	394 (C),	432 (A),
376 (A),	394 (D),	432 (b), and
376 (B),	397 (A),	433 ; and

Any other goods which are from time to time, by Proclamation made by the Governor-General acting with the advice of the Federal Executive Council and published in the *Gazette*, added to the list of goods upon which primage duty at the rate of five per centum is imposed<sup>(a)</sup> ; and

4. Goods subject to primage duty at the rate of ten per centum ad valorem—

All goods whatsoever, which are not, in pursuance of the foregoing provisions of this Act—

- (i) exempt from primage duty ;
- (ii) subject to primage duty at the rate of four per centum ad valorem ; or
- (iii) subject to primage duty at the rate of five per centum ad valorem.

For the purposes of determining the rate of duty applicable under this Act to any goods to which Items 168 (b) (1), 179 (b) (6), 179 (e), 332 (d) or 376 (e) apply, the goods shall be deemed to be covered by the item which determines, for the purposes of the *Customs Tariffs* 1933, the rate of duty on those goods.

## CUSTOMS TARIFF (SPECIAL DUTIES) VALIDATION ACT 1934.

### No. 26 of 1934.

An Act to provide for the Validation of Collections of Special Duties of Customs under Customs Tariff Proposals.

[Assented to 4th August, 1934.]

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

1. This Act may be cited as the *Customs Tariff (Special Duties) Validation Act* 1934.

Short title.

(a) For Proclamations adding goods to the list of goods upon which primage duty at the rate of five per cent. is imposed see *Gazette*, 1934, pp. 1104 and 2528 ; *Gazette*, 1935, pp. 351, 499, 1378 and 1868 ; and *Gazette*, 1936, p. 514.

2. In this Act "Customs Tariff (Special Duties) proposals" means the proposals relating to the imposition of special duties of Customs introduced into the House of Representatives on the following dates, namely :—

Definition.

25th February, 1932 ;  
24th May, 1932 ;  
1st September, 1932 ;  
13th October, 1932 ;  
8th March, 1933 ; and  
4th October, 1933.

3. All special duties of Customs demanded or collected (whether before the dissolution or expiry of the present House of Representatives or at or after such dissolution or expiry and on or before the twenty-eighth day of February, One thousand nine hundred and thirty-five) pursuant to Customs Tariff (Special Duties) proposals, shall be deemed to have been lawfully imposed and lawfully demanded or collected.

Validation of  
collections under  
Tariff  
proposals.

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CUSTOMS TARIFF VALIDATION ACT 1934.

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**No. 23 of 1934.**

An Act to provide for the Validation of Collections of Duties of Customs under Customs Tariff Proposals.

[Assented to 4th August, 1934.]

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

1. This Act may be cited as the *Customs Tariff Validation Act* 1934.

Short title.

2. All duties of Customs demanded or collected (whether before the dissolution or expiry of the present House of Representatives or at or after such dissolution or expiry and on or before the twenty-eighth day of February One thousand nine hundred and thirty-five) pursuant to the Customs Tariff proposals introduced into the House of Representatives on the twenty-fourth day of November, One thousand nine hundred and thirty-three, and on the first day of August, One thousand nine hundred and thirty-four, shall be deemed to have been lawfully imposed and lawfully demanded or collected.

Validation  
of collections  
under Tariff  
proposals.

## CUSTOMS TARIFF VALIDATION ACT 1935.

**No. 19 of 1935.****An Act to provide for the Validation of Collections of Duties of Customs under Customs Tariff Proposals.**

[Assented to 13th April, 1935.]

**B**E 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.

1. This Act may be cited as the *Customs Tariff Validation Act* 1935.

Validation of collections under Tariff proposals.

2. All duties of Customs demanded or collected, on or before the thirtieth day of November, One thousand nine hundred and thirty-five, pursuant to the Customs Tariff proposals introduced into the House of Representatives on the sixth day of December, One thousand nine hundred and thirty-four, shall be deemed to have been lawfully imposed and lawfully demanded or collected.

## CUSTOMS TARIFF VALIDATION ACT (No. 2) 1935.

**No. 31 of 1935.****An Act to provide for the Validation of Collections of Duties of Customs under Customs Tariff Proposals.**

[Assented to 27th September, 1935.]

**B**E 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.

1. This Act may be cited as the *Customs Tariff Validation Act* (No. 2) 1935.

Validation of collections under Tariff proposals.

2. All duties of Customs demanded or collected, on or before the thirtieth day of November, One thousand nine hundred and thirty-five, pursuant to the Customs Tariff proposals introduced into the House of Representatives on the twenty-eighth day of March, One thousand nine hundred and thirty-five, shall be deemed to have been lawfully imposed and lawfully demanded or collected.

NEW ZEALAND RE-EXPORTS ACT 1924.

**No. 21 of 1924.**

An Act relating to the Value for Duty of Goods not the produce or manufacture of New Zealand, which are imported into Australia from New Zealand.

[Assented to 16th September, 1924.]

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

1. This Act may be cited as the *New Zealand Re-exports Act 1924*. Short title and citation.

2. This Act shall commence on a date to be fixed by proclamation<sup>(a)</sup> after the Governor-General is satisfied that reciprocal provisions have been made by the Government of the Dominion of New Zealand in relation to goods, not of Australian produce or manufacture, which are imported into that Dominion from Australia, and, upon the publication in the *Gazette* of a notice by the Governor-General that such reciprocal provisions are no longer in force, this Act shall cease to have effect. Commencement.

3.—(1.) Where goods, which are not of New Zealand produce or manufacture, are imported into Australia from New Zealand, the value for duty of those goods shall, notwithstanding anything contained in section one hundred and fifty-four of the *Customs Act 1901–1923*,<sup>(b)</sup> be the sum of the following :— Value for duty of goods re-exported to Australia from New Zealand.

- (a) the current domestic value in the country whence the goods were exported to New Zealand at the date of export to New Zealand ;
- (b) all charges payable or ordinarily payable for placing the goods free on board at the port of export to New Zealand ;
- (c) ten per centum of the sum of the amounts specified in the last two preceding paragraphs ; and
- (d) ten per centum of the sum of the amounts specified in the last three preceding paragraphs.

(2.) Where entry is made of goods to which the last preceding sub-section applies, the owner shall deliver to the Collector the original invoice or a copy of the original invoice certified by the competent Customs authority in New Zealand and shall make, in the presence of the Collector, a declaration in the prescribed form.

(3.) Where goods to which sub-section (1.) of this section applies are imported into Australia, and the Collector is satisfied that goods

(a) Proclaimed to commence on 1st October, 1925 ; see *Gazette* 1925, p. 923. (b) *Supra*, p. 517.



of a similar class or kind have, since the date of exportation to New Zealand, increased in value in the country of exportation to such an extent that their value for duty under sub-section (1.) of this section is less than their value for duty if imported directly into Australia from the country whence they were exported to New Zealand, such increased current domestic value shall be taken into account in assessing those first-mentioned goods for duty under this Act instead of the value specified in paragraph (a) of sub-section (1.) of this section.

(4.) In the absence of the original invoice or a copy of the original invoice as required by sub-section (2.) of this section or in the absence of any other necessary evidence of the current domestic value of any goods to which this section applies, the value for duty of the goods shall be—

- (a) the current domestic value in New Zealand at the date of export to Australia, and
- (b) all charges payable or ordinarily payable for placing the goods free on board at the port of export in New Zealand, and
- (c) ten per centum of the sum of the amounts ascertained under the last two preceding paragraphs.

(5.) The value for duty of any goods to which this Act applies shall not, in any case, be higher than the value at which they would be assessed if they were goods to which the last preceding sub-section applied.

Custom Acts  
to apply.

4. Except in so far as they are inconsistent with this Act, the provisions of the *Customs Act* 1901–1923<sup>(a)</sup> and the regulations thereunder, shall apply to any goods to which this Act applies and, unless the contrary intention appears, expressions used in this Act shall have the same meaning as in that Act.

#### TARIFF BOARD ACT 1921–1934.<sup>(b)</sup>

### An Act relating to the Tariff Board.

[Assented to 15th December, 1921.]<sup>(c)</sup>

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

#### 1. This Act may be cited as the *Tariff Board Act* 1921–1934.<sup>(b)</sup>

Short title.

Short title  
amended.  
No. 32, 1918,  
s. 2.

(a) *Supra*, p. 490.

(b) The *Tariff Board Act* 1921–1934 comprises the *Tariff Board Act* 1921 (No. 21 of 1921) as amended by the *Tariff Board Act* 1923 (No. 25 of 1923); the *Tariff Board Act* 1924 (No. 29 of 1924); the *Tariff Board Act* 1929 (No. 5 of 1929); the *Tariff Board Act* 1933 (No. 69 of 1933), and the *Statute Law Revision Act* 1934 (No. 45 of 1934). See Acts No. 25, 1923, s. 1; No. 29, 1924, s. 1; No. 5, 1929, s. 1; No. 69, 1933, s. 1; and No. 45, 1934, s. 1 and First Schedule.

(c) This is the date of assent to the *Tariff Board Act* 1921. The *Tariff Board Act* 1923 was assented to on 1st September, 1923 (proclaimed to commence on 1st March, 1924; see *Gazette* 1924, p. 405), the *Tariff Board Act* 1924 on 26th September, 1924; the *Tariff Board Act* 1929 on 18th March, 1929, the *Tariff Board Act* 1933 on 15th December, 1933; and the *Statute Law Revision Act* 1934, on 6th August, 1934.

2. This Act shall commence on a date to be fixed by Proclamation.<sup>(a)</sup> Commencement.

3. The *Customs Act* 1901-1920<sup>(b)</sup> shall be incorporated and read as one with this Act. Incorporation.

4. In this Act, except where otherwise clearly intended—  
 “The Board” means the Tariff Board appointed under this Act;  
 “The Chairman” means the Chairman of the Tariff Board appointed under this Act;  
 “Member” means a Member of the Tariff Board appointed under this Act, and includes the Chairman of the Board; and  
 “The Minister” means the Minister of State for the time being administering the Department of Trade and Customs. Definitions.

5. For the purposes of this Act there shall be a Tariff Board consisting of four members. Tariff Board.  
Amended by  
No. 25, 1923,  
s. 3.

6.—(1.) The Governor-General shall, as soon as conveniently practicable, appoint four persons to be members of the Board, and on the happening of any vacancy in the office of member the Governor-General shall appoint a person to the vacant office. Appointment  
of Board.  
Amended by  
No. 25, 1923,  
s. 4.

(2.) One of the four persons to be so appointed shall be a person who holds an administrative office in the Department of Trade and Customs. Amended by  
No. 25, 1923,  
s. 4.

(3.) Every such appointment shall be for such a term as is specified in the appointment, but not being less than one year nor more than three years; and, on the expiration of his term of office, every person so appointed shall, subject to this Act, be eligible for re-appointment. Amended by  
No. 29, 1924,  
s. 2.

(4.) In case of the illness, suspension, or absence of any member of the Board, the Governor-General may appoint a person to act as a deputy of the member during the illness, suspension, or absence, and the deputy shall, while so acting, have all the powers and perform all the duties of a member.

(5.) An officer of the Commonwealth Public Service who is appointed a member of the Board shall retain all his existing and accruing rights, and the period of his membership on the Board shall for all purposes be included as part of his period of service in the Commonwealth Public Service.

7.—(1.) The Governor-General shall appoint a member of the Board as Chairman, and may appoint as Chairman a member who holds an administrative office in the Department of Trade and Customs. The Chairman  
of the Board.  
Sub-section (1)  
Substituted by  
No. 5, 1929,  
s. 2.

(2.) In case of the illness, suspension, or absence of the Chairman, the Governor-General shall appoint one of the other members to act as Chairman during the illness, suspension, or absence.

(a) Proclaimed to commence on 15th March, 1922; see *Gazette* 1922, p. 385.

(b) *Supra*, p. 490.

Remuneration  
of members  
of Board.

Sub-sec. (1)  
substituted by  
No. 69, 1933,  
s. 2.

Inserted by  
No. 69, 1933,  
s. 2.

8.—(1.) Subject to this section, the Chairman shall receive a salary of Sixteen hundred pounds a year.

(1A.) If the Chairman is a member who holds an administrative office in the Department of Trade and Customs, he shall receive a salary (inclusive of such salary, if any, as is payable to him as an officer of the Public Service) equal to the salary for the time being payable to the Comptroller-General of Customs:

Provided that no reduction shall be made in the salary of a Chairman by reason of a reduction in the salary for the time being payable to any Comptroller-General of Customs.

Substituted by  
No. 5, 1929,  
s. 3.

(2.) Each of the other members shall receive an allowance of six guineas per sitting, with a maximum in any one year of fifteen hundred pounds:

Provided that if, in any year, the amount received by way of salary by a member, who is an officer of the Commonwealth Public Service, is less than the amount which would be payable to him at the rate of six guineas per sitting, with a maximum of fifteen hundred pounds a year, the amount of the difference shall be paid to him as an allowance.

Substituted by  
No. 5, 1929,  
s. 3.

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

Inserted by  
No. 69, 1933,  
s. 2.

(3A.) The salaries, fees and expenses payable under this section shall be subject to reduction in accordance with the provisions of the *Financial Emergency Act 1931-1933*,<sup>(a)</sup> and in accordance with any Act amending or in substitution for that Act.

Substituted by  
No. 5, 1929,  
s. 3.

(4.) The Minister may grant to each member of the Board, not being an officer of the Commonwealth Public Service, fifteen days' leave of absence in each year, and, for each day of absence on leave, each such member shall, if remunerated by way of sitting fees, be entitled to receive allowance as if he had attended a sitting of the Board on that day.

Substituted by  
No. 5, 1929,  
s. 3.

(5.) In this section "year" means a period of twelve months commencing from the date of appointment of the member concerned, or from any anniversary of that date.

Oath or  
affirmation of  
allegiance  
and office.

9. Every member of the Board shall, before proceeding to discharge the duties of his office, take an oath or affirmation of allegiance in the form of the Schedule to the Constitution, and also an oath or affirmation in the form following:—

I, A.B., do swear that I will well and truly serve our Sovereign Lord the King in the office of a Member of the Tariff Board, and that except in the course of my duty I will not divulge any information which is furnished to me or to the Department in connexion with matters which are being or which may be dealt with by the Board: So help me God.

Or I, A.B., do solemnly and sincerely promise and declare that I will well and truly serve our Sovereign Lord the King in the



office of a member of the Tariff Board, and that except in the course of my duty I will not divulge any information which is furnished to me or to the Department in connexion with matters which are being or which may be dealt with by the Board.

10.—(1.) The Governor-General may suspend any member from office for misbehaviour or incapacity. The Minister shall, within seven days after the suspension, if the Parliament is then sitting, or, if the Parliament is not then sitting, within seven days after the next meeting of the Parliament, cause to be laid before both Houses of the Parliament a full statement of the grounds of suspension.

Suspension  
of member.

(2.) A member who has been suspended shall be restored to office unless each House of the Parliament, within forty days after the statement has been laid before it, and in the same session, passes an address praying for his removal on the grounds of proved misbehaviour or incapacity.

11.—(1.) Subject to the regulations, the Board may hold sittings in any part of the Commonwealth in such place or places as it may deem most convenient for the transaction of its business or proceedings, and shall keep minutes of its proceedings in the prescribed form.

Sittings of the  
Board.

(2.) Sittings of the Board shall be convened by the Chairman.

(3.) The Chairman shall preside at all meetings of the Board at which he is present and in his temporary absence a member who has been nominated for the purpose by the Chairman shall preside.

Substituted by  
No. 5, 1929,  
s. 4.

(4.) Inquiries conducted by the Board relating to—

(a) any revision of the Tariff;

(b) any proposal for a bounty; or

(c) any question under paragraph (h) of sub-section (1.) of section fifteen,

Added by  
No. 29, 1924,  
s. 3.

Amended by  
No. 5, 1929,  
s. 4.

shall be held in public, and evidence in such inquiries shall, subject to the next succeeding sub-section, be taken in public on oath.

(5.) If any witness objects to giving any evidence in public which the Board is satisfied is of a confidential nature, the Board may take such evidence in private if it considers that it is desirable in the public interest to do so.

Added by  
No. 29, 1924,  
s. 3.

(6.) The Board shall, by advertisement published in two newspapers circulating in the State in which the inquiry is to be held, give reasonable notice of its intention to hold any inquiry under this section, the subject of the inquiry and the time and place at which the inquiry is to be held.

Added by  
No. 29, 1924,  
s. 3.

(7.) Evidence taken by the Board in connexion with any inquiry under the *Customs Tariff (Industries Preservation) Act 1921-1922<sup>(a)</sup>* shall be taken in public on oath and shall be reduced to writing and filed with the documents relating to the inquiry subject to the last two preceding sub-sections.

Added by  
No. 29, 1924,  
s. 3.

Amended by  
No. 5, 1929,  
s. 4.

(a) *Supra*, p. 680.

Quorum of Board.

**12.**—(1.) For the conduct of business any two members shall be a quorum, and shall have, subject to the next sub-section, all the powers of the Board.

(2.) At meetings of the Board the decision of the majority shall prevail.

Amended by No. 25, 1923, s. 5.

(3.) The Chairman shall have a deliberative vote, and, in the event of an equality of voting, a second or casting vote.

Appointment of committee.  
Inserted by No. 5, 1929, s. 5.

**12A.**—(1.) The Board may appoint two of its members as a committee for the purpose of conducting any inquiry or other business of the Board, and in the conduct of any such inquiry or business the committee shall have all the powers of the Board.

(2.) The Chairman of the Board shall nominate one of the members of a committee appointed under this section to be the chairman of the committee.

(3.) Meetings of the committee shall be convened by the chairman of the committee who shall, in relation to the committee, have the same powers as the Chairman of the Board has in relation to the Board :

Provided that the chairman shall not exercise the casting vote except in relation to the conduct of the proceedings of the committee.

(4.) Any committee so appointed shall furnish to the Board a report of any inquiry or other business conducted or performed by the committee.

(5.) The members of a committee shall receive such fees in respect of its sittings as they would have received if the sittings were sittings of the Board.

Vacancy not to invalidate proceedings.

**13.**—(1.) No act or proceeding of the Board shall be invalidated or prejudiced by reason only of there being, at the time when the act or proceeding was done, taken, or commenced, a vacancy in the membership of the Board.

(2.) Notwithstanding anything contained in this section, the Board shall not commence or continue the determination of any matter unless two members are available to inquire into and report upon the matter.

Member not to act when interested.

**14.** A member shall not exercise any power by this Act conferred upon him in any matter in which he has a direct or indirect pecuniary interest.

Reference of certain matters to Board.

**15.**—(1.) The Minister shall refer to the Board for inquiry and report the following matters :—

\* \* \* \* \*

Paras. (a) and (b) omitted by No. 5, 1929, s. 6.

(c) any dispute arising out of the interpretation of any Customs Tariff or Excise Tariff, or the classification of articles in any Tariff, in which an appeal is made to the Minister from the decision of the Comptroller-General ;

(d) the necessity for new, increased, or reduced duties, and the deferment of existing or proposed deferred duties ;

(e) the necessity for granting bounties for the encouragement of any primary or secondary industry in Australia ;



- (f) the effect of existing bounties or of bounties subsequently granted ;
- (g) any proposal for the application of the British Preferential Tariff or the Intermediate Tariff to any part of the British Dominions or any foreign country, together with any requests received from Australian producers or exporters in relation to the export of their goods to any such part or country ;
- (h) any question whether a manufacturer is taking undue advantage of the protection afforded him by the Tariff, and in particular in regard to his—
  - (i) charging unnecessarily high prices for his goods ; or
  - (ii) acting in restraint of trade to the detriment of the public ; or
  - (iii) acting in a manner which results in unnecessarily high prices being charged to the consumer for his goods,

Amended by  
No. 5, 1929,  
s. 6.

and shall not take any action in respect of any of those matters until he has received the report of the Board.

(2.) The Minister may refer to the Board for their inquiry and report the following matters :—

- (a) the general effect of the working of the Customs Tariff and the Excise Tariff, in relation to the primary and secondary industries of the Commonwealth ;
- (b) the fiscal and industrial effects of the Customs laws of the Commonwealth ;
- (c) the incidence between the rates of duty on raw materials and on finished or partly finished products ;
- (d) any other matter in any way affecting the encouragement of primary or secondary industries in relation to the Tariff ;
- (e) the classification of goods under all Tariff Items which provide for classification under by-laws ; and
- (f) the determination of the value of goods for duty under section one hundred and sixty of the *Customs Act 1901-1925*.<sup>(a)</sup>

Added by  
No. 5, 1929,  
s. 6.

Added by  
No. 5, 1929,  
s. 6.

(3.) If the Board finds on inquiry, in respect of any question referred to it under paragraph (h) of sub-section (1.) of this section, that a manufacturer is taking undue advantage of the protection afforded him by the Tariff, it may recommend—

Amended by  
No. 5, 1929,  
s. 6.

- (a) that the protection afforded to the manufacturer in respect of the goods be reduced or abolished ; or
- (b) that such other action as the Board thinks desirable be taken, but shall, before it makes any such recommendation, consider carefully the conditions obtaining in the industry as a whole.

15A. After the appointment of a person to be Director of Economic Research, the Board may confer with the Director upon any particular matter referred to the Board for inquiry and report.

Board to confer  
with Director of  
Economic  
Research.  
Inserted by  
No. 5, 1929,  
s. 7.

(a) *Supra*, p. 518.

Action upon receipt of report of Board.

Amended by No. 45, 1934, s. 2 (3.) and Fourth Schedule.

Amended by No. 45, 1934, s. 2 (3.) and Fourth Schedule.

16.—(1.) Upon receipt of a report from the Board in pursuance of section fifteen, the Minister may, if he thinks fit, take action according to law in respect of any of the matters dealt with by the Board in its report.

(2.) A copy of every report made in pursuance of sub-section (3.) of section fifteen shall be laid on the table of each House of the Parliament within seven days, if the Parliament is then sitting, and, if the Parliament is not then sitting, then within seven days of the next meeting of the Parliament.

Power of Board to inquire and report.

17. The Board may on its own initiative inquire into and report on any of the matters referred to in sub-section (2.) of section fifteen of this Act.

Annual report.

Amended by No. 29, 1924, s. 4., and by No. 5, 1929, s. 8.

18.—(1.) The Board shall, within sixty days after the first day of July in each year, report to the Minister generally as to the operation of the Tariff and the development of industries, and shall in such report set out the recommendations made by the Board during the preceding twelve months, other than any recommendations whose inclusion the Minister and the Board agree is not in the public interest.

(2.) A copy of the report of the Board shall be laid on the table of each House of the Parliament within seven days of its receipt by the Minister, if the Parliament is then sitting, and, if the Parliament is not then sitting, then within seven days of the next meeting of the Parliament.

(3.) The report shall be accompanied by a statement by the Minister setting out what action (if any) has been taken in respect of each recommendation of the Board.

Power to send for witnesses and documents.

19.—(1.) For the purposes of this Act any member of the Board may on resolution of the Board by writing under his hand summon any person to attend the Board at a time and place named in the summons, and then and there to give evidence and to produce any books, documents or writings in his custody or control which he is required by the summons to produce.

(2.) The Board may, in its discretion, on the application of any party to an inquiry before the Board, summon any person to appear as a witness before the Board.

Duty of witness to continue in attendance.

20. Every witness who has been summoned to attend the Board shall appear and report himself from day to day, unless excused by the Chairman or until he is released from further attendance by the Chairman.

Power to examine upon oath.

21. Any member of the Board may administer an oath to any person appearing as a witness before the Board, whether the witness has been summoned or appears without being summoned, and may examine the witness upon oath.

Affirmation in lieu of oath.

22.—(1.) Where any witness to be examined before the Board conscientiously objects to take an oath, he may make an affirmation

that he conscientiously objects to take an oath, and that he will state the truth, the whole truth, and nothing but the truth, to all questions that may be asked him.

(2.) An affirmation so made shall be of the same force and effect, and shall entail the same liabilities as an oath.

23.—(1.) If any person served with a summons to attend the Board, when the summons is served personally, fails without reasonable excuse to attend the Board, or to produce any documents, books, or writings in his custody or control which he was required by the summons to produce, he shall be guilty of an offence.

Penalty for failing to attend or produce documents.

Penalty : Two hundred and fifty pounds.

(2.) It shall be a defence to a prosecution under this section for failing without reasonable excuse to produce any documents, books, or writings, if the defendant proves that the documents, books, or writings were not relevant to the inquiry which the Board was making.

24. If any person appearing as a witness before the Board refuses to be sworn or to make an affirmation or to answer any question relevant to the investigation or proceeding put to him by any of the members he shall be guilty of an offence.

Penalty for refusing to be sworn or to give evidence.

Penalty : Two hundred and fifty pounds.

25.—(1.) Where any person has on any day done or omitted to do something, and his act or omission amounts to an offence against either of the last two preceding sections, and does or omits to do the same thing at any meeting of the Board held on some other day, each such act or omission shall be a separate offence.

Acts or omissions on different days to constitute separate offences.

(2.) Where any person, who has been convicted of any offence against either of the last two preceding sections, is subsequently convicted on information by the Attorney-General of any offence against either of those sections, committed by him after the first-mentioned conviction and in relation to the same inquiry, he shall be liable to a penalty not exceeding Five hundred pounds and to imprisonment for a period not exceeding three months.

26. Nothing in this Act shall make it compulsory for any witness before the Board to disclose to the Board any secret process of manufacture.

Witness need not disclose secret process.

27. The Board may inspect any documents, books, or writings, before it, and may retain them for such reasonable period as it thinks fit, and may make copies of such matter as is relevant to the inquiry or take extracts from them.

Power of Board in relation to documents produced.

28. Any witness before the Board who knowingly gives false testimony touching any matter, material to any inquiry, shall be guilty of an indictable offence.

Giving false testimony.

Penalty : Imprisonment for five years.

29. Any person who—

(a) gives, confers, or procures, or promises or offers to give or confer, or to procure or attempt to procure, any property or benefit of any kind to, upon, or for, any person, upon

Bribery of witness.



any agreement or understanding that any person called or to be called as a witness before the Board shall give false testimony or withhold true testimony ; or

(b) attempts by any means to induce a person called or to be called as a witness before the Board to give false testimony, or to withhold true testimony ; or

(c) asks, receives, or obtains, or agrees or attempts to receive or obtain any property or benefit of any kind for himself, or any other person, upon any agreement or understanding that any person shall as a witness before the Board give false testimony or withhold true testimony,

shall be guilty of an indictable offence.

Penalty : Imprisonment for five years.

Fraud on  
witness.

30. Any person who practises any fraud or deceit, or knowingly makes or exhibits any false statement, representation, token, or writing, to any person called or to be called as a witness before the Board, with intent to affect the testimony of that person as a witness, shall be guilty of an indictable offence.

Penalty : Imprisonment for two years.

Destroying  
books or  
documents.

31. Any person who, knowing that any book, document, or writing is or may be required in evidence before the Board, wilfully destroys it or renders it illegible or undecipherable or incapable of identification, with intent thereby to prevent it from being used in evidence, shall be guilty of an indictable offence.

Penalty : Imprisonment for two years.

Preventing  
witness from  
attending.

32. Any person who wilfully prevents or wilfully endeavours to prevent any person, who has been summoned to attend as a witness before the Board, from attending as a witness, or from producing anything in evidence pursuant to the summons to attend, shall be guilty of an indictable offence.

Penalty : Imprisonment for one year.

Injury to  
witness.

33. Any person who uses, causes, inflicts, or procures any violence, punishment, damage, loss, or disadvantage to any person for or on account of his having appeared as a witness before the Board or for or on account of any evidence given by him before the Board, shall be guilty of an indictable offence.

Penalty : Five hundred pounds, or imprisonment for one year.

Dismissal by  
employers of  
witness.

34.—(1.) Any employer who dismisses any employee from his employment, or prejudices any employee in his employment, for or on account of the employee having appeared as a witness before the Board, or for or on account of the employee having given evidence before the Board, shall be guilty of an indictable offence.

Penalty : Two hundred and fifty pounds, or imprisonment for one year.

(2.) In any proceeding for any offence against this section, it shall lie upon the employer to prove that any employee, shown to have

been dismissed or prejudiced in his employment, was so dismissed or prejudiced for some reason other than the reasons mentioned in sub-section (1.) of this section.

(3.) Any prosecution under this section shall be commenced within three months from the date of the commission of the alleged offence.

35.—(1.) The Governor-General may make regulations prescribing a scale of allowances to be paid to any witness summoned under this Act for his travelling and other expenses.

Allowances  
to witness.

(2.) The claim to allowance of any such witness, certified by the Chairman, shall be paid by the Treasurer out of moneys to be provided by the Parliament for the purposes of the Board.

36. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or are necessary or convenient to be prescribed, for giving effect to this Act.

Regulations.

\* \* \* \* \*

S. 37 repealed  
by No. 29,  
1924, s. 5.

# UNITED KINGDOM AND AUSTRALIA TRADE AGREEMENT ACT 1932.

## No. 57 of 1932.

An Act to approve the provisions of an agreement made between His Majesty's Government in the United Kingdom and His Majesty's Government in the Commonwealth of Australia and arising out of the Conference of Representatives of the Governments of the British Dominions held at Ottawa in July and August One thousand nine hundred and thirty-two.

[Assented to 2nd December, 1932.]

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

1.—(1.) This Act may be cited as the *United Kingdom and Australia Trade Agreement Act 1932*.

Short title.

2. The provisions of the Agreement entered into between His Majesty's Government in the United Kingdom and His Majesty's Government in the Commonwealth of Australia and arising out of the Conference of representatives of the Governments of the British Dominions held at Ottawa in July and August One thousand nine hundred and thirty-two (a copy of which provisions is set out in the Schedule to this Act) are hereby approved.

Approval of  
provisions  
of trade  
Agreement.



## THE SCHEDULE.

## ARTICLE 1.

His Majesty's Government in the United Kingdom undertake that Orders shall be made in accordance with the provisions of Section 4 of the *Import Duties Act, 1932*, which will ensure the continuance after the 15th November, 1932, of entry free of duty into the United Kingdom of Australian goods which comply with the laws and statutory regulations for the time being in force affecting the grant of Imperial preference and which by virtue of that Act are now free of duty, subject, however, to the reservations set forth in Schedule A appended hereto.

## ARTICLE 2.

His Majesty's Government in the United Kingdom will invite Parliament to pass the legislation necessary to impose on the foreign goods specified in Schedule B appended hereto, the duties of customs shown in that Schedule in place of the duties (if any) now leviable.

## ARTICLE 3.

His Majesty's Government in the United Kingdom will invite Parliament to pass the legislation necessary to secure to Australian goods of the kinds specified in Schedule C appended hereto which comply with the law and statutory regulations for the time being in force affecting the grant of Imperial preference, the margins of preference specified therein over similar foreign goods.

## ARTICLE 4.

His Majesty's Government in the United Kingdom undertake that the general ad valorem duty of ten per cent. imposed by Section 1 of the *Import Duties Act, 1932*, on the foreign goods specified in Schedule D shall not be reduced except with the consent of His Majesty's Government in the Commonwealth of Australia.

## ARTICLE 5.

The duties provided in this Agreement on foreign wheat in grain, copper, lead and zinc on importation into the United Kingdom are conditional in each case on Empire producers of wheat in grain, copper, lead and zinc respectively continuing to offer those commodities on first sale in the United Kingdom at prices not exceeding the world price.

## ARTICLE 6.

His Majesty's Government in the United Kingdom and His Majesty's Government in the Commonwealth of Australia agree that arrangements shall be made for the regulation of imports of frozen mutton and lamb and frozen and chilled beef into the United Kingdom in accordance with the declaration by His Majesty's Government in the United Kingdom which is appended as Schedule H.

## ARTICLE 7.

His Majesty's Government in the United Kingdom will invite the Governments of the non-self-governing Colonies and Protectorates to accord to Australia any preference which may for the time being be accorded to any other part of the British Empire, provided that this Article shall not extend to any preferences accorded by Northern Rhodesia to the Union of South Africa, Southern Rhodesia and the Territories of the South African High Commission by virtue of the Customs Agreement of 1930, and further will invite the Governments of the Colonies and Protectorates shown in Schedule E to accord to Australia new or additional preferences on the commodities and at the rates shown therein.

## ARTICLE 8.

His Majesty's Government in the Commonwealth of Australia will invite Parliament to pass the legislation making the tariff changes necessary to give effect to the preference formula set forth in Part I. of Schedule F appended hereto, subject to the exceptions indicated in Part II. of that Schedule, and further undertake that existing preferential margins which exceed those laid down in this formula shall be maintained subject, however, to the right of His Majesty's Government in the Commonwealth of Australia to reduce the existing margins of preference in the case of goods of the kinds specified in Part III. of that Schedule to an extent not exceeding the amounts shown therein.

## ARTICLE 9.

His Majesty's Government in the Commonwealth of Australia undertake that protection by tariffs shall be afforded only to those industries which are reasonably assured of sound opportunities for success.

THE SCHEDULE—*continued.*

ARTICLE 10.

His Majesty's Government in the Commonwealth of Australia undertake that during the currency of this Agreement the tariff shall be based on the principle that protective duties shall not exceed such a level as will give United Kingdom producers full opportunity of reasonable competition on the basis of the relative cost of economical and efficient production, provided that in the application of such principle special consideration may be given to the case of industries not fully established.

ARTICLE 11.

His Majesty's Government in the Commonwealth of Australia undertake that a review shall be made as soon as practicable by the Australian Tariff Board of existing protective duties in accordance with the principles laid down in Article 10 hereof, and that after the receipt of the report and recommendation of the Tariff Board the Commonwealth Parliament shall be invited to vary, wherever necessary, the tariff on goods of United Kingdom origin in such manner as to give effect to such principles.

ARTICLE 12.

His Majesty's Government in the Commonwealth of Australia undertake that no new protective duty shall be imposed and no existing duty shall be increased on United Kingdom goods to an amount in excess of the recommendation of the Tariff Tribunal.

ARTICLE 13.

His Majesty's Government in the Commonwealth of Australia undertake that United Kingdom producers shall be entitled to full rights of audience before the Tariff Board when it has under consideration matters arising under Articles 11 and 12 hereof.

ARTICLE 14.

His Majesty's Government in the Commonwealth of Australia undertake in so far as concerns goods the produce or manufacture of the United Kingdom :

- (a) to repeal as soon as practicable the Proclamation published in *Commonwealth Gazette* No. 46 of 19th May, 1932, prohibiting the importation of certain goods ;
- (b) to remove as soon as practicable the surcharges imposed by resolution introduced into the Parliament of Australia on the 24th May, 1932 ; and
- (c) to reduce or remove primage duty as soon as the finances of Australia will allow.

ARTICLE 15.

His Majesty's Government in the Commonwealth of Australia undertake to accord to the non-self-governing Colonies and Protectorates and the Mandated Territories of Tanganyika, the Cameroons under British Mandate and Togoland under British Mandate, preferences on the commodities and at the rates shown in Schedule G and also any preferences for the time being accorded to the United Kingdom if His Majesty's Government in the United Kingdom so request.

Provided that His Majesty's Government in the Commonwealth of Australia shall not be bound to accord any preferences to any Colony or Protectorate which, not being precluded by international obligations from according preferences, either (i) accords to Australia no preferences or (ii) accords to some other part of the Empire (in the case of Northern Rhodesia, excepting the Union of South Africa, Southern Rhodesia, and the territories of the South African High Commission) preferences not accorded to Australia.

ARTICLE 16.

This Agreement between His Majesty's Government in the United Kingdom and His Majesty's Government in the Commonwealth of Australia is to be regarded as coming into effect as from the date hereof\* (subject to the necessary legislative or other action being taken as soon as may be practicable hereafter). It shall remain in force for a period of five years, and if not denounced six months before the end of that period shall continue in force thereafter until a date six months after notice of denunciation has been given by either party.

In the event of circumstances arising which, in the judgment of His Majesty's Government in the United Kingdom or of His Majesty's Government in the Commonwealth of Australia as the case may be, necessitate a variation in the terms of the Agreement, the proposal to vary those terms shall form the subject of consultation between the two Governments.

THE SCHEDULE—*continued.*

## SCHEDULE A.

## COMMONWEALTH OF AUSTRALIA.

As regards Eggs, Poultry, Butter, Cheese and other Milk products, free entry for produce of Australia will be continued for three years certain. His Majesty's Government in the United Kingdom, however, reserve to themselves the right after the expiration of the three years, if they consider it necessary in the interests of the United Kingdom producer to do so, to review the basis of preference, so far as relates to the articles enumerated, and, after notifying His Majesty's Government in the Commonwealth of Australia either to impose a preferential duty on produce of Australia whilst maintaining existing preferential margins, or in consultation with the Commonwealth Government to bring such produce within any system which may be put into operation for the quantitative regulation of supplies from all sources in the United Kingdom market.

## SCHEDULE B.

## COMMONWEALTH OF AUSTRALIA.

Wheat in grain	..	..	..	..	2s. per quarter.
Butter	..	..	..	..	15s. per cwt.
Cheese	..	..	..	..	15% ad valorem.
Apples, raw (excluding apples consigned direct to a registered cider manufacturer for use in making cider)	..	..	..	..	4s. 6d. per cwt.
Pears, raw	..	..	..	..	4s. 6d. per cwt.
Apples, canned	..	..	..	..	3s. 6d. per cwt. in addition to the duty in respect of sugar content.
Other canned fruits	..	..	..	..	15% ad valorem in addition to the duty in respect of sugar content.
Dried fruits, now dutiable at 7s.	..	..	..	..	10s. 6d. per cwt.
Eggs in shell—					
(a) Not exceeding 14 lb. in weight per great hundred	..	..	..	..	1s. per great hundred.
(b) Over 14 lb. but not exceeding 17 lb.	..	..	..	..	1s. 6d. per great hundred.
(c) Over 17 lb.	..	..	..	..	1s. 9d. per great hundred.
Condensed milk, whole, sweetened	..	..	..	..	5s. per cwt. in addition to the duty in respect of sugar content.
Condensed milk, whole, not sweetened	..	..	..	..	6s. per cwt.
Milk powder and other preserved milk, not sweetened	..	..	..	..	6s. per cwt.
Honey	..	..	..	..	7s. per cwt.
Copper, unwrought, whether refined or not, in ingots, bars, blocks, slabs, cakes and rods	..	..	..	..	2d. per lb.
Oranges, raw	..	..	..	..	3s. 6d. per cwt. from 1st April to 30th November.
Grape Fruit, raw	..	..	..	..	5s. per cwt. from 1st April to 30th November.
Grapes (other than hot house)	..	..	..	..	1½d. per lb. from 1st February to 30th June.

## SCHEDULE C.

## COMMONWEALTH OF AUSTRALIA.

					Margin of Preference,
Wine not exceeding 27 degrees of proof spirit	..	..	..	..	2s. per gallon.

THE SCHEDULE—*continued*.

SCHEDULE D.

COMMONWEALTH OF AUSTRALIA.

Leather.  
Tallow.  
Canned Meat.  
Zinc.  
Lead.  
Barley.  
Wheat Flour.  
Macaroni.  
Dried Peas.  
Dressed Poultry.  
Casein.  
Eucalyptus Oil.  
Meat Extracts and Essences.  
Copra.  
Sugar of Milk.  
Sausage Casings.  
Wattle Bark.  
Asbestos.  
Dried Fruits, other than Currants, not specified in Schedule B.

SCHEDULE E.

COMMONWEALTH OF AUSTRALIA.

- |  |    |    |    |  |
|--|----|----|----|--|
| (1) The Bahamas, Barbados, Bermuda, British Guiana, British Honduras, Jamaica, the Leeward Islands, Trinidad and Tobago, the Windward Islands. |    |    |    |  |
| Butter   | .. | .. | .. | 1½d. per pound.  |
| (2) The Bahamas.   |    |    |    |  |
| Brandy   | .. | .. | .. | A specific preference equal to the specific preference for the time being accorded to whisky produced within the Empire. |
| Wine   | .. | .. | .. | 15 % ad valorem.   |
| (3) Barbados, British Guiana, Trinidad.  |    |    |    |  |
| Brandy—  |    |    |    |  |
| Not exceeding the strength of proof  | .. | .. | .. | 5s. per gallon.  |
| Exceeding the strength of proof  | .. | .. | .. | 5s. per proof gallon.  |
| (4) Barbados, Jamaica and Trinidad.  |    |    |    |  |
| Condensed and powdered milk  | .. | .. | .. | 10 % ad valorem (or the equivalent specific rate).   |
| (5) Bermuda.   |    |    |    |  |
| Canned meat  | .. | .. | .. | 15 % ad valorem.   |
| Canned fruit and canned vegetables   | .. | .. | .. | 15 % ad valorem.   |
| (6) British Guiana and Trinidad.   |    |    |    |  |
| Wines—   |    |    |    |  |
| Sparkling  | .. | .. | .. | 5s. per gallon.  |
| Other, in bottle   | .. | .. | .. | 2s. per gallon.  |
| Other, in wood   | .. | .. | .. | 1s. 6d. per gallon.  |
| (7) Jamaica.   |    |    |    |  |
| Biscuits, unsweetened—   |    |    |    |  |
| In bulk  | .. | .. | .. | 2s. 1d. per 100 pounds.  |
| Otherwise packed   | .. | .. | .. | 1d. per pound.   |
| Canned meat  | .. | .. | .. | 15 % ad valorem.   |
| Fruit, dried   | .. | .. | .. | 15 % ad valorem.   |
| Jams, Jellies and preserved fruit  | .. | .. | .. | 15 % ad valorem.   |

THE SCHEDULE—*continued*.SCHEDULE E.—*continued*.

(8) Ceylon.				
Bacon and ham	..	..	..	10 % ad valorem.
Biscuits	..	..	..	10 % ad valorem.
Brandy	..	..	..	Rs. 3.50 per gallon.
Canned fruit and canned vegetables	..	..	..	15 % ad valorem.
Cheese	..	..	..	10 % ad valorem.
Fruit, fresh	..	..	..	10 % ad valorem.
Milk, condensed and powdered	..	..	..	10 % ad valorem.
Wines—				
Sparkling	..	..	..	Rs. 1.50 per gallon.
Other	..	..	..	Rs. 1 per gallon.
(9) Cyprus.				
Butter, cheese and timber	..	..	..	One-third of the duty in lieu of one-sixth.
(10) The Federated and Unfederated Malay States.				
Commodity.			Margin of Preference. (In the case of articles at present free of duty, so soon as it is possible to institute duties thereon.)	
Brandy	..	..	..	\$2.50 per gallon or proof gallon (according as the duty is assessed per gallon or proof gallon).
Butter, frozen and tinned	..	..	..	4 cents per pound.
Canned fruit and canned vegetables	..	..	..	15 % ad valorem.
Confectionery	..	..	..	10 % ad valorem.
Milk, condensed and powdered	..	..	..	10 % ad valorem.
Wines—				
Sparkling	..	..	..	\$1 per gallon.
Other	..	..	..	60 cents per gallon.
(11) Hong Kong.				
Brandy	..	..	..	A margin of preference to be determined later.
(12) Malta.				
Biscuits	..	..	..	10 % ad valorem.
Brandy	..	..	..	1s. per litre.
Flour	..	..	..	2s. per 100 kilograms.
Milk, condensed and powdered	..	..	..	10 % ad valorem.
(13) Mauritius.				
Bacon and ham	..	..	..	5 rupees per 100 kilograms.
Cheese	..	..	..	10 % ad valorem.
(14) Straits Settlements.				
Brandy	..	..	..	\$2.50 per gallon, or proof gallon (according as the duty is assessed per gallon or proof gallon).
Wines—				
Sparkling	..	..	..	\$1 per gallon.
Other	..	..	..	60 cents per gallon.

## SCHEDULE F.

## COMMONWEALTH OF AUSTRALIA.

## PART I.

Subject to the exceptions enumerated in Part II., goods produced or manufactured in the United Kingdom and imported into the Commonwealth of Australia shall, on compliance with the regulations for the time being in force governing the entry of goods at preferential rates of duty, enjoy preferences in accordance with the following formula:—

- (a) When goods the produce or manufacture of the United Kingdom are free of duty, or are liable to duties of customs not exceeding nineteen per cent. ad valorem, the difference between the British Preferential Tariff rate and the rate upon similar goods from the most favoured foreign country shall be at least fifteen per cent. ad valorem.



THE SCHEDULE—*continued*.

SCHEDULE F.—*continued*.

PART I.—*continued*.

- (b) When goods the produce or manufacture of the United Kingdom are liable to duties of customs exceeding nineteen per cent. ad valorem, and not exceeding twenty-nine per cent. ad valorem, the difference between the British Preferential Tariff rate and the rate upon similar goods from the most favoured foreign country shall be at least seventeen and one-half per cent. ad valorem.
- (c) When goods the produce or manufacture of the United Kingdom are liable to duties of customs exceeding twenty-nine per cent. ad valorem, the difference between the British Preferential Tariff rate and the rate upon similar goods from the most favoured foreign country shall be at least twenty per cent. ad valorem, provided that in no case shall this margin be applied so as to result in a rate of duty exceeding seventy-five per cent. ad valorem.

PART II.

1. The formula prescribed in Part I. shall not apply in the case of goods of a class or kind not commercially produced or manufactured in the United Kingdom.
2. The formula prescribed in Part I. shall not apply in the case of particular goods in respect of which it may be agreed that its application is unnecessary.
3. The formula prescribed in Part I. shall not apply in the case of the following goods, it being understood that the existing preference shall be maintained except where otherwise indicated in the last column of the list.

Tariff Item.	Goods.	Minimum margin of preference to be recorded.
Ex 105 (E) (1)	Velvets, Velveteens, Plushes, Sealette and cloths imitating furs, Astrachans, Italians containing wool	
105 (K) ..	Piece goods of a class or kind not produced in Australia which would otherwise be dutiable at a higher rate than that payable under this sub-item imported for use in the manufacture of neckties as prescribed by Departmental By-laws— (1) Silk or in chief part by weight silk ; wool or in chief part by weight wool and admixtures of wool and silk (2) Other	
109 ..	Artificial Flowers, Fruits, Plants, Leaves, and Grains, of all kinds and materials	
123 (B) ..	Waste, Engine cleaning	
123 (C) ..	Waste, Axle	
136 (G) ..	High Grade Carbon Steels and Alloy Steels containing manganese, silicon, nickel, chromium, tungsten, titanium, vanadium, molybdenum, cobalt or other alloying elements, introduced to impart special qualities to the steel, viz.:—ingots, billets, bars, die and tool blocks and blanks, also tapered or bevelled bars and other special shapes, as prescribed by Departmental By-laws	
152 (A) ..	Iron and Steel Tubes or Pipes (except riveted, cast, close-jointed or cycle tubes or pipes, and welded conduit pipes and tubes) not more than 3 inches internal diameter ; Iron and Steel Boiler Tubes	Twelve and one half per cent. ad valorem when admitted free of duty from the United Kingdom

THE SCHEDULE—*continued.*SCHEDULE F.—*continued.*PART II.—*continued.*

Tariff Item.	Goods.	Minimum margin of preference to be recorded.
Ex. 169 (A) ..	Linotype, Monotype, and other Type-composing Machines, except Monoline; Typewriters (including covers); Machinery used exclusively for and in the actual process of Electrotyping and Stereotyping; Aluminium Rotary Graining Machines; Adding and Computing Machines and all attachments	Twenty per cent. ad valorem
Ex. 169 (c) ..	Printing Machines and Presses, n.e.i. including the following machines and presses, viz.:—Newspaper printing machines known as "Duplex Tubular" printing from cylindrical stereo plates as distinct from semi cylindrical stereo plates; combined Tagmaking and Printing Machines; Proof Presses using rolled paper; Roll Fed Combined Wrapper Printing and Addressing Machines; Combined Printing and Carton Cutting Machines	Twenty per cent. ad valorem
177 (b) (2)	Traction Engines, as prescribed by Departmental By-laws	Twelve and one half per cent. ad valorem (This preference is granted only in respect of types which are competitive with those manufactured in foreign countries.)
242 ..	Glass, viz.:— (c) Polished and Patent Plate not exceeding 25 square feet (d) Polished and Patent Plate, n.e.i.	
285 ..	Medicines:— (A) Pharmaceutical Preparations; Patent and Proprietary Medicines and Drugs, and other Medicinal Preparations; Medicinal Extracts; Essences; Juices; Infusions; Solutions; Emulsions; Confections; Syrups; Pills; Pilules; Tabloids; Soloids; Ovoids; Tablets; Capsules; Cachets; Suppositories; Pessaries n.e.i.; Poultices; Salves; Cerates; Ointments; Liniments; Lotions; Pastes and the like; Medicinal Waters and Compounded Medicinal Oils; Medicines for Animals	
334 (H) ..	True vegetable Parchment—in sizes not less than 8 x 38 inches (or its equivalent)	
334 (v) ..	Cards, playing, in sheet or cut .. ..	Three shillings per dozen packs
380 (B) ..	Vacuum Cleaners for use in the household..	Twenty per cent. ad valorem
397 (E) ..	Explosives, n.e.i.	

## THE SCHEDULE—continued.

## SCHEDULE F.—continued.

## PART III.

Tariff Item.	Goods.	Maximum Amount of Reduction in Preference.
105 (D) (2) ..	Piece Goods, viz.:—Silk, or containing silk or having silk worked thereon, except piece goods enumerated in clauses (b) and (c) of paragraph (1) of sub-item (A), in paragraph (1) of sub-item (D), and in sub-items (AA) and (F)	Two and one half per cent. ad valorem
105 (E) ..	Piece Goods, viz.:—Lace for Attire; Lace Flouncings; Millinery and Dress Nets; Veilings; Embroideries in the piece; Tucked Linens or Cottons	Five per cent. ad valorem
106 (B) ..	Trimmings and Ornaments, n.e.i. for Hats Shoes and other attire, not being partly or wholly of gold or silver; Braids n.e.i.; Fringes n.e.i.; Frillings; Ruffings; Pleatings; Ruchings; Galloons n.e.i.; Ribbons n.e.i.; Tinselled Belting n.e.i.; Webbing n.e.i.; Belting for apparel not elsewhere specified and not being cut to lengths for belts	Five per cent. ad valorem
107 (B) ..	Ribbons and Galloons having not more than 48 ribs to the lineal inch and being not more than three and a half inches in width	Five per cent. ad valorem
113 (B) ..	Gloves (except of rubber), viz.:—N.E.I. including mittens	Five per cent. ad valorem
197 (B) ..	Cutlery, Spoons, and Forks, n.e.i., and Knife Sharpeners	Five per cent. ad valorem
206 (B) ..	Lamps of glass or chiefly of glass or with glass fonts; Glass parts of lamps or lanterns other than chimneys	Five per cent. ad valorem
250 (B) ..	Bottles, Decanters, Flasks and Jars, over 8 drams fluid capacity, of cut glass, empty or containing goods not subject to ad valorem duty	Five per cent. ad valorem
250 (C) ..	Glassware, n.e.i. .. .. .	Five per cent. ad valorem
250 (F) ..	Glassware, other than cut glass and heat resisting glassware for cooking purposes, viz.:—Dishes, tumblers, salads, bowls, nappies, jugs, candlesticks, butters, battery jars or cells, vases, trays, comports, flower-blocks, mugs, sundaes	Five per cent. ad valorem
309 (B) ..	Fancy goods, viz.:—Card Cases, Hatpins, Matchboxes, Serviette Rings and Clips, Sovereign Purses, n.e.i., Button Hooks, Glove stretchers, Shoe Horns and Lifts, Thimbles, Ivory and other ornamental figures, Feather Dusters; Drilled Beads strung with or without clasps and Drilled Beads unstrung, except those made of pearls cultured pearls precious stones or precious metals	Five per cent. ad valorem
309 (C) ..	Fancy Goods, viz.:—Articles for personal wear, not including articles partly or wholly of gold silver or other precious metal or imitations thereof or partly or wholly of pearls or precious stones or imitations thereof, viz.:—Brooches, Bangles, Necklets n.e.i., Studs, Sleeve Links and Tie Clips	Five per cent. ad valorem
309 (D) ..	Fancy Goods, n.e.i. .. .. .	Five per cent. ad valorem

THE SCHEDULE—*continued.*

## SCHEDULE G.

## COMMONWEALTH OF AUSTRALIA.

Commodities.		Margin of Preference
Asphalt, Bitumen and Natural Pitch .. ..	..	10 % ad valorem.
Dry Gums, viz.— .. ..	..	15 % ad valorem.
Balata		
Gum Arabic		
Gum Copal		
Gum Damar		
Gutta Percha		
Jelutong		
Sticklac and seedlac		
Essential Oils, viz.— .. ..	..	15 % ad valorem.
Bay Leaf		
Cinnamon		
Cinnamon Leaf		
Citronella		
Clove		
Geranium		
Lemon-grass		
Lime		
Orange		
Patchouli		
Pimento		
Bananas .. ..	..	40,000 centals per annum from Fiji will be admitted in reason- ably equal monthly quantities at 2s. 6d. per cental provided the goods are entered at the ports of Sydney and Mel- bourne.
Cocoa, raw .. ..	..	½d. per pound.
Fruit Juices .. ..	..	3d. per gallon.
Fruits (preserved in liquid, or partly preserved, or pulped)—		
(a) Quarter-pints and smaller sizes ..	..	6d. per dozen.
(b) Half-pints and over quarter-pints ..	..	1s. per dozen.
(c) Pints and over half-pints ..	..	2s. per dozen.
(d) Quarts and over pints ..	..	4s. per dozen.
(e) Exceeding a quart ..	..	1s. 3d. per gallon.
Cocoanuts, whole .. ..	..	1s. per cwt.
Plumbago and Graphite .. ..	..	15 % ad valorem.
Sago and Tapioca .. ..	..	15 % ad valorem.
Spirits, viz.—		
Bitters—		
(1) When not exceeding the strength of proof	5s. per gallon.	
(2) When exceeding the strength of proof ..	5s. per proof gallon.	
Rum—		
(1) When not exceeding the strength of proof	5s. per gallon.	
(2) When exceeding the strength of proof ..	5s. per proof gallon.	
Sponges .. ..	..	15 % ad valorem.
Timber, viz.—		
Logs, not sawn, when not for use in the manu- facture of plywood and veneers .. ..	..	20 % ad valorem.
Tobacco, unmanufactured, entered to be locally manufactured into cigars .. ..	..	6d. per pound.
Tobacco, manufactured .. ..	..	1s. per pound.
Cigars .. ..	..	2s. per pound.

THE SCHEDULE—*continued*.

SCHEDULE G.—*continued*.

Commodities.	Margin of Preference.
Unground Spices, viz.—	15 % ad valorem.
Arecanuts	
Cardamoms	
Chillies	
Cinnamon	
Cloves	
Ginger	
Mace	
Nutmegs	
Pepper	
Pimento	
Vanilla	

SCHEDULE H.

AUSTRALIA.

DECLARATION BY UNITED KINGDOM GOVERNMENT.

1. The present wholesale prices of frozen meat are at a level which has resulted in grave depression in the live-stock industries of the United Kingdom and the Dominions. This depression is likely, if continued, to bring about a serious decline in production and consequent ultimate injury to the consumer.

2. Such a position is so serious that it is essential to take whatever steps may appear feasible to raise the wholesale prices of frozen meat in the United Kingdom market to such a level as will maintain efficient production.

3. With a view to the earliest possible improvement of the position, His Majesty's Government in the United Kingdom will, during the currency of the Ottawa Agreement, arrange for the regulation of importations of meat into the United Kingdom, the regulation, in view of the close inter-relationship of all kinds of meat in determining the price level, to be applied to all the meats referred to in Section 5.

4. The policy of His Majesty's Government in the United Kingdom in relation to meat production is, first, to secure development of home production, and, secondly, to give to the Dominions an expanding share of imports into the United Kingdom.

5. In order to co-operate with His Majesty's Government in the United Kingdom in the carrying out of this policy, His Majesty's Government in the Commonwealth of Australia agrees to limit the export of frozen mutton and lamb to the United Kingdom for the year 1933 to an amount equivalent to the total imports from Australia during the year ended 30th June, 1932, in consideration of the United Kingdom Government—

- (a) arranging for the regulation of the importation of foreign meat in accordance with a programme (hereinafter referred to as the "agreed programme") agreed between His Majesty's Government in the United Kingdom and His Majesty's Government in the Commonwealth of Australia and including within its scope Frozen Mutton and Lamb, Frozen Beef and Chilled Beef;
- (b) arranging, as soon as possible after receiving the Report of the Commission now sitting on the re-organization of the Pig Industry in the United Kingdom, for the quantitative regulation of the supplies of bacon and hams coming on to the United Kingdom market;
- (c) undertaking that no restriction will be placed upon the importation of any meat from Australia during the period named in the agreed programme referred to in Section 5 (a) of this Declaration.

6. During the year 1933 and in the light of the experience gained, His Majesty's Government in the United Kingdom will consider, in consultation with His Majesty's Government in the Commonwealth of Australia, the best means of ensuring an improved price situation and the more orderly marketing of supplies.



THE SCHEDULE—*continued.*SCHEDULE H.—*continued.*

7. Should no permanent policy be agreed upon as the result of the consultation referred to above, His Majesty's Government in the United Kingdom undertakes, after the expiry of the period named in the agreed programme referred to in Section 5 (a) of this Declaration and during the remainder of the period of the Agreement concluded at Ottawa—

- (a) to arrange for the continuance, unless otherwise agreed between the Governments concerned, of the regulation of the imports of foreign meat at the rates in force at the end of the period named in the agreed programme ;
- (b) in any action affecting the imports of meat into the United Kingdom which the United Kingdom Government may take on behalf of United Kingdom agriculture, to have regard to the policy set out in Section 4 hereof.

8. Should it appear to His Majesty's Government in the United Kingdom after inquiry, that, at any time in consequence of a restriction upon foreign imports, the supplies of meat of any kind are inadequate to meet the requirements of consumers in the United Kingdom, then His Majesty's Government may remove any such restriction until supplies are again adequate.

*The Agreed Programme referred to in Section 5(a) of the Declaration by the United Kingdom Government.*

STATEMENT SHOWING THE MAXIMUM QUANTITIES OF FOREIGN MEAT TO BE ALLOWED TO BE IMPORTED INTO THE UNITED KINGDOM DURING EACH QUARTER OF THE PERIOD 1st JANUARY, 1933, TO 30th JUNE, 1934, EXPRESSED AS PERCENTAGES OF THE QUANTITIES IMPORTED IN THE CORRESPONDING QUARTERS OF THE TWELVE MONTHS ENDED 30th JUNE, 1932.

Meat.	1933.				1934.	
	Jan.-Mar.	Apr.-Jne.	Jly.-Sept.	Oct.-Dec.	Jan.-Mar.	Apr.-June.
Frozen Mutton and Lamb ..	90	85	80	75	70	65
Frozen Beef (Carcasses and Boned Beef) ..	90	85	80	75	70	65
Chilled Beef ..	100	100	100	100	100	100

N.B.—His Majesty's Government in the Commonwealth of Australia, recognizing the inter-relation of all meat products, and that the object of the above regulation of imports into the United Kingdom is to raise the price level of frozen meat, undertakes to use its best endeavours to ensure that, during the year 1933, the exports of frozen beef from Australia to the United Kingdom shall not be increased to an extent exceeding 10 per cent. of the quantities exported for the year ending 30th June, 1932.

DAIRY PRODUCE ACT. *See* TRADE AND COMMERCE.

DAIRY PRODUCE EXPORT CHARGES ACT. *See* PRIMARY PRODUCERS' ASSISTANCE.

DAIRY PRODUCE EXPORT CONTROL ACT. *See* PRIMARY PRODUCERS' ASSISTANCE.

DAYLIGHT SAVING.

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DAYLIGHT SAVING REPEAL ACT 1917.

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No. 35 of 1917.

An Act to repeal the *Daylight Saving Act 1916*.

[Assented to 25th September, 1917.]

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

1. This Act may be cited as the *Daylight Saving Repeal Act 1917*. Short title.
2. The *Daylight Saving Act 1916* is hereby repealed.

Repeal of  
Daylight  
Saving Act.

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DEBT CONVERSION. *See* FINANCE.

DECEASED SOLDIERS' ESTATES ACT. *See* DEFENCE—GENERAL.

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## DEFENCE.

NAVAL—	PAGE.
CONTROL OF NAVAL WATERS ACT 1918 .. ..	756
NAVAL AGREEMENT ACT 1903-1912 .. ..	759
NAVAL DEFENCE ACT 1910-1934 .. ..	763
NAVAL PROPERTIES TRANSFER ACT 1925 .. ..	774
MILITARY—	
DEFENCE ACT 1903-1934 .. ..	782
AIR—	
AIR FORCE ACT 1923 .. ..	827
GENERAL—	
AUSTRALIAN IMPERIAL FORCE CANTEENS FUNDS	
Act 1920 .. ..	828
AUSTRALIAN WAR MEMORIAL ACT 1925 .. ..	831
DECEASED SOLDIERS' ESTATES ACT 1918-1919 .. ..	834
DEFENCE EQUIPMENT ACT 1924 .. ..	837
DEFENCE EQUIPMENT ACT 1928 .. ..	838
DEFENCE EQUIPMENT ACT 1934 .. ..	839
TERMINATION OF THE PRESENT WAR (DEFINITION)	
Act 1919 .. ..	840

## DEFENCE—NAVAL.

	PAGE.
CONTROL OF NAVAL WATERS ACT 1918 .. ..	756
NAVAL AGREEMENT ACT 1903-1912 .. ..	759
NAVAL DEFENCE ACT 1910-1934 .. ..	763
NAVAL PROPERTIES TRANSFER ACT 1925 .. ..	774

## CONTROL OF NAVAL WATERS ACT 1918.

## No. 28 of 1918.

## An Act relating to Control of Naval Waters.

[Assented to 27th November, 1918.]

**B**E 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.

1. This Act may be cited as the *Control of Naval Waters Act 1918*.

Definitions.

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

“Defined naval waters” means any naval waters within the limits defined by the Governor-General for the purposes of this Act;

- “Master”, used in relation to a vessel, means the person having the command or charge of the vessel for the time being ;
- “Naval waters” means any port, harbor, haven, roadstead, sound, channel, creek, bay, or navigable river of Australia in, on, or near to which the Commonwealth now or at any time hereafter has any naval establishment, dock, dockyard, steam factory yard, victualling yard, arsenal, wharf, or mooring, and includes the sea bed or river bed of any such port, harbor, haven, roadstead, sound, channel, creek, bay, or navigable river, up to and including high-water mark ;
- “Senior Naval Officer” means the senior naval officer doing duty at any naval waters, and, at naval waters where there is no naval officer, means the superintendent of naval waters appointed in respect of those naval waters ;
- “Vessel” includes any ship, boat, lighter, and craft, however propelled, other than those of the Royal Navy or Royal Australian Navy.

3. The Governor-General may—

- (a) define the limits of any naval waters for the purposes of this Act ; and
- (b) appoint a superintendent of naval waters to superintend and protect any specified naval waters.

Power to define naval waters and appoint harbor-masters, &c.

4. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters and things which are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for the purpose of carrying out or giving effect to the control of naval waters, and in particular for the following :—

Power to make Regulations.

- (a) for regulating the mooring or anchoring of vessels within, or so as not to obstruct navigation into in or out of, naval waters ;
- (b) for appropriating any space as a mooring place or anchoring ground for the exclusive use of any vessels of the Commonwealth, or vessels of the Royal Navy or Royal Australian Navy ;
- (c) for prohibiting or restricting the entry, into any specified part of any naval waters, of any vessel having explosives, ammunition, tar, oil, or other combustible substance on board, and for regulating the loading and unloading of explosives and ammunition in naval waters ;
- (d) for prohibiting or restricting the discharging of explosives and ammunition in any naval waters or part thereof ;
- (e) for restricting the use of fire and light on board any vessel in any specified part of any naval waters ;
- (f) for regulating the speed at which vessels may be navigated in any specified part of any naval waters ;

- (g) for requiring the presence of at least one person at all hours of the day and night on board every vessel above a specified size moored anchored or placed in any specified part of any naval waters ;
- (h) for prohibiting or regulating the breaming or careening and cleaning of vessels in any specified part of naval waters ;
- (i) for prescribing the lights or signals to be carried or used, and the steps for avoiding collision to be taken, by vessels of the Commonwealth and other vessels navigating naval waters ;
- (j) for conferring upon prescribed persons powers of search and inspection for the purposes of this Act ;
- (k) for prescribing penalties, not exceeding One hundred pounds or imprisonment for six months, for any contravention of the regulations ; and
- (l) generally for making such provisions as the Governor-General thinks necessary for the purpose of insuring the proper protection of the vessels, naval establishments, dockyards, and property of the Commonwealth, or the vessels of the Royal Navy or Royal Australian Navy, and the requirements of His Majesty's Naval Service and for the control of all naval waters.

Construction of certain buildings may be prohibited.

5. The Minister may, subject to the regulations, prohibit the construction—

- (a) of any jetty, wharf, building or structure in or on the foreshore of any defined naval waters ; and
- (b) of any factory or store for explosives, oil or other inflammable material within five miles of the limits of a dockyard or within two miles of the limits of any defined naval waters.

Power to Senior Naval Officer to unmoor vessels, &c.

6.—(1.) The senior naval officer may give to the master of any vessel within defined naval waters directions as to the mooring, anchoring, placing, unmooring or removal of the vessel.

(2.) If there is no person on board of any such vessel to comply with directions given or proposed to be given by the senior naval officer, the senior naval officer may cause the vessel to be moored, anchored, placed, unmoored, or removed in compliance with directions given by him, and for that purpose may cast off, loose, or unshackle, and (if need be) sever any chain or rope of the vessel, first putting on board a sufficient number of persons for the protection of the vessel in case there is not a sufficient number of persons on board to protect the same.

Power to remove wreck, vessel, &c.

7.—(1.) The senior naval officer may remove—

- (a) any wreck or other thing which is an obstruction to any naval waters or to the approaches thereto, and any floating timber which impedes the navigation of the naval waters ; or



(b) any vessel laid by or neglected as unfit for sea service which is lying within any defined naval waters.

(2.) Any vessel removed in pursuance of this section may be laid on some part of the strand or seashore, or in some other place, where it may without injury to any person be placed.

8.—(1.) The expenses incurred by the senior naval officer in the execution of any power conferred upon him by the last two preceding sections shall on demand be repaid by the owner of the vessel, wreck, thing, or timber in relation to which the power has been exercised.

Recovery of expenses of removal of vessel, wreck, &c.

(2.) The senior naval officer may detain the vessel, wreck, thing or timber until payment of the expenses, and in the event of non-payment, may sell the vessel, wreck, thing or timber, and out of the proceeds of the sale pay those expenses and the expenses of the sale, rendering to the owner on demand the surplus (if any).

(3.) Any deficiency may be recovered from the owner by proceedings in any Court of competent jurisdiction.

9. Any summons or other document in any proceeding under this Act may (in addition to any other mode of service) be served by being left for the person to be served on board any vessel to which he belongs, with the person being or appearing to be in command or charge of the vessel.

Service of summons, &c.

10. For the purpose of giving jurisdiction, every offence against this Act or any regulation under it shall be deemed to have been committed, and every cause of complaint shall be deemed to have arisen, either in the place in which it actually was committed or arose, or in any place in which the offender or person alleged to have committed it happens to be.

Offences, where to be deemed to have been committed.

#### NAVAL AGREEMENT ACT 1903-1912.<sup>(a)</sup>

An Act to approve of an Agreement relating to the Naval Force on the Australian Station entered into by the Commissioners for executing the office of Lord High Admiral of the United Kingdom and the Governments of the Commonwealth and of New Zealand and to appropriate moneys for the purposes of that Agreement.

[Assented to 28th August, 1903.]<sup>(b)</sup>

WHEREAS the Commissioners for executing the office of Lord High Admiral of the United Kingdom, and the Governments of the Commonwealth and of New Zealand, have entered into the

<sup>(a)</sup> The *Naval Agreement Act 1903-1912* comprises the *Naval Agreement Act 1903* (No. 8 of 1903), as amended by the *Naval Agreement Act 1912* (No. 10 of 1912). See Act No. 10, 1912, s. 1.

<sup>(b)</sup> This is the date of assent to the *Naval Agreement Act 1903*. The *Naval Agreement Act 1912* was assented to on 10th October, 1912.

Agreement set out in the Schedule of this Act subject, so far as it affects the Commonwealth, to the approval of the Parliament :

And whereas it is desirable to approve of the said Agreement and to make a special appropriation of moneys for the purposes thereof :

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

Short title.  
Short title  
amended.  
No. 32, 1912,  
s. 2.  
Ratification of  
Agreement.  
Special  
appropriation to  
defray share of  
cost of Naval  
Force.

1. This Act may be cited as the *Naval Agreement Act 1903–1912*.<sup>(a)</sup>

2. The Agreement set out in the Schedule is hereby ratified and approved.

3. There shall be issued and paid out of the Consolidated Revenue Fund in each year during which the Agreement remains in force such sum as is necessary to pay the amount which the Commonwealth is liable to pay to the Imperial Government in each year under the Agreement, and the Consolidated Revenue Fund is hereby appropriated accordingly for that purpose.

Arrangement  
for reduction of  
squadron and  
subsidy.  
Added by  
No. 10, 1912,  
s. 2.

4.—(1.) The Governor-General may, from time to time, arrange with the Imperial Government for the reduction of the Naval Force to be provided under the Agreement on the Australian station, and for any reduction in the amount of the subsidy payable under the Agreement by the Commonwealth, and for any alteration of the Agreement to give effect to any such arrangement.

(2.) The provisions of this section shall extend to authorize any arrangement already entered into for any of the purposes mentioned in this section.

## SCHEDULE.

AGREEMENT BETWEEN HIS MAJESTY'S GOVERNMENT OF THE UNITED KINGDOM, THE COMMONWEALTH OF AUSTRALIA, AND THE COLONY OF NEW ZEALAND.

The Commissioners for executing the office of Lord High Admiral of the United Kingdom of Great Britain and Ireland, &c., and the Governments of the Commonwealth of Australia and of New Zealand, having recognized the importance of sea power in the control which it gives over sea communications, the necessity of a single navy under one authority, by which alone concerted action can be assured, and the advantages which will be derived from developing the sea power of Australia and New Zealand, have resolved to conclude for this purpose an Agreement as follows :—

### ARTICLE I.

The Naval Force on the Australian station shall consist of not less than the undermentioned sea-going ships of war, all of which shall be from time to time throughout the terms of this Agreement of modern type, except those used as drill ships :—

- 1 Armoured Cruiser, 1st Class ;
- 2 2nd-class Cruisers ;
- 4 3rd-class Cruisers ;
- 4 Sloops ;
- And of a Royal Naval Reserve consisting of 25 Officers and 700 seamen and stokers.

(a) See footnote (a), on previous page.

# ARTICLE II.

The base of this force shall be the ports of Australia and New Zealand, and their sphere of operations shall be the waters of the Australia, China, and East Indies Stations, as defined in the attached Schedules, where the Admiralty believe they can most effectively act against hostile vessels which threaten the trade or interests of Australia and New Zealand. No change in this arrangement shall be made without the consent of the Governments of the Commonwealth and of New Zealand; and nothing in the Agreement shall be taken to mean that the Naval Force herein named shall be the only force used in Australasian waters should the necessity arise for a larger force.

# ARTICLE III.

This force shall be under the control and orders of the Naval Commander-in-Chief for the time being appointed to command His Majesty's ships and vessels on the Australian Station.

# ARTICLE IV.

Of the ships referred to in Article I., one shall be kept in reserve and three shall be only partly manned and shall be used as Drill Ships for training the Royal Naval Reserve, the remainder shall be kept in commission fully manned.

# ARTICLE V.

The three vessels used as Drill Ships and one other vessel shall be manned by Australians and New Zealanders as far as procurable, paid at special rates, and enrolled in proportion to the relative population of the Commonwealth and New Zealand. If a sufficient proportion of men from either colony should not on the aforesaid basis be forthcoming, a sufficient number of men to complete the complements of the ships may be enrolled from the other colony.

They shall be officered by Officers of the Royal Navy, supplemented by Officers of the Royal Naval Reserve.

# ARTICLE VI.

In order to insure that the Naval Service shall include Officers born in Australia and New Zealand, who will be able to rise to the highest posts in the Royal Navy, the undermentioned nominations for Naval Cadetships will be given annually:—

Commonwealth of Australia	..	..	..	..	8
New Zealand	..	..	..	..	2

# ARTICLE VII.

The branches of the Royal Naval Reserve established in Australia and New Zealand shall be called into actual service by His Majesty in Council, acting on the advice of his Governments of the Commonwealth of Australia and New Zealand respectively.

The men forming the Royal Naval Reserve shall be divided into two classes:—

- (a) Those who have served for three years on board one of H.M. ships.
- (b) Those who have not so served.

These men shall be trained on ships specially provided for the purpose.

The Officers of this reserved force shall be included on the list of Officers of the Royal Naval Reserve.

# ARTICLE VIII.

In consideration of the service afore-mentioned the Commonwealth of Australia and New Zealand shall pay the Imperial Government five-twelfths and one-twelfth respectively of the total annual cost of maintaining the Naval Force on the Australian Station, provided that the total amount so paid shall in no case exceed £200,000 and £40,000 respectively in any one year. In reckoning the total annual cost a sum equal to 5 per cent. on the prime cost of the ships of which the Naval Force of the Station is composed shall be included.

# ARTICLE IX.

The Imperial Government recognize the advantages to be derived from making Australasia a base for coal and supplies for the squadrons in Eastern waters.

# ARTICLE X.

1. This Agreement shall be considered to become actually binding between the Imperial Government and the Commonwealth of Australia and New Zealand so soon as the Colonial Legislatures shall have passed special appropriations for the terms hereinafter mentioned, to which Acts this Agreement shall be attached as a First Schedule.

2. The Agreement shall be for a period of ten years, and only terminate if and provided notice has been given two years previously, viz., at the end of the eighth year, or at the end of any subsequent year, and then two years after such date.

#### ARTICLE XI.

1. The payments named in Article VIII. shall be considered as payments in advance, and shall first become due and payable six months after the Colonial Legislature shall have passed the special appropriation referred to in Article X.

2. The period of ten years referred to in Article X. is to be calculated from the date on which the Colonial Legislature passes the special appropriation referred to.

3. The payments under the existing Agreement and that Agreement itself shall terminate on the date on which the payments under the new agreement commence.

4. The share of these payments due from each colony shall be paid annually in London by the High Commissioner of the Commonwealth and the Agent-General of New Zealand, and, pending the appointment of the first-named officer, by such person as the Government of the Commonwealth may nominate, to such account as the Lords Commissioners of the Admiralty may direct.

#### ARTICLE XII.

In time of peace one of the Drill Ships referred to in Article IV. and one other Cruiser shall be stationed in the waters of New Zealand and its dependencies as their head-quarters. Should, however, such emergency arise as may, in the opinion of the Naval Commander-in-Chief, render it necessary to remove either or both of such ships, he shall inform the Governor of the reasons for such temporary removal.

### SCHEDULE TO AGREEMENT.

#### LIMITS OF AUSTRALIA STATION.

The Australia Station, as referred to in Article II. of the foregoing Agreement is bounded—

**NORTH.**—On the North from the meridian of 95 degrees East, by the parallel of the tenth degree of South latitude, to 130 degrees East longitude, thence northward on that meridian to the parallel of 2 degrees North latitude, and thence on that parallel to the meridian of 136 degrees East longitude, thence north to 12 degrees North latitude, and along that parallel to 160 degrees West longitude, thence South to the Equator, thence East to the meridian of 149 degrees 30 minutes West longitude.

**WEST.**—On the West by the meridian of 95 degrees East longitude.

**SOUTH.**—On the South by the Antarctic Circle.

**EAST.**—On the East by the meridian of 149 degrees 30 minutes West longitude.

#### LIMITS OF THE CHINA STATION.

The China Station, as referred to in Article II. of the foregoing Agreement, is bounded—

**NORTH.**—On the North from the meridian of 95 degrees of East longitude in 10 degrees North latitude, along that parallel to the West coast of the Malay Peninsula, thence by the shores of Asia as far as the meridian of 180 degrees.

**WEST.**—On the West from the latitude of 10 degrees North by the meridian of 95 degrees East longitude to 10 degrees of South latitude.

**SOUTH.**—On the South from the meridian of 95 degrees East longitude by the parallel of 10 degrees South latitude to 130 degrees East longitude, thence North to 2 degrees North latitude, and along that parallel to 136 degrees East longitude, thence North to 12 degrees North latitude and along that parallel to the meridian of 180 degrees.

**EAST.**—On the East by the meridian of 180 degrees from 12 degrees North latitude to the point where the meridian reaches the shores of Asia.



LIMITS OF EAST INDIES STATION.

The East Indies Station, as referred to in Article II. of the foregoing Agreement, is bounded—

**NORTH.**—On the North by the southern shores of Asia, including the Persian Gulf, from an imaginary line drawn from Jebel Sejan on the African coast to Cape Babel Mandeb on the Arabian coast, to where the 10th parallel of North latitude touches the West coast of the Malay Peninsula.

**EAST.**—On the East by the meridian of 95 degrees East longitude between the parallels of 10 degrees North and 26 degrees South latitude.

**SOUTH.**—On the South by the 10th parallel of North latitude between the coast of the Malay Peninsula and the 95th meridian of East longitude, and by the parallel of 26 degrees South latitude between the 95th and 42nd meridians of East longitude.

**WEST.**—On the West by the 42nd meridian of East longitude between the parallels of 26 degrees and 10 degrees South latitude, by the 43rd meridian between the parallel of 10 degrees South and the Equator, and by the East coast of Africa between the Equator and Jebel Sejan.

NAVAL DEFENCE ACT 1910-1934.<sup>(a)</sup>

An Act relating to Naval Defence.

[Assented to 25th November, 1910.]<sup>(b)</sup>

**B**E 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.—INTRODUCTORY.

1. This Act may be cited as the *Naval Defence Act 1910-1934*.<sup>(a)</sup>

2. This Act is divided into Parts as follows:—

Part I.—Introductory.

Part II.—Administration.

Part III.—The Naval Forces.

Part IV.—The Service of the Naval Forces.

Part V.—Obligations in respect of Naval Training.

Part VI.—Special Powers in relation to the Naval Forces.

Part VII.—Miscellaneous.

3. In this Act, unless the contrary intention appears—

“Active service” means service in or with a force which is engaged in operations against the enemy, and includes any naval or military service in time of war;

“Commission” includes warrant.

“The Defence Act” means the *Defence Act 1903-1910* as amended from time to time and includes any Act for the time being in force in substitution for that Act;

Short title.

Short title amended.  
No. 32 of 1918,  
s. 2.

Parts.

Definitions.

Inserted by  
No. 45, 1918,  
s. 2.

(a) The *Naval Defence Act 1910-1934* comprises the *Naval Defence Act 1910* (No. 30 of 1910), as amended by the *Naval Defence Act 1911* (No. 16 of 1911), by the *Naval Defence Act 1912* (No. 21 of 1912), by the *Naval Defence Act 1918* (No. 45 of 1918), and by the *Statute Law Revision Act 1934* (No. 45 of 1934). See Acts No. 16, 1911, s. 1; No. 21, 1912, s. 1; No. 45, 1918, s. 1; and No. 45, 1934, s. 1 and the First Schedule.

(b) This is the date of assent to the *Naval Defence Act 1910*. The *Naval Defence Act 1911* was assented to on 22nd December, 1911; the *Naval Defence Act 1912* on 24th December, 1912; the *Naval Defence Act 1918* on 25th December, 1918, and the *Statute Law Revision Act 1934*, on 6th August, 1934.



- "Governor-General" means the Governor-General of the Commonwealth, or the person for the time being administering the Government of the Commonwealth, acting with the advice of the Executive Council;
- "The Naval Discipline Act" means the Imperial Act called The Naval Discipline Act as amended from time to time and includes any Act for the time being in force in substitution for that Act;
- "Naval establishment" includes any Naval College, instructional establishment, ship, vessel, or boat used for services auxiliary to Naval Defence, and any dock, shipyard, foundry, machine shop, work, or establishment in connexion with Naval Defence;
- "Officer" means a commissioned officer, subordinate officer, or warrant officer, but does not include a petty officer;
- "Prescribed" means prescribed by this Act or the Regulations;
- "Regulations" means the regulations relating to the Naval Forces whether made in pursuance of this Act, the Defence Act, or any other power;
- "Seaman" means a member of the Naval Forces not being an officer, and includes any person serving in any capacity on board a vessel of the Naval Forces when engaged in any naval service;
- "This Act" includes all regulations under this Act;
- "Time of War" means any time during which a state of war actually exists, and includes the time between the issue of a proclamation of the existence of war or of danger thereof, and the issue of a proclamation declaring that the war or danger thereof, declared in the prior proclamation, no longer exists;
- "War" means any invasion or apprehended invasion of or attack or apprehended attack on the Commonwealth or any territory under the control of the Commonwealth by an enemy or armed force, and includes actual war in which the Naval Forces take part.

Amendment of  
Defence Act.

4. The Defence Act<sup>(a)</sup> is amended as set out in the First Schedule, and that Act as so amended may continue to be cited as the *Defence Act 1903-1910*.<sup>(b)</sup>

Application of  
Defence Act.

5. Part I., sections thirty, forty-three, forty-six, forty-seven, fifty-one, fifty-three and fifty-eight of Part III. and Parts IV. to XIV. both inclusive of the Defence Act <sup>(a)</sup> shall, subject to this Act, continue to apply in relation to the Naval Forces:

Proviso added  
by No. 45, 1918,  
s. 3.

Provided that, in the application of those Parts and sections in relation to the Naval Forces, any reference to the Minister shall be construed as a reference to the Minister administering this Act.

(a) See (*infra*, p. 782).

(b) The amendments so made have been included in the print of the *Defence Act 1903-1934*. See (*infra*, p. 782).

6. Nothing in this Act shall be taken as an appropriation of any public moneys.

Act does not appropriate money.

PART II.—ADMINISTRATION.

7.—(1.) The Governor-General may appoint a Board of Administration for the Naval Forces, to be called the Naval Board.

Naval Board.

(2.) The Naval Board shall have such powers and functions as are prescribed.

8. The Governor-General may—

(a) appoint and promote officers of the Naval Forces, and issue commissions to them; and

Power to appoint officers

(b) appoint an officer to command the whole or any portion of the Naval Forces.

Provided that subordinate officers and officers appointed provisionally or on probation shall not receive commissions.

Proviso added by No. 45, 1918, s. 4.

9. Officers of the Naval Forces holding office at the commencement of this Act shall continue to hold office as if appointed under this Act.

Continuance of existing officers.

10. The appointment or promotion of an officer under this Act shall not create a civil contract between the King or the Commonwealth and the officer.

Appointment does not create a civil contract.

11.—(1.) Subject to sub-section (2.), a person shall not be appointed to be an officer in the Naval Forces or promoted to any higher rank therein unless he has passed the prescribed examination for the rank to which he is appointed or promoted.

Officers not to be appointed or promoted except provisionally until they have passed prescribed examination.

(2.) A person who has not passed the prescribed examination for any particular rank may be appointed provisionally to be an officer of that rank.

(3.) A person provisionally appointed to be an officer of any particular rank shall cease to hold office as an officer of that rank if he fails to pass the prescribed examination for the rank to which he has been provisionally appointed within the prescribed time, not exceeding eighteen months, after his appointment.

(4.) The requirements of this section may be dispensed with by the Governor-General in the case of persons who are officers of the King's Regular Naval Forces.

(5.) Notwithstanding anything contained in this section, an officer who, at the commencement of a time of war, holds a provisional appointment as an officer of a particular rank, or who is, during a time of war, appointed provisionally as an officer of a particular rank, may continue to hold office as an officer of that rank during the continuance of the time of war and for a period not exceeding eighteen months thereafter, even though he has not passed the prescribed examination for that rank.

Added by No. 45, 1918, s. 5.

Appointments  
to be held  
during pleasure.

**12.** Every officer shall hold his appointment during the pleasure of the Governor-General, but the commission of an officer shall not be cancelled except for cause and after he has had notice, in manner prescribed, of the cause, and has been called upon to answer in his defence.

Resignation by  
officer of his  
commission.

**13.—(1.)** Except in time of war, an officer may by writing under his hand resign his commission at the expiration of any time not being less than three months from the date of the receipt of the resignation.

**(2.)** The resignation shall not have effect until it has been accepted by the Governor-General.

**(3.)** For special reasons the Governor-General may accept any resignation at any time after the receipt thereof.

Appointment  
of non-  
commissioned  
and petty  
officers.

Amended by  
No. 45, 1918,  
s. 6.

Seniority.

Appointment  
or promotion for  
distinguished  
service.

**14.** Non-commissioned officers, and petty officers shall be appointed and shall hold their offices as prescribed.

**15.** The seniority of officers in their respective ranks shall be as prescribed.

**16.** The Governor-General may appoint any person to be an officer, or promote any officer to a higher rank for distinguished service or for marked ability and gallantry on active service, without that person having passed the prescribed examination for the rank to which he is appointed or promoted.

Retiring age.

**17.** The ages for the compulsory retirement of officers and members of the Naval Forces shall be as prescribed, but in special cases the Governor-General may extend the prescribed age of retirement for a period not exceeding two years.

Naval College.

**18.—(1.)** The Governor-General may establish Naval Colleges and Instructional Establishments for the purpose of imparting education in the various branches of naval science and in the subjects connected with the naval profession, and for the purpose of qualifying persons for the naval service.

**(2.)** Persons receiving instruction or training at any Naval College or Instructional Establishment shall be subject to this Act and the regulations.

### PART III.—THE NAVAL FORCES.

Naval Forces.

**19.** The Naval Forces shall be divided into two branches called the Permanent Naval Forces and the Citizen Naval Forces.

Permanent  
Naval Forces.

**20.** The Permanent Naval Forces shall consist of officers who are appointed officers of those Forces, and seamen who have enlisted or engaged as members of those Forces and who are bound to continuous naval service for the term of their enlistment or engagement.

21.—(1.) The Citizen Naval Forces shall be divided into the Naval Reserve Forces and the Naval Volunteer Reserve Forces.

Citizen Naval Forces.  
Amended by No. 21, 1912, s. 2.

(2.) The Naval Reserve Forces shall consist of officers and seamen who are not bound in time of peace to continuous naval service and who are paid for their services as prescribed and of persons who are liable under the Defence Act to be trained in the Citizen Forces and who are allotted to the Naval Forces.

(3.) The Naval Volunteer Reserve Forces shall consist of officers and seamen who are not bound in time of peace to continuous naval service and who are not ordinarily paid for their services in time of peace.

22. The Governor-General may raise, maintain, and organize such Permanent and Citizen Naval Forces as he deems necessary for the defence and protection of the Commonwealth and of the several States.

Power to raise Naval Forces.

\* \* \* \* \*

Section 23, repealed by No. 45, 1934, s. 2 and Fourth Schedule.

24. Except as provided in the Defence Act, the Naval Forces shall be raised and kept by voluntary enlistment only.

Naval Forces to be raised by voluntary enlistment.

25. Enlistment in the Naval Forces shall be for such period as is prescribed, but no prescribed period shall be less than two years.

Period of enlistment.

25A.—(1.) Any person under the age of twenty-one years may, with the consent in writing of his parent or guardian, enlist for service in the Permanent Naval Forces for such period as is prescribed, but that period shall not exceed the time required for him to attain the age of thirty years.

Enlistment of persons under twenty-one years of age in Permanent Naval Forces. Inserted by No. 16, 1911, s. 2.

(2.) The enlistment of any person in pursuance of this section shall be binding on him both during his infancy and after he attains his majority.

26.—(1.) Every person enlisting in the Naval Forces shall take and subscribe an oath or affirmation of enlistment in accordance with the form in the Second Schedule.

Oath of enlistment.

(2.) The oath or affirmation of enlistment shall be taken before an officer, a Justice of the Peace, or a prescribed person.

(3.) The oath or affirmation of enlistment shall bind the person subscribing it to serve in the Naval Forces in accordance with the tenor of the oath until he is discharged, dismissed, or removed therefrom, or until his resignation is accepted.

27. Persons in any part of the King's Dominions may, subject to the law in force in that part, voluntarily enlist as members of the Naval Forces of the Commonwealth, and this Act shall apply to persons who enlist as members of the Naval Forces in parts beyond the limits of the Commonwealth to the same extent as if they had enlisted within the limits of the Commonwealth.

Enlistment in any part of the King's Dominions.



Discharge on  
expiration of  
period of  
service.  
Amended by  
No. 45, 1918,  
s. 7.

**28.**—(1.) A member of the Naval Forces shall be entitled to be discharged therefrom at the expiration of the period of service for which he enlisted, unless such expiration occurs in time of war, in which case he shall not be entitled to his discharge until the time of war has terminated.

Added by  
No. 45, 1918,  
s. 7.

(2.) When a seaman becomes entitled to be discharged he shall be discharged with all convenient speed, but until discharged he shall remain a member of the Naval Forces.

Discharge prior  
to expiration  
of period of  
service.

**29.**—(1.) A seaman of the Citizen Naval Forces may, except in time of war, claim his discharge before the expiration of the period of service for which he enlisted subject to the following conditions:—

- (a) He shall give three months' notice in writing to his commanding officer of his intention to claim his discharge; and
- (b) He shall, if a member of the Naval Reserve Forces, pay such sum not exceeding Two pounds as is prescribed; or
- (c) He shall, if a member of the Naval Volunteer Reserve Forces, pay such sum not exceeding One pound as is prescribed.

(2.) Any payment under this section may for special reasons be waived by any authorized officer.

(3.) This section shall not apply to persons undergoing training or liable to be trained in pursuance of the Defence Act.

Disbanding,  
&c., of Corps.

**30.** The Governor-General may at any time by order published in the *Gazette*—

- (a) disband any corps or portion of a corps; or
- (b) dispense with the services of any officer or seaman.

#### PART IV.—THE SERVICE OF THE NAVAL FORCES.

Service of  
Permanent  
Naval Forces.

**31.** The Permanent Naval Forces are liable to continuous naval service, and shall at all times be liable to be employed on any naval service, including active service, and the defence and protection of the Commonwealth and of the several States.

Service of  
Citizen Forces.

**32.**—(1.) The Citizen Naval Forces are not liable in time of peace to continuous naval service, but are liable to such naval service as the regulations prescribe.

(2.) The Citizen Forces shall only be liable to be employed on active service when called out for active service by proclamation.

(3.) Nothing in this section shall prevent the employment on active service or any naval service of any members of the Citizen Forces who volunteer for such service.



33. Members of the Naval Forces may be required to serve for training or any naval service either within or beyond the limits of the Commonwealth.

Limits of service.

34. The Naval Forces shall be subject to such drill training and inspection as are prescribed by the regulations.

Drill and training.

35.—(1.) The Governor-General may, for the purpose of naval service or training, place any part of the Naval Forces on board any ship of the King's Navy or in any naval training establishment or school in connexion with the King's Navy.

Service or training with King's Naval Forces.

(2.) The members of the Naval Forces while so placed shall—

- (a) be under the command of the officer commanding the ship, training establishment, or school; and
- (b) be subject to the laws and regulations to which the members of the King's Naval Forces on the ship or attending the training establishment or school are subject.

36. The Naval Discipline Act and the Naval Discipline (Dominion Naval Forces) Act 1911 and the King's Regulations and Admiralty Instructions for the time being in force in relation to the King's Naval Forces shall, subject to this Act and to any modifications and adaptations prescribed by the regulations, apply to the Naval Forces.

Application of Naval Discipline Act and King's Regulations.  
Amended by No. 21, 1912, s. 3.

37.—(1.) Whenever in pursuance of an order made by the Governor-General or any person acting under the authority of the Governor-General the Commonwealth Naval Forces or any part thereof are acting with any part of the King's Naval Forces and any part of the Naval Forces of any part of the King's Dominions, or with any part of any of those Forces, then, subject to any order made by the Governor-General, under the next following sub-section, the Forces so acting together shall, while so acting, be deemed to be one force or unit of a force in command of the senior naval officer present and acting in a position of command, and, subject to his orders, all officers in the force or unit shall have, as regards command and discipline in relation to the Commonwealth Naval Forces, the same powers and authority as if they were officers of the Commonwealth Naval Forces.

Command where Imperial and Dominion Forces acting together.  
Substituted by No. 18, 1911, s. 3; amended by No. 21, 1912, s. 4.

(2.) Where any arrangement has been made between the Government of the Commonwealth and the Government of the United Kingdom or the Government of any part of the King's Dominions in relation to any joint action or mutual action in relation to training or service by the Naval Forces of the Commonwealth and the Naval Forces of the King and the Naval Forces of any part of the King's Dominions or any of those Forces, the Governor-General may, by order published in the *Gazette*, give such directions or instructions as he thinks fit to carry out the arrangement.

(3.) Any order made by the Governor-General in pursuance of this section shall have effect as if it were enacted in this Act.

#### PART V.—OBLIGATIONS IN RESPECT OF NAVAL TRAINING.

Cadets to be subject to regulations.

**38.** Persons who are liable under the Defence Act to be trained in the Junior or Senior Cadets and who are allotted to the Naval Forces shall be subject to this Act and the regulations.

Commissioned rank in Cadets.

**39.** Commissioned rank in the Junior and Senior Naval Cadets shall be deemed honorary rank in the Naval Forces, but shall not confer any right to command in those Forces.

Persons liable to compulsory naval training to be subject to Act and regulations.

**40.** Persons who are liable under the Defence Act to be trained in the Citizens Forces and who are allotted to the Naval Forces shall be subject to training as prescribed, and shall be subject to this Act and the regulations, and shall while undergoing training be deemed to be members of the Citizen Naval Forces.

Training of persons serving on board ship.  
Inserted by No. 21, 1912, s. 5.

**40A.**—(1.) Persons employed upon sea-going vessels who are liable under the Defence Act to be trained in the Citizen Forces and who are allotted to the Naval Forces may be permitted to perform the prescribed training for the year during one consecutive period of the year.

(2.) In the event of the vessel on which they are serving not being in a convenient port at the expiration of the prescribed training, they may be permitted to undergo such further training, not exceeding the training prescribed for one year, as may be convenient, and the additional training so undergone shall be deducted from the training required for the following year.

Seamen may be granted leave of absence from ship.  
Inserted by No. 21, 1912, s. 5.

**40B.** Notwithstanding anything contained in any law relating to navigation shipping or seamen in force in the Commonwealth or any State or part of the Commonwealth, a person employed upon a sea-going vessel who is liable to be trained in the Citizen Forces and who is allotted to the Naval Forces may for the purposes of undergoing the prescribed training be granted such leave of absence without pay from the vessel upon which he is employed as may be necessary or convenient for the purpose of carrying out the prescribed training.

#### PART VI.—SPECIAL POWERS IN RELATION TO THE NAVAL FORCES.

Power to build ships and construct docks, shipyards, foundries, &c., for naval purposes.

**41.**—(1.) In addition to any powers contained in section sixty-three of the Defence Act,<sup>(a)</sup> the Governor-General may—

- (a) acquire or build and maintain ships, vessels, or boats, for Naval Defence, or for service auxiliary to Naval Defence ;
- (b) acquire or construct and maintain docks, shipyards, foundries, machine shops, and other works or establishments in connexion with Naval Defence ; and

(a) *Infra*, p. 798.

- (c) authorize the employment of any persons in a civil capacity in connexion with any services auxiliary to Naval Defence or any works or establishments under this section.

(2.) The provisions of section sixty-three of the Defence Act shall apply in relation to the above-mentioned powers as if they were included in that section.

42.—(1.) The Governor-General may—

- (a) accept the transfer to the Commonwealth Naval Forces of any vessel of the King's Naval Forces or of the Naval Forces of any part of the King's Dominions;
- (b) accept the transfer to the Commonwealth Naval Forces of any officers and seamen of the King's Naval Forces or of the Naval Forces of any part of the King's Dominions;
- (c) transfer to the King's Naval Forces or to the Naval Forces of any part of the King's Dominions any vessel of the Commonwealth Naval Forces; and
- (d) transfer to the King's Naval Forces or to the Naval Forces of any part of the King's Dominions any officers or seamen of the Commonwealth Naval Forces.

Transfers  
between King's  
Naval Forces  
and Common-  
wealth Naval  
Forces.

(2.) Any transfer in pursuance of this section may be for such period and subject to such conditions as the Governor-General thinks desirable.

(3.) Subject to the conditions of transfer, all officers and seamen of the King's Naval Forces or of the Naval Forces of any part of the King's Dominions transferred in pursuance of this section to the Commonwealth Naval Forces shall, while so transferred, be deemed to be members of the Commonwealth Naval Forces, and shall be subject to this Act and the regulations so far as they are applicable.

(4.) Subject to the conditions of transfer, all officers and seamen of the Commonwealth Naval Forces transferred in pursuance of this section to the King's Naval Forces or to the Naval Forces of any part of the King's Dominions shall, while so transferred, be subject to the laws and Regulations governing the King's Naval Forces or the Naval Forces of the part of the King's Dominions to which they are transferred so far as those laws and regulations are applicable.

#### PART VII.—MISCELLANEOUS.

43. When any member of the Naval Forces—

- (a) is killed on active service or on duty, or
- (b) dies, or becomes incapacitated from earning his living from wounds or disease contracted on active service,

provision shall be made for his widow and family or for himself, as the case requires, out of the Consolidated Revenue Fund at the prescribed rates.<sup>(a)</sup>

Provision in  
case of death  
or incapacity  
on active service  
or on duty.

(a) But see s. 23 of the *Australian Soldiers' Repatriation Act 1920-1935* (*infra*, p. 2166.)



Funds for annuities or gratuities in case of injury or retirement.

44. Funds may be established in such manner and subject to such provisions as are prescribed for providing for the payment of annuities or gratuities to members of the Naval Forces permanently injured in the performance of their duties, and for the payment of annuities or gratuities to members of the Permanent Naval Forces who are retired on account of age or infirmity.

Officers eligible to constitute Courts-martial.  
Inserted by No. 16, 1911, s. 4.

44A. Officers of the King's Naval Forces, and officers of the Commonwealth Naval Forces, and officers of the Naval Forces of any part of the King's Dominions shall be eligible for appointment as officers to constitute Naval courts-martial.

Inserted by No. 16, 1911, s. 4.  
Amended by No. 21, 1912, s. 6.

44B.—(1.) When in pursuance of an order made by the Governor-General or any person acting under the authority of the Governor-General the Commonwealth Naval Forces are acting with the King's Naval Forces, or with the Naval Forces of any part of the King's Dominions, the naval officer upon whom the command devolves may convene courts-martial and appoint officers to constitute courts-martial for the trial of members of the Commonwealth Naval Forces in respect of charges triable by courts-martial, and, subject to any directions or instructions given by the Governor-General or prescribed by the regulations, may approve, confirm, mitigate, or remit any sentence passed by a court-martial.

Provided that a sentence of death passed by any court-martial on any member of the Commonwealth Naval Forces shall be not carried into effect until it has been confirmed by the Governor-General.

(2.) This section shall not affect any power, under the Defence Act, of the Governor-General or any delegate of the Governor-General in relation to courts-martial.

Regulations.

45.—(1.) The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for securing the discipline and good government of the Naval Forces, or for carrying out or giving effect to this Act, and in particular prescribing matters for or in relation to—

- (a) the good government of Naval establishments ;
- (b) the discipline of persons receiving instruction or training in or employed in or in connexion with Naval establishments ; and
- (c) the regulation and control of shipping in time of war or for the purposes of any naval operation or practice.

(2.) The regulations may provide penalties for breaches thereof, not exceeding imprisonment with hard labour for three months, in the case of imprisonment, or Twenty pounds, in the case of pecuniary penalties.

(3.) The power to make regulations contained in this section is in addition to any power to make regulations contained in the Defence Act.

THE FIRST SCHEDULE.

Consequential amendments in the *Defence Act 1903-1910.*(a)

Section.	Extent of Amendment.
4	Omit "sailor" from definition of "member" and insert in its stead "seaman". Omit definition "Naval Discipline Act". Omit definition "Naval Commandant". Omit "Sailor" and insert in its stead "Seaman".
8	Omit paragraph II.
9	Omit "and the Director of the Naval Forces". Omit "or no Director of the Naval Forces, or if these officers or either of them" and insert in their stead "or if he". Omit "their" wherever it occurs and insert in its stead "his".
11A	After "Citizen" wherever it occurs insert "Military".
14	After "Active" insert "Military". Omit "Naval or".
18	After "Warrant Officers" insert "and". Omit "and petty officers".
19	After "Active" insert "Military".
20	After "Reserve" wherever it occurs insert "Military". After "Active" insert "Military".
21	Omit "or below the rank of commander in the Naval Forces".
23	After "Permanent" insert "Military".
28	Omit "and a Board of Administration for the Naval Forces, to be called the Naval Board". Omit "and the Naval Board". Omit "respectively".
31	After "Permanent" insert "Military". Omit "petty officers and sailors". Omit "naval or".
32	Omit the section.
36	After "Permanent" insert "Military Forces", after "Volunteer" insert "Military", and before "Reserves" insert "Military".
37	After "Active" insert "Military". Omit "or sailor".
40	Omit "or sailor".
41	Omit "or sailor".
42	After "Active" insert "Military".
44	After "officer" insert "or". Omit "or sailor".
48	Omit the section.
54	Omit the section.
56	Omit the section.
57	Omit "Defence Force" and insert in its stead "Military Forces".
63	Omit paragraph (a).
73	Omit "sailor" insert "seaman".
112	Omit "sailor" wherever it occurs and insert in its stead "seaman".

THE SECOND SCHEDULE.

OATH.

I swear that I will well and truly serve our Sovereign Lord the King in the Naval Forces of the Commonwealth of Australia for the term of \_\_\_\_\_ years or until sooner lawfully discharged dismissed or removed and that I will resist His Majesty's enemies and cause His Majesty's peace to be kept and maintained and that I will in all matters appertaining to my service faithfully discharge my duty according to law. So help me God!

AFFIRMATION.

I solemnly and sincerely affirm and declare that I will well and truly serve our Sovereign Lord the King in the Naval Forces of the Commonwealth of Australia for the term of \_\_\_\_\_ years, or until sooner lawfully discharged dismissed or removed and that I will resist His Majesty's enemies and cause His Majesty's peace to be kept and maintained and that I will in all matters appertaining to my service faithfully discharge my duty according to law.

(a) The amendments so made have been incorporated in the print of the *Defence Act 1903-1934* (*infra*, p. 782).



## NAVAL PROPERTIES TRANSFER ACT 1925.

## No. 19 of 1925.

An Act to ratify an Agreement entered into between the Prime Minister of the Commonwealth and the Premier of the State of New South Wales respecting the surrender to the State of certain Land and for other purposes.

[Assented to 26th September, 1925.]

**B**E 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.                       | 1. This Act may be cited as the <i>Naval Properties Transfer Act</i> 1925.   |
| Commencement.                      | 2. This Act shall commence on a date to be fixed by Proclamation. <sup>(a)</sup>   |
| Ratification of Agreement.         | <p>3.—(1.) The Agreement (in this Act referred to as “the Principal Agreement”) made between the Commonwealth and the State and set out in the First Schedule to this Act is hereby ratified and confirmed.</p> <p>(2.) The Agreement made between the Commonwealth and the State and set out in the Second Schedule to this Act is hereby ratified and confirmed.</p> |
| Certain land surrendered to State. | 4. All the estate and interest of the Commonwealth in the lands, being portion of Goat Island, referred to in the Principal Agreement and delineated on the plan thereunto annexed marked “B” and described in the Schedule thereto are hereby surrendered to the State.   |

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THE FIRST SCHEDULE.

AGREEMENT made the twenty sixth day of October one thousand nine hundred and fifteen between The Honorable William Arthur Holman the Premier of the State of New South Wales (hereinafter referred to as “the Premier” which expression shall where the context so admits or requires be deemed to include his successors in office the Premier for the time being of the State of New South Wales) for and on behalf of the Government of the said State but not so as to incur or come under any personal liability of the one part and The Right Honorable Andrew Fisher the Prime Minister of the Commonwealth of Australia (hereinafter referred to as the “Prime Minister” which expression shall where the context so admits or requires be deemed to include his successors in office the Prime Minister for the time being of the Commonwealth of Australia) for and on behalf of the Government of the said Commonwealth (but not so as to incur or come under any personal liability) of the other part

WHEREAS the Commonwealth Government being desirous of establishing a Naval Depot and Dockyard in the said Commonwealth entered into negotiations with the Government of the said State as a result of which it was agreed between the Premier

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(a) No Proclamation has yet been issued (1st April, 1936).

THE FIRST SCHEDULE—*continued.*

and the Prime Minister that the said Commonwealth Government should establish such Naval Depot and Dockyard on a site in the Harbour of Port Jackson in the said State consisting of Cockatoo Island and Schnapper Island and the waters adjacent thereto respectively upon the terms and conditions hereinafter set out AND WHEREAS in pursuance of such agreement the Commonwealth Government on the first day of February One thousand nine hundred and thirteen entered into possession of the said Cockatoo Island and Schnapper Island and of all improvements buildings structures erections dockyards machinery plant and stores thereon respectively NOW THIS AGREEMENT WITNESSETH that in pursuance of such Agreement and in consideration of the reciprocal undertakings and agreements hereinafter contained and to be performed on the part of the Premier and the Prime Minister THEY do hereby agree with each other as follows:—

1. THIS Agreement shall be deemed to have come into operation on and shall take effect as from the first day of February One thousand nine hundred and thirteen—

2. THE Premier for the consideration set out in Clause 7 hereof will within a reasonable time from the date of this Agreement cause to be effectually vested in the Commonwealth of Australia in fee simple free from encumbrances reservations conditions and provisos the said Site consisting of Cockatoo Island and Schnapper Island as shown in the plan hereunto annexed marked "A" Together with all improvements buildings structures erections dockyards machinery material stores and plant erected constructed or placed thereon and all tools and appliances used in connexion therewith—

3. THE Premier will within such reasonable time as aforesaid cause to be granted to the said Commonwealth Government the right to reclaim in fee simple the area abutting on said Cockatoo Island and Schnapper Island as shown in and coloured blue in the said Plan hereunto annexed and for that purpose to fill in the said area and to do all things necessary or convenient for the reclamation thereof and will cause a grant of the area so to be reclaimed to be issued to the Commonwealth of Australia in fee simple free from all encumbrances reservations conditions and provisos also the right of using the area shown bounded by green lines in the said plan hereunto annexed and the exclusive right of establishing buoys within that area AND ALSO the right to erect wharves and jetties abutting on any part of the said Cockatoo Island or Schnapper Island and within the area bounded by green lines as shown in the said plan hereunto annexed.

4. ALL liabilities for salaries wages and cost of materials except the cost of materials referred to in Clause 8 hereof owing by the said State Government in connexion with the Fitzroy and Sutherland Dockyards situated on said Cockatoo Island up to the thirty-first day of January one thousand nine hundred and thirteen will be discharged by the said State Government—

5. THE Premier undertakes to provide an adequate supply of fresh water at the said Cockatoo Island and Schnapper Island at the rate ruling for the time being in respect of supplies to large users of water in the Metropolitan Area of the said State—

6. THE Prime Minister undertakes to hand over and deliver up possession to the State Government of that portion of Goat Island situated in Port Jackson aforesaid at present in possession of the Commonwealth Government and shown coloured pink on the Plan hereunto annexed marked "B" and described in the Schedule to these presents and will cause to be surrendered to His Majesty the King for the said State all the estate and interest of the Commonwealth of Australia in the said portion in consideration of the sum of Thirteen thousand pounds to be paid to the said Commonwealth Government by the said State Government which sum shall be set off against the sum of Thirteen thousand pounds payable by the said Commonwealth Government to the said State Government in respect of the said portion of Goat Island which became vested in the said Commonwealth as transferred property under the Constitution of the Commonwealth of Australia—

7. THE Commonwealth Government will pay to the said State Government for the said site consisting of Cockatoo Island and Schnapper Island Together with all improvements buildings structures erections dockyards machinery and plant erected constructed or placed thereon and all tools and appliances used in connexion therewith as mentioned in Clause 2 hereof and Together with all rights granted or to be granted to the Commonwealth in pursuance of this Agreement the sum of Eight hundred and sixty-seven thousand seven hundred sixteen pounds nine shillings as mentioned and set out in the annexure hereto marked "C" and for the purpose

THE FIRST SCHEDULE—*continued.*

of payment of the same the said sites and property shall be treated as if transferred to the Commonwealth under Section 85 Sub-section 1 of the Constitution of the Commonwealth of Australia—

8. THE Commonwealth Government shall be deemed to have taken over from the State Government all material stores and plant ordered by the State Government for use at the said site and on the high seas on the first day of February one thousand nine hundred and thirteen and will refund to the State Government any money paid and indemnify the State Government against all liabilities in respect thereof. The Commonwealth Government will also take over all liability for material and plant ordered by the Agent General before the first day of February one thousand nine hundred and thirteen but not then shipped for the use of the aforesaid dockyards. The Commonwealth Government will also take over all liability in connexion with any Agreements entered into by the State Government with any employees at the said Dockyards for the retention of their services for specific terms—

9. THE Commonwealth Government will pay to the State Government the sum of Sixty-six thousand and eighty-five pounds fifteen shillings and eleven pence as set out in the valuation attached hereto and marked "D" for stores material in stock or stored at Cockatoo Island and for work executed by the State Government for the Commonwealth Government under the contracts entered into between the said Governments for the construction of war vessels and payment of the said sum of Sixty-six thousand and eighty-five pounds fifteen shillings and eleven pence if not already made will be made in cash by the said Commonwealth Government within two months from the date of this Agreement.

10. If after the execution of this Agreement and after the transfer of the said site to the said Commonwealth Government is completed any matters requiring adjustment or any disagreement in connexion with the said transfer or the valuations annexed hereto marked "C" and "D" arise such matters in dispute or requiring adjustment shall be referred to Colonel David Miller, C.M.G. I.S.O. V.D. or to the Secretary to the Department of Home Affairs for the time being of the Commonwealth acting for the said Commonwealth Government and the Director-General of Public Works for the time being of the said State acting for the said State Government and their decision on such matters shall be binding and in the event of their failure to agree upon any matter so referred to them as aforesaid they shall have power to appoint an umpire whose decision in such cases shall be final in the event of failure on the part of said representatives to agree as to the appointment of an Umpire as aforesaid within one month from the time of their failure to agree on any question referred to them as aforesaid the Governor General may appoint an Umpire whose decision in such case shall be final—

11. In the event of any Legislative authority being necessary on the part of the State Parliament to confirm or render effective this agreement or any part thereof the Premier undertakes to obtain such Legislative authority without delay—

IN WITNESS whereof the parties hereto have hereunder set their hands and seals the day and year first above written.

## THE SCHEDULE REFERRED TO.

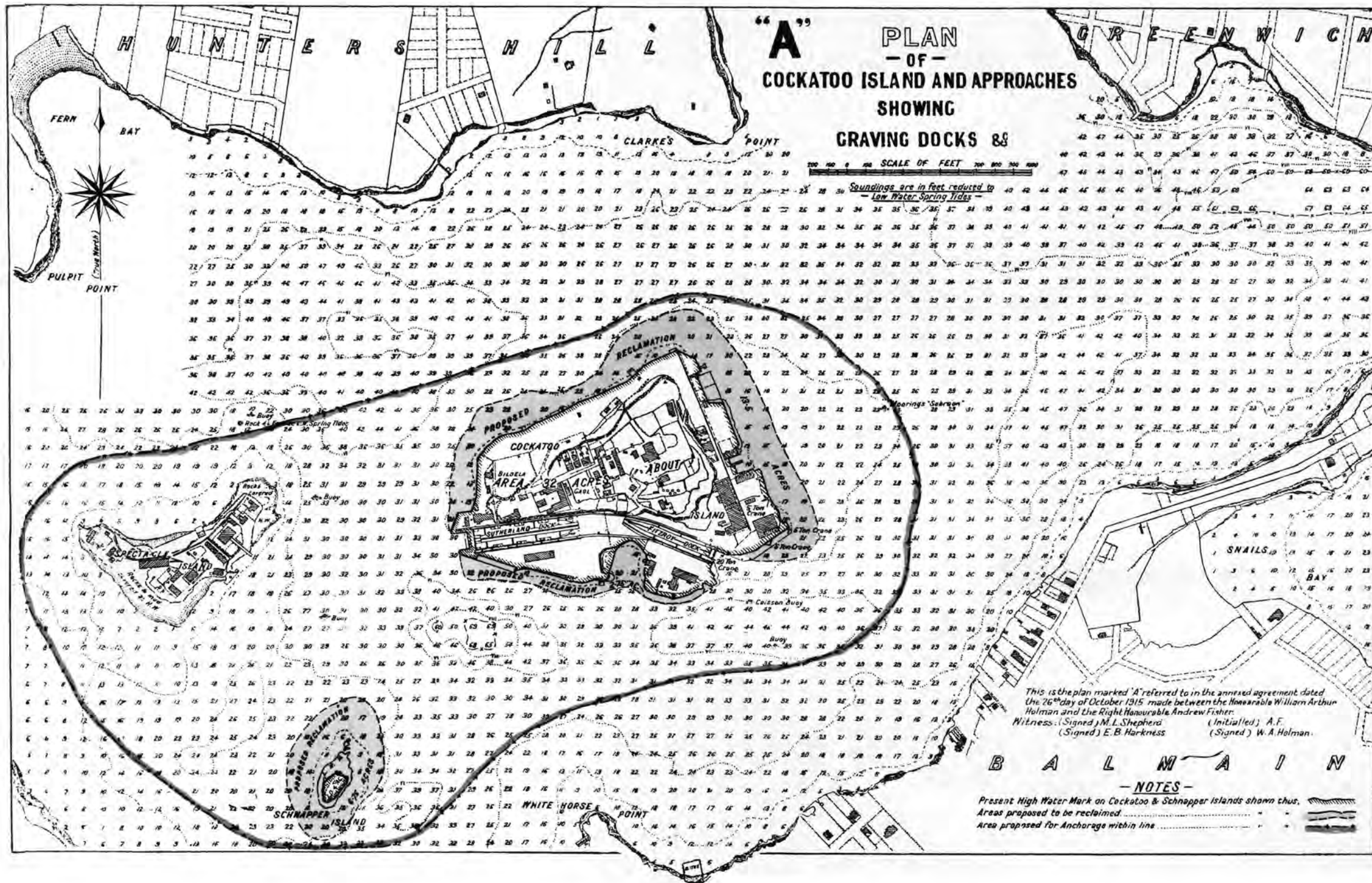
All that piece or parcel of land situate in the parish of Petersham county of Cumberland and State of New South Wales being part of Goat Island in Port Jackson:—

Commencing on the high water mark of the southern shore of the said Goat Island at a point bearing 93 degrees 6 minutes and distant 4 chains 29.8 links from Trigonometrical Station 144; and bounded thence generally on the east by lines successively bearing 3 degrees 51 minutes 99.3 links, 329 degrees 4 minutes 2 chains 7 links 17 degrees 24 minutes 4 chains 27 links and 324 degrees 30 minutes 1 chain 48.3 links thence on the north by a line bearing 267 degrees 54 minutes 2 chains 79 links to high water mark on the western shore of the said Island and thence by that high water mark southerly and easterly to the point of commencement: be the said several dimensions all a little more or less having an area of 3 acres 0 roods 33 perches or thereabouts—

Signed sealed and delivered by the said Andrew } ANDREW FISHER (L.S.).  
Fisher in the presence of  
M.L. SHEPHERD.

Signed sealed and delivered by the said William } W. A. HOLMAN (L.S.).  
Arthur Holman in the presence of  
E. B. HARKNESS.









## GOAT ISLAND

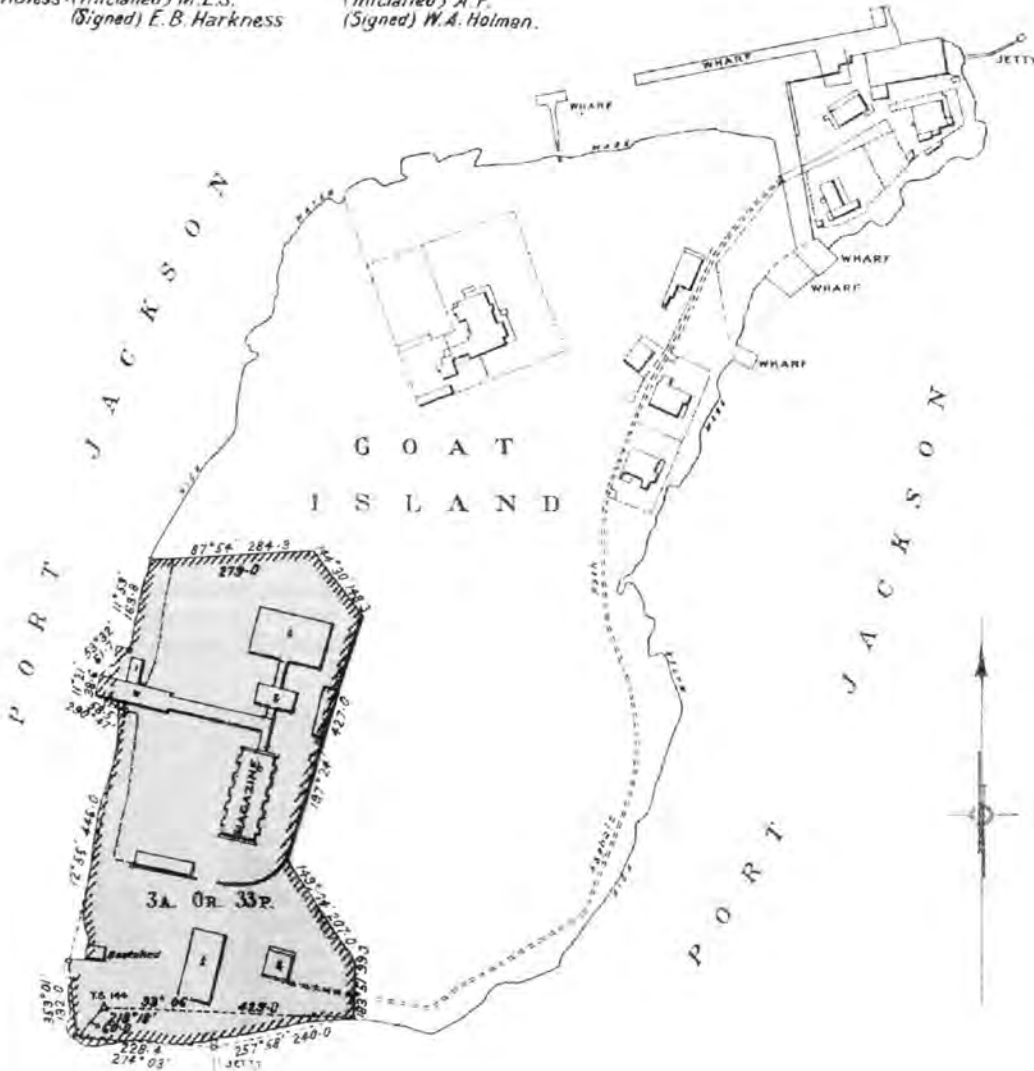
Parish of Petersham-County of Cumberland



*This is the plan marked "B" referred to in the annexed agreement dated the 26<sup>th</sup> day of October 1915 made between the Honourable William Arthur Holman and the Right Honourable Andrew Fisher.*

Witness: (Initialed) M.L.S.  
(Signed) E. B. Harkness

(Initialled) A.F.  
(Signed) W.A. Holman



NOTE: Boundaries of Area to be reclaimed shown thus 



ANNEXURE "C."

COCKATOO ISLAND DOCKYARD.

(Including Schnapper Island, &c.).

SUMMARY of Schedules showing the Valuations agreed upon.

Schedule.	No. of Folio.	Particulars.	Valuation.
1	1	<i>Cockatoo Island</i> .—Freehold land 32 ac., plus 4½ ac. reclaimed .. .. . Fee simple of bed of harbour with right to reclaim 15½ ac. .. .. .	£96,500 0 0 9,000 0 0 £105,500 0 0
		<i>Schnapper Island</i> .—Freehold land four-tenths of an acre .. .. . Fee simple of bed of harbour with right to reclaim 6½ ac. .. .. .	1,300 0 0 3,375 0 0 4,675 0 0
2	1	Exclusive right to establish buoys and construct wharfs and jetties inside certain area .. .. .	10,000 0 0
COCKATOO ISLAND.			
3 (a)	4	Offices, houses and sheds on higher part of Island .. .. .	£17,165 0 0
3 (b)	2	Offices, houses and sheds in lower part of Island .. .. .	2,724 0 0
			19,889 0 0
4	1	Fencing, paths, &c. .. .. .	1,900 0 0
5 (a)	9	Furniture, fittings, floor coverings, &c., in offices, &c., on higher part of Island .. .. .	937 3 4
5 (b)	5	Furniture, fittings, floor coverings, &c., in offices, &c., on lower part of Island .. .. .	212 8 9
			1,149 12 1
6	5	Workshops, &c. .. .. .	150,985 0 0
7	1	Tram-lines and turntables .. .. .	5,038 10 0
8	1	Piping—Hydraulic and air .. .. .	1,024 12 6
9	1	Electrical plant—Cables .. .. .	6,110 0 0
10	9	Do. Machines .. .. .	11,500 0 0
11	4	Cranes .. .. .	34,118 0 0
Particulars.			
12	2	Sutherland and Fitzroy Docks, with all other plant connected therewith .. .. .	350,000 0 0
13 (a)	3	Machines, Machine Shop, Sec. A .. .. .	11,029 10 0
(b)	2	Do. B .. .. .	5,555 10 0
(c)	2	Do. C .. .. .	5,677 10 0
(d)	1	Do. D .. .. .	8,521 10 0
(e)	2	Do. E .. .. .	3,713 0 0
(f)	1	Do. F .. .. .	2,825 0 0
(g)	1	Old Boiler Shop .. .. .	1,427 0 0
(h)	1	Moulding Shop .. .. .	12,051 12 0
(j)	1	Blacksmiths' Shop .. .. .	7,971 0 0
(k)	2	New Boiler Shop .. .. .	10,689 10 0
(l)	3	Northern Shipyard .. .. .	15,329 18 6
(m)	2	Southern Shipyard .. .. .	7,722 0 0
(n)	1	Shipwrights' Shop .. .. .	1,834 0 0
(o)	1	Pattern Shop .. .. .	543 10 0
(p)	1	Bolt Shop .. .. .	1,866 10 0
(q)	1	New Joiners' Shop .. .. .	1,037 10 0
(r)	1	Coppersmith and Plumbers' Shop .. .. .	947 0 0
(s)	1	Tool Room .. .. .	768 0 0
(t)	1	Inspector Store .. .. .	595 0 0
			100,104 10 6
		Carried forward .. .. .	£801,944 5 1

## ANNEXURE "C"—continued.

Schedule.	No. of Folio.	Particulars.	Valuation.
		Brought forward	£801,944 5 1
14	16	Tools	23,065 2 3
15	4	Floating Equipment	7,731 0 0
16	1	Power House—Electric Plant	6,000 0 0
17	1	Miscellaneous	27,317 0 0
18	9	Shafting, Pulleys, &c.	1,609 1 8
			£867,716 9 0

This is the Annexure marked "C" referred to in the annexed Agreement dated the twenty-sixth day of October, 1915, made between the Honorable William Arthur Holman of the one part and the Right Honorable Andrew Fisher of the other part—

Witness. M. L. S.  
E. B. H.

A. F.  
W. A. H.

## ANNEXURE "D".

SUMMARY of Schedules showing Values agreed upon.

Schedule.	Particulars.	Valuation.
A	Warship Construction Expenditure	£34,732 7 9
B	Gun Mountings	4,293 2 7
C	Furnishings and Fittings of Commonwealth Offices	263 11 4
D	Store Account	26,796 14 3
	Total	£66,085 15 11

This is the annexure marked "D" referred to in the annexed Agreement dated the twenty-sixth day of October, 1915, made between the Honorable William Arthur Holman of the one part and the Right Honorable Andrew Fisher of the other part.

Witness. M. L. S.  
E. B. H.

A. F.  
W. A. H.

## THE SECOND SCHEDULE.

THIS AGREEMENT made the twelfth day of September One thousand nine hundred and twenty-four BETWEEN THE HONORABLE SIR GEORGE WAR-BURTON FULLER the Premier of the State of New South Wales for and on behalf of the Government of the said State of the one part and THE HONORABLE STANLEY MELBOURNE BRUCE P.C., M.C. the Prime Minister of the Commonwealth of Australia for and on behalf of the Government of the said Commonwealth of the other part.



THE SECOND SCHEDULE—continued.

WHEREAS this Agreement is supplemental to an Agreement under seal (hereinafter called "the Principal Agreement") made the twenty-sixth day of October One thousand nine hundred and fifteen between the Honorable William Arthur Holman for and on behalf of the Government of the State of New South Wales of the one part and the Right Honorable Andrew Fisher for and on behalf of the Government of the Commonwealth of Australia of the other part and is intended to be annexed thereto

AND WHEREAS as certain errors have been discovered in certain of the annexures to the Principal Agreement and for the purpose of correcting the same the parties hereto desire to vary the Principal Agreement in manner hereinafter appearing

NOW THIS AGREEMENT WITNESSETH—

1. THE words and figures "Cockatoo Island—Freehold land 32 acres plus  $4\frac{1}{4}$  acres reclaimed" written in the column headed "Particulars" in Annexure "C" to the Principal Agreement shall be read and construed as though the words and figures "Cockatoo Island—Freehold land 32 acres including  $4\frac{1}{4}$  acres reclaimed" had at all material times been written therein in place of the words and figures first mentioned in this clause.

2. THE words and figures "Fee simple of bed of harbour with right to reclaim  $15\frac{1}{4}$  acres" written in the said column headed "Particulars" in Annexure "C" to the Principal Agreement shall be read and construed as though the words and figures "Fee simple of bed of harbour with right to reclaim  $16\frac{1}{4}$  acres" had at all material times been written therein in place of the words and figures first mentioned in this clause.

3. THE words and figures "Fee simple of bed of harbour with right to reclaim  $6\frac{1}{4}$  acres" written in the seventh and eighth lines of the column headed "Particulars" in the said Annexure "C" shall be read and construed as though the words and figures "Fee simple of bed of harbour with right to reclaim  $6\frac{3}{4}$  acres" had at all material times been written therein in place of the words and figures first mentioned in this clause.

4. SAVE and except as it is varied by this Agreement the Principal Agreement shall remain in full force and effect.

5. IN the event of any Legislative Authority being necessary on the part of the State Parliament to confirm or render effective the Principal Agreement and this Agreement or any part of the Principal Agreement or this Agreement the Premier undertakes to obtain such Legislative Authority without delay. In the event of any Legislative Authority being necessary on the part of the Commonwealth Parliament to confirm or render effective the Principal Agreement and this Agreement or any part of the Principal Agreement or this Agreement the Prime Minister undertakes to obtain such Legislative Authority without delay.

IN WITNESS whereof the parties hereto have hereunto set their hands and seals the day and year first above written

SIGNED SEALED AND DELIVERED by the  
said The Honorable Sir George War-  
burton Fuller in the presence of — } (Signed) GEORGE W. FULLER. (L.S.)  
(Signed) F. C. G. TREMLETT.

SIGNED SEALED AND DELIVERED by the  
said The Honorable Stanley Melbourne  
Bruce P.C. M.C. in the presence of — } (Signed) S. M. BRUCE. (L.S.)  
(Signed) F. STRAHAN.

DEFENCE ACT 1903–1934.<sup>(a)</sup>

An Act to provide for the Naval and Military  
Defence and Protection of the Commonwealth  
and of the several States.

[Assented to 22nd October, 1903.]<sup>(b)</sup>

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.—INTRODUCTORY.

1. This Act may be cited as the *Defence Act* 1903–1934.<sup>(a)</sup>
2. This Act is divided into Parts as follows:—

Part I.—Introductory.

Part II.—Administration.

Part III.—The Defence Force.

Division 1.—Constitution of the Defence Force.

Division 2.—The Raising of the Defence  
Force and the Enlistment and  
Discharge of Members thereof.

Division 3.—The Service of the Forces.

Division 4.—General Provisions.

Part IV.—Liability to serve in the Citizen Forces in time  
of war.

Part V.—Cadets.

Part VI.—Special Powers in relation to Defence.

Part VII.—Offences.

Part VIII.—Courts Martial.

Part IX.—Legal Procedure.

Part X.—Miscellaneous.

Short title,  
Amended,  
No. 32, 1918,  
s. 2.

Parts,  
Amended by  
No. 15, 1909,  
s. 3; No. 37,  
1910, s. 2;  
and No. 5, 1912,  
s. 2.

(a) The *Defence Act* 1903–1932 comprises the *Defence Act* 1903 (No. 20 of 1903), as amended by the *Defence Act* 1904 (No. 12 of 1904), by the *Defence Act* 1909 (No. 15 of 1909), by the *Naval Defence Act* 1910 (No. 30 of 1910), by the *Defence Act* 1910 (No. 37 of 1910), by the *Defence Act* 1911 (No. 15 of 1911), by the *Defence Act* 1912 (No. 5 of 1912), by the *Defence Act* 1914 (No. 36 of 1914), by the *Defence Act* 1915 (No. 3 of 1915), by the *Defence Act* 1917 (No. 36 of 1917), by the *Defence Act* 1918 (No. 16 of 1918), by the *Defence Act* (No. 2) 1918 (No. 47 of 1918), by the *Defence Act* 1927 (No. 1 of 1927), by the *Defence Act* 1932 (No. 50 of 1932), and by the *Statute Law Revision Act* 1934 (No. 45 of 1934). See Acts No. 12, 1904, s. 1; No. 15, 1909, s. 1; No. 30, 1910, s. 4; No. 37, 1910, s. 1; No. 15, 1911, s. 1; No. 5, 1912, s. 1; No. 36, 1914, s. 1; No. 3, 1915, s. 1; No. 36, 1917, s. 1; No. 47, 1918, s. 1; No. 1, 1927, s. 1; No. 50, 1932, s. 1, and No. 45, 1934, s. 1 and the First Schedule.

(b) This is the date of assent to the *Defence Act* 1903. The *Defence Act* 1904 was assented to on 9th December, 1904, the *Defence Act* 1909 on 13th December, 1909 (proclaimed to commence on 1st January, 1911; see *Gazette*, 1910, p. 1571), the *Naval Defence Act* 1910 on 25th November, 1910, the *Defence Act* 1910 on 1st December, 1910, the *Defence Act* 1911 on 22nd December, 1911, the *Defence Act* 1912 on 4th September, 1912, the *Defence Act* 1914 on 21st December, 1914, the *Defence Act* 1915 on 30th April, 1915, the *Defence Act* 1917 on 25th September, 1917, the *Defence Act* 1918 on 19th June, 1918, the *Defence Act* (No. 2) 1918 on 25th December, 1918, the *Defence Act* 1927 on 8th April, 1927, the *Defence Act* 1932 on 21st November, 1932, and the *Statute Law Revision Act* 1934 on 6th August, 1934.

Part XI.—Regulations.

Part XII.—Universal obligation in respect of Naval or Military Training.

Part XIII.—Exemptions from Personal Service.

Part XIV.—Registration and Enrolment for Naval and Military Training.

Part XV.—Military College.

3. This Act shall commence on a day to be fixed by proclamation.<sup>(a)</sup> Commencement of Act.

4. In this Act, unless the contrary intention appears— Interpretation.

“Active Forces”—Includes all parts of the Defence Force other than the Reserve Forces.

“Active Service”—Has a meaning corresponding to that of the same words as used in sub-section (1.) of section one hundred and eighty-nine of the Army Act defining the expression “on active service.” Substituted by No. 36, 1917, s. 2.

“Army Act”—Means the Imperial Act called the Army Act and any Acts amending or in substitution for it and for the time being in force.

“District Commandant”—Means the Commandant of a Military District. Amended by No. 36, 1917, s. 2.

“Inspector-General”—Means the Inspector-General of the Military Forces appointed under this Act. Inserted by No. 12, 1904, s. 2.

“Governor-General”—Means the Governor-General of the Commonwealth, or the person for the time being administering the Government of the Commonwealth, acting with the advice of the Executive Council.

“Member”—Includes any officer, seaman, and soldier.

“Military Decoration”—Means any medal, clasp, good conduct badge, or decoration conferred for service in the Naval or Military Forces of any part of the King's Dominions, or of any Ally of Great Britain in the present war. Amended by No. 30, 1910, s. 4.  
Inserted by No. 36, 1917, s. 2.

“Military District”—Means a military district appointed under this Act.

\* \* \* \* \*

“Naval or Military Offence”—Means any offence against this Act, the Army Act, or the Naval Discipline Act. Definitions of “Naval Discipline Act” and “Naval Commandant” omitted by No. 30, 1910, s. 4.

“Minister”—Means the Minister for the time being administering this Act.

“Non-commissioned Officer”—Includes any acting non-commissioned officer and a warrant officer not holding an honorary commission. Amended by No. 16, 1918, s. 2.

“Oath”—Includes affirmation in the case of any person who has a conscientious objection to take an oath.

“Officer”—As regards the Military Forces, means an officer commissioned or in pay as an officer of the Military Forces, and includes an officer appointed or promoted Substituted by No. 36, 1917, s. 2.

(a) Proclaimed to commence 1st March, 1904. See *Gazette*, 1904, p. 119.

to provisional, probational, or acting rank, and warrant and other officers holding honorary commissions, and as regards the Naval Forces, means any commissioned officer, and includes subordinate and warrant officers, but does not include petty officers.

"Prescribed"—Means prescribed by this Act.

"Regulations"—Means regulations made under this Act.

Amended by  
No. 30, 1910,  
s. 4.

"Seaman"—Includes any member of the Naval Forces, not being an officer.

"Soldier"—Includes a non-commissioned officer and every person subject to Military Law, but does not include an officer.

"Sub-District"—Means a portion of a Military district appointed a sub-district.

"This Act"—Includes all regulations made under this Act.

"Time of War"—Means any time during which a state of war actually exists, and includes the time between the issue of a proclamation of the existence of war or of danger thereof and the issue of a proclamation declaring that the war or danger thereof, declared in the prior proclamation, no longer exists.

"War"—Means any invasion or apprehended invasion of, or attack or apprehended attack on, the Commonwealth or any Territory under the control of the Commonwealth by an enemy or armed force.

Added by  
No. 36, 1917,  
s. 2.

"War Service"—Means active service, any naval or military service in time of war, and any naval or military service between the issue of a proclamation declaring that by reason of the recent existence of a time of war it is necessary in the public interest that the military forces should be temporarily subject to the Army Act, and the issue of a proclamation declaring that such necessity no longer exists.

Application  
of Act.

5. This Act shall apply to all the Naval and Military Forces of the Commonwealth, whether existing at the commencement of this Act, or raised thereafter, and to all members thereof, whether appointed or enlisted under this Act, or under any State Act.

State Acts to  
cease to apply.

6. The State Acts and the Act of the Federal Council of Australasia specified in the First Schedule shall cease to apply to the Naval and Military Forces of the Commonwealth, or to any member thereof, but this section shall not affect—

- (a) the previous operation of any of those Acts, or any thing duly done or suffered under any of them; or
- (b) any right to appointment or employment in the Public Service of a State conferred by any of those Acts; or
- (c) any penalty, forfeiture, or punishment, incurred in respect of any offence committed against any of those Acts; or



(d) any investigation, legal proceeding, or remedy in respect of any such penalty, forfeiture, or punishment; and any such investigation, legal proceeding, or remedy may be instituted, continued, or enforced, and any such penalty, forfeiture, or punishment, may be imposed, as if this section had not been passed.

7. Nothing in this Act shall be taken as an appropriation of any public moneys.

Act does not appropriate money.

## PART II.—ADMINISTRATION.

8. The Governor-General may—

i. Appoint a Military Officer to be Inspector-General of the Military Forces.

\* \* \* \* \*

iii. Appoint any part of the Commonwealth to be a Military District.

iv. Divide any Military District into sub-districts.

v. Appoint an officer to be Commandant of any Military District.

vi. Direct what forces shall be established in Military Districts and sub-districts respectively.

vii. Appoint and promote officers of the Defence Force and issue commissions to them.

viii. Appoint an officer or officers of the Defence Force to command the whole or any portion of the Defence Force in time of war.

Power to appoint Military districts, officers, &c.

Para. i. substituted by No. 12, 1904, s. 3.

Para. ii. omitted, No. 30, 1910, s. 4.

Added No. 12, 1904, s. 3.

8A.—(1.) The Governor-General may delegate to the officer in command of any part of the Military Forces when beyond the limits of the Commonwealth power to appoint or promote officers to acting rank in the Military Forces.

Delegation of power to make appointments. Inserted by No. 36, 1917, s. 3.

(2.) A delegation under this section may be made to an officer personally or by designation of his appointment and may be limited to the officer named or be extended to the person for the time being performing the duties of the appointment or to the successors in command of the officer.

(3.) A delegation shall be revocable at will by the Governor-General and shall not prevent the exercise of any power by the Governor-General.

(4.) The revocation of a delegation shall not affect anything done under the delegation prior to the revocation.

(5.) An officer appointed or promoted to acting rank under the powers conferred by this section shall cease to hold that office if the Governor-General refuses to confirm the appointment or promotion.

(6.) An officer, whose appointment or promotion under this section is confirmed by the Governor-General, shall be deemed to have been appointed or promoted (as the case may be) from the date of his appointment or promotion under the powers conferred by this section.



(7.) Every act, matter, thing, right and liability which by virtue or in consequence of an appointment or promotion to acting rank under this section is done, suffered, acquired or incurred between the time an officer is so appointed or promoted and the time when that officer receives notice of the refusal of the confirmation, shall be as valid and effectual as if it were done, suffered, acquired or incurred by an officer appointed or promoted by the Governor-General to that office.

(8.) Every appointment and promotion of an officer to acting rank made before the commencement of this section by the officer in command of any part of the Military Forces when beyond the limits of the Commonwealth shall be as valid and effectual as if made under this section.

(9.) Any delegation made within three months after the passing of this section may be expressed to take effect from any day before the making of the delegation and, if so expressed, shall take effect accordingly.

9. The Inspector-General shall have such seniority and powers and perform such duties as are prescribed or as the Governor-General directs, and if there is no Inspector-General, or if he is absent from the Commonwealth, or unable to exercise his powers or perform his duties those powers or duties may be exercised or performed by any person directed by the Governor-General to exercise or perform them.

10. All officers of the Naval and Military Forces holding office at the commencement of this Act shall continue to hold office as if appointed under this Act.

11. In the first appointment of officers preference shall be given, in the case of equality of qualifications, to persons who have served in the Defence Force for three years without a commission.

11A. All promotions in the Citizen Military Forces to the rank of officer and non-commissioned officer shall be from those who have served in the ranks of the Citizen Military Forces, and the appointments and promotions shall be allotted to those in the next lower grade who are most successful in competitive examinations. The standards and manner of holding such examinations shall be prescribed in the regulations. All books required for such examinations shall be issued to candidates without charge :

Provided that the limitation in this section shall not at any time apply to the appointment of officers of the Army Medical Corps, the Army Veterinary Corps, or the Senior Cadets :

Provided further, that, in time of war, notwithstanding anything contained in this Act officers, warrant officers and non-commissioned officers may be appointed and promoted as prescribed by the regulations.

12. Any person who has been a member of the Defence Force may after having ceased to be a member recover from the Commonwealth by suit in any Court of competent jurisdiction any moneys

Powers and duties of Inspector-General of Military Forces and Director of Naval Forces.  
Substituted by No. 12, 1904, s. 4.

Amended by No. 30, 1910, s. 4.  
Continuance of existing officers.

Preference to be given to persons who have served in the ranks.

Promotion from the ranks.

Inserted by No. 15, 1909, s. 4.

Amended by No. 30, 1910, s. 4.

Substituted by No. 36, 1914, s. 2.

Added by No. 36, 1914, s. 2.

Ex-member of Defence Force may bring suit for moneys due.

which under his engagement or by any agreement with the Commonwealth are due to him.

13. No appointment or promotion of an officer under this Act shall create a civil contract between the King or the Commonwealth and the person appointed or promoted.

Appointments do not create civil contract.

14. No person shall be appointed an officer in the Active Military Forces until he has passed the prescribed examination, but persons who have not passed that examination for any particular rank may be appointed provisionally as officers of that rank. The requirements of this section may be dispensed with by the Governor-General in the case of persons who are officers of the King's Regular Military Forces.

Provisional appointments.  
Amended by  
No. 30, 1910,  
s. 4.

15. Officers provisionally appointed shall be removed from office if they fail within the prescribed time, not exceeding eighteen months, to pass the examination for the rank to which they have been so appointed:

Determination of provisional appointments.  
Amended by  
No. 38, 1917,  
s. 4.

Provided that, in time of war, such officers may continue to hold office for such further time (not exceeding a period of eighteen months beyond the termination of the war) as is prescribed.

Added by  
No. 36, 1914,  
s. 3.

16. Officers shall hold their appointments during the pleasure of the Governor-General, but the commission of an officer shall not be cancelled without the holder thereof being notified in writing of any complaint or charge made and of any action proposed to be taken against him, nor without his being called upon to show cause in relation thereto. Provided that no such notification shall be necessary in the case of an officer absent from duty without leave for a period of three months or upwards.<sup>(a)</sup>

Appointments held during pleasure.

16A. Notwithstanding anything contained in this Act, members of the Citizen Forces who have been employed on active service abroad may, upon their return to duty with the Citizen Forces, be given such rank and allotted such regimental seniority as are approved by the Governor-General on the recommendation of the Military Board.

Commissions to members of Citizen Forces who have served abroad.  
Inserted by  
No. 36, 1914,  
s. 4.

17.—(1.) Except during time of war an officer may by writing under his hand tender the resignation of his commission at any time by giving three months' notice.

Resignation of commission.

(2.) Where an officer resigns his commission before completing twelve years' service as an officer, his service as an officer shall not, except under special circumstances as prescribed, be reckoned towards the service required under Part XII. of this Act.

Inserted by  
No. 37, 1910,  
s. 3.

(a) The provisions of this section which are introduced by the word "but" are directory only, and do not constitute conditions precedent to the exercise by the Governor-General of the right to cancel a commission. *Cross v. Commonwealth*, (1921) 29 C.L.R. 219; 27 A.L.J.R. 109.

It is sufficient compliance with the provision in this section that the officer shall be called on to show cause if he is in the first instance afforded an opportunity of stating in writing or verbally any reason why his commission should not be cancelled. *Ibid.*

Appointment of  
warrant and  
non-commissioned  
officers.

Substituted by  
No. 12, 1904,  
s. 5.

Amended by  
No. 30, 1910,  
s. 4.

Seniority of  
officers.

Substituted by  
No. 12, 1904,  
s. 6.

Amended by  
No. 30, 1910,  
s. 4.

Seniority of  
officers in  
Reserve  
Forces.

Amended by  
No. 30, 1910,  
s. 4; and by  
No. 47, 1918,  
s. 2.

Promotion of  
returned  
officers.

Inserted by  
No. 47, 1918,  
s. 3.

Promotion of  
officers.

Amended by  
No. 30, 1910,  
s. 4.

Promotion to  
rank above  
Captain.

Inserted by  
No. 37, 1910  
s. 4.

Promotion to  
rank above  
Major.

Amended by  
No. 5, 1912,  
s. 2.

Added by  
No. 36, 1914,  
s. 5.

18. Warrant officers and non-commissioned officers shall be appointed and shall hold their offices as prescribed.

19.—(1.) The seniority (other than the regimental seniority) of officers in the Active Military Forces in their respective ranks shall be regulated by the date of their appointments, and when appointments are of the same date by their seniority immediately prior to their appointments or in the case of first appointments by the order in which their names appear in the *Gazette* or *Government Gazette* of a State or of a Colony which has become a State in which their appointments are notified.

(2.) The regimental seniority of officers shall be as prescribed.

20. The seniority of officers in the Reserve Military Forces shall be as prescribed.

20A. Notwithstanding anything contained in this Act, an officer who is eligible for promotion to a higher rank, and who has served on active service abroad, shall, other things being equal, be granted preference in promotion to an officer of the same rank who is eligible for promotion to that higher rank, and who has not served on active service abroad.

21.—(1.) Except as provided in this section, no officer below the rank of lieutenant-colonel in the Military Forces shall be promoted unless he has previously passed the prescribed examination for promotion to a higher rank.

(2.) Where an officer has had no opportunity of passing the prescribed examination he may be provisionally promoted subject to his passing such examination within the prescribed time.

21A.—(1.) An officer of the Military Forces, other than an officer of the Cadets, shall not be promoted, except probationally, to any rank higher than that of Captain, until he has passed, as prescribed, a course of practical and theoretical instruction by the members of the General Staff to perfect him in the practice of his own arm of the Forces and to accustom him to the uses and possibilities of the other arms.

(2.) An officer of the Military Forces shall not be promoted to any rank higher than that of Major, until he has passed, as prescribed, a course of instruction by the members of the General Staff during which he shows himself fitted to command in the field a force of all arms.

(3.) This section shall not apply to officers who, prior to the first day of January One thousand nine hundred and eleven, completed the examination for promotion to the rank of Lieutenant-Colonel or Major respectively, or to officers of the Medical, Veterinary, Ordnance, and other Departmental Services.

(4.) In time of war, if the Chief of the General Staff certifies to the Minister that it is impracticable to conduct such courses of instruction as are referred to in sub-sections (1.) and (2.) of this section, an officer



of the Military Forces may, upon the recommendation of his Commanding Officer, be promoted without having passed those courses.

21B. A Special School of Instruction shall be established for the training of an instructional staff of non-commissioned officers, and all future appointments of persons to act as instructors shall be made from amongst those who have, at the close of the prescribed course, satisfied the Chief of the General Staff or some person duly appointed by him that they are competent :

School of  
Instruction.  
Inserted by  
No. 37, 1910,  
s. 4.

Provided that persons who have acted as instructors in the Imperial or Commonwealth Military Forces, or who, having served in the Imperial or Commonwealth Military Forces, satisfy the Chief of the General Staff that they have the necessary qualifications, may be appointed without passing through such course.

Amended by No.  
38, 1914, s. 6.

22.—(1.) The Governor-General may, for distinguished service in time of war or for exceptional gallantry on active service, appoint any person to be an officer or non-commissioned officer or promote an officer or non-commissioned officer in the Citizen Military Forces without his passing the prescribed examination.

Appointment  
or promotion  
for dis-  
tinguished  
service.

Substituted by  
No. 36, 1917,  
s. 5.

(2.) The Governor-General may delegate to any person the power to appoint or promote non-commissioned officers under this section.

(3.) A delegation under this section shall be revocable at will and shall not prevent the exercise of any power by the Governor-General.

23. The Governor-General may place officers of the Permanent Military Forces on a half-pay list, and such officers may be re-employed with any corps or on the staff, and their seniority shall be as prescribed. No officer shall remain on the half-pay list for a longer period than one year, and if not then re-employed he shall be placed on the unattached list.

Half-pay list.  
Amended by  
No. 30, 1910,  
s. 4.

24. The Governor-General may place officers of the Defence Force upon an unattached list, and, subject to sections fourteen and fifteen of this Act, may appoint fit and proper persons to be officers on that list, and such officers may be employed for duty with any corps or on the staff.

Unattached  
lists.

25. The Governor-General may form a reserve of officers and a list of such officers shall be kept, called the reserve of officers list, and all officers whose names are on that list shall be liable to service as prescribed

Reserve of  
officers list.

26. The Governor-General may place officers of the Defence Force on retired lists.

Retired list.

27. The ages for the compulsory retirement of officers and members of the Defence Force shall be as prescribed, but in special cases the Governor-General may extend the prescribed age of retirement for a period not exceeding two years.

Compulsory  
retirement.  
Discretion to  
extend.

Council of  
Defence.

Substituted by  
No. 12, 1904,  
s. 7.

Board of  
Administration  
for Military  
Forces.

Amended by  
No. 30, 1910,  
s. 4.

S. 29 repealed by  
No. 37, 1910,  
s. 5.

28.—(1.) The Governor-General may constitute a Council of Defence, which shall have such powers and functions as are prescribed.

(2.) The Governor-General may constitute a Board of Administration for the Military Forces, to be called the Military Board.

(3.) The Military Board shall have such powers and functions as are prescribed.

\* \* \* \* \*

### PART III.—THE DEFENCE FORCE.

#### *Division 1.—Constitution of the Defence Force.*

Defence Forces.

30. The Defence Force shall consist of the Naval and Military Forces of the Commonwealth,<sup>(a)</sup> and shall be divided into two branches called the Permanent Forces and the Citizen Forces.

Permanent  
Forces.

Amended by  
No. 15, 1909,  
s. 5; by No. 30  
1910, s. 4; by  
No. 37, 1910,  
s. 6; by No. 5,  
1912, s. 4; by  
No. 36, 1914,  
s. 7\*; by No. 3,  
1915, s. 3; by  
No. 36, 1917,  
s. 6†; and by  
No. 16, 1918,  
s. 3.

Added by  
No. 16, 1918,  
s. 3.

31.—(1.) The Permanent Military Forces shall consist of officers who are appointed officers of those Forces, and of soldiers, who are bound to continuous military service during the continuance of their engagements.

(2.) Except in time of war, no Permanent Military Forces shall be raised or organized or, save as mentioned in sub-section (3.) of this section, maintained except for Administrative and Instructional Staffs, including Staff Corps, Aviation, Survey, Army Service, Medical, Veterinary, and Ordnance Corps, Artillery, Fortress Engineers, and Submarine Mining Engineers.

(3.) If the Governor-General by proclamation declares that by reason of the recent existence of a time of war it is necessary in the public interest that permanent military forces should be maintained after the cessation of the time of war, Permanent Forces raised in time of war for purposes other than those specified in sub-section (2.) of this section may be maintained after the time of war and so long as that proclamation remains in force.

\* \* \* \* \*

S. 32 omitted;  
No. 30, 1910,  
s. 4.

Constitution of  
Citizen Military  
Forces.

Inserted by  
No. 15, 1909,  
s. 6.

Active Forces.

Reserve Forces.

32A.—(1.) The Citizen Military Forces shall consist of Active Forces and Reserve Forces.

(2.) The Active Citizen Military Forces shall consist of the Militia Forces, the Volunteer Forces, those undergoing military training under the provisions of paragraph (c) of section one hundred and twenty-five of this Act, and officers on the unattached list.

(3.) The Military Reserve Forces shall consist of Citizen Forces, and shall include the officers shown on the Reserve of Officers List, the members of Rifle Clubs who are allotted to the Military Reserve Forces, and all those liable to serve in time of war under section fifty-nine of this Act who are not included in the Active Forces.

\* Section 2 of the *Defence Act 1915* is as follows:—"Section seven of the *Defence Act 1914* shall be deemed to have commenced on the first day of August One thousand nine hundred and fourteen."

† The amendments made by section 6 of the *Defence Act 1917* are deemed to have commenced on 1st August, 1914. (*Defence Act 1917*, s. 6 (2).)

(a) See also *Air Force Act 1923*, s. 3 (*infra*, p. 827).



*Division 2.—The Raising of the Defence Force and the Enlistment and Discharge of Members thereof.*

33. The Governor-General may, subject to the provisions of this Act, raise, maintain, and organize in the manner prescribed such Permanent and Citizen Forces as he deems necessary for the defence and protection of the Commonwealth and of the several States.

Power to raise Forces.

\* \* \* \* \*

35. Except as provided in Parts IV. and XII. of this Act the Defence Force shall be raised and kept up by voluntary enlistment only.

Section 34 repealed by No. 45, 1934, s. 2 and Fourth Schedule.

Voluntary enlistment.

36. Persons voluntarily enlisting as members of the Military Forces may be required to engage to serve for a prescribed period :

Amended by No. 5, 1912, s. 5.

Period of enlistment.

Provided that the regulations may prescribe that any member of the Defence Force may, at his option, on the expiration of his original enlistment or subsequent re-engagement, re-engage to serve for a further period without any fresh oath of enlistment, subject nevertheless to the veto of the Minister or other authority mentioned in the regulations and to such other conditions as are specified in the regulations, and such member who so re-engages shall sign before his commanding officer an agreement to re-engage in accordance with the said regulations to be indorsed upon or attached to the original oath of enlistment, and such member shall, during the period of such re-engagement, continue to be bound by his original oath of enlistment :

Amended by No. 15, 1909, s. 7 ; by No. 30, 1910, s. 4, and by No. 36, 1917, s. 7.

Provided also that, except in time of war, any member who has re-engaged after the completion of his original period of enlistment may claim his discharge under section forty and shall not be required to pay the sum therein prescribed.

Added by No. 15, 1909, s. 7.

37. Every person enlisting in the Active Military Forces as a soldier shall take, before an officer or a Justice of the Peace, the oath set forth in the Third Schedule.

Oath to be taken by members of Active Forces.

Amended by No. 30, 1910, s. 4.

Effect of oath.

38. The oath of enlistment shall bind the person subscribing it to serve in the Defence Force in accordance with the tenor of his oath until he is legally discharged, dismissed, or removed therefrom, or his resignation is accepted.

39.—(1.) Subject to this section, a soldier shall be entitled to be discharged—

Time of discharge.

Substituted by No. 18, 1918, s. 4.

- (a) if voluntarily enlisted or appointed—upon the expiration of the period for which he is engaged ;
- (b) if serving under Part IV. of this Act—when the time of war has ceased to exist ; and
- (c) if serving under Part XII. of this Act—upon the expiration of the period during which he is by this Act required to serve.

(2.) A soldier who would, under paragraph (a) or (c) of sub-section (1.) of this section, be entitled to be discharged, shall not be entitled to be discharged—

(a) in time of war, or

(b) so long as a proclamation issued under sub-section (3.) of section thirty-one of this Act remains in force.

Provided that any member of an Expeditionary Force raised for service outside Australia in time of war, who returns to Australia after the cessation of the time of war, and while a proclamation issued under sub-section (3.) of section thirty-one of this Act remains in force, and who after arrival at the port of his final disembarkation in Australia makes written application to his commanding officer for his discharge, shall be entitled to be discharged within two months from the date of the making of the application.

(3.) When a soldier becomes entitled to be discharged he shall be discharged with all convenient speed, but until discharged he shall remain a member of the Defence Force.

Discharge of  
members of  
Citizen Forces.

Amended by  
No. 30, 1916,  
s. 4; and by  
No. 16, 1918,  
s. 5.

40. Every voluntarily enlisted soldier of the Active Forces (other than the Permanent Forces) may, except in time of war or except so long as a proclamation issued under sub-section (3.) of section thirty-one of this Act remains in force, claim his discharge before the expiration of the period of service for which he engaged on the following conditions:—

(a) he shall give three months' notice in writing to his commanding officer of his intention to claim his discharge; and

(b) he shall, if a member of the Militia Forces, pay such sum not exceeding Two pounds, and if a member of the Volunteer Forces, pay such a sum not exceeding One pound, as may be prescribed, but such payments may, for special reasons, be waived by the officers authorized by the regulations to waive them.

Enlistment of  
persons serving  
under  
articles of  
apprenticeship.

Inserted by  
No. 47, 1918,  
s. 4.

40A. In time of war any person who is employed under articles of apprenticeship may, notwithstanding any provision of or obligation under the articles, enlist in the Military Forces, and any person who so enlists shall not be liable, during the period of his service in the Forces, and until a reasonable period thereafter, to be claimed for service under the articles.

Resumption by  
apprentice of  
service under  
articles.

Inserted by  
No. 47, 1918,  
s. 4.

Amended by  
No. 45, 1934,  
s. 2 and Fourth  
Schedule.

40B.—(1.) Any person employed under articles of apprenticeship who has in time of war enlisted in the Military Forces shall, upon discharge from the Military Forces, unless the Minister otherwise determines, be entitled, within a period of three months after the date of his discharge, to resume his employment under his articles of apprenticeship and the period served by him after discharge shall be deemed to be a continuance of the period served by him prior to enlistment.

(2.) If any master, upon the application of an apprentice who is entitled under the last preceding sub-section to resume his employment, refuses to re-employ him, he shall be guilty of an offence.

Penalty : Fifty pounds.

41. Every soldier of the Reserve Forces may, except in time of war or except so long as a proclamation issued under sub-section (3.) of section thirty-one of this Act remains in force, claim his discharge before the expiration of the period of service for which he engaged, on giving fourteen days' notice in writing to his commanding officer of his intention to claim his discharge.

Discharge of members of Reserve Forces.

Amended by No. 30, 1910, s. 4; and by No. 16, 1918, s. 6.

42. Any person who obtains his discharge from the Active Military Forces may be enrolled as a member of the Reserve Forces upon taking before an Officer or a Justice of the Peace, the oath set forth in the Second Schedule.

Enrolment in Reserve Forces.

Amended by No. 30, 1910, s. 4.

42A.—(1.) Every person serving, or in pay, as an officer or soldier in the Military Forces, although not duly appointed or enlisted, shall, while so serving or in pay, be deemed for all purposes of this Act to be an officer or soldier in the branch and of the rank or grade in which he is serving or of the pay of which he is in receipt :

Irregular appointments and enlistments.

Inserted by No. 36, 1917, s. 8.

Provided that a person so serving or in pay as an officer, warrant officer, or non-commissioned officer may at any time be ordered to revert to his true rank or grade (if any).

(2.) Except in time of war, a person serving or in pay as a soldier within the Commonwealth, but not duly appointed or enlisted, may claim to be discharged, and the claim shall with all reasonable speed be allowed :

Provided that until the claim is allowed he shall for all purposes of this Act be deemed to be a soldier in the Military Forces.

43. Members of the Permanent Forces shall be exempt from serving as jurors.<sup>(a)</sup>

Exemption from sitting on juries.

44.—(1.) The Governor-General may at any time, by order published in the *Gazette*, disband any corps or portion of a corps.

Power to disband.

(2.) A soldier may at any time be discharged or dismissed by the Governor-General or as prescribed.

Substituted by No. 36, 1917, s. 8.

### *Division 3.—The Service of the Forces.*

#### *Permanent Forces.*

45. The Permanent Forces shall at all times be liable to be employed on war service and in the defence and protection of the Commonwealth and of the several States.

Permanent Forces may be employed on war service.

Amended by No. 36, 1917, s. 10.

#### *Citizen Forces.*

46.—(1.) The Governor-General may, in time of war, by proclamation, call out the Citizen Forces or any part thereof for war service.

Power to call out Citizen Forces.

Amended by No. 36, 1917, s. 11.

(a) State laws relating to service on juries must yield to this provision.—*Per Knox, C.J.*, in *Pirrie v. McFarlane*, (1925) 36 C.L.R. 170, at 183; 31 A.L.R. 365, at 370.



(2.) The proclamation shall state the reason for calling out the Forces.

(3.) If the Parliament is sitting the reason for calling out the Forces shall forthwith be communicated by the Governor-General to both Houses of the Parliament.

Added by  
No. 15, 1909,  
s. 8.

(4.) If the Parliament is not sitting at the date of the issue of the proclamation, it shall be summoned to meet within ten days after that date.

Citizen Forces  
liable to war  
service when  
called out.

Amended by  
No. 36, 1917,  
s. 12.

47. The Citizen Forces or any part thereof shall be liable to be employed on war service from the time of the publication of the proclamation calling out those Forces or any part thereof for war service until the publication of a proclamation notifying that the war services of those Forces or any part thereof are no longer required.

S. 48 omitted;  
No. 30, 1910,  
s. 4

\* \* \* \* \*

*Military Forces not liable to serve beyond Commonwealth.*

Defence Force  
not liable to  
serve beyond  
Commonwealth.

49. Members of the Defence Force who are members of the Military Forces shall not be required, unless they voluntarily agree to do so, to serve beyond the limits of the Commonwealth and those of any Territory under the authority of the Commonwealth.

Citizen Forces  
to be returned  
to districts.

Amended by  
No. 36, 1917,  
s. 13.

50. Every part of the Citizen Forces employed on war service shall forthwith, after it ceases to be so employed, be returned to the Military district to which it belongs.

*Protection of the States against Domestic Violence.*

Protection of  
States from  
domestic  
violence.

See sec. 119  
of the  
Constitution.

51. Where the Governor of a State has proclaimed that domestic violence exists therein, the Governor-General, upon the application of the Executive Government of the State, may, by proclamation, declare that domestic violence exists in that State, and may call out the Permanent Forces, and in the event of their numbers being insufficient may also call out such of the Militia and Volunteer Forces as may be necessary for the protection of that State, and the services of the Forces so called out may be utilized accordingly for the protection of that State against domestic violence:

Added by  
No. 36, 1914,  
s. 8.

Provided always that the Citizen Forces of the Commonwealth shall not be called out or utilized in connexion with an industrial dispute.

*Division 4.—General Provisions.*

Drill and  
training.

52. The Defence Force shall be subject to such drill, training, and inspection, and to such regulations for the discipline and good government of that Force, as are prescribed.

Command of  
force in time  
of war.

53. In time of war, the Governor-General may, subject to the provisions of this Act, place the Defence Force or any part thereof under the orders of the Commander of any portion of the King's Regular Forces or the King's Regular Naval Forces, as the case may be.

S. 54 repealed  
by No. 30, 1910,  
s. 4.

\* \* \* \* \*



54A.—(1.) Members of the Military Forces whether on war service or not—

- (a) serving with Imperial Forces outside Australia; or
- (b) on their way from Australia for the purpose of so serving; or
- (c) on their way back to Australia after so serving or after war service,

shall be deemed to be on war service and shall be subject to the Army Act, as if they were part of His Majesty's Regular Land Forces, with such modifications and adaptations as are prescribed.

(2.) Subject to any Imperial Act, members of the Imperial Forces serving in Australia with the Defence Force shall be subject to this Act.

(3.) This section shall be construed as amplifying and not as restricting any of the other provisions of this Act.

Application of  
Army Act.

Substituted by  
No. 36, 1917,  
s. 14.

55. The Military Forces shall at all times, whilst on war service, whether within or without the limits of the Commonwealth, be subject to the Army Act<sup>(a)</sup> save so far as it is inconsistent with this Act and subject to such modifications and adaptations as are prescribed, including the imposition of a fine not exceeding Twenty pounds for an offence either in addition to or in substitution for the punishment provided by the Army Act, and the increase or reduction of the amount of a fine provided by the Army Act:

Military Forces  
on war service  
subject to  
Army Act.  
Substituted by  
No. 36, 1917,  
s. 15.

Provided that the regulations shall not increase the fine for any offence so that it exceeds Twenty pounds.

\* \* \* \* \*

s. 56 omitted;  
No. 30, 1910  
s. 4.

57. When any member of the Military Forces is killed on war service or on duty, or dies, or becomes incapacitated from earning his living, from wounds or disease contracted on war service or on duty provision shall be made for his widow and family or for himself, as the case may be, out of the Consolidated Revenue Fund at the prescribed rates.<sup>(b)</sup>

Provision for  
families of men  
killed, &c.  
Amended by  
No. 30, 1910,  
s. 4, and by  
No. 36, 1917,  
s. 16.

58. The commanding officer of every corps or ship's company shall be responsible for the safe keeping and good order of all articles, the property of the Commonwealth, supplied to his corps or ship's company, and the value of any of those articles may, if lost or damaged while in possession of the corps or ship's company otherwise than through fair wear and tear or unavoidable accident, be recovered by the commanding officer by action in any Federal or State Court of competent jurisdiction from the officer or man by whom the loss or damage was occasioned.

Responsibility  
of commanding  
officer.

(a) As to the jurisdiction of Civil Courts in an action brought by a soldier on service against military policemen who purported to act in accordance with a military administration order, see *Lindsay v. Lovell and Another*, 1917 V.L.R. 734; 39 A.L.J. 88; 23 A.L.R. 380.

(b) But see s. 23 of the *Australian Soldiers' Repatriation Act 1920-1935* (*infra*, p. 2166).

Heading  
amended by  
No. 15, 1909,  
s. 10.  
Persons liable  
to serve.

Amended by  
No. 15, 1909,  
s. 10.

Calling out of  
the Reserves.  
Substituted by  
No. 15, 1909,  
s. 11; and  
amended by  
No. 47, 1912,  
s. 5.

#### PART IV.—LIABILITY TO SERVE IN THE CITIZEN FORCES IN TIME OF WAR.

59. All male inhabitants of Australia (excepting those who are exempt from service in the Defence Force) who have resided therein for six months and are British subjects and are between the ages of eighteen and sixty years shall, in time of war, be liable to serve in the Citizen Forces.

60.—(1.) In time of war it shall be lawful for the Governor-General, by proclamation, to call upon all persons liable to serve in the Citizen Forces to enlist and serve as prescribed.

(2.) A proclamation under the last preceding sub-section may call upon all the persons liable to service in any military district or sub-district, who are specified in any one or more of the classes hereunder set out, so to enlist, but so that the persons specified in any class in that district or sub-district shall not be called upon to enlist until all the persons in that district or sub-district who are specified in the preceding classes are or have been called upon.

(3.) The classes referred to in this section are as follow :—

Class I.—All men of the age of eighteen years and upwards but under thirty-five years, who are unmarried, or widowers without children ;

Class II.—All men of the age of thirty-five years and upwards but under forty-five years, who are unmarried, or widowers without children ;

Class III.—All men of the age of eighteen years and upwards but under thirty-five years, who are married, or widowers with children ;

Class IV.—All men of the age of thirty-five years and upwards but under forty-five years, who are married, or widowers with children ; and

Class V.—All men of the age of forty-five years and upwards but under sixty years.

(3A.) Notwithstanding anything contained in this section the Governor-General may by proclamation—

(a) subject to the conditions specified in the proclamation, temporarily exempt from service or postpone the service of any persons called upon, in pursuance of this section, to enlist and serve ; and

(b) divide, according to age, any class mentioned in sub-section (3.) of this section and call upon such divisions of any class as he considers necessary.

(4.) If the Parliament is not sitting at the date of the issue of the proclamation, it shall be summoned to meet within ten days after that date.

Inserted by  
No. 47, 1912,  
s. 5.

Persons exempt  
from service.  
Substituted by  
No. 37, 1910,  
s. 7 ;

61 — (1.) The following shall be exempt from service in time of war, so long as the employment, condition, or status on which the exemption is based continues :—

(a) Persons reported by the prescribed medical authorities as unfit for any naval or military service whatever ; and

- (b) Members and officers of the Parliament of the Commonwealth or of a State ; and
- (c) Judges of Federal or State Courts and police, stipendiary or special magistrates of the Commonwealth or of a State ; and
- (d) Ministers of Religion ; and
- (e) Persons employed in the police or prison services of the Commonwealth or of a State ; and
- (f) Persons employed in lighthouses ; and
- (g) Persons employed as medical practitioners or nurses in public hospitals ; and
- (h) Persons who are not substantially of European origin or descent, of which the medical authorities appointed under the Regulations shall be the judges ; and
- (i) Persons who satisfy the prescribed authority that their conscientious beliefs do not allow them to bear arms ; and
- (j) Persons engaged in any employment specified by the Regulations or by Proclamation :

Provided that, as regards the persons described in paragraphs (h) and (i) of this section, the exemption shall not extend to duties of a non-combatant nature.

Amended by  
No. 47, 1918,  
s. 6.

(2.) Every person who is called upon to enlist and serve in pursuance of section sixty of this Act and who is by virtue of this section exempt from service shall, notwithstanding such exemption, do all things required to be done by a person liable to enlist and serve :

Added by  
No. 47, 1918,  
s. 6.

Provided that any such person (unless exempt by virtue of paragraph (h) or (i) of the last preceding sub-section) shall not, until he ceases to be exempt, be required to take the oath of enlistment.

61A. Where any question arises as to whether a person is exempt from service in the Citizen Forces, the burden of proving the exemption shall rest on the person claiming the exemption, and applications for exemption shall be decided by the Courts authorized in that behalf by the Regulations.

Burden of  
proving  
exemption.  
Inserted by  
No. 37, 1910,  
s. 7.

#### PART V.—CADETS.

62.—(1.) All those liable to be trained as Junior Cadets shall be trained as prescribed :

Cadets.  
Substituted by  
No. 15, 1908,  
s. 12.

Provided that where the required training is given by the masters of schools to the satisfaction of the prescribed officer, that training may be accepted as sufficient.

(2.) All those liable to be trained as senior cadets shall be allotted to the Naval or Military Forces, and shall be trained as prescribed in elementary naval or military exercises and in musketry, and shall be organized in naval or military units.

Training of  
Cadets.  
Substituted by  
No. 47, 1918,  
s. 7.

(3.) Uniform shall not be worn by Junior Cadets. Senior Cadets shall wear such uniform as is prescribed.

Uniform.

(4.) Officers and non-commissioned officers of Junior and Senior Cadets shall be appointed as prescribed, and without regard to the

Officers and  
N.C.O's.

conditions prescribed for the corresponding ranks of the Citizen Forces.

Commandants.

(5.) All Cadets in a military district shall be under the orders of the Military Commandant of that district, excepting such as are allotted to the Naval Forces, who shall be under the orders of the Naval Commandant.

Commissioned ranks.

(6.) Commissioned rank in the Junior and Senior Cadets shall be deemed honorary rank in the Defence Force, but shall not confer any right to any command in the Defence Force.

Eligibility of Senior Cadet Officers.

Added by No. 37 1910, s. 2.

Amended by No. 3, 1915, s. 5.

(7.) A person who has served as officer in the Senior Cadets shall be eligible, on an equality with persons who have served for three years in the ranks of the Defence Force, to be appointed lieutenant in the Citizen Forces, if his appointment as officer in the Senior Cadets was promotion from the ranks in a manner similar to that prescribed under section eleven A of this Act.

Officers may continue to serve in Senior Cadets

Added by No. 5, 1912 s. 5.

(8.) Officers of the Senior Cadets, on becoming liable for service in the Citizen Forces under the provisions of paragraphs (c) and (d) of section one hundred and twenty-five of this Act, may continue to serve as officers in the Senior Cadets for such time and under such conditions as may be prescribed, and such service shall be in lieu of service in the Citizen Forces.

General powers for defence purposes.

Para. (a) omitted; No. 30, 1910, s. 4.

Inserted by No. 15, 1909, s. 13.

Inserted by No. 15, 1909, s. 13.

Inserted by No. 37, 1910, s. 9.

#### PART VI.—SPECIAL POWERS IN RELATION TO DEFENCE.

##### 63.—(1.) The Governor-General may<sup>(a)</sup>—

\* \* \* \* \*

- (b) Construct and maintain forts and defence works;
- (c) Lay down mines;
- (d) Establish and maintain arms and ammunition factories;
- (da) Establish and maintain factories for the manufacture of naval and military equipment and uniforms<sup>(b)</sup>;
- (db) Authorize the employment of persons in a civil capacity for any purpose in connexion with the Defence Force, or in any factory established in pursuance of this Act;
- (dc) Establish and maintain horse depôts, and farms and stations for the breeding of horses; and
- (e) Acquire, construct, and maintain artillery and rifle ranges; and
- (f) Subject to the provisions of this Act do all matters and things deemed by him to be necessary or desirable for the efficient defence and protection of the Commonwealth or of any State.<sup>(b)(c)</sup>

(a) For additional powers of the Governor-General in relation to Defence, see *Naval Defence Act* 1910-1934, s. 41 (*supra*, p. 770).

(b) Held, by the High Court (Gavan Duffy, C.J., Rich, Evatt and McTiernan, J.J., Starke J. dissenting), that extension of the operations of the Commonwealth Clothing Factory, established by the Commonwealth Government for the purpose of making Naval and Military uniforms for the defence forces, in time of peace to include the supply of uniforms for other Commonwealth departments and also State officers and for employees in various public utilities and institutions in the State of Victoria and for some private persons, the Governor-General deeming such peace time operations necessary for the efficient defence of the Commonwealth inasmuch as the maintenance intact of the trained complement of the factory would assist it in meeting war-time demands, was authorized by the Defence Act and was within the defence power of the Commonwealth Parliament. *Attorney-General for Victoria v. The Commonwealth*, (1935) 52 C.L.R. 523; 41 A.L.R. 246.

(c) Before any administrative act can be justified under s. 63 of the *Defence Act* 1903-1918 there must be an Order in Council authorizing it mediately or immediately.—*Per Isaacs and Rich, J.J. The Commonwealth v. Colonial Ammunition Co. Ltd.*, (1924) 34 C.L.R. 198, at 220.



(2.) Persons employed in a civil capacity in pursuance of this section shall not be subject to the *Commonwealth Public Service Act* 1902,<sup>(a)</sup> but shall be engaged for such periods and shall be subject to such conditions as are prescribed.

Added by No. 15  
1909, s. 13.

(3.) All appointments in the Department of Defence (other than appointments of persons in a civil capacity in pursuance of this section and such appointments to the Clerical staff of the Central Administration, Pay, and Ordnance Branches, as ought in the opinion of the Governor-General to be under the *Commonwealth Public Service Act* 1902)<sup>(a)</sup> shall be appointments in the Naval or Military Defence Forces, and members of the Permanent Naval or Military Forces who have served not less than five years therein or have served on active service as prescribed shall, in cases of equality of qualifications, have preference over other applicants for those appointments.

Added by  
No. 15, 1909,  
s. 13 and  
amended by  
No. 37, 1910,  
s. 9 and by  
No. 36, 1917,  
s. 17.

64. The Governor-General may in time of war authorize any officer to assume control of any railway for transport for naval or military purposes.

Control of  
railways in  
time of war.

Amended by  
No. 12, 1904,  
s. 8.

65. The principal railway official in any State or the owner, controller, or manager of any railway or tramway in any State shall when required by the Governor-General, and as prescribed, convey and carry members of the Defence Force, together with their horses, guns, ammunition, forage, baggage, and stores from any place to any place on the railway or tramway, and shall provide all engines, carriages, trucks, and rolling-stock necessary for the purpose.<sup>(b)</sup>

Railways to  
carry troops,  
&c., when  
required.

66. Members of the Defence Force when on duty in uniform or carrying a rifle shall, subject to the Regulations, be conveyed over the railways and tramways of the Commonwealth or of any State for the purpose of attending musters, parades, and rifle practices, and returning therefrom, on production of a pass signed by a District Commandant or commanding officer, or other officer deputed by either of them.<sup>(b)</sup>

Conveyance  
by railway  
and tramway.

67. The owner of any vehicle, horse, mule, bullock, aerial machine, boat or vessel, or of any goods, required for naval or military purposes, shall, when required to do so by an officer authorized in that behalf by the regulations, furnish it for those purposes, and shall be recompensed therefor in the manner prescribed, and the owners of any vehicles, horses, mules, bullocks, aerial machines, boats or vessels may be required by the regulations to register them periodically.

Registration  
and impress-  
ment of  
vehicles, &c.  
Substituted by  
No. 15, 1909,  
s. 14.  
Amended by  
No. 5, 1912,  
s. 7.

68. Members of the Defence Force may in time of war as prescribed be billeted, quartered, or cantoned, but nothing in this Act shall authorize the quartering or billeting of any member of the Defence Force in any house solely occupied by women or by women and children.<sup>(c)</sup>

Billeting and  
quartering.

(a) Now the *Commonwealth Public Service Act* 1922-1934 (*infra*, p. 1964).

(b) State laws relating to carriage of persons on State or other railways must yield to these provisions.—*Per* Knox, C.J., in *Pirrie v. McFarlane*, (1925) 36 C.L.R. 170, at 183; 31 A.L.R. 365, at 370.

(c) See footnote (a) on following page.

Authority to  
enter lands  
for training.

Substituted by  
No. 15, 1909,  
s. 15.

Amended by  
No. 3, 1915,  
s. 6.

Added by No. 3,  
1915, s. 6.

Tolls.

Stopping  
traffic.

Regulations  
as to traffic.

Amended by  
No. 15, 1909,  
s. 16.

Falsifying pay  
rolls.

Substituted by  
No. 36, 1917,  
s. 18.

69.—(1.) The Governor-General may give a general or particular authority to the Defence Force, or any part thereof, to enter upon and survey any lands or use them for training, manœuvres, or other naval or military exercises or purposes, and compensation shall be made, in the manner prescribed, for any damage or loss sustained by the owner or occupier of the lands, by reason of such entry survey or use.

(2.) Any person who removes or interferes with any survey mark placed upon any land by any member of the Defence Force, who has surveyed the land in pursuance of sub-section (1.) of this section shall be guilty of an offence.<sup>(a)</sup>

Penalty : Twenty pounds.

70. No toll or due, whether demandable by virtue of any Act or State Act or otherwise, at any wharf, landing place, bridge gate, or bar on a public road shall be demanded or taken in respect of—

(a) Any member of the Defence Force on march or duty or any prisoner under his charge :

(b) Any horse ridden or used by any member of the Defence Force on march or duty or by any prisoner under his charge ;

(c) Any vehicle employed only in conveying members of the Defence Force on march or duty or any prisoner under their charge or conveying naval or military arms stores or baggage ; or

(d) Any animal drawing any such vehicle.<sup>(b)</sup>

71. The officer in charge of any artillery or rifle range may stop all traffic, during artillery or rifle practice, on any road or water-way crossing the line of fire or in dangerous proximity thereto.<sup>(b)</sup>

72. No ships boats or persons shall come or remain within the prescribed distance of any ship battery gun or person engaged in artillery or rifle practice, or shall remain in any position so as to obstruct such practice.

Penalty : Fifty pounds.

#### PART VII.—OFFENCES.

73.—(1.) Any member of the Defence Force who—

(a) except as prescribed, knowingly claims pay on account of any drill with his corps for any man belonging to any corps ; or

(b) knowingly claims pay for any member of the Defence Force not present ; or

(c) knowingly includes in any parade state, or other return, the name of any person who is not a member of the Defence Force,

shall be guilty of an offence.

<sup>(a)</sup> Sections 68 and 69 authorize members of the Defence Force to do acts amounting to trespasses under State laws, and to the extent of the authority given supersede the State laws on the subject.—*Per Knox, C.J., in Pirrie v. McFarlane*, (1925) 36 C.L.R. 170, at 183 ; 31 A.L.R. 365, at 370.

<sup>(b)</sup> The provisions of sections 70 and 71 clearly displace portion of the State law as to the use of highways and regulation of traffic.—*Per Knox, C.J., in Pirrie v. McFarlane*, (1925) 36 C.L.R. 170, at 183 ; 31 A.L.R. 365, at 370.

(2.) Any member of the Defence Force who—

- (a) except as prescribed, knowingly claims or receives pay on account of any drill performed in any corps, other than his own proper corps; or
- (b) knowingly claims or receives pay on account of any drill or duty not performed,

Claiming or receiving pay improperly.

shall be guilty of an offence.

(3.) Any member of the Defence Force who—

- (a) knowingly obtains by means of any false pretence any pay or money belonging or payable to any other member of the Defence Force; or
- (b) knowingly retains or keeps in his possession with intent to apply it to his own use any pay or money belonging or payable to any other member of the Defence Force,

Fraudulently obtaining or retaining pay.

shall be guilty of an offence.

73A.—(1.) Any member of the Defence Force or officer in the Public Service of the Commonwealth who communicates to any person otherwise than in the course of his official duty any plan, document, or information relating to any fort, battery, field work, fortification, or defence work, or to any defences of the Commonwealth, or to any factory, or any other naval or military information, shall be guilty of an offence.

Unlawfully giving or obtaining information as to defences.  
Inserted by  
No. 36, 1917,  
s. 15.

(2.) Any person who unlawfully obtains any plan, document, or information relating to any fort, battery, field work, fortification, or defence work, or to any of the defences of the Commonwealth or any other naval or military information, shall be guilty of an offence.

73B. Any person who—

- (a) knowingly signs a false parade state roll or pay list or return; or
- (b) forges or utters, knowing it to be forged, any warrant or order under this Act; or
- (c) falsely personates any other person at any parade or on any occasion when the latter is required by this Act to do any act or to attend at any place,

Falsifying and forging parade states, orders, &c.

Inserted by  
No. 36, 1917,  
s. 12.

shall be guilty of an offence.

73C.—(1.) Any contractor, purveyor or other person, and any employee of a contractor, purveyor or other person, who fraudulently supplies to the Commonwealth or any officer of the Commonwealth for use by the Defence Force—

Supplying inferior provisions, material or equipment.  
Inserted by  
No. 36, 1917,  
s. 18.

- (a) any article of food which is inferior in quality to or less in quantity than that specified in the contract, agreement or order under which it is to be supplied; or
- (b) any material, equipment, or beast of draught or burden which is inferior to that specified in the contract, agreement or order under which it is to be supplied,

shall be guilty of an offence.

(2.) Any officer of the Commonwealth who fraudulently receives for use by the Defence Force any article of food, or any material, equipment, or beast of draught or burden supplied in contravention of this section, shall be guilty of an offence.

Penalty.  
Inserted by  
No. 36, 1917,  
s. 18.

73D. The punishment for an offence against any of the four last preceding sections shall be as follows :—

- (a) if the offence is prosecuted summarily—a fine not exceeding Twenty pounds or imprisonment for a term not exceeding six months ;
- (b) if the offence is prosecuted upon indictment—imprisonment with or without hard labour for any term not exceeding three years.

Refusing  
required  
information  
or giving false  
information.  
Amended by  
No. 36, 1917,  
s. 19.

74.—(1.) Any person, of whom information is required by any officer or person in order to enable him to comply with the provisions of this Act relating to enlistment or enrolment, who refuses or neglects (without just cause, proof whereof shall lie upon him) to give such information, or gives false information, shall be guilty of an offence.

Penalty : Imprisonment for twelve months or Twenty pounds for each item of information demanded and refused or neglected to be given or falsely given, or both.

Refusing  
to make  
enrolment.

(2.) Any person appointed in that behalf who (without just cause, proof whereof shall lie upon him) refuses or neglects to make any enrolment, or to make or transmit, in the prescribed manner, any prescribed roll or return, or copy thereof, shall be liable to a penalty not exceeding Fifty pounds.

Added by  
No. 36, 1917,  
s. 19.

(3.) Where an offence against this section is tried by court-martial the court may, in lieu of sentencing the offender to imprisonment sentence him to detention for the same period as that for which he might have been sentenced to imprisonment or for any less period.

Resisting  
draft, &c.  
Substituted by  
No. 47, 1918  
s. 8.

75. Any person who—

- (a) when called upon in pursuance of this Act to enlist, fails to attend at the time and place appointed for medical examination or enlistment ; or
- (b) counsels or aids any person, who is liable to enlist in the Defence Force, to fail to enlist or to evade enlistment ; or
- (c) counsels or aids any person who has enlisted or who is liable to enlist in any part of the Defence Force not to perform any duty he is required by this Act to perform ; or
- (d) conceals or assists in concealing any person who is liable to enlist in the Defence Force,

shall be guilty of an offence.

Penalty : Fifty pounds, or imprisonment for six months, or both.



76. Any man who has enlisted or who is liable to enlist for service in the Defence Force and who refuses or neglects to take the oath set out in the Third Schedule, when tendered to him by a Justice of the Peace, or by an officer, shall be guilty of an offence.

Penalty : Imprisonment for six months.

When drafted, refusing to be sworn, &c.—  
Punishment.  
Amended by  
No. 47, 1913,  
s. 9.

77. Any person who—

- (a) procures or persuades any member of the Defence Force to desert; or
- (b) aids or assists any member of the Defence Force in deserting; or
- (c) knowing any person to be a deserter from the Defence Force, conceals him or aids or assists him in concealing himself,

Offences connected with desertion—  
Punishment.  
Amended by  
No. 47, 1913,  
s. 10.

shall be guilty of an offence.

Penalty : Fifty pounds or imprisonment for six months, or both.

78. Any member of the Citizen Military Forces who, having been required to serve pursuant to a proclamation made under Part III. of this Act, and any person who, having been required to serve pursuant to Part IV. of this Act, absents himself without leave for a longer period than seven days from his corps or from the place at which he should be present, shall be deemed to be a deserter and shall be liable to the punishment provided for desertion, by the Army Act.

Absence for more than seven days deemed to be desertion.  
Substituted by  
No. 36, 1917,  
s. 20.

79.—(1.) Any person who—

- (a) unlawfully disposes of or removes or
- (b) fails to deliver up when lawfully required so to do or
- (c) has in his possession, except for lawful cause (the proof of which shall lie upon him),

Unlawfully disposing of arms, &c.  
Amended by  
No. 15, 1903,  
s. 17; and by  
No. 36, 1914,  
s. 9.

any arms accoutrements or other naval or military articles belonging to the Commonwealth or to any corps, shall be liable to a penalty not exceeding Twenty pounds, and may be ordered by the Court by which he is tried to be imprisoned for a period not exceeding three months unless in the meantime he delivers up the article or pays its value.

(1A.) In any prosecution under this section for failure to deliver up when lawfully required so to do any arms, accoutrements or other naval or military articles belonging to the Commonwealth or to any corps—

Inserted by  
No. 50, 1932,  
s. 2.

- (a) if it is proved to the satisfaction of the Court that any such article was in the possession of the defendant at any time prior to the time at which he was required to deliver up the article, he shall be deemed, in the absence of proof by him of the lawful disposal of the article, to have continued in possession of the article up to the time when he was required to deliver up the article; and

(b) inability to deliver up the article shall not be a defence unless the defendant proves to the satisfaction of the Court that such inability did not arise from any negligence or wrongful act or omission on his part.

Added by No. 15,  
1909, s. 17.

(2.) When an order has been made under this section the Court may by warrant in writing authorize any member of the Police Force of the Commonwealth or of a State or part of the Commonwealth to take possession of the article and to deliver it to an officer or as the Court thinks fit to direct.

Added by No.  
15, 1909, s. 17.

(3.) Any member of the Police Force of the Commonwealth or of a State or part of the Commonwealth having any warrant under this section may in the day time enter any building, premises, or place where the article is or is supposed to be, and may break open any part of the building, premises, or place, or any chest, receptacle, or thing therein, and may seize or take possession of the article and deliver it in accordance with the warrant.

Penalty for  
personating.

80. Any person who fraudulently personates or represents himself to be a member of the Defence Force, with the intent to obtain free conveyance by any railway or tramway or to evade payment of any toll or due, shall be liable to a penalty not exceeding Ten pounds.

Falsely  
representing to  
be returned  
soldier or  
sailor.

Inserted by  
No. 36, 1917,  
s. 21.

80A.—(1.) Any person who falsely represents himself to be a returned soldier or sailor shall be guilty of an offence.

Penalty: One hundred pounds or imprisonment for six months or both.

(2.) For the purposes of this section—

(a) "returned soldier" means a person who has served abroad during any war as a member of any Military Force raised in Australia or in any other part of the British Empire, or, during the present war, as a member of the Military Forces of any Ally of Great Britain; and

(b) "returned sailor" means a person who has served abroad during any war as a member of any Naval Force raised in Australia or in any other part of the British Empire, or, during the present war, as a member of the Naval Forces of any Ally of Great Britain.

(3.) In any proceedings for an offence against this section the averment of the prosecutor that the defendant is not a returned soldier or sailor shall be deemed to be proved in the absence of proof to the contrary.

Disposal of  
decorations  
prohibited.  
Inserted by  
No. 38, 1917,  
s. 21.

80B.—(1.) A person shall not, except as allowed by this Act, sell, exchange, pledge or otherwise dispose of in any manner whatsoever (whether for valuable consideration or not) any military decoration conferred on him.

Penalty: Twenty pounds.

(2.) Nothing in this section shall prevent the disposal of decorations to the Commonwealth Government.

80c. Any person (other than a member of the family or the banker of the person on whom any military decoration was conferred) who has in his possession, during the lifetime of the person on whom the military decoration was conferred, a military decoration conferred on that person, shall be guilty of an offence.

Penalty : Twenty pounds.

Receiving of decorations prohibited.  
Inserted by  
No. 38, 1917,  
s. 21.

80d. A person shall not, during the lifetime of the person on whom it was conferred, buy, or receive in exchange, or receive by way of pledge or otherwise, any military decoration conferred on that person.

Penalty : Twenty pounds.

Buying or receiving in exchange decorations.  
Inserted by  
No. 38, 1917,  
s. 21.

80e.—(1.) A person shall not, unless lawfully entitled thereto (proof whereof shall lie upon him), wear or make use of any military decoration.

Penalty : Twenty pounds.

Unlawfully wearing decorations.  
Inserted by  
No. 38, 1917,  
s. 21.

(2.) Nothing in this section shall prevent a female relative of the person upon whom a military decoration has been conferred from wearing the decoration after the decease of that person.

80f. Every military decoration, which is proved on the trial of any person in possession thereof for an offence against this Act to have been sold, exchanged, pledged, or otherwise disposed of in contravention of this Act, shall be forfeited to the King, and may, without warrant, be seized by any member of the police force of the Commonwealth, or of a State or Territory, for delivery to the Department of Defence.

Forfeiture  
Inserted by  
No. 38, 1917,  
s. 21.

80g.—(1.) The Minister may grant permits, in writing, subject to such conditions and restrictions as he thinks fit to impose, to public institutions or *bonâ fide* collectors to acquire and retain military decorations, or to persons licensed under any State law relating to pawnbroking to dispose of decorations in their possession at the time of the passing of this section.

Minister may grant permits.  
Inserted by  
No. 38, 1917,  
s. 21.

(2.) Subject to the conditions and restrictions contained in the permit being complied with, the provisions of this Act relating to military decorations shall not apply to the disposition or acquisition of any decorations under this section.

80h. Nothing in this Act shall prevent the disposition by will or the acquisition by devolution of law in the case of intestacy of any military decoration.

Disposition by will or devolution.  
Inserted by  
No. 38, 1917,  
s. 21.

80i. A person shall not deface or destroy, by melting or otherwise, any military decoration.

Penalty : Twenty pounds.

Defacing or melting decorations.  
Inserted by  
No. 38, 1917,  
s. 21.

81. Any person who unlawfully obstructs or interferes with any portion of the Defence Force, or any member thereof, in the performance of any naval or military service or duty, shall be liable to a penalty not exceeding Twenty pounds.

Obstructing drill, &c.

Sketching, &c.,  
of fortifications  
prohibited.

Penalty for  
offending  
against  
provisions.

Penalty in case  
of person found  
in or near forts  
with drawing  
materials, &c.

Penalty in case  
of persons  
trespassing.  
Amended by  
No. 36, 1917,  
s. 22.

Penalty for  
making use of  
uniform.

Penalty for  
bringing  
contempt on  
uniform.

Penalty for  
contravening  
the Act in any  
way.  
Amended by  
No. 47, 1918,  
s. 11.

82.—(1.) Any person who, without lawful authority, makes or attempts to make any sketch drawing photograph picture or painting of any fort battery fieldwork fortification or any naval or military work of defence in the Commonwealth or of any portion thereof shall be liable to a penalty not exceeding One hundred pounds or, at the discretion of the Court, to be imprisoned, with or without hard labour, for any period not exceeding six months; and all sketches, drawings, photographs, pictures, and paintings, and all tools and all materials or apparatus for sketching, drawing, photographing, or painting found in his possession, shall be forfeited and may be destroyed, sold, or otherwise disposed of as the Governor-General directs.

(2.) Any person who, without lawful authority, enters or approaches any fort battery fieldwork fortification or any naval or military work of defence with sketching drawing photographing or painting materials or apparatus in his possession, with the intention of committing any breach of the provisions of this section, shall be liable to a penalty not exceeding Fifty pounds, and all tools and materials or apparatus for sketching drawing photographing or painting found in his possession shall be forfeited and may be destroyed, sold, or otherwise disposed of, as the Governor-General directs.

(3.) Any person who trespasses on any fort battery fieldwork fortification or any naval or military work of defence, or on any land reserved for or forming part thereof, and whether any erection fort fortification or work of any kind is thereon or not, or any building or land reserved or set apart for or used in connexion with the administration, accommodation, or training of any part of the Defence Force, shall be liable to a penalty not exceeding Twenty pounds.

(4.) Any member of the Defence Force, or of the Police Force of the Commonwealth or of the State, may, without warrant, arrest any person who he has reasonable ground to believe has committed an offence against this section, and take him before a Court of summary jurisdiction to be dealt with according to law.

83. Any person who, not being a member of the Defence Force, wears any uniform of the Defence Force, or any colourable imitation thereof, shall be liable to a penalty not exceeding Ten pounds.

Provided that this section shall not prevent any person from wearing any such uniform in the course of a stage play, a music hall or circus performance, a ball, or a *bonâ fide* military representation.

84. Any person who wears any uniform of the Defence Force, or any dress having the appearance or bearing any of the regimental or other distinctive marks of any such uniform, in such a manner or under such circumstances as to be likely to bring contempt upon that uniform, or employs any other person so to wear that uniform or dress shall be liable to a penalty not exceeding Twenty pounds.

85. Any person who contravenes any provision of this Act, or the Regulations, shall, when no other penalty is provided, be liable to a penalty not exceeding Ten pounds for each offence.



PART VIII.—COURTS-MARTIAL.

86.—(1.) The Governor-General may—

- (a) Convene courts-martial;
- (b) Appoint officers to constitute courts-martial; and
- (c) confirm the finding, or finding and sentence of any court-martial, or in the case of a military court-martial send back the finding and sentence or either of them for revision;
- (d) mitigate or remit the punishment or any part of the punishment awarded by any sentence, or commute the punishment for any less punishment to which the offender might have been sentenced by the court-martial; and
- (e) suspend the execution or currency of any sentence on such terms and conditions (if any) as he thinks fit.

Power to constitute courts-martial.

Substituted by No. 36, 1917, s. 23.

Added by No. 36, 1917, s. 23.

Added by No. 36, 1917, s. 23.

(2.) Nothing in this section shall affect the powers conferred by the Army Act in regard to the Military Forces or the Naval Discipline Act in regard to the Naval Forces of convening courts-martial and confirming the findings and sentences of those courts.

Added by No. 36, 1917, s. 23.

87.—(1.) The Governor-General may delegate any of his powers under the preceding section, either generally or in relation to any particular case or class of cases, or to any Military District or sub-district.

Powers may be delegated.

(2.) The delegation shall be revocable by the Governor-General at will, and shall not prevent the exercise of any power by the Governor-General.

Delegation to be revocable.

(3.) No revocation of a delegation shall affect anything done under the delegation prior to the revocation.

88. Except so far as is inconsistent with this Act, the laws and regulations for the time being in force in relation to the composition, procedure (including the reception of evidence) and powers of courts-martial in the King's Regular Land Forces, the revision, confirmation, effect and consequences of the findings and sentences of such courts-martial, and the mitigation, remission and commutation of the sentences thereby imposed, shall apply to courts-martial in the Military Forces and their findings and sentences, and the like laws and regulations in relation to the King's Regular Naval Forces shall similarly apply in the case of the Naval Forces.

Laws applicable to courts-martial. Substituted by No. 36, 1917, s. 24.

89. Any person who wilfully interrupts or disturbs the proceedings of a court-martial, or uses insulting language towards the court or the members thereof, or who by writing or speech uses words calculated to improperly influence the court or the members thereof or the witnesses before the court, shall be guilty of contempt of court, whether the act committed was committed in the court or outside the court.

Contempt of court.

90.—(1.) No person, other than a member of the Defence Force, or a person liable to trial by court-martial, shall be proceeded against before a court-martial for contempt of court.

Court-martial not to punish civilians for contempt. Substituted by No. 36, 1917, s. 25.

(2.) If a person, not being a member of the Defence Force, commits any act amounting to contempt of court within the view or hearing of a court-martial he may forthwith be arrested pursuant to the order of the President of the court-martial, and taken before a civil court having jurisdiction to try him for the offence to be dealt with according to law.

(3.) Nothing in this section or in sections ninety-one, ninety-two or ninety-five shall prevent the application to a member of the Defence Force on war service of any provision of the Army Act or of the Naval Discipline Act (as the case may be).

Punishment  
for contempt  
of court.

Amended by  
No. 36, 1917,  
s. 26.

91. Contempt of court shall be punishable as follows :—

- (a) On conviction before a court-martial or court of summary jurisdiction by fine not exceeding Twenty pounds or by imprisonment or detention not exceeding two months ;
- (b) On conviction before the High Court or a Justice thereof or a Supreme Court or a Judge thereof by fine or imprisonment or detention in the discretion of the court.

Contempt by  
members of  
Defence Force.  
Substituted by  
No. 36, 1917,  
s. 27.

92. A court-martial may, by writing under the hand of the President, order any member of the Defence Force or a person liable to trial by court-martial, guilty of contempt of court within the hearing or view of the court, to be imprisoned with or without hard labour or to undergo detention for a period not exceeding twenty-one days.

Members of  
Permanent  
Forces to  
attend court-  
martial if  
ordered.  
Power to  
summon  
witnesses.

93. Members of the Permanent Forces may be ordered to attend any court-martial to give evidence and produce documents.

94. A court-martial or the president may summon witnesses to give evidence and produce documents, or may require any person other than the accused to give evidence and produce documents.

Penalty for  
disobedience  
to summons.

95. Every person who has been lawfully ordered or summoned to attend a court-martial to give evidence or produce documents, and who not being a member of the Permanent Forces has been paid or tendered reasonable expenses of his attendance, or who is before the court and who without just cause (proof whereof shall lie upon him)—

- (a) Disobeys the order or summons to so appear ; or
- (b) Refuses to be sworn as a witness ; or
- (c) Refuses or fails to answer any question which he is required by the court to answer ; or
- (d) Refuses or fails to produce any documents which he is required by the court to produce

shall be liable to a penalty not exceeding One hundred pounds.

Counsel  
allowed.  
Amended by  
No. 36, 1917,  
s. 28.

96. Every person who is tried by court-martial may be assisted in his defence by counsel. And if the offence charged be punishable by death he shall be entitled to be defended by counsel assigned by and at the expense of the Crown unless on war service the authority convening the court or the President thereof, by writing under his hand (which shall be conclusive) declares that military exigencies or

the necessities of discipline (the nature of which exigencies or necessities shall be specified in the declaration) render it impossible or inexpedient to procure the attendance of counsel.

97. Every court-martial may sentence any member of the Defence Force found guilty of any naval or military offence to the punishment provided for the offence and may in addition—

Powers of court-martial as to sentencing.  
Amended by No. 36, 1917, s. 29.

- (a) Dismiss or discharge him from the Defence Force ; or
- (b) Forfeit his seniority of rank or reduce his grade or rank ; and
- (c) Order him to pay such amount as is sufficient to make good any loss of or damage to any article vested in the Commonwealth or in the commanding officer of his corps occasioned by his wilful default or neglect and any expenses occasioned by the offence.

98. No member of the Defence Force shall be sentenced to death by any court-martial except for mutiny, desertion to the enemy, or traitorously delivering up to the enemy any garrison, fortress, post, guard, or ship, vessel, or boat, or traitorous correspondence with the enemy ; and no sentence of death passed by any court-martial shall be carried into effect until confirmed by the Governor-General.

Sentence of death in certain cases only—subject to approval of Governor-General.

99.—(1.) The proceedings of a court-martial shall after promulgation be forwarded to the Minister for transmission to the Attorney-General for record.

Proceedings to be preserved.  
Amended by No. 12, 1904, s. 9, and by No. 45, 1934, s. 2 and Fourth Schedule.

\* \* \* \* \*

(3.) Any person who has been tried by a court-martial shall be entitled, within six months from the date of the final decision, to a copy of the proceedings on payment of the prescribed fee.

Sub-section (2.) omitted by No. 45, 1934, s. 2 and Fourth Schedule.

100. No proceedings of any court-martial constituted or appointed under this Act shall be set aside or deemed void for want of form, or be removed by *certiorari* or otherwise into any civil Court.

Proceedings of Court not void for form, no *certiorari*.

#### PART IX.—LEGAL PROCEDURE.

101. All offences against this Act, other than indictable offences, shall be punishable on summary conviction.

Summary conviction.

102. Any member of the Defence Force charged with any offence against this Act (whether committed before or after he became a member) may be tried and punished either by court-martial or by a civil court.

Members of Defence Force may be tried by civil court.  
Amended by No. 36, 1917, s. 30.

103.—(1.) A person shall not be tried by court-martial for any offence against the Army Act or the Naval Discipline Act, except mutiny, desertion, or fraudulent enlistment, unless the trial begins within three years after the commission of the offence.

Time for commencing prosecutions before courts-martial.  
Substituted by No. 36, 1917, s. 31.

(2.) A person shall not be tried by court-martial for an offence against this Act, except mutiny, desertion or fraudulent enlistment or an indictable offence, unless the trial begins within three years after the commission of the offence.

7

(3.) A person charged with any naval or military offence, except mutiny, desertion, or fraudulent enlistment, committed while a member of the Defence Force, may, subject to this section, if committed when not on war service, be tried and punished by court-martial if the trial begins while he remains a member or within six months after he ceases to be a member, or, if committed when on war service, if the trial begins while he remains on war service or within six months after he ceases to be on war service.

Section 104  
repealed by  
No. 36, 1917,  
s. 31.

Trial for  
desertion at  
any time.

Imprisonment  
may be  
awarded in lieu  
of penal  
servitude.

\* \* \* \* \*

105. Any person who is or has been a member of the Defence Force may be tried at any time by court-martial for the offence of desertion.

106. Where the punishment for any offence against the Army Act or the Naval Discipline Act is penal servitude the court may, in lieu of sentencing the offender to penal servitude, sentence him to imprisonment with or without hard labour for the same period as that for which he might have been sentenced to penal servitude or for any less period.

Deduction of  
penalty from  
pay.

107. The amount of any pecuniary penalty incurred or of any sum of money ordered by any court to be paid by any member of the Defence Force in respect of any naval or military offence may be deducted from any pay due or which subsequently becomes due to the offender.

Certain officers  
may punish.

Amended by  
No. 36, 1914,  
s. 10; and by  
No. 36, 1917,  
s. 32.

108.—(1.) The regulations may authorize the officer commanding any corps or ship to punish offences against this Act or the regulations committed when not on war service by any member of the Defence Force by a fine not exceeding Five pounds, and also in case of the Permanent Forces by forfeiture of not more than fourteen days' pay, or by confinement to barracks or on board ship for any period not exceeding twenty-one days, seven days of which may be imprisonment or detention, and also in the case of the Citizen Forces by reduction in rank or dismissal.

Added by  
No. 36, 1917,  
s. 32.

(2.) Except when on war service, a member of the Defence Force, before being dismissed or reduced, may, if he so requests, be tried by court-martial.

Added by  
No. 36, 1917,  
s. 32.

(3.) When on war service commanding officers shall have all the powers conferred by the Army Act and the Naval Discipline Act respectively subject to such modifications and adaptations as are prescribed.

Time for  
commencement  
of prosecutions.  
Substituted by  
No. 36, 1914,  
s. 11.

Amended by  
No. 36, 1917,  
s. 33.

109.—(1.) A civil prosecution for any offence, other than an indictable offence, may be commenced at any time within one year after the commission of the offence.

(2.) Nothing in this section shall limit the right to take proceedings by way of civil action in relation to any property of the Commonwealth or of any corps.



110.—(1.) A civil prosecution for an offence against this Act or the Regulations may be brought in any court of summary jurisdiction.<sup>(a)</sup>

On whose complaint prosecutions may be brought.

(2.) A civil prosecution against an officer of the Military Forces shall be brought by or by the authority of the District Commandant.

Substituted by No. 5, 1912, s. 8.

(3.) A civil prosecution against an officer of the Naval Forces shall be brought by or by the authority of the Commanding Officer of one of His Majesty's ships or the District Naval Officer.

Amended by No. 36, 1917, s. 34.

(4.) The averment of the prosecutor that he was authorized by the District Commandant or the Commanding Officer of one of His Majesty's ships or the District Naval Officer to bring the prosecution shall be sufficient, and shall not be controverted or questioned by the Court or by the defendant.

(5.) A civil prosecution against a soldier, seaman, or person liable to render personal service under the provisions of Part XII. of this Act may be brought by the commanding officer or adjutant of the corps to which the soldier belongs, or by the commanding officer of the vessel to which the seaman belongs, or by an area officer, or by any prescribed officer.

110A.—(1.) A Company Roll Book shall be kept by such persons as the Regulations prescribe.

Company Roll Book,

(2.) The entries in the Company Roll Book shall relate to such matters and be made by such persons as the Regulations prescribe.

Inserted by No. 47, 1918, s. 12.

(3.) The production of the Company Roll Book shall be *prima facie* evidence of the entries contained therein.

111. For the purposes of legal proceedings, all moneys subscribed by or for or otherwise appropriated to the use of any corps or part thereof, or ship's company or part thereof, and all arms, ammunition, accoutrements, clothing, musical instruments, or other things, belonging to or used by any corps or part thereof, or ship's company or part thereof, and not being the private property of a member of the corps or ship's company, shall be deemed to be the property of the commanding officer of the corps or ship's company.

Subscription, arms, &c., vested in commanding officer.

No gift, sale, alienation, or pawning, or attempted gift, sale, alienation, or pawning of any such moneys, arms, ammunition, accoutrements, musical instruments, or other things, by any person, shall be effectual to pass the property therein without the consent of the commanding officer.

If any property belonging to or used by or for the Defence Force is not appropriated to any particular corps or part thereof, or ship's company or part thereof, or it is uncertain to which corps or part thereof or ship's company or part thereof, it belongs, it shall be deemed to be the property of the District Commandant or District Naval Officer as the case may be.

Amended by No. 12, 1904, s. 10; and by No. 36, 1917, s. 35.

<sup>(a)</sup> Held by the High Court that offences against s. 135 of the *Defence Act* 1903-1912, committed by cadets over the age of 16 years and under the age of 17 years, might be prosecuted in Children's Courts in Victoria. *The King v Rennie; Ex parte Knight*, (1913) 17 C.L.R. 47; 19 A.L.R. 466; (see now, however, s. 135C which was afterwards inserted by the amending Act of 1914).

Amended by  
No. 12, 1904,  
s. 10 and by  
No. 36, 1917,  
s. 35.

An action or suit shall not abate or be determined by the death, resignation, or removal of the District Commandant or District Naval Officer or any commanding officer, but may proceed in the name of his successor.

Property of  
Rifle Club vested  
in Captain.  
Inserted by  
No. 37, 1910,  
s. 10.

111A. For the purposes of legal proceedings, all arms, ammunition, or other military articles, belonging to or used by any Rifle Club, shall be deemed to be the property of the captain of the Rifle Club

Power to  
discharge or  
disrate seamen  
and soldiers.

Amended by  
No. 36, 1910, s. 4;  
and by No. 36,  
1917, s. 36.

112. When not on war service any commanding officer, if authorized by the Regulations so to do, may disrate or discharge any seaman or soldier of the Citizen Forces (not serving under Part XII. of this Act) for any good cause, but the seaman or soldier, before being so disrated or discharged, shall be notified, in writing, of the charge against him, and shall be given an opportunity of showing cause against it.

Power to  
arrest and  
detain in  
military  
custody.

Amended by  
No. 36, 1917,  
s. 37.

113. Any member of the Defence Force when not on war service charged with any naval or military offence when on duty or wearing his uniform may be arrested, pursuant to the order of any person authorized by the regulations to issue such order, by any other member of the Defence Force, and detained in custody until he can be tried for the offence, but in the case of members of the Citizen Forces such arrest or custody shall not continue longer than while the corps or ship's company to which such member belongs shall then remain under arms or on duty, or if not then on duty, until such member shall have resumed civilian attire, which he shall, without unnecessary delay, be permitted to do.

Arrest of  
deserter and  
persons  
charged  
with offences.

Substituted by  
No. 36, 1917,  
s. 38.

114. Any member of the Defence Force who absconds or deserts and any person liable to be tried by Court Martial for any offence committed by him may be arrested within or beyond the Commonwealth by a member of the Defence Force or by a member of the Police Force of the Commonwealth or of a State or of a Territory under the control of the Commonwealth, or of the country in which the member is found, pursuant to any warrant under the hand of any officer authorized by the regulations to issue the warrant, and shall be dealt with in the manner prescribed or as directed by the warrant.

Warrants.

Sub-sec. (1.)  
Substituted by  
No. 36, 1917,  
s. 39.

115.—(1.) Warrants for the temporary detention in any prison or other authorized place of any person charged with an offence triable by court-martial, and warrants for the commitment to any prison or other authorized place of any person sentenced to penal servitude, imprisonment or detention, may be issued by any prescribed officer.

Substituted by  
No. 36, 1917,  
s. 39.

(2.) The District Commandant, the President of a court-martial, or any officer authorized by the regulations, shall be authorized to issue warrants for temporary detention, and the President of a court-martial or any officer authorized by the regulations shall be authorized to issue warrants for the commitment of persons sentenced by a court-martial to penal servitude, imprisonment or detention.

(3.) The governor of a prison to whom any warrant, issued in pursuance of this section, is directed shall take cognizance of it without proof of the signature of the person by whom it purports to be signed.

(4.) This section shall not affect any power under any law to detain any person in naval or military custody.

116. Any member of the Defence Force sentenced to penal servitude, imprisonment or detention for any naval or military offence may, if the Governor-General by regulation or otherwise directs, be imprisoned or undergo penal servitude or detention in any place appointed by the Governor-General instead of in a prison.

Imprisonment  
for insubor-  
dination, &c.  
Amended by  
No. 36, 1917,  
s. 40.

#### PART X.—MISCELLANEOUS.

117. Nothing contained in this Act shall prevent any member of the Defence Force from volunteering to serve in any Force that may be raised by the Commonwealth to augment any of the King's Regular or other Forces, or to occupy or to defend any place beyond the limits of the Commonwealth.

Right to  
volunteer  
for service  
beyond limits  
of the  
Commonwealth.

117A. A person, not being a member of the Military Forces, who accompanies any part of the Military Forces on active service within the limits of the Commonwealth or those of any Territory under the control of the Commonwealth shall be subject to this Act as if he were a member of the Military Forces in the following manner :—

Civilians  
accompanying  
Forces subject  
to Act.  
Inserted by  
No. 36, 1917,  
s. 41.

(a) if he accompanies the Military Forces by order of the Governor-General or the Minister in an official capacity equivalent to that of an officer or if he holds a pass from the officer commanding the part of the Military Forces to which he is attached, entitling him to be treated on the footing of an officer—as an officer;

(b) in all other cases—as a soldier.

118. Any person who induces or attempts to induce any other person to enlist or engage to serve in any Naval or Military Force the raising of which has not been authorized by the Governor-General shall upon conviction be liable to imprisonment with or without hard labour for any period not exceeding six months.

Penalty  
against raising  
of Forces  
without  
authority.

118A.—(1.) An employer shall not prevent any employee and a parent or guardian shall not prevent any son or ward from rendering the personal service required of him under Parts III. and IV. of this Act.

Employer not to  
prevent  
employee from  
serving.  
Inserted by  
No. 36, 1917,  
s. 42.

Penalty : One hundred pounds.

(2.) An employer shall not in any way penalize or prejudice in his employment any employee for rendering the personal service required of him under Parts III. and IV. of this Act or for voluntarily enlisting or attempting to enlist in any force raised for active service either within or without the limits of the Commonwealth, either by reducing his wages or dismissing him from his employment or in any other way.

Penalty : One hundred pounds.



(3.) The rendering of the personal service or the enlistment referred to in this section shall not terminate a contract of employment, but the contract shall be suspended during the absence of the employee for the purposes referred to in this section; but nothing in this section shall render the employer liable to pay an employee for any time when he is absent from employment for the purposes referred to in this section.

(4.) In any proceedings for an offence against this section it shall lie upon the employer to show that any employee proved to have been dismissed or to have been prejudiced or penalized in his employment or to have suffered a reduction of wages, was so dismissed, penalized or prejudiced in his employment or reduced for some reason other than that of having rendered the personal service required of him under Parts III. and IV. of this Act or of having voluntarily enlisted or attempted to enlist in a force raised for active service, either within or without the limits of the Commonwealth.

(5.) The Court may direct that the whole or any part of the penalty recovered from an employer for an offence against this section shall be paid to the employee.

Stoppage of  
pay in certain  
cases.  
Substituted by  
No. 36, 1917,  
s. 43; amended  
by No. 47, 1918,  
s. 13.

119. No member of the Defence Force shall, except as prescribed, receive any pay or allowances while under any charge of which he is afterwards convicted by any Court or by his Commanding Officer, or while under sentence of penal servitude, imprisonment, detention or field punishment by any Court or by his Commanding Officer, or during absence from duty without leave.

Notice, &c.,  
need not be in  
writing unless  
required herein

120. It shall not be necessary for any order or notice under this Act to be in writing, unless by this Act required to be so, provided it be communicated to the person who is to obey or be bound by it, either directly by the officer or person making or giving it, or by some other person by his order.

Delegation  
not to lapse on  
Governor-  
General ceasing  
to hold office.  
Inserted by No.  
26, 1917, s. 44.

120A. A delegation by the Governor-General in accordance with the provisions of this Act shall not be deemed to be revoked or to have lapsed by the fact that the Governor-General has ceased to hold office.

Proof of  
warrant, &c.

121. The production of an appointment, warrant, or order in writing purporting to be granted or made according to the provisions of this Act, or of any of the State Acts mentioned in the First Schedule, shall be *prima facie* evidence of the appointment, warrant, or order, without proving the signature or seal thereto, or the authority of the person granting or making the appointment, warrant, or order.

Police to aid  
in arrest of  
deserters.  
Amended by  
No. 5, 1912,  
s. 10; and by  
No. 36, 1917,  
s. 45.

122. Any written order or warrant for the arrest of any deserter or absconder from the Defence Force, issued by any person authorized by the regulations to issue it, may be executed within or beyond the Commonwealth by any member of the Defence Force or by any police officer of the Commonwealth or a State or of a Territory under the control of the Commonwealth or of the country in which the member is found.



123. Funds may be established in such manner and subject to such provisions as are prescribed for providing for the payment of annuities or gratuities to members of the Defence Force permanently injured in the performance of their duties, and for the payment of annuities or gratuities to members of the Permanent Forces who are retired on account of age or infirmity.

Funds for annuities or gratuities.

123A. No intoxicating or spirituous liquors shall be sold or supplied and no person shall have such intoxicating or spirituous liquors in his possession at any naval or military canteen, camp, fort, or post during such time as training of persons as prescribed in paragraphs (a), (b), and (c) of section one hundred and twenty-five is proceeding in such naval or military camp, fort, or post, except as prescribed for purely medical purposes.

Intoxicating liquors.  
Inserted by No. 15, 1903, s. 18.

123AA. No intoxicating or spirituous liquors shall be sold to any cadet whilst in uniform, nor shall any intoxicating or spirituous liquors, except by direction of a duly qualified medical practitioner, be supplied to any cadet whilst in uniform.

Intoxicating liquors not to be supplied to Cadets.  
Inserted by No. 6, 1912, s. 11.

Penalty : Twenty pounds.

123B. No member of the Forces who has conscientious objection shall be compelled to answer any question as to his religion, nor shall any regulation or other order compel attendance at any religious service.

Religion.  
Inserted by No. 15, 1909, s. 18.

123C. All married men in the permanent forces who have served for three years shall be entitled to be placed on the Married Establishment.

Married establishment.  
Inserted by No. 15, 1909, s. 18.

123D. After the expiration of three years from the commencement of Part XII.<sup>(a)</sup> of this Act, the number of soldiers allotted to military bands shall not exceed two per cent. of the persons undergoing training.

Military bands.  
Inserted by No. 37, 1910, s. 11.

123E. Military uniforms shall be supplied free of charge to all ranks of the Citizen Forces.

Supply of uniforms.  
Inserted by No. 37, 1910, s. 11.

#### PART XI.—REGULATIONS.

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

Regulations.  
Amended by No. 15, 1909, s. 10.

- (a) The enlistment, appointment, discharge, and dismissal of members of the Defence Force ;
- (b) The regulation and good government of the Military College ;
- (c) The enrolment of all persons liable to serve in the Citizen Forces in time of war and the choice by ballot or

Para. (a) Inserted by No. 36, 1917, s. 46.  
Para. (b) substituted by No. 37, 1910, s. 12.

(a) Part XII. of this Act commenced on 1st January, 1911, that being the date on which the Defence Act 1909, by which it was inserted, was proclaimed to commence.

otherwise from the persons so enrolled of persons required for service ;

(d) The fixing of the rates of pay of members of the Defence Force who are paid for their services<sup>(a)</sup> ;

Inserted by  
No. 3, 1915,  
s. 7<sup>b</sup>.

(da) The deduction from the pay of any officer or member of any Expeditionary Force of such reasonable sums as the Minister thinks fit for the support of any person who in the opinion of the Minister is wholly or partly dependent upon, or has a claim for maintenance against the officer or member, and the payment of such sums to or for the benefit of any such person ;

(e) The requiring from officers and others holding positions the nature of which in the opinion of the Minister renders it necessary for such officers and others to give security for their fidelity to give such security and for fixing the amount and nature of such security ;

(f) The leave of absence and furlough of members of the Defence Force ;

Amended by  
No. 36, 1917,  
s. 46.

(g) The convening, composition, procedure, and powers of courts-martial and courts of inquiry and the revision and confirmation of the findings and sentences of courts-martial, and the mitigation, remission and commutation of the punishments ;

Para. (ga)  
inserted by No.  
36, 1917, s. 46.

(ga) The execution of sentences of courts-martial and the suspension of the execution or currency thereof ;

(h) The insurance of their lives by married members of the Permanent Forces for the benefit of their wives and families ;

(i) The maintenance, control, regulation, and training of cadet corps ;

(j) The formation and management of rifle clubs ;

Amended by  
No. 47, 1918,  
s. 14.

(k) The formation, incorporation and management of rifle associations ;

(l) The formation and management of a council consisting of representatives of rifle associations ;

(m) The furnishing of means of conveyance and transport in time of war ;

(n) The regulation of the quartering or billeting of members of the Defence Force in time of war ;

Inserted by  
No. 1 of 1927,  
s. 2.

(na) The regulation, control, or prohibition, of the construction of buildings or other erections within areas proclaimed by the Governor-General to be areas in which such regulation, control, or prohibition is necessary for the defence of the Commonwealth ;

(o) The establishment and conduct of canteens ;

(p) The regulation of artillery and rifle practice ;

(a) See *Financial Emergency Act 1931-1935*, s. 12 (*infra*, p. 1152).

<sup>b</sup> Section 7 of the *Defence Act 1915* is deemed to have commenced on 1st August, 1914, and any regulations made in pursuance of that section are, if the regulations so provide, to have effect as from the commencement of that section. (*Defence Act 1915*, s. 7 (2).)

- (pa) The regulation or prohibition of the emission of smoke from factories or other buildings within the prescribed distance from any gun, fort, searchlight, signal station, observation post, or other work of defence during, or immediately before any naval, military or air force practice;
- (q) The preservation of the public safety in or at any naval or military operation or practice;
- (r) The payment of reasonable compensation for any loss, injury, or damage suffered by reason of the exercise of any of the powers under Part VI. of this Act;
- (ra) The regulation and control of aerial navigation;
- (s) The fixing of penalties for breaches of the regulations, but so that except in the case of a breach of any regulation made under paragraph (ra) no period of imprisonment shall exceed three months and no pecuniary penalty shall exceed Twenty pounds; and
- (t) The payment of compensation to wives and families of members of the Defence Forces as provided in Part III. Division 4 of this Act.

Inserted by  
No. 1 of 1927,  
s. 2.

Inserted by  
No. 3, 1918,  
s. 7<sup>a</sup>.

Amended by  
No. 3, 1915,  
s. 7<sup>a</sup>.

(2.) All regulations shall be notified in the *Gazette* and shall thereupon have the force of law.

(3.) All regulations shall be laid before both Houses of the Parliament within fourteen days after the making thereof if the Parliament be then sitting, and if not then within fourteen days after the next meeting of the Parliament.

(4.) If either House of the Parliament passes a resolution, at any time within fifteen sitting days after any regulation is laid before it, disallowing any such regulation, that regulation shall thereupon cease to have effect.

## PART XII.—UNIVERSAL OBLIGATION IN RESPECT OF NAVAL OR MILITARY TRAINING.<sup>†(a)(b)</sup>

125. All male inhabitants of Australia (excepting those who are exempted by this Act), who have resided therein for six months<sup>(c)</sup>, and are British subjects, shall be liable to be trained<sup>(d)</sup>, as prescribed, as follows:—

Persons who  
are liable  
to be trained.

Inserted by  
No. 15, 1909,  
s. 20.

Amended by  
No. 37, 1910,  
s. 13.

- (a) From twelve years to fourteen years of age, in the Junior Cadets; and

\* Section 7 of the *Defence Act 1915* is deemed to have commenced on 1st August, 1914, and any regulations made in pursuance of that section are, if the regulations so provide, to have effect as from the commencement of that section. (*Defence Act 1915*, s. 7 (2)).

† By an Order, published in the *Gazette* of 16th January, 1930, the Governor-General ordered that all units of the Active Citizen Military Forces become Militia Forces, to be kept up by voluntary enlistment only. See *Gazette*, 1930, p. 31.

(a) This Part was inserted by Act No. 15, 1909, s. 20.

(b) Held by the High Court that the provisions of the *Defence Act 1903-1910* imposing obligations on all male inhabitants of the Commonwealth in respect to military training are not an infringement of s. 116 of the Constitution. *Krygger v. Williams*, (1912) 15 C.L.R. 366; 18 A.L.R. 518.

(c) As to the extent to which the production of the Record Book of a person liable to be trained is admissible in proof of his age and length of residence in Australia, see *Ex parte Holland*, (1912) 12 S.R. (N.S.W.) 337; 29 W.N. (N.S.W.) 75.

(d) A person who by the doctrines of his religion is forbidden to bear arms is not thereby exempted or excused from undergoing the military training and rendering the personal service required by Part XII. of the *Defence Act 1903-1910*. *Krygger v. Williams*, (1912) 15 C.L.R. 366; 18 A.L.R. 518.

- (b) From fourteen to eighteen years of age, in the Senior Cadets ;  
and
- (c) From eighteen to twenty-five years of age, in the Citizen Forces ; and
- (d) From twenty-five to twenty-six years of age, in the Citizen Forces :

Provided that, except in time of imminent danger of war, service under paragraph (d) shall be limited to one registration or one muster-parade.

Training  
years.

Inserted by  
No. 15, 1909,  
s. 20.

Sub-sec. (1.)  
amended by  
No. 45, 1934,  
s. 2, and Fourth  
Schedule.

Amended by  
No. 45, 1934,  
s. 2 and Fourth  
Schedule.

Amended by  
No. 37, 1910,  
s. 14.

Duration of  
training

Inserted by  
No. 15, 1909,  
s. 20.

Amended by  
No. 37, 1910,  
s. 15 ; by No. 15,  
1911, s. 2 ; and  
by No. 5, 1912,  
s. 12.

126.—(1.) The training in the Junior Cadets shall begin on the first day of July in the year in which the persons liable reach the age of twelve years, and shall continue for two years :

(2.) The training in the Senior Cadets shall begin on the first day of July in the year in which the persons liable reach the age of fourteen years, and shall continue for four years :

(3.) The training in the Citizen Forces shall begin on the first day of July in the year in which the persons liable reach the age of eighteen years, and shall continue for seven years.

127.—(1.) The prescribed training shall be, in each year ending the thirtieth day of June, of the following duration :—

(a) In the Junior Cadets ninety hours ; and

(b) In the Senior Cadets four whole day drills, twelve half-day drills, and twenty-four night drills ; and

(c) In the Citizen Forces sixteen whole-day drills or their equivalent of which not less than eight shall be in camps of continuous training :

Provided that, in the case of those allotted to the Naval Forces and to the Artillery and Engineer arms of the Military Forces, and to units of the Army Service Corps allotted to those arms the training shall be twenty-five whole-day drills or their equivalent of which not less than seventeen shall be in camps of continuous training :

Provided also that in the Senior Cadets the duration of a whole-day drill shall not be less than four hours, of a half-day drill not less than two hours, and of a night drill not less than one hour :

Provided also that in the Citizen Forces the duration of a whole-day drill shall be not less than six hours, of a half-day drill not less than three hours, and of a night drill not less than one hour and a half :

Provided also that in the Senior Cadets the number and duration of half-day and night drills may be varied by the substitution of other drills as prescribed of a total duration of not less than forty-eight hours :

Provided also that the Minister may, by *Gazette* notice, declare that whole-day drills or half-day drills may be substituted for night drills in any districts or localities specified in the notice :

Provided also that in the case of Senior Cadets, who reside over two miles from the place appointed for training, attendance for a less number of hours than prescribed above may be allowed to count as prescribed for the full statutory duration of drills, and power may be

Inserted by  
No. 15, 1911,  
s. 2.

Amended by  
No. 15, 1911,  
s. 2.

Inserted by  
No. 37, 1910,  
s. 15, and  
amended by  
No. 15, 1911,  
s. 2.

Inserted by  
No. 15, 1911,  
s. 2.

Inserted by  
No. 15, 1911,  
s. 2.



given to the prescribed officers to grant leave of absence from training required by this Act when the conditions of the weather, by reason of excessive rain or heat, would render attendance a hardship, and equivalent attendance as prescribed may be required in lieu thereof.

(2.) The regulations may provide that attendance at such drills as are prescribed shall be compulsory.

128. Persons who are pupils or students at educational establishments, as prescribed by the Regulations, and who are liable to be trained in the Citizen Forces under section one hundred and twenty-seven of this Act, may be trained as prescribed in the Senior Cadets or in special training units, so long as they remain pupils or students in such educational establishments:

Provided that the training in those units shall be of the same character and of the same annual duration as in the Citizen Forces, and shall be in lieu of the training prescribed by paragraph (c) of section one hundred and twenty-seven.

129. Persons who become liable to be trained in the Citizen Forces, but who are certified by the prescribed medical authorities to be temporarily unfit, may be trained as prescribed in the Senior Cadets, and such training shall be in lieu of the corresponding training in the Citizen Forces.

130. Persons who are being trained under the provisions of paragraph (c) of section one hundred and twenty-five of this Act shall receive pay as prescribed.

\* \* \* \* \*

132. A person who is liable to be trained in pursuance of this Part shall not while the liability continues be permitted, except as prescribed, to enrol himself as a member of the Militia Forces.

132A.—(1.) Persons who are not liable to be trained under this Part of this Act and who have served on war service may be voluntarily enlisted in the Citizen Forces.

(2.) Persons voluntarily enlisting in the Citizen Forces under this section shall serve and be discharged in accordance with the provisions of Part III. of this Act, and shall receive pay as prescribed.

133. At the termination of each annual training in the Senior Cadets and Citizen Forces, each member shall be classified by the officer appointed in that behalf as "efficient" or "non-efficient". Those who are classified as non-efficient, either for failure to attend during the prescribed period, or because they have not attained a sufficient standard of efficiency, shall be required to attend an equivalent additional training for each year in which they are non-efficient.

134.—(1.) No employer shall prevent, or attempt to prevent, any employee who is serving or liable to serve in the Cadets or Citizen Forces and no parent or guardian shall prevent any son or ward who

Compulsory drills.

Added by No. 5, 1912, s. 12.

Special provision in the case of pupils at educational establishments.

Substituted by No. 37, 1919, s. 18.

Persons temporarily unfit to be trained in Senior Cadets.

Substituted by No. 36, 1917, s. 47.

Persons undergoing training to be paid.

Inserted by No. 15, 1909, s. 20.

Section 131 repealed by No. 45, 1934, s. 2 and Fourth Schedule.

Persons liable to training not to join Militia.

Inserted by No. 15, 1909, s. 20.

Persons may serve voluntarily in Citizen Forces.

Inserted by No. 36, 1917, s. 48.

Efficiency required.

Inserted by No. 15, 1909, s. 20.

Employers may not prevent employees from serving.

Inserted by No. 15, 1909, s. 20.

Amended by No. 15, 1911, s. 3; and by No. 36, 1917, s. 49.

is so serving or liable to serve<sup>(a)</sup> from rendering the personal service required of him, or from attending any camp of instruction appointed to be held by the Head-Quarters of the Commonwealth or any Military District, and no employer shall in any way penalize or prejudice in his employment or attempt to penalize or prejudice in his employment any employee for rendering or being liable to render such personal service, or for attending such camp, either by reducing his wages or dismissing him from his employment or in any other manner.<sup>(b)</sup>

Penalty : One hundred pounds.

inserted by  
No. 36, 1917,  
s. 49; amended  
by No. 16, 1916,  
s. 7.

(1A.) Any employee who is serving or liable to serve in the Senior Cadets shall be paid by his employer for any time he is absent from employment for the purposes of training, except the training required of the cadet for failure to become efficient or while undergoing confinement for an offence, but nothing in this section shall render an employer liable to pay an employee for any time when he is absent from employment for the purpose of training in the Citizen Forces.

Amended by  
No. 15, 1911,  
s. 3.

(2.) In any proceedings for any contravention of this section, it shall lie upon the employer to show that any employee, proved to have been dismissed or to have been penalized or prejudiced in his employment or to have suffered a reduction of wages, was so dismissed penalized or prejudiced in his employment or reduced for some reason other than for having rendered or being liable to render the personal service required of him or from attending the camp.

Penalizing  
employees for  
rendering  
service.

Added by No. 3,  
1915, s. 3.

(3.) The Court may direct that the whole or any part of any penalty recovered from an employer for penalizing or prejudicing in his employment or attempting to penalize or prejudice in his employment any employee for rendering or being liable to render the personal service required of him or for attending a camp of instruction as aforesaid may be paid to the employee.

Penalty for  
evading  
service.

Inserted by  
No. 15, 1909,  
s. 20.

Amended by  
No. 5, 1912,  
s. 13; by  
No. 36, 1914,  
s. 12; and by  
No. 47, 1918,  
s. 15.

Proviso  
omitted;  
No. 15, 1911, s. 4.

Inserted by  
No. 5, 1912,  
s. 13.

135.—(1.) Every person who in any year, without lawful excuse,<sup>(c)</sup> evades or fails to render the personal service required by this Part shall be guilty of an offence, and shall, in addition to the liability under section one hundred and thirty-three of this Act, be liable to a penalty not exceeding One hundred pounds.

\* \* \* \* \*

(1A.) Every person who, being a person liable to training under this Part—

- (a) fails, without lawful excuse, to attend a compulsory drill, or
- (b) commits a breach of discipline while on parade,

(a) Held by the Full Court of New South Wales that in proceedings against a parent under this section, it is necessary for the prosecution, in order to prove that the son is a person liable to serve, to show—(i.) that the son is an inhabitant of Australia of a certain age; (ii.) that he has resided in Australia for more than six months; and (iii.) that he is a British subject. *Ex parte Holland*, (1912) 12 S.R. (N.S.W.) 337; 29 W.N. (N.S.W.) 75. As to the extent to which the production of the son's Record Book is admissible in proof of these matters, see *ibid.* Held by the same Court that the institution of an appeal to Quarter Sessions against a conviction by a magistrate for an offence against this section is not a bar to proceedings under a rule *nisi* for a prohibition to restrain further proceedings under that conviction. *Ex parte Giles*, (1912) 29 W.N. (N.S.W.) 83.

(b) As to what constitutes "penalization" within the meaning of s. 134 of the *Defence Act 1903-1918*, see *Wells v. English Electric Co. of Australia Ltd.*, (1926) 38 C.L.R. 295.

(c) A person who by the doctrines of his religion is forbidden to bear arms is not thereby exempted or excused from undergoing the military training and rendering the personal service required by Part XII. of the *Defence Act 1903-1910*: So held by the High Court in *Krygger v. Williams*, (1912) 15 C.L.R. 366; 18 A.L.R. 518.

shall be guilty of an offence and shall, in addition to any liability under section one hundred and thirty-three of this Act, be liable to a penalty not exceeding Five pounds.

(2.) Any penalty under this section may be recovered summarily on the information or complaint of a prescribed officer.

(3.) In fixing the amount of the penalty, the Court shall have regard to the means of the person offending and those of his parents.

(4.) In addition to any penalty imposed, or (where the Court is of opinion that the imposition of a penalty would involve undue hardship) in lieu of imposing any penalty, the Court may, if it thinks fit, commit the offender to confinement in the custody of any prescribed authority for such time not exceeding twenty days, as it thinks fit, or for a time corresponding in duration to the time which, in the opinion of the Court, would be taken up in rendering the personal service required.

Amended by  
No. 5, 1912,  
s. 13.

(5.) Any person committed to the custody of a prescribed authority in pursuance of this section or either of the next two succeeding sections may be handed over by that authority to military custody for conveyance to and detention at any prescribed institution or place, and while so detained shall be subject to the regulations governing that institution or place, and to training and discipline as prescribed.

Amended by No.  
36, 1914, s. 12,  
and by No. 47,  
1918, s. 15.

(6.) It shall not be necessary for the confinement to be continuous; but the person having the custody of the offender may (subject to the regulations) release him for such periods, and call upon him to return to custody at such times, as he thinks fit; to the intent that he may follow his occupation, and that, in the case of a person committed to custody for an offence against sub-section (1.) of this section, the times and periods of his confinement may correspond, as nearly as practicable, with the times and periods which he ought to have occupied in rendering personal service.

Amended by  
No. 36, 1914,  
s. 12.

(7.) Any person detained in any prescribed institution or place in pursuance of this section or either of the next two succeeding sections who escapes therefrom, or who being released from custody fails to return thereto, may be arrested without warrant by any prescribed person, and taken back to the institution or place, and may on the application of any prescribed officer be ordered by any Court of summary jurisdiction to be detained for such additional period not exceeding twenty days as the Court thinks fit to order.

Amended by  
No. 36, 1914,  
s. 12.

\* \* \* \* \*

135A. A person liable to be trained under the provisions of section one hundred and twenty-five of this Act shall not be committed to gaol in default of payment of a pecuniary penalty imposed for an offence against the provisions of Part XII. or XIV. of this Act, or of any costs awarded in proceedings for any such offence, but instead the Court may order that he be committed to the custody of a prescribed authority for such time, not exceeding the time for which the Court could, but for this section, have committed him

Sub-sections  
(8.), (9.) and (10.)  
added by No. 5,  
1912, s. 13, and  
omitted by No.  
36, 1914, s. 12.  
Trainees not to  
be imprisoned  
for offences  
against  
universal  
training  
provisions.  
Inserted by  
No. 36, 1914,  
s. 13.



to gaol in default of payment of the pecuniary penalty imposed or costs awarded, as the Court thinks fit.

Total duration of confinement of trainees in any one year.  
Inserted by No. 36, 1914, s. 13; substituted by No. 47, 1918, s. 16.

135B.—(1.) Notwithstanding anything contained in the next two preceding sections, a person shall not be liable in any one year to confinement in excess of thirty days in respect of offences committed by him against the provisions of sub-section (1.) or paragraph (a) of sub-section (1A.) of section one hundred and thirty-five, or of costs awarded in proceedings for such offences, and any order or other authority issued by a Court authorizing confinement for a period in excess of such thirty days, shall in so far as it relates to the period in excess be void, but nevertheless proceedings shall not be maintainable against the Commonwealth or any person in respect of the order or authority or of any act or thing done in pursuance of the order or authority.

(2.) In this section "confinement" includes detention under the authority of section one hundred and thirty-five of this Act, and custody under the authority of the last preceding section.

Offences by Cadets to be tried in Children's Courts.

Inserted by No. 36, 1914, s. 13.

Disqualification of persons who evade service.

Inserted by No. 15, 1909, s. 20.

Sea-going persons.

Inserted by No. 15, 1909, s. 20.

135C. In places where Children's Courts exist, offences against this Act committed by cadets under the age of seventeen years shall be prosecuted in such Courts as far as is reasonably practicable.

136. Every person who, without lawful excuse, evades or fails to render the personal service required by this Part, shall, unless and until he has performed equivalent personal service as prescribed, be and remain ineligible for employment of any kind in the Public Service of the Commonwealth.

137. All persons employed upon sea-going vessels registered in Australia, or upon vessels engaged wholly or partly in the coastal or inter-state trade of Australia, shall be subject to the provisions of this Act, and employment upon such vessels in Australian waters shall be deemed residence in Australia.

#### PART XIII.—EXEMPTIONS FROM PERSONAL SERVICE.<sup>(a)</sup>

Exemptions from training in time of peace.

Inserted by No. 15, 1909, s. 20.

Amended by No. 36, 1917, s. 50.

138.—(1.) The following shall be exempt from the training mentioned in Part XII. of this Act, so long as the employment, condition, or status on which the exemption is based is still continuing:—

(a) Those who have been reported by the prescribed medical authorities as unfit for any naval or military service whatever; and

(b) Those who are not substantially of European origin or descent, of which the medical authorities appointed in that behalf under the regulations shall be the judges: Provided that this exemption shall not extend to duties of a non-combatant nature; and

(c) School teachers who have qualified at a school of naval or military instruction, or other prescribed course as Instructors or Officers of the Junior or Senior Cadets; and

(a) This Part was inserted by Act No. 15, 1909, s. 20.



(d) Members of the Permanent Naval or Military Forces ;  
and

(e) Persons employed in the police or prison services of the Commonwealth or of a State ; and

(f) Persons whose *bonâ fide* residence is not within a distance of five miles, reckoned by the nearest practicable route, from the nearest place appointed for training :

Added by  
No. 36, 1914,  
s. 14.

Added by  
No. 36, 1914,  
s. 14.

Provided that the regulations may authorize the District Commandant to grant temporary exemption for a period not exceeding one year, renewable from time to time, to persons who reside at so great a distance from the places appointed for training that compulsory attendance would involve great hardships.

(2.) Persons liable to be trained in the Junior Cadets who are certified by any prescribed medical authority to be unfit to undergo the whole or any part of the prescribed training may be exempted from that training by any prescribed authority.

(3.) Persons who are students at a Theological College as defined by the regulations, or theological students as prescribed, may, while they remain such students, on application be exempted by any prescribed authority from the prescribed training, but shall on ceasing to be such students become liable for training as prescribed but shall not be required to perform additional training equivalent to the training from which they have been exempted under this sub-section.

Exemption  
of theological  
students.

Added by No. 37  
1910, s. 17 ;  
amended by  
No. 47, 1918,  
s. 17.

(3A.) Persons who have served on war service may be exempted from the prescribed training for such period and under such conditions as are prescribed.

Inserted by  
No. 36, 1917,  
s. 50.

(4.) The Minister may by order, under his hand, grant to any person upon whom, or upon whose parents or dependants, the Minister is satisfied that his compulsory attendance at the prescribed training would impose great hardship, an exemption from the prescribed training ; but any exemption granted in pursuance of this sub-section shall be for such period, and shall be subject to such conditions and reservations, as the Minister thinks fit.

Added by  
No. 36, 1914,  
s. 14.

(5.) The Minister may by order under his hand exempt persons who are employed in a civil capacity for any purpose in connexion with the Defence Force (whether subject to the *Commonwealth Public Service Act 1902-1913*<sup>(a)</sup> or not), or in any factory established in pursuance of this Act.

Added by  
No. 35, 1914,  
s. 14.

139. Where any question arises as to whether a person is exempt from training, the burden of proving the exemption shall rest on the person claiming the exemption, and applications for exemption shall be decided by the Courts authorized in that behalf by the regulations.

Burden of  
proving  
exemption.  
Inserted by  
No. 15, 1903,  
s. 20.

140. The Governor-General may, in time of war, by order published in the *Gazette*, suspend in any year the whole or any portion of the training prescribed by Part XII. of this Act, and all persons liable to be trained under that Part in that year shall not be required at any subsequent time to undergo the training so suspended.

Suspension of  
training.  
Inserted by  
No. 36, 1917,  
s. 51.

Section 140  
repealed by  
No. 36, 1914,  
s. 15.

\* \* \* \* \*

(a) Now the Commonwealth Public Service Act 1922-1934 (*infra*, p. 1964.)

Persons not  
permitted to  
serve.

Inserted by  
No. 15, 1909,  
s. 20.

141. No person shall be permitted to serve in the Cadets or in the Defence Force who is found by any Court appointed in that behalf by the regulations—

- (a) to have been convicted of any disgraceful or infamous crime, or
- (b) to be of notoriously bad character.

#### PART XIV.—REGISTRATION AND ENROLMENT FOR NAVAL AND MILITARY TRAINING.<sup>(a)</sup>

Registration.  
Inserted by  
No. 15, 1909,  
s. 20.

Amended by  
No. 5, 1912,  
s. 14; by  
No. 16, 1914,  
s. 16; and by  
No. 45, 1934,  
s. 2 and Fourth  
Schedule.

142.—(1.) All male inhabitants of Australia, who have resided therein for six months and are British subjects, and whose *bonâ fide* residence is within a distance of five miles, reckoned by the nearest practicable route, from the nearest place appointed for training, shall register themselves, or be registered by a parent, guardian, or other person acting *in loco parentis*, in the manner prescribed—

- (a) during the months of January and February in the year in which they will reach the age of fourteen years; or
- (b) if not then present in Australia or if not then *bonâ fide* resident within a distance of five miles reckoned by the nearest practicable route, from the nearest place appointed for training, or if for any other reason not registered at the prescribed time, within such further time and in such manner as is authorized by the regulations.

Inserted by  
No. 47, 1918,  
s. 18.

(1A.) If any such male inhabitant of Australia is not registered in the manner prescribed in sub-section (1.) of this section, he, and the parent, guardian or person acting *in loco parentis*, shall severally be guilty of an offence.

Added by No. 15,  
1911, s. 5.

(2.) Any proceedings for an offence against this section may be instituted at any time within two years after the commission of the offence.

Offence of  
being  
unregistered.

Inserted by  
No. 47, 1918,  
s. 19.

142A. Any male inhabitant of Australia, who has resided therein for six months and is a British subject, and whose *bonâ fide* residence is within a distance of five miles, reckoned by the nearest practicable route, from the nearest place appointed for training, and who is, at any time after he has attained the age of fourteen years and before he has attained the age of twenty-six years, not registered for naval or military training, shall be guilty of an offence.

Allotment to  
arms and corps.

Inserted by  
No. 15, 1909,  
s. 20.

143.—(1.) All persons liable to be trained under paragraphs (c) and (d) of section one hundred and twenty-five of this Act and not exempted by this Act shall be allotted to the several arms and corps

(2.) Of all persons liable to be trained, such a number as are required shall first be allotted for training in the Naval Forces.

(3.) All persons liable to be trained under paragraphs (b), (c), and (d) of section one hundred and twenty-five of this Act who are forbidden by the doctrines of their religion to bear arms shall so far as possible be allotted to non combatant duties.<sup>(b)</sup>

(a) This part was inserted by Act No. 15, 1909, s. 20.

(b) See footnote (c) to s. 135 (*supra*, p. 820.)

144. All persons liable to be trained shall attend at the prescribed times and places for inspection, and shall give such information as is prescribed, and shall submit to the prescribed medical examination.

Inspection.  
Inserted by  
No. 15, 1909,  
s. 20.

145.—(1.) Every person shall, on his form of registration, notify his address, and shall in the prescribed manner notify any change of address, and the address so notified shall be deemed his place of abode for the purposes of this Act.

Registered  
address.  
Inserted by  
No. 15, 1909,  
s. 20.

(2.) All notices posted to a person's place of abode shall be deemed to have been delivered to him, and all printed notices exhibited at the post-office or prescribed place of the district in which his place of abode is shall be deemed a notice to him, and all postmasters are required to exhibit such notices as are sent to them by the prescribed authority, and to keep and issue such forms as are prescribed and to send such forms when so required by the regulations to the prescribed persons.

Notices and  
forms of  
registration,  
&c.

146.—(1.) Every person who registers shall receive a Record Book in the prescribed form.

Record book.  
Substituted by  
No. 47, 1919,  
s. 20.

(2.) The entries in the Record Book shall relate to such matters and shall be made by such persons as the Regulations prescribe.

(3.) A copy of the entries in the Record Book shall be prepared by such persons and in such form and shall be retained by such persons as the Regulations prescribe.

(4.) The production of a Record Book, or of a book or document purporting to be a copy of the entries in a Record Book, shall be *prima facie* evidence of the entries contained therein.<sup>(a)</sup>

#### PART XV.—MILITARY COLLEGE.<sup>(b)</sup>

147.—(1.) There shall be established a Military College under a Commandant, assisted by a staff as prescribed, for the education of candidates for commissions in all arms of the Military Forces.

Military  
College.  
Substituted by  
No. 37, 1910,  
s. 20.

(2.) The Commandant shall in each year furnish to the Minister, for presentation to Parliament, a report on the Military College.

147A. Persons enrolled as cadets at the Military College shall be formed into a corps and shall form part of the Permanent Forces. Service in this corps shall be deemed to be service in the ranks of the Defence Force.

College corps.  
Substituted by  
No. 37, 1910,  
s. 20.

147B. No person who is not a British subject shall be admitted to be a student at the Military College, but British subjects not permanently resident in Australia may be admitted to attend on such conditions as are prescribed, and while so attending shall be subject to this Act in the same way as other students.

Students to be  
British  
subjects.  
Substituted by  
No. 37, 1910,  
s. 20.

(a) As to the extent to which the production of the Record Book of a person liable to be trained is admissible in proof of his age and length of residence in Australia, see *ex parte Holland*, (1912) 12 S.R. (N.S.W.) 337; 29 W.N. (N.S.W.) 75.

(b) This Part was inserted by Act No. 15, 1909, s. 20.

Appointment  
of officers.  
Substituted by  
No. 37, 1910,  
s. 20.

Amended by  
No. 45, 1934,  
s. 2 and Fourth  
Schedule.

Added by  
No. 36, 1917,  
s. 52.

Added by  
No. 36, 1917,  
s. 52.

Added by  
No. 16, 1918,  
s. 8.\*

Ss. 149 and 150  
repealed;  
No. 37, 1910,  
s. 21.

Pay and  
allowances.

Inserted by  
No. 15, 1909,  
s. 20.

S. 152 repealed;  
No. 37, 1910,  
s. 21.

Section 6.

148. No person who is not a graduate of the Military College as prescribed shall be appointed an officer of the Permanent Forces:

Provided that the Regulations shall provide for admission to the Military College of any member of the Forces over the age of nineteen years who passes the prescribed examination and is approved by the Governor-General in Council:

Provided also that members of the Permanent and Citizen Forces, or persons who have served with satisfactory record in any Expeditionary Force raised for service outside the Commonwealth, who are not graduates of the Military College, may, subject to such conditions as are prescribed, be appointed or promoted to be officers in the non-combatant branches of the Permanent Forces, including the Medical, Veterinary, Ordnance, Survey, and Clerical branches:

Provided also that warrant and non-commissioned officers of the Permanent Forces may be appointed to the commissioned rank for the position of Quartermaster to units of the Australian Military Forces.

Provided also that in time of war persons who are not graduates of the Military College may be appointed officers of any Expeditionary Force raised for service outside of the Commonwealth.

\* \* \* \* \*

151. Officers attending the Military College shall receive such pay and allowances as may be prescribed.

\* \* \* \* \*

## SCHEDULES.

### FIRST SCHEDULE.

Date or Number of Act.	Title of Act.	Where Act passed.
31 Vict. No. 5. ..	The Volunteer Force Regulation Act of 1867	New South Wales
34 Vict. No. 19 ..	The Military and Naval Forces Regulation Act	New South Wales
No. 1,083 ..	<i>Defences and Discipline Act 1890</i> ..	Victoria
No. 1,248 ..	<i>Defences and Discipline Act 1891</i> ..	Victoria
48 Vict. No. 27 } 55 Vict. No. 17 } 60 Vict. No. 33 }	The Defence Acts 1884 to 1896 ..	Queensland
49 Vict. No. 16 ..	<i>The Defence Act 1885</i> ..	Tasmania
53 Vict. No. 36 ..	<i>The Defence Act 1889</i> ..	
61 Vict. No. 8 ..	<i>The Defence Amendment Act 1897</i> ..	
	<i>The Defence Act 1900</i> ..	
55 Vict. No. 7 ..	<i>Safety of Defences Act 1891</i> ..	Western Australia
57 Vict. No. 18 ..	<i>The Defence Act 1893</i> ..	
56 Vict. No. 4 ..	<i>The Safety of Defences Act 1892</i> ..	
58 Vict. No. 2 ..	<i>The Defence Forces Act 1894</i> ..	
59 Vict. No. 4 ..	The Uniforms Act ..	South Australia
No. 307 ..	<i>The Naval Discipline Act 1884</i> ..	
No. 643 ..	<i>The Defences Act 1895</i> ..	
37 Vict. No. 1 ..	<i>Federal Garrison Act 1893</i> ..	
		Federal Council of Australasia

\*Sub-section (2.) of section 8 of the *Defence Act 1918* reads:—

"This section shall be deemed to have commenced on the first day of August, One thousand nine hundred and fourteen."



THE SCHEDULE—*continued*.

SECOND SCHEDULE.

Sections 32, 42.

OATH.

I swear that I will well and truly serve Our Sovereign Lord the King as a member of the Reserve Forces of the Commonwealth of Australia, and that I will resist His Majesty's enemies and cause His Majesty's peace to be kept and maintained and that I will in all matters appertaining to my service faithfully discharge my duty according to law. So help me God.

AFFIRMATION.

I solemnly and sincerely affirm and declare that I will well and truly serve Our Sovereign Lord the King as a member of the Reserve Forces of the Commonwealth of Australia, and that I will resist His Majesty's enemies and cause His Majesty's peace to be kept and maintained and that I will in all matters appertaining to my service faithfully discharge my duty according to law.

THIRD SCHEDULE.

Sections 37, 76.

OATH.

I swear that I will well and truly serve Our Sovereign Lord the King in the Forces of the Commonwealth of Australia for the term of years or until sooner lawfully discharged dismissed or removed and that I will resist His Majesty's enemies and cause His Majesty's peace to be kept and maintained and that I will in all matters appertaining to my service faithfully discharge my duty according to law. So help me God.

AFFIRMATION.

I solemnly and sincerely affirm and declare that I will well and truly serve Our Sovereign Lord the King in the Forces of the Commonwealth of Australia for the term of years or until sooner lawfully discharged dismissed or removed and that I will resist His Majesty's enemies and cause His Majesty's peace to be kept and maintained and that I will in all matters appertaining to my service faithfully discharge my duty according to law.

DEFENCE—AIR.

AIR FORCE ACT 1923.

No. 33 of 1923.

An Act to provide for the Establishment, Organization and Government of the Royal Australian Air Force.

[Assented to 1st September, 1923.]

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

1. This Act may be cited as the *Air Force Act 1923*.

Short title.

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

Definitions.

"Air Force" means the Royal Australian Air Force established under this Act;

"Defence Act" means the *Defence Act 1903-1918*.<sup>(a)</sup>

3.—(1.) There shall be an Air Force, to be called the Royal Australian Air Force, which may be raised, maintained and organized by the Governor-General for the defence and protection of the Commonwealth and shall be part of the Defence Force constituted under the Defence Act.<sup>(a)</sup>

Establishment of Air Force and application of Defence Act thereto.

(a) *Supra*, p. 782.

(2.) The Royal Australian Air Force raised under the Defence Act and existing at the commencement of this Act shall be deemed to have been raised under this Act, and the members thereof, without any re-appointment or re-enlistment or the taking of any fresh oath, shall be subject to this Act.

(3.) The Defence Act (except Part XV. thereof) and the regulations thereunder shall, with such modifications and adaptations as are prescribed by regulations (which regulations the Governor-General is hereby authorized to make), apply in relation to the Air Force and the members thereof (whether serving within or outside the limits of the Commonwealth).

(4.) The Governor-General may at any time by order published in the *Gazette*, disband any portion of the Air Force.

(5.) Notwithstanding anything contained in this Act, the Imperial Act called the Army Act and any Acts amending or in substitution for it and for the time being in force, shall not apply to the Air Force.

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## DEFENCE—GENERAL.

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	PAGE.
AUSTRALIAN IMPERIAL FORCE CANTEENS FUNDS ACT 1920 ..	828
AUSTRALIAN WAR MEMORIAL ACT 1925 .. .. .	831
DECEASED SOLDIERS' ESTATES ACT 1918-1919 .. .. .	834
DEFENCE EQUIPMENT ACT 1924 .. .. .	837
DEFENCE EQUIPMENT ACT 1928 .. .. .	838
DEFENCE EQUIPMENT ACT 1934 .. .. .	839
TERMINATION OF THE PRESENT WAR (DEFINITION) ACT 1919	840

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### AUSTRALIAN IMPERIAL FORCE CANTEENS FUNDS ACT 1920.

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### No. 3 of 1920.

An Act to make provision for the administration and disposal of the Funds of Australian Imperial Force Canteens, and for other purposes.

[Assented to 18th May, 1920.]

**B**E 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.

1. This Act may be cited as the *Australian Imperial Force Canteens Funds Act 1920*.

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

- “soldiers” means persons who are or have been members of the Forces within the meaning of the *War Pensions Act 1914*, as amended by the *War Pensions Act 1915* ;
- “the Fund” means the Fund administered under this Act ;
- “the trustees” means the trustees for the time being of the Fund.

Definitions.

3. The Fund shall consist of—

- (a) all surplus moneys of canteens established in connexion with the Australian Imperial Force, in the United Kingdom, France and Egypt and on troopships, and of canteens established for the use of Garrison Institutes in Australia ; and
- (b) any moneys which are transferred to the trustees and which the Minister by notice in the *Gazette* directs shall form part of the Fund.

What the Fund shall consist of.

4. The Fund shall be vested in and placed under the control of the trustees appointed by or under this Act.

Vesting of Fund.

5.—(1.) The following persons, that is to say—

The President for the time being of the Returned Sailors and Soldiers Imperial League of Australia,  
Mrs. Alfred Deakin, of Walsh-street, South Yarra, Victoria,  
Nicholas Colston Lockyer, Esquire, C.B.E., I.S.O.,  
The Honorable George Swinburne,  
Major-General Sir Cyril Brudenell Bingham White, K.C.M.G., C.B., D.S.O.,  
Percy Whitton, Esquire, I.S.O., and  
Harold Percival Moorehead, Esquire, formerly a member of the Australian Imperial Force,

Trustees of the Fund.

shall be the trustees of the Fund.

(2.) The trustees shall hold office during the pleasure of the Governor-General.

(3.) Nicholas Colston Lockyer, Esquire, shall be Chairman of the trustees.

(4.) If at any time a vacancy occurs in the office of trustee or of Chairman of the trustees, by resignation addressed to the Minister, or by absence, without leave, from any three consecutive meetings of the trustees convened during a period of six months, or by death, or other cause, the Governor-General may appoint another person to fill the vacancy so arising. Every such appointment shall be notified in the *Gazette*.<sup>(a)</sup>

(5.) At any meeting of the trustees, three trustees shall form a quorum, and may exercise any of the powers and functions of the trustees.

(6.) At any meeting of the trustees at which the chairman is not present the trustees present shall appoint one of their number to be deputy chairman.

(a) See *Gazette* 1920, p. 1184, 1089 ; 1927, p. 1620 ; 1928, p. 489 ; 1929, p. 2242 ; and 1933, p. 1474.

Duties of  
trustees.

6.—(1.) The trustees shall be charged with the duties of—

- (a) receiving and considering applications from the widows and orphans, widowed mothers and other immediate dependants of deceased soldiers, and from seriously disabled soldiers, for assistance and benefits; and
- (b) investing in securities of the Commonwealth or a State, or on fixed deposit or on current account in any bank incorporated or carrying on business in the Commonwealth, such part of the Fund as is not immediately required.

(2.) The trustees may, at any time when they think fit, realize any securities in which they have, in pursuance of this section, invested any part of the fund.

(3.) The trustees may grant to any applicant such assistance and benefits as they consider proper.

(4.) Any assistance and benefits granted in pursuance of this section, and all proper expenses of, and incidental to, the administration of the Fund, shall be a charge upon, and be payable out of, the Fund.

Advisory  
Committees.

7.—(1.) For the purposes of this Act there shall be for each State an Advisory Committee of not less than three members, one of whom shall be a woman.

(2.) Each Advisory Committee shall be appointed by the Minister on the recommendation of the Trustees.

(3.) The Trustees shall nominate one member of each Advisory Committee, and the member so nominated shall be the chairman of that Committee.

(4.) An Advisory Committee shall advise the Trustees on matters referred to it by the Trustees, and shall carry out such duties in relation to the granting of assistance and benefits under this Act as the Trustees direct.

Disposal of  
moneys not  
part of the fund.

8. The Minister may, by notice in the *Gazette*, authorize the trustees to administer and dispose of any moneys, transferred to the trustees, which do not form part of the fund and which are required to be applied for purposes specified in the notice, and, upon publication of the notice, the trustees shall apply the moneys for those purposes.<sup>(a)</sup>

Annual Report.

9. The trustees shall forward to the Minister, for presentation to the Parliament, an annual report upon the receipts, expenditure and administration of any funds administered by the trustees.

Audit of  
accounts.

10.—(1.) All books and accounts kept by the trustees shall be audited, from time to time, by the Auditor-General of the Commonwealth.

(2.) A report of each audit shall be made to the Commonwealth Treasurer, who shall cause a copy of the report to be laid on the table of each House of the Parliament.

Regulations.

11. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Act.

(a) See *Gazette* 1921, pp. 6, 418, 1014, 1450; 1922, pp. 41, 357, 1223; 1923, pp. 735, 1926; 1924, pp. 408, 602, 901, 1131, 1304; 1925, pp. 405, 550, 923, 965, 2427; 1926, p. 1071; 1927, pp. 411, 1398; 1928, pp. 990, 2309, 3224; and 1930, p. 103.



AUSTRALIAN WAR MEMORIAL ACT 1925.

**No. 18 of 1925.**

**An Act to provide for the Establishment of the Australian War Memorial and for other purposes.**

[Assented to 26th September, 1925.]

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

1. This Act may be cited as the *Australian War Memorial Act* 1925. Short title.

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

Definitions.

“the Board” means the Board of Management appointed under this Act;

“the Fund” means the Fund established under this Act;

“the War” means the war which commenced on the fourth day of August One thousand nine hundred and fourteen.

3.—(1.) There shall be a Commonwealth Memorial of the Australians who died in the war.

Australian War Memorial.

(2.) The Memorial shall be known as the Australian War Memorial and shall consist of the collection of the war relics of the Commonwealth and such building for the accommodation of those relics as is specified by the Governor-General by notice in the *Gazette*.

(3.) The war relics of the Commonwealth shall include the relics, records, models, pictures, photographs and other articles which at the commencement of this Act comprise the Australian War Museum and any other such articles, having relation to the war, which are required in pursuance of this Act.

4. The Minister may, out of moneys appropriated by the Parliament for the purpose, acquire exhibits for inclusion in the collection referred to in the last preceding section.

Acquisition of exhibits by Minister.

5.—(1.) For the purposes of this Act there shall be a Board of Management consisting of not more than twelve members appointed by the Governor-General and, on the happening of any vacancy in the office of member of the Board, the Governor-General may appoint a person to the vacant office.

Board of Management

(2.) Members of the Board shall hold office for a term of four years but shall upon the expiration of that term be eligible for re-appointment.

(3.) In case of the illness or absence of any member of the Board, the Governor-General may appoint a person to act as the deputy of the member during his illness or absence, and the deputy shall, while so acting, have all the powers and perform all the duties of a member.

Chairman of the Board.

6.—(1.) The Governor-General shall appoint one of the members of the Board to be the Chairman of the Board and on the happening of any vacancy in the office of Chairman the Governor-General shall appoint a person to fill that office.

(2.) In case of the illness or absence of the Chairman, the Governor-General shall appoint one of the members to act as Chairman during such illness or absence.

Quorum of Board.

7.—(1.) For the conduct of the business of the Board any five members shall form a quorum.

(2.) At a meeting of the Board the decision of the majority shall prevail.

(3.) The Chairman of the Board shall have a deliberative, but not a casting, vote.

Vacation of office of member.

8. A member of the Board shall be deemed to have vacated his office if, without the consent of the Board, he is absent from three consecutive meetings of the Board of which not less than seven days' notice has been given.

Delegation by Board.

9.—(1.) The Board may, by writing under the hand of each member of the Board, delegate to a member or to committees all or any of its powers and functions under this Act (except this power of delegation) so that the delegated powers and functions may be exercised by the delegate as fully and effectually as by the Board.

(2.) Every such delegation shall be revocable in writing at will, and no delegation shall prevent the exercise of any power or function by the Board.

(3.) The committees to which powers and functions may be delegated under this section shall consist of members of the Board and if the Minister thinks fit, such other persons as are nominated by him.

Functions and powers of Board.

10.—(1.) The Board shall have the following duties:—

(a) Subject to the directions of the Minister, the management of the Memorial and the control and preservation of the relics, records, models, pictures, photographs and other articles comprising the Memorial collections, and arrangements for their public display; and

(b) The making of a report annually to the Minister upon its operations under this Act.

(2.) The Board shall have the following powers:—

(a) The acquisition of additional exhibits from moneys available in the Fund;

(b) Subject to the approval of the Minister the exchange, sale, loan or other disposal of any exhibits belonging to the Memorial which, by reason of duplication, unfitness or unsuitability for preservation, the Board considers are no longer required;

(c) Subject to the approval of the Minister, the sale or exhibition to the public of reproductions of the official photographs, pictures, cinema film and such other records and exhibits as are suitable for the purpose;

- (d) The application to the Fund of all moneys received as the result of action taken in accordance with the last two preceding paragraphs; and
- (e) The control of the Fund including—
  - (i) the use of the Fund in connexion with the purchase of exhibits;
  - (ii) the investment in securities of the Commonwealth or on fixed deposit or current account in the Commonwealth Bank of such part of the Fund as is not required for current operations; and
  - (iii) the realization at any time of securities in which they have invested part of the Fund.

**11.**—(1.) A Fund is hereby established which shall be known as the Australian War Memorial Fund. Establishment of Fund.

(2.) The Fund shall consist of—

- (a) the amount which, on a date<sup>(a)</sup> fixed by the Minister by notice in the *Gazette*, stands in the books of the Treasury to the credit of the Trust Fund Australian War Records Publication Account and all moneys which, on that date are due to that Account;
- (b) any money earned by the Board of Management as the result of investment and such commercial dealing with the assets of the Australian War Memorial as is approved by the Minister;
- (c) the net proceeds of sales approved by the Minister of exhibits forming part of or belonging to the Memorial;
- (d) moneys which the Minister, with the concurrence of the Treasurer, by notice in the *Gazette*, directs shall form part of the Fund; and
- (e) bequests and donations to the Fund.

**12.** The Fund shall be vested in and placed under the control of the Board. Vesting of Fund.

**13.** Moneys standing to the credit of the Fund shall be available for, and may be applied by, the Board to— Use of Fund.

- (a) the acquisition of relics, records, models, pictures, photographs, publications and other articles relating to the war; and
- (b) the payment of all proper expenses of, and incidental to, the administration of the Fund.

**14.**—(1.) All books and accounts relating to the Fund shall be kept in accordance with the provisions of the *Audit Act* 1901-1924<sup>(b)</sup> and the regulations thereunder, and shall be subject to audit by the Auditor-General for the Commonwealth. Audit of Accounts.

(2.) A copy of each audit report shall be made available to the Board through the Minister.

**15.** The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Act. Regulations.

(a) The date fixed was the 10th June, 1926. See *Gazette*, 1926, p. 996.

(b) *Supra*, p. 177.

DECEASED SOLDIERS' ESTATES ACT 1918-1919.<sup>(a)</sup>

## An Act relating to the Estates of Deceased Soldiers.

[Assented to 25th December, 1918.]<sup>(b)</sup>

**B**E 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 incorporation.

1.—(1.) This Act may be cited as the *Deceased Soldiers' Estates Act 1918-1919*.<sup>(a)</sup>

Short title amended.  
No. 32, 1918,  
s. 2.

(2.) This Act shall be incorporated and read as one with the *Defence Act 1903-1918*.<sup>(c)</sup>

Definitions.

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

“Curator” means the Curator of Intestate Estates or other proper officer of a State having the custody or administration of intestate estates under the law of a State ;

“Member” means a member of the Commonwealth Military Forces enlisted or appointed for or employed on active service outside Australia or enlisted or appointed for service in connexion with military preparations or operations, and includes a member of the Army Medical Corps Nursing Service who is accepted or appointed by the Director-General of Medical Services for service outside Australia ;

“Military estate” means—

(i) pay, allowances, or other money due to a member by the Commonwealth ; and

(ii) personal property or effects in the care, control or custody of the military authorities at the time of the death of the member or which come into such care, control or custody after the death of the member ;

“Regimental Debts Act” means the Imperial Act called the Regimental Debts Act and any Acts amending or in substitution for that Act.

(2.) Except as provided in this section words used in this Act shall have the same meaning as words used in the *Defence Act 1903-1918*.<sup>(c)</sup>

(a) The *Deceased Soldiers' Estates Act 1918-1919* comprises the *Deceased Soldiers' Estates Act 1918* (No. 44 of 1918), as amended by the *Deceased Soldiers' Estates Act 1919* (No. 23 of 1919). See Act No. 23, 1919, s. 1.

(b) This is the date of assent to the *Deceased Soldiers' Estates Act 1918*. The *Deceased Soldiers' Estates Act 1919* was assented to on 28th October, 1919 (deemed to have commenced upon the date of commencement of the Principal Act).

(c) *Supra*, p. 782.



3. This Act shall apply in respect of the military estate of any member dying or killed (whether before or after the commencement of this Act), while on war service, or within three months from the date of his discharge, and irrespective of the place where the death occurs.

Application  
of Act.  
Amended by  
No. 23, 1919,  
s. 3.\*

4.—(1.) In the event of the death of a member while on war service the military estate of the member may be paid or delivered—

Military estates  
—how dealt  
with.

- (a) to the personal representative of the member ;
- (b) to any person who, in the opinion of the prescribed authority, is beneficially entitled thereto ; or
- (c) to such persons or classes of persons as are prescribed.

(2.) In this section "prescribed authority" means the Minister or any of the following officers of the Department of Defence, namely, the Secretary, the Finance Secretary, the Assistant Finance Secretary, District Paymasters or the Chief Paymaster of the Australian Imperial Force abroad.

5. The payment or delivery of any money or other property in pursuance of this Act shall operate as a discharge of the Commonwealth from any liability in respect of the money or property.

Disposition of  
property to  
operate as  
discharge.

6. Notwithstanding anything contained in any Act or State Act the Commonwealth shall not be liable to any action claim or demand in respect of anything done in connexion with—

Exemption of  
Commonwealth  
from liability.

- (a) the disposition of a military estate in pursuance of this Act ; or
- (b) the disposition, prior to the commencement of this Act, of any property of a deceased soldier, in pursuance of the provisions of the Regimental Debts Act ; or
- (c) the disposition, prior to the commencement of this Act, of any property of a deceased soldier, which, if this Act had been in force at the time the thing was done, would have been in accordance with the provisions of this Act.

7.—(1.) Money or other property belonging to the military estate of a deceased soldier may be paid or delivered to the Curator, and the receipt of the Curator shall be a sufficient discharge to the Commonwealth from all liability in respect of the money or property, as the case may be.

Payments to  
Curator of  
Intestate  
Estates or  
Public Trustee.

(2.) Where money or property has been paid or delivered to the Curator in pursuance of this section, he shall, upon receipt of a request in writing from the prescribed officer of the Commonwealth, repay or re-deliver to the prescribed officer the money or property,

\* Sec. 5 of the *Deceased Soldiers' Estates Act 1919* (No. 23 of 1919) reads as follows :—  
"Nothing in this Act shall be deemed to affect the rights of the parties to any proceeding pending at the date of the passing of this Act."

or such part thereof as remains unadministered, and the receipt of the prescribed officer shall discharge the Curator from all liability in respect of the money repaid or property re-delivered, as the case may be.

(3.) Upon the repayment of money, or the re-delivery of property, to the prescribed officer in pursuance of this section the money or property shall be dealt with as provided in this Act.

Sale of  
property.

8. Any portion of the military estate of a deceased member which consists of personal property or effects may be sold as prescribed, and the proceeds of the sale shall be deemed to be part of the military estate of the member.

Application of  
estate where  
no person  
beneficially  
entitled thereto

9. Where it appears that there is no person to whom the military estate of a deceased member may be paid or delivered under section four of this Act, the proceeds of the estate shall be applied, as prescribed, to the creation or maintenance of any prescribed fund for the benefit of persons who are or have been members or dependants of members:

Provided that the application of the proceeds of a military estate in pursuance of this section shall not bar the claim of any person who subsequently satisfies the prescribed officer that he is a person to whom the estate or a part thereof may be paid or delivered under section four of this Act.

Attachment  
of military  
estates.

10. No person shall, by judgment or otherwise, be entitled to attach the military estate of a deceased member or any proceeds of the estate in the hands of the Commonwealth.

Medals.

11. The medals of a deceased member, which are not bequeathed to some specified person by will, shall be delivered to such person or institution as the Minister, or a person thereto authorized in writing by the Minister, approves.

Decorations.

12. Subject to any specific directions contained in any law or Rules governing the Order to which any decoration relates, the decorations of a deceased member shall be disposed of in accordance with the provision of the last preceding section.

Regulations.

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

Added by  
No. 23, 1919,  
s. 4.\*

(2.) The regulations made pursuant to this section shall, if the regulations so provide, have effect as from the commencement of this section, or such later date as is specified in the regulations.

\* Sec. 5 of the *Deceased Soldiers' Estates Act 1919* (No. 23 of 1919) reads as follows :—  
" Nothing in this Act shall be deemed to affect the rights of the parties to any proceeding pending at the date of the passing of this Act."

DEFENCE EQUIPMENT ACT 1924.

No. 18 of 1924.

An Act to grant and apply out of the Consolidated Revenue Fund the sum of Two million five hundred thousand pounds for Naval Construction and for a Reserve for Defence.

[Assented to 25th August, 1924.]

**B**E it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, for the purpose of appropriating the grant originated in the House of Representatives, as follows:—

Preamble.

1. This Act may be cited as the *Defence Equipment Act 1924*.

Short title.

2. This Act shall be deemed to have commenced on the thirtieth day of June, One thousand nine hundred and twenty-four.

Commencement.

3.—(1.) For the purposes of this Act there shall be two Trust Accounts which shall be known, respectively, as the Naval Construction Trust Account and the Defence Reserve Trust Account.

Naval Construction Trust Account and Defence Reserve Trust Account.

(2.) The accounts established in pursuance of this section shall be Trust Accounts for the purposes of section sixty-two A of the *Audit Act 1901-1920*.<sup>(a)</sup>

4. There shall be payable out of the Consolidated Revenue Fund, which is hereby appropriated accordingly, to the credit of the Naval Construction Trust Account, an amount not exceeding Two million pounds and to the Defence Reserve Trust Account an amount not exceeding Five hundred thousand pounds.

Payments to Trust Account.

5.—(1.) The moneys standing to the credit of the Naval Construction Trust Account may be applied for the purpose of naval construction.

Payments from Trust Accounts.

(2.) The moneys standing to the credit of the Defence Reserve Trust Account may be applied—

- (a) for the purpose of arms, armament, munitions and aircraft equipment;
- (b) for the reconditioning of equipment existing at the commencement of this Act;
- (c) for the provision of accommodation, and, in particular, magazine and storage accommodation, and the acquisition of sites therefor; and
- (d) for the survey of the Great Barrier Reef.

(a) *Supra*, p. 177.

## DEFENCE EQUIPMENT ACT 1928.

## No. 6 of 1928.

An Act to grant and apply out of the Consolidated Revenue Fund the sum of Three million two hundred and twenty thousand pounds for Naval Construction, a Reserve for Defence and the Development of Civil Aviation.

[Assented to 2nd April, 1928.]

Preamble.

**B**E it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, for the purpose of appropriating the grant originated in the House of Representatives, as follows:—

Short title.

1. This Act may be cited as the *Defence Equipment Act 1928*.

Appropriation  
of £2,900,000.

2. There shall be payable out of the Consolidated Revenue Fund, which is hereby appropriated accordingly, for the purposes of the Trust Account established under the *Defence Equipment Act 1924*<sup>(a)</sup> and known as the Naval Construction Trust Account, a sum not exceeding Two million nine hundred thousand pounds.

Appropriation  
of £120,000 for  
Defence  
Reserve.

3.—(1.) There shall be payable out of the Consolidated Revenue Fund, which is hereby appropriated accordingly, for the purposes of the Trust Account established under the *Defence Equipment Act 1924*<sup>(a)</sup> and known as the Defence Reserve Trust Account, the sum of One hundred and twenty thousand pounds.

(2.) The amount appropriated by this section shall be applied only for the survey of the Great Barrier Reef.

Civil Aviation.  
Trust Account.

4.—(1.) For the purposes of this Act there shall be a Trust Account which shall be known as the Civil Aviation Trust Account.

(2.) The account established in pursuance of this section shall be a Trust Account for the purposes of section sixty-two A of the *Audit Act 1901-1926*.<sup>(b)</sup>

Appropriation  
of £200,000  
for civil  
aviation.

5. There shall be payable out of the Consolidated Revenue Fund, which is hereby appropriated accordingly, for the purposes of the Civil Aviation Trust Account, the sum of Two hundred thousand pounds.

Payments  
from Civil  
Aviation  
Trust Account.

6. The moneys standing to the credit of the Civil Aviation Trust Account may be applied for the purpose of the development of civil aviation.

(a) *Supra*, p. 837. (b) *Supra*, p. 177.



DEFENCE EQUIPMENT ACT 1934.

**No. 20 of 1934.**

An Act to grant and apply out of the Consolidated Revenue Fund the sum of Four million one hundred and sixty thousand pounds for Naval Construction and for other Defence purposes.

[Assented to 4th August, 1934.]

**B**E it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, for the purpose of appropriating the grant originated in the House of Representatives, as follows:—

Preamble.

1. This Act may be cited as the *Defence Equipment Act 1934*.

Short title.

2.—(1.) For the purposes of this Act there shall be a Trust Account which shall be known as the Defence Equipment Trust Account.

Defence  
Equipment  
Trust Account.

(2.) The account established in pursuance of this section shall be a Trust Account for the purposes of section sixty-two A of the *Audit Act 1901-1926*.<sup>(a)</sup>

3. There shall be payable out of the Consolidated Revenue Fund, which is hereby appropriated accordingly, to the credit of the Defence Equipment Trust Account the amount of Four million one hundred and sixty thousand pounds.

Payment to  
Trust Account.

4. The moneys standing to the credit of the Defence Equipment Trust Account may be applied—

Payments  
from Trust  
Account.

(a) for naval construction;

(b) for the purchase of arms, armament, aircraft, munitions, equipment, machinery, plant, and reserves of ammunition and oil fuel; and

(c) for defence works and buildings and the acquisition of sites therefor.

(a) *Supra*, p. 177.

## TERMINATION OF THE PRESENT WAR (DEFINITION) ACT 1919.

## No. 26 of 1919.

An Act to make provision for determining the Date of the Termination of the Present War and for purposes connected therewith.

[Assented to 28th October, 1919.]

**B**E 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.

**1.** This Act may be cited as the *Termination of the Present War (Definition) Act 1919*.

Governor-General may declare date of termination of war.

**2.**—(1.) The Governor-General may, by proclamation, declare what date shall be deemed to be the date of the termination of the present war.<sup>(a)</sup>

(2.) The date declared by the Governor-General in pursuance of this section shall be as nearly as may be the date of the exchange or deposit of ratifications of the treaty or treaties of peace.

Effect of declaration on Acts, Orders, &c.

**3.** For the purposes of any provision in any Act, Order in Council, Proclamation or Regulation referring expressly or impliedly and in whatever form of words to the present war or the present hostilities, the present war shall, unless the context otherwise indicates, be deemed to have continued to, and to have ended on, the date declared by the Governor-General in pursuance of the last preceding section.

Termination of powers of officers.

**4.** Where by any Act, Order in Council, Proclamation or Regulation powers are conferred on any officer and are exercisable by that officer during the continuance of the present war, the Governor-General may, if he thinks fit, and notwithstanding the issue of a proclamation in pursuance of section two of this Act, fix, as the date of the determination of those powers, an earlier date than that declared in the proclamation.

(a) The date deemed to be the date of the termination of the war was declared to be 31st August, 1921, at the hour of midnight. See *Gazette*, 1921, p. 1251.

5. The Governor-General may, by proclamation, declare what date shall be deemed to be the date of the termination of the war between His Majesty the King and any particular State.<sup>(a)</sup>

Termination of  
the war with  
any particular  
State.

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(a) The dates deemed to be the dates of the termination of the war with Germany, Austria, Bulgaria, Hungary, and Turkey were declared to be 10th January, 1920, 16th July, 1920, 9th August, 1920, 26th July, 1921, and 6th August, 1924, respectively. See *Gazette*, 1920, pp. 339, 1141, and 1193; *Gazette*, 1921, p. 1207; and *Gazette*, 1924, p. 1913.

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DESIGNS ACT. See INDUSTRIAL PROPERTY.

DEVELOPMENT AND MIGRATION. See MIGRANT SETTLEMENT.

DISTILLATION ACT. See EXCISE.

DOMAIN, EMINENT. See LAND ACQUISITION.

DRIED FRUITS ACT. See TRADE AND COMMERCE.

DRIED FRUITS EXPORT CHARGES ACT. See PRIMARY PRODUCERS' ASSISTANCE.

DRIED FRUITS EXPORT CONTROL ACT. See PRIMARY PRODUCERS' ASSISTANCE.

ECONOMIC RESEARCH ACT. See RESEARCH AND SCIENCE.

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## ELECTION AND REFERENDUM.

	PAGE
COMMONWEALTH ELECTORAL ACT 1918-1934 .. ..	842
COMMONWEALTH ELECTORAL (WAR-TIME) REPEAL ACT 1920	921
NORTHERN TERRITORY REPRESENTATION ACT 1922-1925 ..	921
REFERENDUM (CONSTITUTION ALTERATION) ACT 1906-1928	924
REPRESENTATION ACT 1905 .. .. .	942
SENATE ELECTIONS ACT 1903-1922 .. .. .	946

COMMONWEALTH ELECTORAL ACT 1918-1934.<sup>(a)</sup>

An Act to Consolidate and Amend the Law relating to Parliamentary Elections and for other purposes.

[Assented to 21st November, 1918.]<sup>(b)</sup>

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.

Short title amended.

No. 32, 1918, s. 2.

Commencement.

Repeal.

1. This Act may be cited as the *Commonwealth Electoral Act 1918-1934*.<sup>(a)</sup>

2. The several Parts and sections of this Act shall commence on such dates as are respectively fixed by proclamation.<sup>(c)</sup>

3.—(1.) The several Parts and sections of the following Acts, namely:—the *Commonwealth Electoral Act 1902*, the *Commonwealth Electoral Act 1905*, the *Commonwealth Electoral Act 1906*, the *Disputed Elections and Qualifications Act 1907*, the *Commonwealth Electoral Act 1909*, the *Commonwealth Electoral Act 1911*, the *Commonwealth Franchise Act 1902*, and the *Electoral Divisions Act 1903*, are repealed as from such dates as are respectively fixed by Proclamation.<sup>(d)</sup>

(a) The *Commonwealth Electoral Act 1918-1934* comprises the *Commonwealth Electoral Act 1918* (No. 27 of 1918), as amended by the *Commonwealth Electoral Act 1919* (No. 31 of 1919), the *Commonwealth Electoral Act 1921* (No. 14 of 1921), the *Commonwealth Electoral Act 1922* (No. 14 of 1922), the *Commonwealth Electoral Act 1924* (No. 10 of 1924), the *Commonwealth Electoral Act 1925* (No. 20 of 1925), the *Commonwealth Electoral Act 1928* (No. 17 of 1928), the *Commonwealth Electoral Act 1929* (No. 2 of 1929) and by the *Commonwealth Electoral Act 1934* (No. 9 of 1934). See Acts No. 31, 1919, s. 1; No. 14, 1921, s. 1; No. 14, 1922, s. 1; No. 10, 1924, s. 1; No. 20, 1925, s. 1; No. 17, 1928, s. 1; No. 2, 1929, s. 1; and No. 9, 1934, s. 1.

(b) This is the date of assent to the *Commonwealth Electoral Act 1918*; the *Commonwealth Electoral Act 1919* was assented to on 28th October, 1919; the *Commonwealth Electoral Act 1921* on 15th December, 1921; the *Commonwealth Electoral Act 1922* on 28th September, 1922 (proclaimed to commence on 4th October, 1922, see *Gazette* 1922, p. 1787); the *Commonwealth Electoral Act 1924* on 31st July, 1924; the *Commonwealth Electoral Act 1925* on 26th September, 1925; the *Commonwealth Electoral Act 1928* on 22nd June, 1928; the *Commonwealth Electoral Act 1929* on 25th February, 1929; and the *Commonwealth Electoral Act 1934* on 27th July, 1934.

(c) Some sections of the *Commonwealth Electoral Act 1918* were proclaimed to commence on 25th November, 1918, and some on 21st March, 1919. See *Gazette* 1918, p. 2257, and 1919, p. 401. Section 32 was proclaimed to commence on 14th December, 1920. See *Gazette* 1920, p. 2277.

(d) For proclamations repealing these Acts, see *Gazette* 1918, p. 2257, 1919, p. 401, and 1934, p. 1351.



(2.) All appointments, divisions, subdivisions, polling places, electoral rolls, regulations, notices, proceedings, and all other matters and things duly appointed, made, commenced, or done under the Acts hereby repealed and in force, current, operative, or pending at the commencement of this Act shall, subject to this Act, be of the same force or effect in all respects as if this Act had been in force when they were so appointed, made, commenced, or done, and they had been respectively appointed, made, commenced, or done hereunder.

\* \* \* \* \*

Sub-sec. (3)  
omitted by  
No. 9, 1934, s. 2.

Parts.

4. This Act is divided into Parts as follows :—

- Part I.—Preliminary.
- Part II.—Administration.
- Part III.—Electoral Divisions.
- Part IV.—Subdivisions and Polling Places.
- Part V.—Electoral Rolls.
- Part VI.—Qualifications and Disqualifications for  
Enrolment and for Voting.
- Part VII.—Enrolment.
- Part VIII.—Objections.
- Part IX.—Appeals.
- Part X.—Writs for Elections.
- Part XI.—The Nominations.
- Part XII.—Voting by Post.
- Part XIII.—The Polling.
- Part XIV.—The Scrutiny.
- Part XV.—The Return of the Writs.
- Part XVI.—Limitation of Electoral Expenses.
- Part XVII.—Electoral Offences.
- Part XVIII.—Court of Disputed Returns.  
Division 1.—Disputed Elections and Returns.  
Division 2.—Qualifications and Vacancies.
- Part XIX.—Miscellaneous.

5. In this Act unless the contrary intention appears—

Interpretation.

- “Candidate” in Parts II., XVI., and XVII. includes any person who within three months before the day of election announces himself as a candidate for election as a Member of the Senate or the House of Representatives :
- “Controller-General of Prisons” means the Controller-General or other principal officer of a State having control of the prisons and gaols of the State :
- “Divisions” means an Electoral Division for the election of a member of the House of Representatives :
- “Elector” means any person whose name appears on a Roll as an elector :
- “Justice of the Peace” means a Justice of the Peace of the Commonwealth, or part of the Commonwealth, or of a State, or part of a State :

“Officer” includes the Chief Electoral Officer for the Commonwealth, and any Commonwealth Electoral Officer for a State, Divisional Returning Officer, Assistant Returning Officer, Registrar, Presiding Officer, Substitute Presiding Officer, Assistant Presiding Officer, Poll Clerk, and Doorkeeper :

“Registrar” means an Electoral Registrar under this Act and includes a Divisional Returning Officer acting as Registrar :

“Registrar-General” means the Registrar-General or other Principal Officer of a State who is charged with the duty of registering deaths occurring and marriages celebrated in the State :

“Returning Officer” includes Divisional Returning Officer and Assistant Returning Officer :

“Roll” means an Electoral Roll under this Act :

“Subdivision” means a subdivision of a Division.

## PART II.—ADMINISTRATION.

Chief Electoral  
Officer.

6. There shall be a Chief Electoral Officer for the Commonwealth who shall have such powers and functions as are conferred upon him by this Act or the Regulations.

Commonwealth  
Electoral  
Officers for the  
States.

7. There shall be a Commonwealth Electoral Officer for each State who shall subject to the directions of the Chief Electoral Officer be the principal electoral officer in the State.

Divisional  
Returning  
Officers.

8. There shall be a Divisional Returning Officer for each Division, who shall be charged with the duty of giving effect to this Act within or for his Division subject to the directions of the Commonwealth Electoral Officer for the State.

Assistant  
Returning  
Officers.  
Amended by  
No. 31, 1919,  
s. 2.

9.—(1.) Assistant Returning Officers may be appointed to exercise within or for any portion of a Division, subject to the control of the Divisional Returning Officer, all the powers of the Divisional Returning Officer except those relating to postal voting or, in the case of an Assistant Returning Officer in a Territory of the Commonwealth, such powers as are prescribed, but no Assistant Returning Officer shall be appointed in or for any portion of a Division for which less than one hundred electors are enrolled.

(2.) Where the services of an Assistant Returning Officer are required for the purpose of an election only, the appointment may be made by the Chief Electoral Officer and in such case shall terminate upon the completion of the election.

Electoral  
Registrars.

10. The Minister may appoint Electoral Registrars to keep the Rolls for specified Subdivisions, who shall be subject to the directions of the Divisional Returning Officer. The Divisional

Returning Officer shall act as Registrar for any Subdivision of his Division for which no Registrar has been appointed, and may by virtue of his office act as Registrar for any Subdivision of his Division during the absence from duty of the Registrar for the Subdivision.

11.—(1.) In the event of any vacancy occurring in the office of Divisional Returning Officer, Assistant Returning Officer or Registrar, or in the absence from duty of any such officer, the Chief Electoral Officer may appoint some person to perform the duties of the office during the period of the vacancy or absence.

Appointment  
in cases of  
emergency.

(2.) Any such appointment shall be temporary only, and shall not confer on the appointee any right or claim to be permanently appointed to the position.

12. A person appointed to be a Divisional Returning Officer, an Assistant Returning Officer, or a Registrar shall be deemed to have been appointed as from the date specified in his appointment, or, if no such date is specified, as from the date of his appointment.

Date from  
which  
appointments  
are to take  
effect.

13. No candidate shall be appointed an officer, and if any officer becomes a candidate he shall thereby vacate his office.

Candidates not  
to be officers.

14. All Divisional Returning Officers and Registrars shall keep forms of claim for enrolment and transfer and such other forms as are prescribed, and shall without fee supply them to the public and assist the public in their proper use.

Keeping of  
forms.

### PART III.—ELECTORAL DIVISIONS.

15. Each State shall be distributed into Electoral Divisions equal in number to the number of Members of the House of Representatives to be chosen for the State, and one Member of the House of Representatives shall be chosen for each Division.

Divisions.

16.—(1.) For the purpose of the distribution of a State into Divisions in accordance with this Act the Governor-General may appoint three Distribution Commissioners, of whom one shall be the Chief Electoral Officer or an officer having similar qualifications, and, if his services are obtainable, one shall be the Surveyor-General of the State or an officer having similar qualifications.

Distribution  
Commissioners.

(2.) The Governor-General may appoint one of the Distribution Commissioners to be Chairman.

(3.) The Distribution Commissioners shall hold office during the pleasure of the Governor-General.

17. At all meetings of the Distribution Commissioners the Chairman, if present, shall preside, and in his absence the Distribution Commissioners present shall appoint one of their number to preside, and at all such meetings two Commissioners shall be a quorum and shall have full power to act, and in the event of an equality of votes the Chairman or presiding Commissioner shall have a casting vote in addition to his original vote.

Proceedings at  
meetings.

Quota.

18. For the purposes of this Act the Chief Electoral Officer shall, whenever necessary, ascertain a quota for each State as follows :—

The whole number of electors in each State, as nearly as can be ascertained, shall be divided by the number of Members of the House of Representatives to be chosen for the State.

Matters to be considered in distribution of a State.

19. In making any proposed distribution of a State into Divisions the Distribution Commissioners shall give due consideration to—

- (a) Community or diversity of interest,
- (b) Means of communication,
- (c) Physical features,
- (d) Existing boundaries of Divisions and Subdivisions,
- (e) State Electoral boundaries ;

and subject thereto the quota of electors shall be the basis for the distribution, and the Distribution Commissioners may adopt a margin of allowance, to be used whenever necessary, but in no case shall the quota be departed from to a greater extent than one-fifth more or one-fifth less.

Notice of proposed distribution.

20. Before reporting on the distribution of any State into Divisions the Distribution Commissioners shall cause a map with a description of the boundaries of each proposed Division to be exhibited at post-offices in the proposed Division, and shall invite public attention thereto by advertisement in the *Gazette*.

Objections.

21. Objections or suggestions in writing may be lodged with the Distribution Commissioners not later than thirty days after the first advertisement in the *Gazette* of the proposed distribution, and the Distribution Commissioners shall consider all objections and suggestions so lodged before making their report.

Report of Distribution Commissioners.

22. The Distribution Commissioners shall forthwith, after the expiration of the thirty days above mentioned, forward to the Minister their report upon the distribution of the State into Divisions, and the number of electors residing in each proposed Division, as nearly as can be ascertained, together with a map signed by them showing the boundaries of each proposed Division.

Report to be laid before Parliament.

23. The report and map shall be laid before both Houses of the Parliament within seven days after its receipt if the Parliament is then sitting, and, if not, then within seven days after the next meeting of the Parliament.

Proclamation of Divisions.

24.—(1.) If both Houses of the Parliament pass a resolution approving of any proposed distribution the Governor-General may by proclamation declare the names and boundaries of the Divisions, and such Divisions shall until altered be the Electoral Divisions for the State in which they are situated :

Provided that, until the next ensuing dissolution or expiration of the House of Representatives, the redistribution shall not affect the election of a new member to fill a vacancy happening in the



House of Representatives; but for the purposes of any such election the Electoral Divisions as theretofore existing, and the Rolls in respect of those Divisions, shall continue to have full force and effect, notwithstanding that new Rolls for the new Divisions have been prepared.

(2.) If either House of the Parliament passes a resolution disapproving of any proposed distribution, or negatives a motion for the approval of any proposed distribution, the Minister may direct the Distribution Commissioners to propose a fresh distribution of the State into Divisions.

(3.) The Distribution Commissioners shall thereupon reconsider the matter, and forthwith propose a fresh distribution, but for that purpose it shall not be necessary to cause the action provided by section twenty of this Act to be taken.

**25.—**(1.) A re-distribution of any State into Divisions shall be made in the manner hereinbefore provided whenever directed by the Governor-General by proclamation. Re-distribution.

(2.) Such proclamation may be made—

- (a) whenever an alteration is made in the number of Members of the House of Representatives to be elected for the State; and
- (b) whenever in one-fourth of the Divisions of the State the number of the electors differs from a quota ascertained in the manner provided in this Part to a greater extent than one-fifth more or one-fifth less; and
- (c) at such other times as the Governor-General thinks fit.

#### PART IV.—SUBDIVISIONS AND POLLING PLACES.

**26.** Each Division shall be divided into Subdivisions and the boundaries of each Subdivision shall be as specified by proclamation. Subdivisions.

**27.—**(1.) The Minister may, by notice in the *Gazette*— Polling places.

- (a) appoint a chief polling place for each Division;
- (b) appoint such other polling places for each Division as he thinks necessary;
- (c) declare polling places to be the polling places for any specified Subdivision; and
- (d) abolish any polling place.

(2.) No polling place shall be abolished after the issue of the writ and before the time appointed for its return.

**28.** When a Division is divided into Subdivisions, or the boundaries of a Division or Subdivision are altered, or a new Subdivision is proclaimed, such changes as are thereby rendered necessary for the transfer of the names of electors from one Roll to another Roll shall be made in the prescribed manner. Change of electors from one Roll to another.

## PART V.—ELECTORAL ROLLS.

Electoral Rolls. 29.—(1.) There shall be a Roll of the electors for each State.

Sub. sec. (2)  
omitted by No.  
9, 1934, s. 3.

\* \* \* \* \*

Subdivision  
Rolls, Division  
Rolls, and State  
Rolls.

30.—(1.) There shall be a Roll for each Division.

(2.) There shall be a separate Roll for each Subdivision.

(3.) All the Subdivision Rolls for a Division shall together form the Roll for the Division.

(4.) All the Division Rolls for a State shall together form the Roll for the State.

Form of Rolls.

31. The Rolls may be in the prescribed form, and shall set out the surname, Christian names, place of living, occupation (or other prescribed particulars) and sex of each elector, and may contain such further particulars as are prescribed.

Arrangement  
with States.

32.—(1.) The Governor-General may arrange with the Governor of a State for the preparation, alteration, and revision of the Rolls, in any manner consistent with the provisions of this Act, jointly by the Commonwealth and the State, to the intent that the Rolls may be used as Electoral Rolls for State elections as well as for Commonwealth elections.

(2.) When any such arrangement has been made, the Rolls may contain, for the purposes of such State elections—

(a) the names and descriptions of persons who are not entitled to be enrolled thereon as electors of the Commonwealth provided that it is clearly indicated in the prescribed manner that those persons are not enrolled thereon as Commonwealth electors ;

(b) distinguishing marks against the names of persons enrolled as Commonwealth electors, to show that those persons are or are not also enrolled as State electors ; and

(c) other particulars in addition to the prescribed particulars ;  
and for the purposes of this Act the names, descriptions, marks, and particulars so contained shall not be deemed part of the Roll.

New Rolls.

33.—(1.) New Rolls for any Subdivisions, Divisions, or States shall be prepared whenever directed by proclamation.

(2.) The Rolls shall be prepared under a system of compulsory enrolment.

(3.) The proclamation may specify the manner in which the Rolls shall be prepared ; and may require every person entitled to enrolment on any new Roll to sign and send to the proper officer in

accordance with the regulations a form of claim for enrolment and otherwise to comply with the regulations relating to compulsory enrolment :

Provided that where an elector is enrolled for the Subdivision in which he lives, in pursuance of a claim signed by him, he shall not be required to sign and send in any further claim for enrolment in connexion with the preparation of a new Roll.

34. Upon the receipt by the Registrar of a new Roll for a Subdivision, the Registrar shall— Additions, &c., to new Rolls.

- (a) make additions, alterations, and corrections therein ; and
- (b) remove names therefrom,

pursuant to claims or notifications received by him between the date of the proclamation directing the preparation of new Rolls and the date of the notification that the Rolls have been prepared, where the additions, alterations or corrections have not already been made in, or the removals have not been made from, the Rolls.

35. Where objections have been lodged or notices of objection have been issued and action in respect of those objections or notices has not been completed prior to the notification of the preparation of new Rolls, the objections or notices shall have effect in relation to the new Rolls as if such Rolls had been in existence at the time of the lodging of the objections or the issuing of the notices. Objections and notices to have effect in relation to new Rolls.

36.—(1.) Rolls shall be printed whenever the Minister so directs. Printing of Rolls.

(2.) Supplemental Rolls, setting out additions since the latest print of the Rolls, shall be prepared, and wherever practicable printed, immediately previous to a Senate Election or a General Election for the House of Representatives, and at such other times as the Minister directs.

37.—(1.) Copies of the latest print of the Division Roll and of all supplemental prints shall be open for public inspection at the office of the Divisional Returning Officer for the Division without fee, and shall be obtainable thereat and at such post offices in the Division as the Divisional Returning Officer appoints, on payment of the price prescribed. Inspection.

(2.) Every Roll kept by a Registrar shall be open for public inspection without fee at the office of the Registrar at all convenient times during his ordinary office hours.

38. All officers in the service of the Commonwealth, all police, statistical, and electoral officers in the service of any State, officers in the service of any local governing body, and all occupiers of habitations shall upon application furnish to the Commonwealth Electoral Officer for the State or to any officer acting under his direction all such information as he requires in connexion with the preparation, maintenance or revision of the Rolls. Officers and others to furnish information.

PART VI.—QUALIFICATIONS AND DISQUALIFICATIONS FOR  
ENROLMENT AND FOR VOTING.

Persons entitled  
to enrolment  
and to vote.

39.—(1.) Subject to the disqualification set out in this Part, all persons not under twenty-one years of age, whether male or female, married or unmarried—

(a) who have lived in Australia for six months continuously,  
and

(b) who are natural-born or naturalized subjects of the  
King,

shall be entitled to enrolment subject to the provisions of Part VII.  
of this Act.

Sub-section (2.)  
omitted by  
No. 17, 1928,  
s. 2.

\* \* \* \* \*

(3.) All persons whose names are on the roll for any Electoral Division shall, subject to this Act, be entitled to vote at elections of Members of the Senate for the State of which the Division forms part and at elections of Members of the House of Representatives for the Division, but no person shall be entitled to vote more than once at any Senate election or any House of Representatives election, or at more than one election for the Senate or for the House of Representatives held on the same day:

Added by  
No. 14, 1922,  
s. 3 and  
substituted by  
No. 17, 1928,  
s. 2.

Provided that an elector shall not be entitled to vote as an elector of the Division in respect of which he is enrolled unless his real place of living was at some time within three months immediately preceding polling day within that Division.<sup>(a)</sup> In this proviso the words "real place of living" include the place of living to which a person temporarily living elsewhere has a fixed intention of returning for the purpose of continuing to live thereat.

(4.) No person who is of unsound mind, and no person attainted of treason, or who has been convicted and is under sentence for any offence punishable under the law of any part of the King's dominions by imprisonment for one year or longer, shall be entitled to have his name placed on or retained on any roll or to vote at any Senate election or House of Representatives election.

Amended by  
No. 20, 1925,  
s. 2.

(5.) No aboriginal<sup>(b)</sup> native of Australia, Asia, Africa, or the Islands of the Pacific (except New Zealand) shall be entitled to have his name placed on or retained on any roll or to vote at any Senate election or House of Representatives election unless—

(a) he is so entitled under section forty-one of the Constitution<sup>(c)</sup>;

(a) Held by the Court of Disputed Returns (Starke J.) that evidence purporting to show that the addresses shown in the roll were outside the Electoral Division is inadmissible as the Court is bound by s. 190 to assume that electors are correctly on the roll and that therefore their right to vote is conclusively established unless their answers to questions prescribed by s. 115 show otherwise. *Perkins v. Cusack*, (1930) 43 C.L.R. 70; 36 A.L.R. 241; 3 A.L.J. 397.

(b) As to the meaning of aboriginal see *Muramats v. Commonwealth Electoral Officer*, (1923) 32 C.L.R. 500; 30 A.L.R. 81.

(c) Section 41 of the Constitution reads:—

41. No adult person who has or acquires a right to vote at elections for the more numerous House of the Parliament of a State shall while the right continues be prevented by any law of the Commonwealth from voting at elections for either House of the Parliament of the Commonwealth.

Held by the High Court that a person is not entitled to be enrolled under section 41 of the Constitution if he is disqualified from voting under the *Electoral Act* 1907 of Western Australia notwithstanding that he is enrolled under that Act as an elector. *Muramats v. Commonwealth Electoral Officer*, *supra*. (But N.B. the subsequent addition of the provisions of paragraphs (b) and (c) by the amending Act of 1925.)



- (b) he is a native of British India ; or
- (c) he is a person to whom a certificate of naturalization has been issued under a law of the Commonwealth or of a State and that certificate is still in force, or is a person who obtained British nationality by virtue of the issue of any such certificate.

# PART VII.—ENROLMENT.

40.—(1.) Names may be added to Rolls pursuant to claims for enrolment or transfer of enrolment.

Additions of names to Rolls.

(2.) A claim may be in the prescribed form, and shall be signed by the claimant with his personal signature, and attested by a prescribed person who shall sign his name as witness in his own handwriting.

41.—(1.) Any person qualified for enrolment, who lives in a Subdivision, and has so lived for a period of one month last past, shall be entitled to have his name placed on the Roll for that Subdivision.

Claims for enrolment or transfer of enrolment.

(2.) Any elector whose name is on the Roll for any Subdivision and who lives in any other Subdivision, and has so lived for a period of one month last past, shall be entitled to have his name transferred to the Roll for the Subdivision in which he lives.

(3.) No person is entitled to have his name placed on more than one Roll or upon any Roll other than the Roll for the Subdivision in which he lives, or to have his name placed on a Roll in respect of any address other than the address at which he is living at the date of lodgment of the claim.

Amended by No. 9, 1934, s. 4.

(4.) Notwithstanding anything contained in this Act—

- (a) any Senator may, if he so desires, have his name placed upon and retained upon the Roll for any Subdivision of any Division of the State which he represents instead of upon the Roll for the Subdivision in which he lives, and any Member of the House of Representatives may, if he so desires, have his name placed upon and retained upon the Roll for any Subdivision of the Division which he represents instead of upon the Roll for the Subdivision in which he lives ;

Amended by No. 20, 1925, s. 3, and by No. 17, 1928, s. 3.

- (b) any Senator who lives in the Territory for the Seat of Government may, if he so desires, have his name placed upon and retained upon the roll for any Subdivision of any Division in the State which he represents and any Member of the House of Representatives who lives in the Territory for the Seat of Government may, if he so desires, have his name placed upon and retained upon the roll for any Subdivision of the Division which he represents ; and

Added by No. 20, 1925, s. 3.

- (c) any Senator or Member of the House of Representatives whose name is enrolled in accordance with the provisions of this sub-section may vote as an elector of the Subdivision in respect of which he is so enrolled.

Added by No. 17, 1928, s. 3.

(5.) The validity of any enrolment shall not in any case be questioned on the ground that the person enrolled has not in fact lived in the Subdivision for a period of one month.

Compulsory  
enrolment and  
transfer.

42.—(1.) Every person who is entitled to have his name placed on the Roll for any Subdivision whether by way of enrolment or transfer of enrolment, and whose name is not on the Roll, shall forthwith fill in and sign, in accordance with the directions printed thereon, a claim in the prescribed form, and send or deliver the claim to the Registrar for the Subdivision.

(2.) Every person who is entitled to have his name placed on the Roll for any Subdivision whether by way of enrolment or transfer of enrolment, and whose name is not on the Roll upon the expiration of twenty-one days from the date upon which he became so entitled, or at any subsequent date while he continues to be so entitled, shall be guilty of an offence unless he proves that his non-enrolment is not in consequence of his failure to send or deliver to the Registrar for the Subdivision for which he is entitled to be enrolled, a claim in the prescribed form, duly filled in and signed in accordance with the directions printed thereon.

Penalty: For a first offence, Ten shillings; and for any subsequent offence, Two pounds.

(3.) Every person who changes his place of living from one address in the Subdivision for which he is enrolled to another address in that Subdivision, and who, at any time after the expiration of twenty-one days from the date of making the change, has failed to notify the Registrar for the Subdivision in the prescribed form of the new address, shall be guilty of an offence.

Penalty: For a first offence, Ten shillings; and for every subsequent offence, Two pounds.

Registration of  
claim.

43.—(1.) Upon receipt of a claim for enrolment or transfer of enrolment, the Registrar shall—

(a) note on the claim the date of its receipt by him; and

(b) if the claim is in order and he is satisfied that the claimant is entitled to be enrolled, forthwith—

(i) enter on the Subdivision Roll the name of the claimant and the particulars relating to him; and

(ii) notify the claimant in the prescribed form that he has been enrolled; and

(iii) in the case of a transfer of enrolment give notice of the transfer to the Registrar keeping the Subdivision Roll from which the elector's name has been transferred.

(2.) The Registrar keeping the Subdivision Roll from which an elector's name has been transferred shall, upon the receipt of notice of the transfer in the prescribed form, remove the elector's name from the Roll kept by him.

44.—(1.) The Registrar, on receipt of a claim, shall, if he is not satisfied that the claimant is entitled to be enrolled in pursuance of the claim forthwith—

Reference of  
claims to  
Divisional  
Returning  
Officer.

- (a) refer the claim, with such observations as he thinks proper, to the Divisional Returning Officer for his decision, and
- (b) send to the claimant a notification in the prescribed form that the claim has been so referred.

(2.) After the Divisional Returning Officer has made such inquiry as may be necessary to enable him to decide the claim, he shall forthwith return the claim to the Registrar, and notify the Registrar of his decision, and, if he decides to reject the claim, the reason for such decision.

(3.) If the Divisional Returning Officer decides that the claimant is entitled to enrolment pursuant to the claim, the Registrar shall forthwith enrol the claimant, and send to him a notification in the prescribed form that he has been so enrolled.

(4.) If the Divisional Returning Officer decides that the claimant is not entitled to enrolment pursuant to the claim, the Registrar shall forthwith send to the claimant a notification in the prescribed form that his claim has been rejected, specify the reason for the rejection, and advise the claimant that he is entitled, at any time within one calendar month after the receipt of the notification, to appeal to a court of summary jurisdiction for an order directing that his name be added to the Roll.

45. Notwithstanding anything contained in either of the last two preceding sections—

Time for  
altering Rolls.

- (a) claims for enrolment or transfer of enrolment which are received by the Registrar after six o'clock in the afternoon of the day of the issue of the writ for an election shall not be registered until after the close of the polling at the election; and
- (b) except by direction of the Divisional Returning Officer no name shall be removed from a Roll pursuant to a notification of transfer of enrolment received by the Registrar after six o'clock in the afternoon of the day of the issue of the writ for an election and before the close of the polling at the election.

46. Any officer who receives a claim for enrolment or transfer of enrolment and who without just excuse fails to do everything necessary on his part to be done to secure the enrolment of the claimant in pursuance of the claim shall be guilty of an offence.

Penalty on  
officer  
neglecting  
to enrol  
claimants.

Penalty : Ten pounds.

47.—(1.) In addition to other powers of alteration conferred by this Act, a Registrar may alter any Roll kept by him by—

Alteration  
of Rolls.

- (a) correcting any mistake or omission in the particulars of the enrolment of an elector;

- (b) altering, on the written application of an elector, the original name, address, or occupation of the elector on the same Subdivision Roll;
- (c) removing the name of any deceased elector;
- (d) striking out the superfluous entry where the name of the same elector appears more than once on the same Subdivision Roll;
- (e) reinstating any name removed by mistake as the name of a deceased elector;
- (f) reinstating by direction of the Divisional Returning Officer any name removed as the result of an objection:

Provided that the Divisional Returning Officer shall not direct the reinstatement of any such name unless he is satisfied that the objection was based on a mistake as to fact and that the person objected to still retains and has continuously retained his right to the enrolment in respect of which the objection was made;

- (g) reinstating by direction of the Divisional Returning Officer any other name removed by mistake; and
- (h) removing a name from the Roll by direction of the Divisional Returning Officer upon the certificate of the Commonwealth Electoral Officer:

Provided that the Commonwealth Electoral Officer shall not issue such a certificate unless he is satisfied that the elector has ceased to be qualified for enrolment on that Roll and has secured enrolment on another Roll:

Provided further that where a Registrar removes any such name he shall send by post to the elector whose name is so removed notice of the fact.

Substituted by  
No. 9, 1934,  
s. 5.

(2.) Where the name of an elector has, pursuant to a claim, been incorrectly placed on the Roll for a Subdivision other than the Subdivision in which he was living at the date of the claim, and the elector was entitled on that date to have his name placed on the Roll for the Subdivision in which he was living—

- (a) if the two Subdivisions are in the same Division, the Divisional Returning Officer may direct the Registrar keeping the Roll on which the elector is enrolled to remove the name of the elector from that Roll, and the Registrar keeping the Roll for the Subdivision in which the elector is living to place the name of the elector on that Roll and to notify the elector of the change of enrolment, and the respective Registrars shall comply with those directions accordingly; and
- (b) if the two Subdivisions are not in the same Division, the Commonwealth Electoral Officer shall forward a certificate setting forth the facts to the Divisional Returning Officer for the Division in which the elector is enrolled and to the Divisional Returning Officer for the Division in which



the elector is living, and thereupon the Divisional Returning Officer for the Division for which the elector is enrolled shall direct the Registrar keeping the Roll on which the elector is enrolled to remove the name of the elector from that Roll, and the Divisional Returning Officer for the Division in which the elector is living shall direct the Registrar keeping the Roll for the subdivision in which the elector is living to place the name of the elector on that Roll and to notify the elector of the change of enrolment, and the respective Registrars shall comply with those directions accordingly.

(3.) No alteration pursuant to this section shall without the authority of the Divisional Returning Officer be made at any time after six o'clock in the afternoon of the day of the issue of the writ for an election and before the close of the polling at the election.

**47A.** Where a person, whose name has been placed on the Roll for a Division, is not entitled to enrol for that Division and that person secured enrolment pursuant to a claim in which he made a false statement, the Divisional Returning Officer for that Division, upon receipt of a certificate from the Commonwealth Electoral Officer setting forth the facts, may, at any time between the date of the issue of the writ for an election for that Division, and before the close of the polling at that election, direct the Registrar keeping that Roll to remove the name of that person from that Roll and the Registrar shall comply with that direction accordingly.

Incorrect  
enrolment.  
Inserted by  
No. 9, 1934,  
s. 6.

**48.** Every alteration of a Roll shall be made in such a manner that the original entry shall not be obliterated, and the reason for each alteration and the date thereof shall be set against the alteration, together with the initials of the Registrar.

Alterations to  
be initialed.

**49.** The Registrar-General shall as soon as practicable after the beginning of each month or at such other times as are arranged with the Chief Electoral Officer—

Lists of deaths  
and marriages  
to be  
forwarded.

- (a) forward to each Divisional Returning Officer in the State (either direct or through the Commonwealth Electoral Officer as may be arranged) a list of the names, addresses, occupations, ages, and sexes and dates of death of all persons of the age of twenty-one years or upwards whose deaths have been registered during the preceding month in respect of the Division for which the Divisional Returning Officer has been appointed;
- (b) forward to the Commonwealth Electoral Officer particulars of all marriages of women of the age of twenty-one years or upwards which have been registered in the State during the preceding month.

**50.** The Controller-General of Prisons shall as soon as practicable after the beginning of each month forward to the Commonwealth Electoral Officer a list of the names, addresses,

Lists of  
convictions to  
be forwarded.

occupations, and sexes of all persons who during the preceding month have been convicted in the State and are under sentence for any offence punishable by imprisonment for one year or longer.

Officer to act  
on receipt of  
information.

51. The Commonwealth Electoral Officer or the Divisional Returning Officer, as the case requires, shall, upon receipt of information pursuant to the last two preceding sections, take action under this Act to effect such alterations of the Rolls as are necessary.

#### PART VIII.—OBJECTIONS.

Names on Roll  
may be  
objected to.

52. Any name on a Roll may be objected to by objection in writing lodged with or made by the Divisional Returning Officer:

Provided that a sum of Five shillings shall be deposited in respect of each objection lodged by any person other than an officer, to be forfeited to the King if the objection is held by the Divisional Returning Officer to be frivolous.

Objection.

53. The objection may be in the prescribed form, and shall be signed by an elector enrolled on the same Subdivision Roll as the person objected to, or by the Divisional Returning Officer or Registrar, or other prescribed officer.

Duty to  
object.

54. It is the duty of the Divisional Returning Officer and of each Registrar or other prescribed officer to lodge or make an objection in writing, setting forth the grounds of such objection, in respect of any name which he has reason to believe ought not to be retained on the Roll.

Notice of  
objection.

55.—(1.) When an objection is made by or lodged with a Divisional Returning Officer, the Divisional Returning Officer shall forthwith give notice of the objection to the person objected to.

(2.) The notice may be in the prescribed form, and may be served by being posted to the place of abode for the time being of the person objected to, if that place of abode is known to the Divisional Returning Officer, or, if it is not known to the Divisional Returning Officer, then to the place of living as appearing on the Roll.

(3.) Where the Divisional Returning Officer is satisfied that the ground of objection stated in any objection lodged by an officer is not a good ground of objection, he may dismiss the objection, in which case no notice of the objection need be given to the person objected to.

(4.) An objection on the ground that a person does not live in the Subdivision for which he is enrolled shall be deemed not to be good unless it alleges that the person objected to does not live in the Subdivision, and has not so lived for at least one month last past.

Answer to  
objection.

56. The person objected to may, orally or in writing, in the prescribed manner, answer the objection.

57.—(1.) The Divisional Returning Officer shall determine the objection forthwith on receipt of the answer of the person objected to, or if no answer is received within a period of twenty days after the posting of the notice, then after the expiration of that period, and if it appears that the person objected to is not entitled to be enrolled on the Roll in respect of which the objection has been made, the Divisional Returning Officer shall direct the Registrar to remove the name of such person from that Roll :

Determination  
of objection.

Provided that no name shall be removed from a Roll in pursuance of this section after the issue of the writ for an election and before the close of the polling at the election.

(2.) If any objection lodged by any person other than an officer is held by the Divisional Returning Officer to be frivolous the person objected to shall be entitled to such reasonable allowance, not exceeding Five pounds, as the Divisional Returning Officer thinks fit to award.

(3.) In default of payment the sum awarded may be recovered by the person objected to in any civil court as a debt due by the objector.

#### PART IX.—APPEALS.

58.—(1.) Any person—

(a) who has sent or delivered to a registrar a claim for enrolment or transfer of enrolment, and who has not been enrolled pursuant thereto, or

(b) whose name has been removed from a Roll by direction of the Divisional Returning Officer pursuant to an objection, may, at any time within one calendar month after the receipt of the notice of the rejection of the claim or of notice of the determination of the objection, as the case may be, in the prescribed manner make application to a court of summary jurisdiction, constituted by a Police, Stipendiary, or Special Magistrate, or by two or more Justices of the Peace authorized by the Governor-General to hear and determine electoral appeals, for an order directing that his name be enrolled or reinstated on the Roll, as the case requires.

Appeal to courts  
of summary  
jurisdiction.

(2.) Where an objection has been determined by the Divisional Returning Officer adversely to the person objecting, that person, if not an officer, may in the prescribed manner apply to a court of summary jurisdiction, constituted as provided in the last preceding sub-section, for an order sustaining the objection.

(3.) Where the application has reference to the decision of the Divisional Returning Officer upon an objection, the applicant shall as prescribed serve the objector or the person objected to (as the case may be) with notice of the application, and the person so served may appear, or may in writing authorize any person to appear on his behalf, to resist the application.

(4.) The court may hear and determine any application under this section, and make such order as it thinks fit as to the costs of the application.

(5.) Any costs ordered by the court to be paid may be recovered in the same manner as the costs of any other proceeding before the court.

(6.) The clerk or other proper officer of the court shall send by post to the Divisional Returning Officer a certified copy of the order of the court, and it shall be the duty of the Divisional Returning Officer to direct the Registrar to make such entries (if any) upon the Roll as are necessary to give effect to the order.

(7.) A Police, Stipendiary, or Special Magistrate, or two or more Justices of the Peace authorized by the Governor-General to hear and determine electoral appeals, though not sitting as a court of summary jurisdiction, shall for the purposes of this section be deemed to be, and shall have all the powers of, a court of summary jurisdiction; and the Minister may appoint a clerk to such Magistrate or Justices and the clerk shall, for the purposes of this section, have all the powers and functions of the clerk or other proper officer of a court of summary jurisdiction.

#### PART X.—WRITS FOR ELECTIONS.

Forms of Writs.

59.—(1.) Writs\* for the election of Senators or Members of the House of Representatives may be in the Form A or Form B respectively in the Schedule, and shall fix the dates for—

- (a) the nomination,
- (b) the polling, and
- (c) the return of the writ.

(2.) For the purposes of this Act a writ shall be deemed to have been issued at the hour of six o'clock in the afternoon of the day on which the writ was issued.

Address of writ  
for election of  
Senators.

60. Writs for the election of Senators shall be addressed to the respective Commonwealth Electoral Officers for the States for which the elections are to be held.

Address of writ  
for election of  
Members of  
House of  
Representatives.

61.—(1.) Writs for the election of Members of the House of Representatives shall be addressed to the respective Divisional Returning Officers for the Divisions for which the elections are to be held, and may be issued through the Chief Electoral Officer.

(2.) The Chief Electoral Officer may advise any Divisional Returning Officer by telegram of the issue of the writ for a House of Representatives election and the particulars thereof, and for the purposes of section sixty-seven of this Act the Divisional Returning Officer may act on such advice as if the writ had been received by him.

Issue of writs.

\* Sections 12, 32, and 33 of the Constitution read :—

12. The Governor of any State may cause writs to be issued for elections of senators for the State. In case of the dissolution of the Senate, the writs shall be issued within ten days from the proclamation of such dissolution.

Writs for  
general election.

32. The Governor-General in Council may cause writs to be issued for general elections of members of the House of Representatives.

After the first general election, the writ shall be issued within ten days of the expiry of a House of Representatives or from the proclamation of a dissolution thereof.

Writs for  
vacancies.

33. Whenever a vacancy happens in the House of Representatives, the Speaker shall issue his writ for the election of a new member, or if there is no Speaker, or if he is absent from the Commonwealth, the Governor-General in Council may issue the writ.



62. The date fixed for the nomination of the candidates shall not be less than seven days nor more than twenty-one days after the date of the writ. Date of nomination.
63. The date fixed for the polling shall not be less than seven days nor more than thirty days after the date of nomination. Date of polling.
64. The day fixed for the polling shall be a Saturday. Polling to be on a Saturday.
65. The date fixed for the return of the writ shall not be more than ninety days after the issue of the writ. Date of return of writ.
66. In the case of a general election for the House of Representatives the same day shall be fixed for the polling in each Division, and all writs shall be made returnable on the same day. General election to be held on same day.
67. On the receipt of a writ the officer to whom it is directed shall indorse thereon the date of its receipt; and shall— Duty of Returning Officer on receipt of writ.
- (a) in the case of a writ for a Senate election, advertise its receipt and particulars in not less than two newspapers circulating in the State, and forward a copy of the writ to each Divisional Returning Officer and Assistant Returning Officer in the State;
- (b) in the case of a writ for a House of Representatives election, advertise its receipt and particulars in not less than two newspapers circulating in the Division, and forward a copy of the writ to each Assistant Returning Officer in the Division.

#### PART XI.—THE NOMINATIONS.

68. No person shall be capable of being elected as a Senator or a Member of the House of Representatives unless duly nominated. Candidates must be nominated.
- 69.—(1.) The qualifications of a member of the House of Representatives shall be as follows<sup>(a)</sup>:— Qualifications of members of the House of Representatives.
- (a) He must be of the full age of twenty-one years; Substituted by No. 20, 1925, s. 4.

(a) Note also ss. 43 and 44 of the Constitution which read—  
Section 43. A member of either House of the Parliament shall be incapable of being chosen or of sitting as a member of the other House.

Section 44. Any person who—

- (i) Is under any acknowledgment of allegiance, obedience, or adherence to a foreign power, or is a subject or a citizen or entitled to the rights or privileges of a subject or a citizen of a foreign power; or
- (ii) Is attainted of treason, or has been convicted and is under sentence, or subject to be sentenced, for any offence punishable under the law of the Commonwealth or of a State by imprisonment for one year or longer; or
- (iii) Is an undischarged bankrupt or insolvent; or
- (iv) Holds any office of profit under the Crown, or any pension payable during the pleasure of the Crown out of any of the revenues of the Commonwealth; or
- (v) Has any direct or indirect pecuniary interest in any agreement with the Public Service of the Commonwealth otherwise than as a member and in common with the other members of an incorporated company consisting of more than twenty-five persons;

shall be incapable of being chosen or of sitting as a senator or a member of the House of Representatives.

But sub-section (iv) does not apply to the office of any of the Queen's Ministers of State for the Commonwealth, or of any of the Queen's Ministers for a State, or to the receipt of pay, half-pay, or a pension by any person as an officer or member of the Queen's navy or army, or to the receipt of pay as an officer or member of the naval or military forces of the Commonwealth by any person whose services are not wholly employed by the Commonwealth.

Member of one House ineligible for other.

Disqualification.

- (b) He must be a subject of the King, either natural born or for at least five years naturalized under a law of the United Kingdom or of the Commonwealth ;
- (c) He must have been for three years at the least a resident within the limits of the Commonwealth as existing at the time when he is chosen ; and
- (d) He must be either—
  - (i) an elector entitled to vote at the election of members of the House of Representatives ;
  - (ii) a person qualified to become such elector ; or
  - (iii) a person who lives in the Territory for the Seat of Government, and has so lived for a period of one month.

(2.) To entitle a person to be nominated as a Senator or a Member of the House of Representatives he must have the qualifications specified in the last preceding sub-section.

State Members  
not entitled to  
be nominated.  
Substituted by  
No. 14, 1921,  
s. 2.

**70.** No person who—

- (a) is at the date of nomination a Member of the Parliament of a State ; or
- (b) was at any time within fourteen days prior to the date of nomination a member of the Parliament of a State ; or
- (c) has resigned from the Parliament of a State and has the right, under the law of the State, if not elected to the Parliament of the Commonwealth, to be re-elected to the Parliament of the State without the holding of a poll,

shall be capable of being nominated as a Senator, or as a Member of the House of Representatives.

Mode of  
nomination.

**71.** A nomination may be in Form C or Form D in the Schedule applicable to the case and shall—

- (a) name the candidate, his place of residence and occupation ; and
- (b) be signed by not less than six persons entitled to vote at the election for which the candidate is nominated.

To whom  
nominations  
made.

**72.**—(1.) Nominations of Senators may be made to the Commonwealth Electoral Officer for the State for which the election is to be held, and nominations of Members of the House of Representatives may be made to the Divisional Returning Officer for the Division for which the election is to be held.

(2.) Nominations may be made at any time after the issue of the writ and before the hour of nomination.

Grouping of  
candidates.  
Inserted by  
No. 14, 1922,  
s. 4.

**72A.**—(1.) Candidates nominated for election to the Senate may claim to have their names grouped in the ballot-papers in the manner prescribed in this Act.

(2.) A group shall include the names of those candidates only each of whom notifies the Commonwealth Electoral Officer for the State in the prescribed manner after he has been nominated, and not later than twelve o'clock noon on the day of nomination, that

he desires to have his name included in that group with the names of the other candidates in that proposed group, and with those names only.

(3.) A candidate shall not be entitled to have his name included in more than one group.

(4.) A notification, pursuant to this section, shall not be rejected by reason of any formal defect or error therein if the Commonwealth Electoral Officer who receives the notification is satisfied that the provisions of this Act and the regulations have been substantially complied with.

(5.) Upon the receipt of notifications in accordance with this section, from all the candidates in any proposed group, the Commonwealth Electoral Officer shall include the names of those candidates in a group, and shall notify each member of the group of the fact that he has included his name in a group, and of the names of the other candidates included in the group.

**73. No nomination shall be valid unless—**

- (a) the person nominated consents to act if elected, and declares that he is qualified under the Constitution and the laws of the Commonwealth to be elected as a Senator or a Member of the House of Representatives, as the case may be ;
- (b) the nomination paper is received after the issue of the writ and before the hour of nomination ; and
- (c) at the time of the delivery of the nomination paper the person nominated or some person on his behalf deposits with the Commonwealth Electoral Officer or Divisional Returning Officer, as the case requires, the sum of Twenty-five pounds in money or in Australian notes or in a banker's cheque.

Requisites for nomination.  
Amended by No. 20, 1925, s. 5.

**74.** The consent of the person nominated to act if elected and the declaration of qualification shall be sufficient if he signs the form of consent and declaration at the foot of the nomination paper, but the Commonwealth Electoral Officer or Divisional Returning Officer receiving the nomination may accept any other form of consent and declaration whether accompanying the nomination paper or not that he deems satisfactory, and such acceptance shall be final.

Form of consent to Act.

**75.** No nomination shall be rejected by reason of any formal defect or error therein if the Commonwealth Electoral Officer or Divisional Returning Officer receiving the nomination is satisfied that the provisions of this Act have been substantially complied with.

Formal defects.

**76.** The deposit made by or on behalf of a candidate at a Senate election or at a House of Representatives election shall be retained pending the election, and after the election shall be

Deposit to be forfeited in certain cases.  
Substituted by No. 31, 1919, s. 3 ;  
Amended by No. 14, 1922, s. 5.

returned to the candidate, or to some person authorized by him in writing to receive it, if he is elected, or—

(a) in the case of a Senate election—

(i) if the total number of votes polled in his favour as first preferences is more than one-tenth of the average number of first preference votes polled by the successful candidates in the election; or

(ii) where the name of the candidate is included in a group in pursuance of section seventy-two A of this Act, if the average number of votes polled in favour of the candidates included in the group as first preferences is more than one-tenth of the average number of first preference votes polled by the successful candidates in the election; or

(b) in the case of a House of Representatives election, if the total number of votes polled in his favour as first preferences is more than one-fifth of the total number of first preference votes polled by the successful candidate in the election,

otherwise it shall be forfeited to the King.

Place of nomination.

**77.**—(1.) In elections for the Senate the place of nomination shall be stated in the writ.

Amended by No. 17, 1928, s. 4.

(2.) In elections for the House of Representatives the office of the Divisional Returning Officer for the Division shall be the place of nomination therein.

Hour of nomination.

**78.** The hour of nomination shall be twelve o'clock noon on the day of nomination.

Declaration of nominations.

**79.**—(1.) In the case of a Senate election, the Commonwealth Electoral Officer for the State for which the election is being held shall, at the hour of nomination, attend at the place of nomination, and shall there publicly produce all nomination papers received by him, and declare the names and residences of all candidates nominated.

(2.) In the case of a House of Representatives election, the Divisional Returning Officer for the Division for which the election is being held shall, at the hour of nomination, attend at the place of nomination for the Division, and shall there publicly produce all nomination papers received by him, and declare the names and residences of all candidates nominated.

Withdrawal of consent to nomination.

**80.** A candidate may withdraw his consent to his nomination at any time before the hour of nomination by lodging with the Commonwealth Electoral Officer for the State in the case of a Senate election, or with the Divisional Returning Officer for the Division in the case of a House of Representatives election, a notice of withdrawal in the prescribed form, and thereupon the nomination shall be cancelled, and the deposit lodged shall be returned.



81. In the case of the death of any candidate before the date of election the deposit lodged by him shall be returned to his personal representatives.

Return of deposit in case of candidate's death.

82.—(1.) In the case of a Senate election, if the number of candidates nominated is not greater than the number of candidates required to be elected, the Commonwealth Electoral Officer shall declare the candidates nominated duly elected.

Proceedings on nomination day

(2.) In the case of a House of Representatives election, if one candidate only is nominated, the Divisional Returning Officer shall declare that candidate duly elected.

(3.) If in any election the number of candidates nominated is greater than the number required to be elected, the proceedings shall, subject to the provisions of this Act, and the regulations relating to voting before polling day, stand adjourned to polling day.

83.—(1.) If after the nominations for an election for the Senate have been declared and before polling day any candidate dies and the candidates remaining are not greater in number than the candidates required to be elected, they shall forthwith be declared to be elected and the writ returned.

Death of candidate after nomination.

Substituted by No. 17, 1928, s. 5.

(2.) If after the nominations for an election for the House of Representatives have been declared, and before polling day, any candidate dies, the election shall be deemed to have wholly failed.

84.—(1.) Whenever an election wholly or partially fails a new writ shall forthwith be issued for a supplementary election:

Failure of election.

Provided that where the election has failed in consequence of the death of a candidate after the declaration of the nominations and before polling day, the supplementary election shall be held upon the roll which was prepared for the purpose of the election which failed.

Proviso added by No. 17, 1928, s. 6.

(2.) An election shall be deemed to have wholly failed if no candidate is nominated or returned as elected.

(3.) An election shall be deemed to have partially failed whenever one or more candidates is returned as elected, but not the full number required to be elected.

## PART XII.—VOTING BY POST.

85.—(1.) An elector who—

(a) will not throughout the hours of polling on polling day be within the State for which he is enrolled;

(b) will not throughout the hours of polling on polling day be within five miles by the nearest practicable route of any polling booth open in the State for which he is enrolled for the purposes of an election;

(bb) will throughout the hours of polling on polling day be travelling under conditions which will preclude him from voting at any polling booth in the State for which he is enrolled; or

Application for a postal vote certificate and postal ballot-paper.

Paras. (a) and (b) substituted by No. 31, 1919, s. 4 and para. (b) amended by No. 17, 1928, s. 7.

Inserted by No. 31, 1919, s. 4.

- (c) is seriously ill or infirm, and by reason of such illness or infirmity will be precluded from attending at any polling booth to vote, or, in the case of a woman, will by approaching maternity be precluded from attending at any polling booth to vote,

may make application for a postal vote certificate and postal ballot-paper.

Amended by  
No. 17, 1928,  
s. 7.

(2.) The application must contain a declaration by the applicant setting out the grounds upon which he applies for the postal vote certificate and postal ballot-paper, and may be in the prescribed form, and must be signed by the applicant in his own handwriting in the presence of an elector and must be made and sent, after the issue of the Writ for the election and before the polling day for the election, to the Divisional Returning Officer for the Division for which the applicant is enrolled or to some other Divisional Returning Officer if the applicant has reason to believe that the application may not, in the ordinary course of post, reach the Divisional Returning Officer for the Division for which he is enrolled so as to enable him to receive a postal vote certificate and postal ballot-paper from that officer in time to permit of the applicant voting at the election:

Added by  
No. 14, 1922,  
s. 6.

Provided that the application shall not be deemed to have been duly made unless it reaches the Divisional Returning Officer to whom it is addressed before six o'clock in the afternoon of the day immediately preceding the polling day for the election.

(3.) An elector shall not make, and a person shall not induce an elector to make, any false statement in an application for a postal vote certificate and postal ballot-paper, or in the declaration contained in such application.

Penalty: Fifty pounds, or imprisonment for one month.

Section  
86, repealed  
by No. 17, 1928,  
s. 8.  
Duty of  
elector  
witnessing  
application.  
Amended by  
No. 17, 1928,  
s. 9.

\* \* \* \* \*

87.—(1.) An elector shall not witness the signature of any elector to an application for a postal vote certificate and postal ballot-paper unless—

- (a) he has satisfied himself as to the identity of the applicant;
- (b) he has seen the applicant sign the application in his the applicant's own handwriting; and
- (c) he knows that the statements contained in the application are true, or has satisfied himself by inquiry from the applicant or otherwise that the statements contained in the application are true.

Penalty: Fifty pounds, or imprisonment for one month.

Amended by  
No. 17, 1928,  
s. 9.

(2.) The elector witnessing the application shall sign his name in his own handwriting on the application in the space provided for the purpose, and shall add the date.

(3.) Any such elector shall not persuade or induce, or associate himself with any person in persuading or inducing, any person to make application for a postal vote certificate and postal ballot-paper.

Amended by  
No. 17, 1928,  
s. 9.

Penalty : Fifty pounds, or imprisonment for one month.

88.—(1.) The Divisional Returning Officer who receives the application if he is satisfied that it is properly signed by the applicant elector and is properly witnessed, shall deliver or post to the elector a postal vote certificate printed on an envelope addressed to the Divisional Returning Officer for the Division for which the applicant declares that he is enrolled, and one postal ballot-paper for a Senate election, and one postal ballot-paper for a House of Representatives election, or either as the case requires :

Issue of  
certificate and  
ballot-papers.

Provided that where the application is received after six o'clock in the afternoon of the day preceding polling day the Divisional Returning Officer shall not deliver or post to the elector a postal vote certificate or a postal ballot-paper.

Inserted by  
No. 14, 1922,  
s. 8.

(2.) The postal vote certificate, and postal ballot-papers for a Senate election and for a House of Representatives election respectively, may be in the prescribed form.

89.—(1.) All applications for postal vote certificates and postal ballot-papers received by a Divisional Returning Officer shall, if they relate to the Division for which he is Divisional Returning Officer, be kept by him, or if they relate to another Division, shall, after being indorsed by him with the date of the issue of the postal vote certificate and postal ballot-paper, forthwith be sent by him to the Divisional Returning Officer for that Division.

Inspection of  
applications.

(2.) All applications for postal vote certificates and postal ballot-papers shall be open to public inspection at all convenient times during office hours, until the election can be no longer questioned.

90.—(1.) The Divisional Returning Officer shall number all applications for postal vote certificates and postal ballot-papers received by him in consecutive order and shall number each postal vote certificate with a number corresponding with the number on the application.

Numbering of  
applications and  
certificates.

(2.) The Divisional Returning Officer shall initial on the back all postal ballot-papers issued. The initials should be placed in such a position as to be easily seen when the ballot-paper is folded so as to conceal the vote.

91.—(1.) The Returning Officer for the Division in respect of which postal vote certificates and postal ballot-papers have been issued shall, if there is time conveniently to do so, note on the certified lists of voters the names of all electors to whom postal vote certificates and postal ballot-papers have been issued.

Returning  
Officer to notify  
issue of postal  
vote certificates  
and postal  
ballot-papers.

(2.) If there is not time conveniently to note on the proper certified list of voters the issue of a postal vote certificate and postal

ballot-paper, the Divisional Returning Officer shall immediately advise the presiding officer to whom the certified list of voters has been furnished of the issue of the postal vote certificate and postal ballot-paper.

(3.) An elector to whom a postal vote certificate has been issued shall not be entitled to vote at any polling booth unless he first delivers to the presiding officer for cancellation his postal vote certificate and postal ballot-paper.

Person claiming to vote, whose name is noted under s. 91.

Inserted by No. 14, 1922, s. 9, and amended by No. 17, 1928, s. 10.

**91A.**—(1.) Notwithstanding anything contained in the last preceding section where a person, whose name has been noted on the certified list of voters used at a polling place prescribed for the subdivision for which he is enrolled, as an elector to whom a postal vote certificate and postal ballot-paper have been issued, claims to vote in an election at that polling place and states, when requested to deliver to the presiding officer for cancellation his postal vote certificate and postal ballot-paper, that he has not received a postal vote certificate or a postal ballot-paper, he may, subject to sections thirty-nine and one hundred and fifteen and the regulations, be permitted to vote, if he makes a declaration in the prescribed form before the presiding officer at the polling place.

(2.) The ballot-paper of a voter voting under this section shall be dealt with as prescribed by the regulations:

Amended by No. 17, 1928, s. 10.

Provided that no such ballot-paper shall be scrutinized unless the Divisional Returning Officer is satisfied that the voter is entitled to vote in the election, and that a postal vote certificate or postal ballot-paper has not been received by him.

Authorized witnesses.

Added by No. 17, 1928, s. 11.

**91B.**—(1.) Subject to sub-section (2.) of this section the following persons are authorized witnesses within the meaning of this Act:—

(a) All Commonwealth Divisional Returning Officers, Assistant Returning Officers, and Officers of the Public Service of the Commonwealth permanently employed in the office of any Commonwealth Electoral Officer of a State or Divisional Returning Officer; all Commonwealth Electoral Registrars; all Postmasters or Postmistresses or postal officials in charge of post offices; all Police or Stipendiary or Special Magistrates of the Commonwealth or of a State; all Justices of the Peace; all Commissioners for taking declarations or affidavits; all Adult Teachers of a State Education Department; all Officers of the Department of Trade and Customs; all members of the Police Force of the Commonwealth or of a State; all members of a Municipal Council, Shire Council, or Roads Board; all Town Clerks, Deputy Town Clerks, Shire Secretaries, Shire Engineers, Roads Board Secretaries, Roads Board Engineers; all Mining Wardens and Mining Wardens' Clerks in the Public Service of a State; all legally



qualified Medical Practitioners; all Midwives and Nurses registered by the Midwives Board or Nurses Board of a State; all Officers in charge of Quarantine Stations; all Officers in charge of Lighthouses and all Assistant Lighthouse Keepers; all Pilots in the service of the Commonwealth or of a State, or of any local governing body; all Telegraph Line Repairers permanently employed in the Public Service of the Commonwealth, who are in charge of working parties; all Overseers and Foremen of Group Settlements; all Railway Station Masters and Night Officers in charge who are permanently employed in the Railway service of the Commonwealth or of a State; all Permanent Way Inspectors and Roadmasters employed in the Railway service of the Commonwealth; all Engineers engaged upon Railway or Road construction; all Mail Contractors; all Superintendents of Mercantile Marine and their deputies while permanently employed in the Public Service of the Commonwealth or of a State; all Naval Commissioned Officers in the service of the Commonwealth while employed on a ship of war; all Licensed Surveyors or Government Surveyors; all Station Owners, Station Managers, and Station Overseers; and

- (b) all persons or classes of persons, employed in the Public Service of the Commonwealth or of a State, who are declared by proclamation to be authorized witnesses within the meaning of this Act.

(2.) No person who is a candidate at any election shall be an authorized witness at that election.

**92.**—(1.) The following directions for regulating voting by means of postal ballot-papers are to be substantially observed:—

Directions for  
postal voting.  
Cf. No. 26, 1905  
s. 36.

- (a) The elector shall exhibit his postal ballot-paper (unmarked) and his postal vote certificate to an authorized witness;
- (b) The elector shall then and there, in the presence of the authorized witness, sign his name in his own handwriting on the postal vote certificate in the place provided for the signature of the voter;
- (c) The authorized witness shall then and there sign his name in his own handwriting on the postal vote certificate in the place provided for the signature of the authorized witness, and shall add the title under which he acts as an authorized witness and the date;
- (d) The elector shall then and there, in the presence of the authorized witness, but so that the authorized witness cannot see the vote, mark his vote on the ballot-paper in the prescribed manner, and shall fold the ballot-paper

so that the vote cannot be seen, and hand it so folded to the authorized witness ;

- (e) The authorized witness shall then and there place the ballot-paper in the envelope addressed to the Divisional Returning Officer, fasten the envelope, and hand it to the voter who shall forthwith post or deliver it, or cause it to be posted or delivered, to the Divisional Returning Officer :

Substituted by  
No. 17, 1928,  
s. 12.

- (f) If the elector's sight is so impaired that he cannot vote without assistance, a person appointed by the elector shall mark the elector's vote on the ballot-paper in the presence of the authorized witness, and shall then and there fold the ballot-paper so that the vote cannot be seen, place it in the envelope addressed to the Divisional Returning Officer, fasten the envelope, and hand it to the voter, who shall forthwith post or deliver it, or cause it to be posted or delivered, to the Divisional Returning Officer :

Provided that if no person is appointed by the elector, the authorized witness, if so requested by the elector, shall take the action required by this paragraph to be taken by a person appointed by the elector ;

Amended by  
No. 17, 1928,  
s. 12.

- (g) The authorized witness shall not, unless the elector's sight is so impaired that he cannot vote without assistance and no person is appointed by the elector to mark his vote for him, look at or make himself acquainted with the vote given by the elector, and, except as provided in paragraph (f) of this section, shall not suffer or permit any person (other than the elector) to see or become acquainted with the elector's vote, or to assist the elector to vote, or to interfere in any way with the elector in relation to his vote.

Added by No.  
17, 1928, s. 12.

(2.) Notwithstanding anything contained in this section, in any case in which a postal ballot-paper, if posted or delivered as provided in paragraph (e) or paragraph (f) of the preceding sub-section, would not reach the Divisional Returning Officer for the Division in respect of which the elector claims to vote, before the close of the poll, the envelope in which the ballot-paper is enclosed may be addressed to, and posted or delivered to, any other Divisional Returning Officer or to an Assistant Returning Officer, or may be delivered on polling day to any presiding officer, and the Divisional Returning Officer, Assistant Returning Officer, or presiding officer, as the case may be, shall deal with it in the prescribed manner.

Duty of  
authorized  
witness.

**93. (1.)** Every authorized witness shall—

- (a) comply with the preceding section in so far as it is to be complied with on his part ;
- (b) see that the directions in the preceding section are complied with by every elector voting by post before him, and by every person present when the elector votes ; and

(c) refrain from disclosing any knowledge of the vote of any elector voting by post before him.

Penalty: One hundred pounds, or imprisonment for three months.

(2.) An authorized witness shall not influence, or attempt to influence, in any way, the vote of an elector voting by post before him.

Added by No. 9, 1934, s. 7.

Penalty: One hundred pounds or imprisonment for six months.

93A. No person other than—

(a) the elector to whom the postal ballot-paper has been issued, or

(b) a person appointed by the elector or an authorized witness, acting in pursuance of paragraph (f) of section ninety-two of this Act, assisting an elector whose sight is so impaired that he cannot vote without assistance,

shall mark a vote upon the ballot-paper.

Penalty: One hundred pounds or imprisonment for six months.

Penalty for unlawfully marking postal ballot-paper.

Inserted by No. 14, 1922, s. 10;

Amended by No. 17, 1928, s. 13.

93B. No person other than the Returning Officer for the Division in respect of which a postal ballot-paper has been issued or an officer acting under his directions shall open the envelope in which the postal ballot-paper has been placed pursuant to paragraph (e) of section ninety-two of this Act and which has been fastened by an authorized witness in accordance with the provisions of that paragraph.

Unlawfully opening postal ballot-paper.

Inserted by No. 14, 1922, s. 10.

Penalty: Fifty pounds.

94. Any person to whom an application for a postal vote certificate and postal ballot-paper or an envelope containing or purporting to contain a postal ballot-paper is entrusted by a voter for the purpose of posting or delivery to a Divisional Returning Officer or an Assistant Returning Officer or delivery to a presiding officer, and who fails to forthwith post or deliver the application or envelope, shall be guilty of an offence.

Penalty for failure to post or deliver application or postal ballot-paper.

Amended by No. 17, 1928, s. 14.

Penalty: Fifty pounds, or imprisonment for one month.

95. Any person present when an elector is before an authorized witness for the purpose of voting by post shall—

(a) obey all directions of the authorized witness; and

(b) except as provided in paragraph (f) of section ninety-two in the case of persons whose sight is impaired—

(i) refrain from making any communication whatever to the elector in relation to his vote;

(ii) refrain from assisting the elector or in any manner interfering with him in relation to his vote; and

(iii) refrain from looking at the elector's vote or from doing anything whereby he may become acquainted with the elector's vote.

Duty to persons present when an elector votes by post.

Amended by No. 17, 1928, s. 15.

Penalty: One hundred pounds, or imprisonment for three months.

Preliminary  
scrutiny of  
postal ballot-  
papers.  
Amended by  
No. 17, 1928,  
s. 16.

**96.** At the scrutiny the Divisional Returning Officer shall produce all applications for postal vote certificates and postal ballot-papers, and shall produce unopened all envelopes containing postal votes received up to the close of the poll by him, or by any other Divisional Returning Officer or any Assistant Returning Officer or presiding officer in pursuance of sub-section (2.) of section ninety-two of this Act, and shall—

- (a) compare the signature of the elector on each postal vote certificate with the signature of the same elector on the application for the certificate, and allow the scrutineers to inspect both signatures ;
- (b) if satisfied that the signature on the certificate is that of the elector who signed the application for the certificate and that the signature purports to be witnessed by an authorized witness, and that the elector is enrolled for the Division, accept the ballot-paper for further scrutiny, but, if not so satisfied, disallow the ballot-paper without opening the envelope in which it is contained ;
- (c) withdraw from the envelopes bearing the postal vote certificate all postal ballot-papers accepted for further scrutiny, and, without inspecting or unfolding the ballot-papers or allowing any other person to do so, place them in a locked and sealed ballot-box by themselves for further scrutiny ;
- (d) seal up in separate parcels and preserve—
  - (i) all envelopes bearing postal vote certificates relating to postal ballot-papers accepted for further scrutiny, and
  - (ii) all unopened envelopes containing postal ballot-papers disallowed ; and
- (e) proceed with the scrutiny of the postal ballot-papers which have been accepted for further scrutiny.

Mistakes.

**97.** A postal vote shall not be rejected because in the case of any candidate his surname only has been written thereon if no other candidate has the same surname, or by reason of any mistake in spelling where the elector's intention is clear.

#### PART XIII.—THE POLLING.

Returning  
officer to make  
arrangements.

**98.**—(1.) If the proceedings on the day of nomination stand adjourned to polling day, the Returning Officer shall immediately make all necessary arrangements for taking the poll, and in particular shall—

- (a) appoint a presiding officer to preside at each polling place and all necessary assistant presiding officers, poll clerks, and doorkeepers ;
- (b) provide and furnish proper polling booths and ballot-boxes and



(c) provide ballot-papers and all necessary certified lists of voters.

(2.) In any emergency on polling day due to the absence of any assistant presiding officer, poll clerk, or doorkeeper, or to any unforeseen and continued pressure at the polling which cannot be met by the duly appointed officers, the presiding officer may appoint any person to act as assistant presiding officer, poll clerk, or doorkeeper, and the person so appointed or acting shall be deemed to have been duly appointed if the Divisional Returning Officer afterwards ratifies the appointment by appointing that person to be assistant presiding officer, poll clerk, or doorkeeper, as the case may be.

(3.) No person under the age of twenty-one years shall be appointed to be a presiding officer or assistant presiding officer.

(4.) Any assistant presiding officer may, subject to the direction of the presiding officer, exercise all or any of the powers of the presiding officer, and shall, in respect of the exercise of those powers, be deemed to be the presiding officer.

**99.** Any presiding officer may appoint a substitute to perform his duties during his temporary absence, and such substitute may, while so acting, exercise all the powers of the presiding officer, and shall, in the exercise of those powers, be deemed to be the presiding officer. Substitute.

**100.** No part of any premises licensed for the sale of intoxicating liquor shall be used for the purpose of any polling booth. No licensed premises to be used.

**101.** Polling booths shall have separate voting compartments, constructed so as to screen the voters from observation while they are marking their ballot-papers, and each voting compartment shall be furnished with a pencil for the use of voters. Separate voting compartments.

**102.** Each polling booth shall be provided with the necessary ballot-boxes, constructed and fitted as prescribed. Ballot-boxes.

**103.** The certified list of voters to be used by a presiding officer at a polling place shall be the list of the electors on the roll enrolled for the Subdivision for which the polling place is prescribed certified by the Divisional Returning Officer, and shall before the hour of commencing the poll be delivered to the presiding officer for his guidance during the polling. Certified list of voters.

**104.** Ballot-papers to be used in a Senate election may be in the Form E in the Schedule. Senate ballot-papers.

**105.** Ballot-papers to be used in a House of Representatives election may be in the Form F in the Schedule. House of Representatives ballot-papers.

**105A.** In printing the ballot-papers to be used in a Senate election— Printing of Senate ballot-papers.

(a) the names of candidates included in groups in pursuance of section seventy-two A of this Act shall be printed in groups on the ballot-papers before the names of candidates not included in groups ; Inserted by No. 14, 1922, s. 11.

## ELECTION AND REFERENDUM—

- (b) the names in each group shall be printed in the alphabetical order of the surnames comprised in that group ;
- (c) the order of the several groups in the ballot-papers shall be determined as follows :—
  - (i) A number shall be placed against the name of each candidate in each group corresponding with the numerical order in which the initial letter of the surname of the candidate occurs in the alphabet ;
  - (ii) The numbers against the surnames of the candidates in each group shall be added together, and the sum thus obtained in respect of each group shall be divided by the number of candidates in the group, and the quotient thus obtained shall be the quotient of the group ;
  - (iii) The first group in the ballot-papers shall be the group having the smallest quotient, and the second shall be the group having the next larger quotient, and so on, until the order of each group is determined ;
  - (iv) In the event of two or more groups having the same quotient, the order of those groups in the ballot-papers shall be in accordance with the relative alphabetical order of the surnames first occurring in each of those groups, and, if those surnames are the same, then in accordance with the relative alphabetical order of the surnames next occurring in each of those groups ; and
  - (v) If the order of priority cannot be determined in the manner provided for under the preceding subparagraphs of this paragraph, it shall be determined by the Commonwealth Electoral Officer ;
- (d) before the square opposite the surname of each candidate in the first group in the ballot-papers there shall be printed the letter A ; before the square opposite the surname of each candidate in the second group in the ballot-papers there shall be printed the letter B and so on, as the case requires ;
- (e) if there are two or more candidates having the same surname in any group, their names shall, subject to the provisions of this section, be arranged according to the alphabetical order of their christian names, or, if their christian names are the same, then according to the alphabetical order of their residences, which shall in such cases be arranged and stated in the ballot-papers ;
- (f) the order of the names of the candidates whose names are not included in any group shall be determined in the same manner as the order in a group of the names of the candidates included in that group ;

- (g) where similarity in the names of two or more candidates is likely to cause confusion the names of those candidates may be arranged with such description or addition as will distinguish them from one another ; and
- (h) except as otherwise provided by the regulations, a square shall be printed opposite the name of each candidate.

**106.** In printing the ballot-papers to be used in a House of Representatives election—

- (a) the names of all candidates duly nominated shall be printed in alphabetical order according to their surnames ;
- (b) if there are two or more candidates of the same surname, their names shall be printed according to the alphabetical order of their christian names, or, if their christian names are the same, then according to the alphabetical order of their residences, which shall in such case be arranged and stated on the ballot-paper ;
- (c) where similarity in the names of two or more candidates is likely to cause confusion, the names of such candidates may be arranged with such description or addition as will distinguish them from one another ; and
- (d) except as otherwise provided by the regulations, a square shall be printed opposite the name of each candidate.

Printing of  
House of  
Representatives  
ballot-papers.

Amended by  
No. 14, 1922,  
s. 12.

**107.**—(1.) No ballot-paper shall be delivered to any voter without being first initialed by the proper officer, and an exact account shall be kept of all initialed ballot-papers.

Ballot-papers  
to be initialed.

(2.) The initials of the officer shall be placed on the back<sup>(a)</sup> of the ballot-paper in such a position as to be easily seen when the ballot-paper is folded so as to conceal the names of the candidates.

**108.**—(1.) Scrutineers may be appointed by candidates to represent them at polling places during the polling, but so that not more than one scrutineer shall be allowed to each candidate at each polling booth or subdivision of a polling booth.

Scrutineers at  
the polling.

(2.) Appointments of scrutineers shall be made by notice in writing or by telegram addressed to the Returning Officer or presiding officer, and such notice or telegram shall be signed by the candidate, and shall give the name and address of the scrutineer.

**109.**—(1.) A scrutineer shall not—

- (a) interfere with or attempt to influence any elector within the polling booth ; or
- (b) communicate with any person in the polling booth except so far as is necessary in the discharge of his functions.

Provision  
relating to  
scrutineers.

Penalty : Five pounds.

(a) As to the effect, under a similar provision in the *Commonwealth Electoral Act 1902-1911* (s. 134), of placing the initials of the presiding officer on the front of the ballot-paper instead of on the back, see *Chanter v. Blackwood* (No. 2), (1904) 1 C.L.R. 121 ; 10 A.L.J.R. (C.N.) 25 ; *Blundell v. Vardon*, (1907) 4 C.L.R. 1463.

(2.) A scrutineer shall not be prevented from entering or leaving a polling booth during the polling, and, during his absence, a relieving scrutineer may act in his place, but so that only one scrutineer for each candidate shall be entitled to be present in the polling booth or subdivision of the polling booth at any one time.

(3.) A scrutineer who commits any breach of this section, or who misconducts himself, or who fails to obey the lawful directions of the presiding officer, may be removed from the polling booth by any constable or person authorized by the presiding officer to remove him.

Persons present  
at polling.

**110.** No candidate shall in any way take part in the conduct of an election, and no person, other than the presiding officer, assistant presiding officers, poll clerks, doorkeepers, and scrutineers, and the electors voting and about to vote, shall be permitted to enter or remain in the polling booth during the polling except by permission of the presiding officer.

The polling.

**111.** The polling shall be conducted as follows :—

- (a) Before any vote is taken the presiding officer shall exhibit the ballot-box empty, and shall then securely fasten its cover ;
- (b) The poll shall open at eight o'clock in the morning, and shall not close until all electors present in the polling booth at eight o'clock in the evening, and desiring to vote, have voted ;
- (c) The doors of the polling booth shall be closed at eight o'clock in the evening, and no person shall be admitted after that hour to the polling booth for the purpose of voting ;
- (d) At the close of the poll the presiding officer shall, in the presence of the poll clerk and of any scrutineers who may be in attendance, publicly close, fasten, seal, and take charge of the ballot-box, and with the least possible delay forward it for the purposes of scrutiny, and it shall on no account be opened except as allowed by this Act :

Added by  
No. 17, 1928,  
s. 17.

Provided that, where the scrutiny is proceeded with immediately after the close of the poll at the polling booth at which the votes are taken, it shall not be necessary for the presiding officer to publicly close, fasten, or seal the ballot-box as required by paragraph (d) of this section.

Elections at  
which electors  
are entitled  
to vote.

**112.—(1.)** In the case of a Senate election, an elector shall only be admitted to vote for the election of Senators for the State for which he is enrolled.<sup>(a)</sup>

(a) See footnote (a) on following page.



(2.) In the case of a House of Representatives election, an elector shall only be admitted to vote for the election of a member for the Division for which he is enrolled.<sup>(a)</sup>

(3.) For the purposes of this section, the electoral Rolls in force at the time of the election shall be conclusive evidence of the right of each person enrolled thereon to vote as an elector, unless he shows by his answers to the questions prescribed by section one hundred and fifteen that he is not entitled to vote.<sup>(a)</sup>

**113.**—(1.) On polling day, an elector shall be entitled to vote at any prescribed polling place for the Subdivision for which he is enrolled or he shall be permitted to vote at any other polling place within the State for which he is enrolled at which a polling booth is open, under and subject to the regulations relating to absent voting.

Where electors  
may vote.  
Amended by  
No. 31, 1919,  
s. 6.

(2.) The regulations relating to absent voting may prescribe all matters (not inconsistent with this Act) necessary or convenient to be prescribed for carrying this section into effect, and in particular may provide for—

- (a) the forms of absent voters' ballot-papers<sup>(b)</sup>;
- (b) the manner in which votes are to be marked on absent voters' ballot-papers;
- (c) the method of dealing with absent voters' ballot-papers, including the scrutiny thereof, and the counting of the votes thereon; and
- (d) the grounds upon which absent voters' ballot-papers are to be rejected as informal.

(3.) Absent voters' ballot-papers containing votes and enclosed in any prescribed envelope may, if so provided by the regulations, be placed in any ballot-box in use at the polling booth at which the votes were cast, but notwithstanding anything contained in this Act a prescribed envelope containing an absent voter's ballot-paper shall (unless the regulations otherwise provide) only be opened and the ballot-paper dealt with, as regards the scrutiny thereof and the counting of the votes thereon, by the Divisional Returning Officer for the Division for which the voter declares that he is enrolled.

(4.) Nothing in this section shall authorize any elector to vote more than once at any election.

**114.** Every person claiming to vote at any polling booth shall state his christian name and surname, and, if so desired by the presiding officer, for the purpose of identifying the name under which the vote is claimed, any other particulars necessary to be stated in the roll.

Persons  
claiming to  
vote to give  
names and  
other  
particulars.

<sup>(a)</sup> Held by the Court of Disputed Returns (*Starke J.*) that evidence purporting to show that the addresses shown in the roll are outside the Electoral Division is inadmissible as the Court is bound by s. 190 to assume that electors are correctly on the roll and that therefore their right to vote is conclusively established unless their answers to questions prescribed by s. 115 show otherwise. *Perkins v. Cusack*, (1930) 43 C.L.R. 70; 36 A.L.R. 241; 3 A.L.J. 397.

<sup>(b)</sup> As to the form of ballot-papers used under the *Commonwealth Electoral Act* 1902 see *Chamber v. Blackwood*, (1904) 1 C.L.R. 39; 10 A.L.R. (C.N.) 18 and *Maloney v. McEachern*, (1904) 1 C.L.R. 77; 10 A.L.R. (C.N.) 17; 23 A.L.T. 210; but see also *Kean v. Kerby*, (1920) 27 C.L.R. 449 at p. 466.

Questions to be  
put to voter.  
Substituted by  
No. 14, 1922,  
s. 13.

**115.—(1.) The presiding officer—**

(a) shall put to every person claiming to vote the following questions:—

(i) Have you already voted either here or elsewhere in this election (or these elections, as the case requires) ?

(ii) Is your real place of living within the Division of (here state the name of the Division in respect of which the elector claims to vote) ?

(iii) (if the last preceding question is answered in the negative)—Was your real place of living at any time within the last three months within the Division of (here state the name of the Division in respect of which the elector claims to vote) ? and

Substituted by  
No. 17, 1928,  
s. 18.

(b) may, and, at the request of any scrutineer shall, also put all or any of the following questions:—

(iv) Are you of the full age of twenty-one years ?

(v) Are you a natural-born or naturalized subject of the King ?

(vi) Are you qualified to vote ? and

Substituted by  
No. 17, 1928,  
s. 18.

(c) may, and at the request of any scrutineer shall, also put to any person claiming to vote, whose name appears on the certified list of voters or on any Division roll the following question:—

(vii) Are you the person whose name appears as (here state name under which the person claims to vote) on the certified list of voters for this polling place (or the roll for the Division of as the case requires) ?

Added by  
No. 17, 1928,  
s. 18.

(2.) If any person claiming to vote to whom any of the foregoing questions are put—

(a) refuses to answer fully any question so put to him ;

(b) does not answer the question numbered (i) absolutely in the negative, when put to him ;

(c) does not answer the question numbered (ii) absolutely in the affirmative when put to him, or, if he answers that question in the negative, does not answer the question numbered (iii) absolutely in the affirmative when put to him ;

(d) does not answer the questions numbered (iv), (v), (vi) and (vii) absolutely in the affirmative, when put to him,

his claim to vote shall be rejected.

Sub-sections  
(3.)–(5.)  
omitted by  
No. 17, 1928,  
s. 18.

\* \* \* \* \*

(6.) The voter's answer to any question put to him by the presiding officer under the authority of this section shall be conclusive, and the matter shall not, subject to this section, be further inquired into during the polling.<sup>(a)</sup>

(a) See footnote (a) on previous page.

(7.) In this section the words "real place of living" include the place of living to which a person temporarily living elsewhere has a fixed intention of returning for the purpose of continuing to live thereat.

Added by  
No. 17, 1928,  
s. 18.

**116.** No omission in the Roll or in the certified list of voters of any christian name, or entry of a wrong christian name, or address, or occupation, and no mistake in the spelling of any surname, shall warrant the rejection at any polling of any claim to vote if the voter is sufficiently identified in the opinion of the presiding officer, and no female elector shall be disqualified from voting under the name appearing on the Roll because her surname has been changed by marriage.

Errors not to  
forfeit vote.

**117.**—(1.) The presiding officer or a poll clerk shall at the polling hand to each person claiming to vote a ballot-paper duly initialed by the presiding officer—

Right of elector  
to receive  
ballot-paper.

- (a) if the name under which he claims to vote is on the certified list of voters for the polling place and his right to vote is not challenged; or
- (b) if the name under which he claims to vote is on the certified list of voters for the polling place and his right to vote is challenged, and his answers to the prescribed questions show that he is entitled to vote; or
- (c) if he claims to vote under the regulations relating to absent voting and complies with those regulations.

(2.) The presiding officer, at the request of a scrutineer, shall note any objection by the scrutineer to the right of any person to vote, and shall keep a record thereof.

(3.) If the presiding officer puts to any person all or any of the prescribed questions, his right to vote shall be deemed to have been challenged.

**118.** Immediately upon handing the ballot-paper to the person claiming to vote, the presiding officer or a poll clerk shall place a mark against the person's name on the certified list of voters if his name is on that list.

List of voters  
to be marked on  
ballot-paper  
being issued.

**119.** Except as otherwise prescribed the voter upon receipt of the ballot-paper shall without delay—

Vote to be  
marked in  
private.

- (a) retire alone to some unoccupied compartment of the booth, and there, in private, mark his vote on the ballot-paper in the manner hereinafter described;
- (b) fold the ballot-paper so as to conceal his vote and to show clearly the initials of the presiding officer, and exhibit it so folded to the presiding officer, and then forthwith openly, and without unfolding it, deposit it in the ballot-box; and
- (c) quit the booth.

**120.**—(1.) If any voter satisfies the presiding officer that his sight is so impaired or that he is so physically incapacitated that he

Assistance to  
certain voters.  
Substituted by  
No. 17, 1928,  
s. 19.

is unable to vote without assistance, the presiding officer shall permit a person appointed by the voter to enter an unoccupied compartment of the booth with the voter, and mark, fold, and deposit the voter's ballot-paper for him.

(2.) If any such voter fails to appoint a person in pursuance of the last preceding sub-section, or if any voter satisfies the presiding officer that he is so illiterate that he is unable to vote without assistance, the presiding officer, in the presence of such scrutineers as are present, or, if there be no scrutineers present, then in the presence of—

(a) the poll clerk; or

(b) if the voter so desires, in the presence of a person appointed by such voter, instead of the poll clerk,

shall mark, fold, and deposit his ballot-paper for him.

Vote of person whose name is not on certified list, has been struck out of certified list, or is on roll and cannot be found.

Amended by No. 17, 1928, s. 20.

**121.**—(1.) Notwithstanding anything contained in this Act, when any person who is entitled to be enrolled on the Roll for a Subdivision claims to vote at an election at a polling place prescribed for that Subdivision, and his name has been omitted from or struck out of the certified list of voters for that polling place owing to an error of an officer or a mistake of fact or when any person who is enrolled on the Roll for a Subdivision claims to vote at an election at a polling place prescribed for that Subdivision, and his name cannot be found by the presiding officer on the certified list of voters, he may, subject to the Act and the regulations, be permitted to vote if—

(a) in the case of a person whose name has been omitted from the certified list—

(i) he sent or delivered to the Registrar for the Subdivision a duly completed claim for enrolment or transfer of enrolment, as the case requires, in respect of the Subdivision, and the claim was received by the Registrar before the issue of the writ for the election; and

(ii) he did not after sending or delivering the claim and before the issue of the writ become qualified for transfer of enrolment to another Subdivision; or

(b) in the case of a person whose name has been struck out of the certified list—

(i) his name was not, to the best of his knowledge, removed from the Roll for the Subdivision owing to objection, or transfer or duplication of enrolment, or disqualification; and

(ii) he had, from the time of his enrolment for the Subdivision to the date of the issue of the writ for the election, continuously retained his right to enrolment for that Subdivision; or



(c) in the case of a person whose name is on the Roll for a Subdivision for which he claims to vote, but cannot be found by the presiding officer, he claims that his name appears or should appear on the Roll,

Inserted by No. 17, 1928, s. 20.

and makes a declaration in the prescribed form before the presiding officer at the polling place.<sup>(a)</sup>

(2.) Where a voter claims to vote under the provisions of this section he shall mark and fold his ballot-paper in the manner prescribed in this Act and return it so folded to the presiding officer.

(3.) The presiding officer shall thereupon, in the presence of the voter and of such scrutineers as are present, and without unfolding the ballot-paper, enclose it in an envelope bearing the declaration of the voter and addressed to the Returning Officer for the Division for which the voter claims to be entitled to vote, and shall forthwith securely fasten the envelope and deposit it in the ballot-box.

(4.) The Assistant Returning Officer who is authorized under the provisions of this Act to open the ballot-box shall without opening the envelope forthwith transmit it to the Divisional Returning Officer for the Division for which the voter claims that he is entitled to vote.

(5.) The Divisional Returning Officer, on receipt of the envelope containing the ballot-paper as aforesaid, shall, before opening the envelope or allowing any other person to do so, examine the declaration of the voter, and, if it is in order and he is satisfied, after making such inquiry as may be necessary, that the voter is a person to whom paragraph (a), (b) or (c) of sub-section (1.) of this section applies, shall deal with the ballot-paper in the manner prescribed in connexion with the scrutiny of absent voters' ballot-papers, and forthwith direct that such correction (if any) as is necessary be made in the Roll by the Registrar, and the correction shall be made accordingly.

Amended by No. 17, 1928, s. 20.

(6.) Where the claim of any person to vote under this section is refused the presiding officer shall make a note in writing of the fact of the claim and the reasons for the refusal thereof, and the presiding officer and a poll clerk shall sign the note in the presence of such scrutineers as are present. Any of those scrutineers may also sign the note.

Added by No. 14, 1922, s. 14.

**121A.**—(1.) Notwithstanding anything contained in this Act where a voter, against whose name on the certified list of voters used at a polling place prescribed for the subdivision for which he is enrolled a mark has been placed, in accordance with section one hundred and eighteen, claims to vote in an election at that polling place he may, subject to sections thirty-nine and one hundred and fifteen and the

Voter claiming to vote whose name on roll has been marked.

Inserted by No. 14, 1922, s. 15.

(a) Held by the Court of Disputed Returns (Isaacs J.) that a valid claim for enrolment having once been made the claimant is entitled to be on the roll until the right to be there is lost. A wrongful omission from the roll does not, therefore, necessitate the making of another claim in order to entitle the elector to vote under the provisions of this section. *Kean v. Kerby*, (1920) 27 C.L.R. 449.

NOTE.—The section has since been amended by the amending Act of 1928.

regulations, be permitted to vote if he makes a declaration in the prescribed form before the presiding officer at the polling-place.

(2.) The ballot-paper of a voter voting under this section shall be dealt with as prescribed by the regulations :

Provided that no such ballot-paper shall be scrutinized or counted unless the Divisional Returning Officer is satisfied that the voter is entitled to vote in the election.

Spoilt ballot-papers.

**122.** If any voter before depositing his ballot-paper in the ballot-box satisfies the presiding officer that he has spoilt the ballot-paper by mistake or accident, he may, on giving it up, receive a new ballot-paper from the presiding officer, who shall there and then cancel the spoilt ballot-paper, and deal with it as prescribed.

Marking of votes in a Senate election.

Para. (a) substituted by No. 31, 1919, s. 7, and again by No. 9, 1934, s. 8.

**123.**—(1.) In a Senate election a voter shall mark his vote on his ballot-paper as follows<sup>(a)</sup> :—

(a) Where his ballot-paper is a ballot-paper in accordance with Form E in the Schedule—he shall place the number 1 in the square<sup>(b)</sup> opposite the name of the candidate for whom he votes as his first preference, and shall place the numbers 2, 3, 4 (and so on, as the case requires) in the squares<sup>(b)</sup> opposite the names of all the remaining candidates so as to indicate the order of his preference for them ;<sup>(c)</sup>

(b) where he votes at a polling place on polling day in accordance with the regulations relating to absent voting—in the manner prescribed by those regulations ; and

(c) where he votes by post under the provisions of Part XII. of this Act—in the manner prescribed by the regulations relating to voting by post.

Sub-section (2.) omitted by No. 31, 1919, s. 7, and added by No. 9, 1934, s. 8.

(2.) Where a candidate dies between the date of nomination and polling day, and the number of candidates remaining is greater than the number of candidates to be elected, a ballot-paper shall not be informal by reason only—

(a) of the inclusion on the ballot-paper of the name of the deceased candidate ;

(b) of the marking of any consecutive number opposite that name ; or

(c) of the omission to place any number opposite that name, or of any resultant failure to indicate in consecutive order the voter's preferences.

(a) Cf. footnote (a) on following page.

(b) The corresponding provisions of the *Commonwealth Electoral Act 1902-1911* (ss. 150 and 151) provided for the making of "a cross in a square." Held by the High Court that the provision that the cross must be *in the square* was directory only and was sufficiently complied with by making a cross opposite the name of the candidate. *Chanter v. Blakewood*, (1904) 1 C.L.R. 39 ; 10 A.L.R. (C.N.) 18. See also *Kennedy v. Palmer*, (1907) 4 C.L.R. 1481. But N.B. footnote (a) on following page.

(c) Held by the Court of Disputed Returns (*Starke J.*) that where owing to the death of a candidate, prior to election day, certain ballot-papers had been marked 1, 2, 3, 4, 6 the ballot-papers were rightly rejected as informal. *Blakey and Findley v. Elliott*, (1929) 41 C.L.R. 502 ; 35 A.L.R. 86 ; 2 A.L.J. 406. (But see now sub-section (2.) which has since been added.)

**124.** In a House of Representatives election a voter shall mark his vote on his ballot-paper as follows<sup>(a)</sup> :—

Marking of  
votes in a  
House of  
Representatives  
election.

- (a) where his ballot-paper is a ballot-paper in accordance with Form F in the Schedule—he shall place the number 1 in the square<sup>(b)</sup> opposite the name of the candidate for whom he votes as his first preference, and shall give contingent votes for all the remaining candidates by placing the numbers 2, 3, 4 (and so on, as the case requires) in the squares<sup>(b)</sup> opposite their names so as to indicate the order of his preference for them<sup>(c)</sup> ;
- (b) where he votes at a polling place on polling day in accordance with the regulations relating to absent voting—he shall mark his vote on his ballot-paper in the manner prescribed by those regulations ; and
- (c) where he votes by post under the provisions of Part XII. of this Act—he shall mark his vote on his ballot-paper in the manner prescribed by the regulations relating to voting by post.

**125.** The presiding officer may adjourn the polling from day to day in any case where the polling is interrupted or obstructed by riot or open violence.

Adjournment of  
polling on  
account of riot.

**126.** If from any cause any polling booth at a polling place is not opened on polling day the presiding officer may adjourn the polling for a period not exceeding twenty-one days, and shall forthwith give public notice of the adjournment.

Adjournment in  
other cases.

**127.** Where for any reason the polling is adjourned at any polling place, those electors only—

Voting at  
adjourned  
polling.

- (a) who are enrolled for the subdivision for which the polling place is prescribed ; or
- (b) who are, by virtue of section one hundred and twenty-one of this Act, entitled to vote as electors of that subdivision, and who have not already voted, shall be entitled to vote at the adjourned polling at that polling place.

Substituted by  
No. 14, 1922,  
s. 16.

**128.** Where an election is being held for any Division, it shall not be necessary to open polling booths at the polling places for any Division for which no election is being held.

Arrangement  
where elections  
held in some  
Divisions only.

**128A.<sup>(d)</sup>**—(1.) It shall be the duty of every elector to record his vote at each election.

Compulsory  
voting.

(2.) It shall be the duty of each Divisional Returning Officer at the close of each election to prepare a list of the names and descriptions of the electors enrolled for his Division who have not voted at the election, and to certify the list by statutory declaration under his hand.

Cf. No. 26 of  
1915 and The  
Q'land  
Elections Act of  
1885, s. 88.  
(" Q'land Acts  
of Parliament  
1914-15.")

(a) Held by the Court of Disputed Returns (Isaacs J.) that the requirements of ss. 124 and 133 are mandatory. Effects of various markings on ballot-papers considered and decided. *Keane v. Kerby*, (1920) 27 C.L.R. 449.

(b) See footnote (b) on previous page.

(c) Cf. footnote (c) on previous page.

(d) Held by the High Court (Knox C.J., Isaacs, Gavan Duffy, Rich, Starke and Higgins JJ.) that this section is a valid exercise of the powers of the Parliament. *Judd v. McKeon*, (1926) 38 C.L.R. 380 ; 32 A.L.R. 389.

Inserted by No.  
10, 1924, s. 2 ;  
Sub-section (2)  
amended by No.  
17, 1928, s. 21.

(3.) The list so certified shall in all proceedings be *prima facie* evidence of the contents thereof and of the fact that the electors whose names appear therein did not vote at the election.

(4.) Within the prescribed period after the close of each election the Divisional Returning Officer shall send by post to each elector whose name appears on the list prepared in accordance with sub-sections (1.) and (2.) of this section, at the address mentioned in that list, a notice, in the prescribed form, notifying the elector that he appears to have failed to vote at the election, and calling upon him to give a valid truthful and sufficient reason why he failed so to vote :

Proviso added by  
No. 17, 1928,  
s. 21.

Provided that the Divisional Returning Officer need not send a notification in any case where he is satisfied that the elector—

- (a) is dead ; or
- (b) was absent from the Commonwealth on polling day ; or
- (c) is known to the Divisional Returning Officer to have been ineligible to vote at the election.

(5.) Before sending any such notice, the Divisional Returning Officer shall insert therein a date, not being less than twenty-one days after the date of posting of the notice, on which the form attached to the notice, duly filled up and signed by the elector, is to be in the hands of the Divisional Returning Officer.

(6.) Every elector to whom a notice under this section has been sent shall fill up the form at the foot of the notice by stating in it the true reason why he failed so to vote, sign the form, and post it so as to reach the Divisional Returning Officer not later than the date inserted in the notice.

(7.) If any elector is unable, by reason of absence from his place of living or physical incapacity, to fill up, sign, and post the form, within the time allowed under sub-section (5.) of this section, any other elector who has personal knowledge of the facts may, subject to the regulations, fill up, sign, and post the form, duly witnessed, within that time, and the filling up, signing, and posting of the form may be treated as compliance by the first-mentioned elector with the provisions of sub-section (6.) of this section.

Amended by  
No. 17, 1928,  
s. 21.

(8.) Upon receipt of a form referred to in either of the last two preceding sub-sections, the Divisional Returning Officer shall indorse on the list prepared in accordance with sub-section (2.) of this section, opposite the name of the elector, his opinion whether or not the reason contained in the form is a valid and sufficient reason for the failure of the elector to vote.

Amended by  
No. 17, 1928,  
s. 21.

(9.) The Divisional Returning Officer shall also indorse on the list, opposite the name of each elector to whom a notice under this section has been sent and from or on behalf of whom a form properly filled up signed and witnessed has not been received by him, a note to that effect.



\* \* \* \* \*

(11.) The list prepared and endorsed by the Divisional Returning Officer, indicating—

Sub-section  
(10.) omitted by  
No. 17, 1928,  
s. 21.

Amended by No.  
17, 1928, s. 21.

- (a) the names of the electors who did not vote at the election ;
- (b) the names of the electors from whom or on whose behalf the Divisional Returning Officer received, within the time allowed under sub-section (5.) of this section, forms properly filled up and signed ; and
- (c) the names of the electors who failed to reply within that time,

and any extract therefrom, certified by the Divisional Returning Officer under his hand, shall in all proceedings be *prima facie* evidence of the contents of such list or extract, and of the fact that the electors whose names appear therein did not vote at the election, and that the notice specified in sub-section (4.) of this section was received by those electors, and that those electors did, or did not (as the case may be), comply with the requisitions contained in the notice within the time allowed under sub-section (5.) of this section.

(12.) Every elector who—

Amended by No.  
17, 1928, s. 21.

- (a) fails to vote at an election without a valid and sufficient reason<sup>(a)</sup> for such failure ; or
- (b) on receipt of a notice in accordance with sub-section (4.) of this section, fails to fill up, sign, and post within the time allowed under sub-section (5.) of this section the form (duly witnessed) which is attached to the notice ; or
- (c) states in such form a false reason for not having voted, or, in the case of an elector filling up or purporting to fill up a form on behalf of any other elector, in pursuance of sub-section (7.) of this section, states in such form a false reason why that other elector did not vote,

shall be guilty of an offence.

Penalty : Not less than Ten shillings and not more than Two pounds.

(13.) Proceedings for an offence against this section shall not be instituted except by the Chief Electoral Officer or an officer thereto authorized in writing by the Chief Electoral Officer.

#### PART XIV.—THE SCRUTINY.

**129.** The result of the polling shall be ascertained by scrutiny.

Scrutiny.

**130.** Each candidate may by notice in writing or by telegram addressed to the Assistant Returning Officer or Divisional Returning Officer, as the case requires, appoint one scrutineer to represent him at the scrutiny at each polling booth or other place at which the scrutiny is being conducted, and such notice or telegram shall be signed by the candidate and shall give the name and address of the scrutineer.

Scrutineers at  
the scrutiny.

<sup>(a)</sup> Held by the High Court (Knox C.J., Isaacs, Gavan Duffy, Rich and Starke JJ. ; Higgins J. dissenting) that the fact that no person of the elector's political persuasion was a candidate is not a valid and sufficient reason. *Judd v. McKean*, (1926) 22 C.L.R. 380 ; 32 A.L.R. 389.

Scrutiny, how  
conducted.

**131.** The scrutiny shall be conducted as follows :—

- (a) It shall commence as soon as practicable after the closing of the poll ;
- (b) Such scrutineers as have been duly appointed pursuant to the preceding section, and any persons approved by the officer conducting the scrutiny, may be present ;
- (c) All the proceedings at the scrutiny shall be open to the inspection of the scrutineers ;
- (d) The scrutiny may be adjourned from time to time as may be necessary until the counting of the votes is complete.

Action on  
objections to  
ballot-papers.

**132.**—(1.) If a scrutineer objects to a ballot-paper as being informal, the officer conducting the scrutiny shall mark the ballot-paper “admitted” or “rejected” according to his decision to admit or reject the ballot-paper.

(2.) Nothing in this section shall prevent the officer conducting the scrutiny from rejecting any ballot-paper as being informal although it is not objected to.

Informal ballot-  
papers.

Amended by  
No. 9, 1934, s. 9

**133**—(1.) A ballot-paper shall (except as otherwise provided by section one hundred and twenty-three of this Act, and by the regulations relating to absent voting on polling day or to voting by post) be informal<sup>(a)</sup> if—

- (a) it is not authenticated by the initials of the presiding officer, or by an official mark as prescribed ;
- (b) In a Senate election, it has no vote indicated on it, or it does not indicate the voter's first preference for one candidate and the order of his preference for all the remaining candidates ;<sup>(a)</sup>
- (c) in a House of Representatives election it has no vote indicated on it, or it does not indicate the voter's first preference for one candidate and in the case of any election where there are more than two candidates his contingent votes for all the remaining candidates :

Substituted by  
No. 31, 1919,  
s. 8 ; and  
again by  
No. 9, 1934, s. 9.

Amended by  
No. 31, 1919,  
s. 8, and by  
No. 14, 1922,  
s. 17.

Provided that in a House of Representatives election at which there are not more than two candidates, the voter's preference for one candidate shall be deemed to be sufficiently indicated in the case of a ballot-paper marked so as to indicate the voter's first preference only ; or

- (d) it has upon it any mark or writing (not authorized by this Act or the regulations to be put upon it) by which, in

<sup>(a)</sup> Held by the Court of Disputed Returns (*Isaacs J.*) that the requirements of s. 124 and this section as to the marking of ballot-papers are mandatory. Effects of various markings on ballot-papers considered and decided. *Kean v. Kerby*, (1920) 27 C.L.R. 449. Held by the Court of Disputed Returns (*Starke J.*) that where the Act has laid down a definite and imperative rule for marking preferences in Senate elections and has declared (s. 133 (1)) that papers otherwise marked are informal then provisions such as ss. 133 (2), 193 and 217 are immaterial. *Blakey and Findley v. Elliott*, (1920) 41 C.L.R. 502 ; 35 A.L.R. 86 ; 2 A.L.J. 406.

the opinion of the Returning Officer, the voter can be identified: <sup>(a)</sup>

Provided that paragraph (d) shall not apply to any mark or writing placed upon the ballot-paper by an officer, notwithstanding that the placing of the mark or writing upon the ballot-paper is a contravention of this Act.

(2.) A ballot-paper shall not be informal for any reason other than the reasons specified in this section, but shall be given effect to according to the voter's intention so far as his intention is clear. <sup>(b)</sup>

**134.** Except as authorized by this Act or the regulations, an officer shall not place upon any ballot-paper any mark or writing which would enable any person to identify the voter by whom it is used.

Officers not to mark ballot-papers so that voter can be identified.

Penalty: Ten pounds.

**135.** In a Senate election the scrutiny shall, subject to the provisions of section ninety-one A, section one hundred and twenty-one and section one hundred and twenty-one A of this Act and of the regulations relating to absent voting and to voting by post, be conducted in the manner following:—

Scrutiny of votes in Senate elections.

Substituted by No. 31, 1919, s. 9;

Amended by No. 14,

1922, s. 18,

No. 17, 1928,

s. 22, and by No. 9, 1934, s. 10.

(1.) Each Assistant Returning Officer shall, in the presence of an Assistant Presiding Officer or a Poll Clerk, and of such authorized scrutineers as may attend—

- (a) open all ballot-boxes received from polling places within or for that portion of the Division in which he exercises his powers;
- (b) reject all informal ballot-papers, and arrange the unrejected ballot-papers under the names of the respective candidates by placing in a separate parcel all those on which a first preference is indicated for the same candidate;
- (c) count the first preference votes given for each candidate on all unrejected ballot-papers;
- (d) make out and sign a statement (which may be countersigned by an Assistant Presiding Officer or a Poll Clerk, and, if they so desire, by such scrutineers as are present) setting out the number of first preference votes given for each candidate, and the number of informal ballot-papers, and certify by indorsement on the copy of the writ received by him the like particulars;
- (e) place in a separate parcel all the ballot-papers which have been rejected as informal;

(a) Concerning a similar provision in the *Commonwealth Electoral Act* 1902-1907 (s. 158 (c)) it was held by the High Court that redundant marks on a ballot-paper will not invalidate the vote unless the marks are such that the voter can (not might possibly) be identified. *Blundell v. Fardon*, (1907) 4 C.L.R. 1463; *Kennedy v. Palmer*, (1907) 4 C.L.R. 1481. See also as to the present Act *Kean v. Kerby*, (1920) 27 C.L.R. 449.

(b) See footnote (a) on previous page.

- (f) transmit the following information, by telegram or in some other expeditious manner, to the Divisional Returning Officer:—
- (i) the number of first preference votes given for each candidate; and
  - (ii) the total number of ballot-papers rejected as informal;
- (g) seal up the parcels and indorse on each parcel a description of the contents thereof, and permit any scrutineers present, if they so desire, to countersign the indorsement; and
- (h) transmit the parcels to the Divisional Returning Officer with the least possible delay, together with the statement specified in paragraph (d) of this sub-section, and the copy of the writ indorsed in accordance with that paragraph.
- (2.) The Divisional Returning Officer shall open all ballot-boxes not opened by an Assistant Returning Officer, and shall conduct the scrutiny of the ballot-papers contained therein in the manner aforesaid as far as applicable.
- (3.) The Divisional Returning Officer shall, in the manner prescribed by this Act or the Regulations, examine, count, and deal with all ballot-papers used for voting in pursuance of—
- (a) Part XII. of this Act;
  - (b) the regulations relating to absent voting on polling day; or
  - (c) section ninety-one A, section one hundred and twenty-one and section one hundred and twenty-one A of this Act.
- (4.) The Divisional Returning Officer shall—
- (a) open the sealed parcels of ballot-papers received from the Assistant Returning Officers in or for the Division for which he is Divisional Returning Officer, and shall make a fresh scrutiny of the ballot-papers contained in the parcels, and for this purpose he shall have the same powers as if the fresh scrutiny were the original scrutiny, and may reverse any decision given by an Assistant Returning Officer in relation to the original scrutiny;
  - (b) arrange the unrejected ballot-papers so scrutinized by him, together with the ballot-papers scrutinized by him pursuant to sub-sections (2.) and (3.) of this section, under the names of the respective candidates by placing in a separate parcel all those on which a first preference is indicated for the same candidate; and

Amended by  
No. 14,  
1922, s. 18, and  
No. 17, 1928,  
s. 22.



(c) count the first preference votes given for each candidate on such ballot-papers, and transmit the following information, by telegram or in some other expeditious manner, to the Commonwealth Electoral Officer for the State:—

- (i) the number of first preference votes given for each candidate; and
- (ii) the total number of ballot-papers rejected as informal.

(5.) The first vacancy shall be filled in the following manner<sup>(a)</sup>:—

(a) The Commonwealth Electoral Officer shall, from the information received from all the Divisional Returning Officers for the Divisions of the State, ascertain the total number of first preference votes given for each candidate.

(b) The candidate who has received the largest number of first preference votes shall, if that number constitutes an absolute majority of votes, be elected.

(c) If no candidate has received an absolute majority of first preference votes, a second count shall be made by the Divisional Returning Officers under the directions of the Commonwealth Electoral Officer, who, for the purposes of the second count, shall notify each Divisional Returning Officer, by telegram or in some other expeditious manner, of the name of the candidate who has received the fewest first preference votes.

(d) On the second count, the candidate who has received the fewest first preference votes shall be excluded, and each ballot-paper counted to him shall be counted to the candidate next in the order of the voter's preference, and the result communicated to the Commonwealth Electoral Officer in the manner directed by that officer.

(e) If a candidate then has an absolute majority of votes he shall be elected, but if no candidate then has an absolute majority of votes, the process of excluding the candidate who has the fewest votes and counting each of his ballot-papers to the continuing candidate next in the order of the voter's preference shall be repeated by the Divisional Returning Officers under the directions of the Commonwealth Electoral Officer until one candidate has received an absolute majority of votes.

Amended by  
No. 9, 1934,  
s. 10.

(f) The candidate who has received an absolute majority of votes shall be elected.

(6.) The second vacancy shall be filled in the following manner<sup>(a)</sup>:—

(a) The Divisional Returning Officers, acting under the directions of the Commonwealth Electoral Officer, shall

Amended by  
No. 9, 1934,  
s. 10.

<sup>(a)</sup> The method of counting was discussed by the High Court in *Mulcahy v. Payne*, (1920) 27 C.L.R. 470; 26 A.L.R. 135. (But N.B. the provisions of the *Senate Elections Act 1903* referred to in that case have since been substituted by the *Senate Elections Act 1922*.)

re-arrange all the ballot-papers under the names of the respective candidates in accordance with the first preference indicated thereon, except that each ballot-paper on which a first preference for the elected candidate is indicated, shall be placed in the parcel of the candidate next in order of the voter's preference.

(b) Each Divisional Returning Officer shall then count the ballot-papers in the parcel of each candidate and transmit the result of the count to the Commonwealth Electoral Officer in accordance with the directions given by that officer.

(c) The Commonwealth Electoral Officer shall, from the information received from the Divisional Returning Officers, ascertain the total number of votes given for each candidate.

(d) If a candidate then has an absolute majority of votes he shall be elected, but if no candidate then has an absolute majority of votes, the scrutiny shall proceed as provided in paragraphs (c), (d), and (e) of the last preceding sub-section until one candidate has received an absolute majority of votes:

Provided that, in the application of paragraphs (c) and (d) of the last preceding sub-section, any reference to first preference votes shall be read as a reference to all the votes counted to a candidate in pursuance of this sub-section.

(e) The candidate who has received an absolute majority of votes shall be elected.

(7.) Further vacancies shall be filled one by one in the manner provided in the last preceding sub-section as regards the filling of the second vacancy<sup>(a)</sup>:

Amended by No.  
9, 1934, s. 10.

Provided that a ballot-paper on which a first preference for any elected candidate is marked shall be placed in the parcel of the continuing candidate next in order of the voter's preference.

Substituted by  
No. 9, 1934,  
s. 10.

(8.) In any case to which sub-section (2.) of section one hundred and twenty-three of this Act applies, any vote indicated on a ballot-paper opposite the name of a deceased candidate shall be counted to the candidate next in the order of the voter's preference, and the numbers indicating any subsequent preferences shall be deemed to be altered accordingly.<sup>(b)</sup>

\* \* \* \* \*

Sub-sec. (9.)  
omitted by  
No. 9, 1934,  
s. 10.

(10.) In this section "continuing candidate" means a candidate not already elected or excluded from the count.

(11.) If on any count two or more candidates have an equal number of votes, and one of them has to be excluded, the Commonwealth Electoral Officer shall decide which shall be excluded; and

(a) See footnote (a) on previous page.

(b) Prior to the insertion of this paragraph it was held by the Court of Disputed Returns (*Starke J.*) that where, owing to the death of a candidate prior to election day, certain ballot-papers had been marked 1, 2, 3, 4, 6 the ballot-papers had rightly been rejected as informal. *Blakey and Findley v. Elliott*, (1929) 41 C.L.R. 502; 35 A.L.R. 86; 2 A.L.J. 406.

if, in the final count for filling any vacancy, two candidates have an equal number of votes, the Commonwealth Electoral Officer shall decide by his casting vote which shall be elected; but, except as provided in this sub-section, he shall not vote at the election.

(12.) In this section "an absolute majority of votes" means a greater number than one-half of the whole number of ballot-papers other than informal ballot-papers. The casting vote of the Commonwealth Electoral Officer, given in pursuance of the last preceding sub-section, shall be included in reckoning an absolute majority of votes.

Amended by  
No. 9, 1934,  
s. 10.

(13.) Notwithstanding anything contained in the preceding provisions of this section two or more candidates lowest on the poll may be excluded in any count in the one operation, provided—

- (a) that the total number of votes of those lowest candidates does not in the aggregate exceed in number the votes of the candidate next higher on the poll;
- (b) that the number of continuing candidates is not thereby reduced below the number to be elected; and
- (c) that in the filling of a second or any subsequent vacancy the votes of the elected candidate or candidates have been first dealt with as provided in this section.

(14.) The Divisional Returning Officer shall—

- (a) make out and sign a statement setting out, in respect of the Division for which he is Divisional Returning Officer, the number of votes counted to each candidate at each count, and the number of informal ballot-papers, and forward the statement, together with the copy of the writ (indorsed in the prescribed manner) to the Commonwealth Electoral Officer for the State;
- (b) place in a separate parcel all the ballot-papers which have been rejected as informal;
- (c) place in a separate parcel all the unrejected ballot-papers; and
- (d) seal up the parcels and indorse on each parcel a description of the contents thereof, and permit any scrutineers present, if they so desire, to countersign the indorsement.

**136.** In a House of Representatives election the scrutiny shall, subject to the provisions of section ninety-one A, section one hundred and twenty-one and section one hundred and twenty-one A of this Act and of the regulations relating to absent voting and to voting by post, be conducted in the manner following:—

Scrutiny of  
votes in House  
of Representa-  
tives elections.  
Substituted by  
No. 31, 1919,  
s. 10;  
Amended by  
No. 14,  
1922, s. 19, and  
No. 17, 1928,  
s. 23.

(1.) Each Assistant Returning Officer shall, in the presence of an Assistant President Officer or a Poll Clerk, and of such authorized scrutineers as may attend—

- (a) open all ballot-boxes received from polling places within or for that portion of the Division in which he exercises his powers;

- (b) reject all informal ballot-papers, and arrange the unrejected ballot-papers under the names of the respective candidates by placing in a separate parcel all those on which a first preference is indicated for the same candidate ;
  - (c) count the first preference votes given for each candidate on all unrejected ballot-papers ;
  - (d) make out and sign a statement (which may be countersigned by an Assistant Presiding Officer or a Poll Clerk, and, if they so desire, by such scrutineers as are present) setting out the number of first preference votes given for each candidate, and the number of informal ballot-papers, and certify, by indorsement on the copy of the writ received by him, the like particulars ;
  - (e) place in a separate parcel all the ballot-papers which have been rejected as informal ;
  - (f) transmit the following information, by telegram or in some other expeditious manner, to the Divisional Returning Officer :—
    - (i) the number of first preference votes given for each candidate ; and
    - (ii) the total number of ballot-papers rejected as informal ;
  - (g) seal up the parcels and indorse on each parcel a description of the contents thereof, and permit any scrutineers present, if they so desire, to countersign the indorsement ; and
  - (h) transmit the parcels to the Divisional Returning Officer with the least possible delay, together with the statement specified in paragraph (d) of this sub-section, and the copy of the writ indorsed in accordance with that paragraph.
- (2.) The Divisional Returning Officer shall open all ballot-boxes not opened by an Assistant Returning Officer, and shall conduct the scrutiny of the ballot-papers contained therein in the manner aforesaid as far as applicable.
- (3.) The Divisional Returning Officer shall, in the manner prescribed by this Act or the Regulations, examine, count, and deal with all ballot-papers used for voting in pursuance of—
- (a) Part XII. of this Act ;
  - (b) the regulations relating to absent voting on polling day ; or
  - (c) section ninety-one A, section one hundred and twenty-one and section one hundred and twenty-one A of this Act.
- (4.) From the copies of the writs forwarded to the Divisional Returning Officer by the Assistant Returning Officers

Amended by  
No. 14,  
1922, s. 19,  
and by  
No. 17, 1928,  
s. 23.



in or for the Division, and the result of the scrutiny of the votes counted by him, the Divisional Returning Officer shall ascertain the total number of first preference votes given for each candidate for the Division.

(5.) The candidate who has received the largest number of first preference votes shall, if that number constitutes an absolute majority of votes, be elected.

(6.) If no candidate has received an absolute majority of first preference votes, the Divisional Returning Officer—

(a) shall open the sealed parcels of ballot-papers received from the Assistant Returning Officers in or for the Division ;

(b) shall make a fresh scrutiny of the ballot-papers contained in the parcels, and, for the purpose of that scrutiny, shall have the same powers as if it were the original scrutiny, and may reverse any decision given by an Assistant Returning Officer in relation to the original scrutiny ;

(c) from the result of the scrutiny of the votes counted by him under the provisions of sub-sections (2.) and (3.) of this section, and the fresh scrutiny conducted by him under the provisions of this sub-section, shall ascertain the total number of first preference votes given for each candidate and the number of informal ballot-papers ; and

(d) shall proceed with the scrutiny and the counting of the votes as follows :—

(i) the candidate who has received the fewest first preference votes shall be excluded, and each ballot paper counted to him shall be counted to the candidate next in the order of the voter's preference ;

(ii) if no candidate then has an absolute majority of votes, the process of excluding the candidate who has the fewest votes, and counting each of his ballot-papers to the unexcluded candidate next in the order of the voter's preference, shall be repeated until one candidate has received an absolute majority of votes ; and

(iii) the candidate who has received an absolute majority of votes shall be elected.

(7.) If on any count two or more candidates have an equal number of votes, and one of them has to be excluded, the Divisional Returning Officer shall decide which shall be excluded ; and if in the final count two candidates

have an equal number of votes, the Divisional Returning Officer shall decide by his casting vote which shall be elected, but, except as provided in this sub-section, he shall not vote at the election.

(8.) In this section an absolute majority of votes means a greater number than one-half of the whole number of ballot-papers other than informal ballot-papers. The casting vote of the Divisional Returning Officer, given in pursuance of the last preceding sub-section, shall be included in reckoning an absolute majority of votes.

(9.) The Divisional Returning Officer shall—

- (a) place in a separate parcel all the ballot-papers which have been rejected as informal;
- (b) place in a separate parcel all the unrejected ballot-papers; and
- (c) seal up the parcels and indorse on each parcel a description of the contents thereof, and permit any scrutineers present, if they so desire, to countersign the indorsement.

Scrutiny prior to receipt of absent voters' ballot-papers, &c.

Inserted by No. 31, 1919, s. 10; amended by No. 14, 1922, s. 20, and No. 17, 1928, s. 24.

**136A.** Where the Commonwealth Electoral Officer for a State, in the case of a Senate election, or the Divisional Returning Officer, in the case of a House of Representatives election, is satisfied that the votes—

- (a) on any ballot-papers issued at some remote polling place in connexion with the election which have not been received by the Divisional Returning Officer; or
- (b) on any ballot-papers, used for voting in pursuance of section one hundred and twenty-one of this Act, and in relation to which the Divisional Returning Officer has not completed the action specified by sub-section (5.) of that section; or
- (c) on any ballot-papers used for voting in pursuance of section ninety-one A or section one hundred and twenty-one A and in relation to which the scrutiny by the Divisional Returning Officer has not been completed; or
- (d) on any postal ballot-papers posted or delivered to any Divisional Returning Officer or any Assistant Returning Officer or presiding officer in pursuance of sub-section (2.) of section ninety-two of this Act,

cannot, having regard to the number of those ballot-papers, possibly affect the result of the election, the Commonwealth Electoral Officer, in the case of a Senate election, or the Divisional Returning Officer, in the case of a House of Representatives election, may, subject to the concurrence of the Chief Electoral Officer, proceed with the scrutiny without awaiting the receipt of the ballot-papers, or completing the action, as the case may be.

**137.—(1.)** At any time before the declaration of the result of a Senate election the Commonwealth Electoral Officer for the State

Added by No. 14, 1923, s. 20 and amended by No. 17, 1928, s. 24.

Added by No. 17, 1928, s. 24.

Re-count at Senate elections.

may, if he thinks fit, on the written request of any candidate setting forth the reasons for the request, or of his own motion, direct a re-count of the ballot-papers from any Division or portion of a Division, or of the ballot-papers contained in any parcel.

(2.) If the Commonwealth Electoral Officer for the State refuses, on the request of a candidate, to direct a re-count of any ballot-papers, the candidate may, in writing, appeal to the Chief Electoral Officer to direct a re-count of those ballot-papers, and the Chief Electoral Officer may, as he thinks fit, either direct a re-count of the ballot-papers or refuse to direct a re-count.<sup>(a)</sup>

**138.** At any time before the declaration of the result of a House of Representatives election the Divisional Returning Officer may, if he thinks fit, on the request of any candidate setting forth the reasons for the request, or of his own motion, and shall, if so directed by the Chief Electoral Officer or the Commonwealth Electoral Officer for the State, re-count the ballot-papers contained in any parcel.<sup>(a)</sup>

Re-count at  
House of  
Representatives  
elections.

**139.** The officer conducting a re-count shall have the same powers as if the re-count were the scrutiny, and may reverse any decision in relation to the scrutiny as to the allowance and admission or disallowance and rejection of any ballot-paper.

Powers of  
officer  
conducting  
re-count.

**140.**—(1.) The officer conducting a re-count may, and at the request of any scrutineer shall, reserve any ballot-paper for the decision of the Commonwealth Electoral Officer for the State.

Reservation  
of disputed  
ballot-papers.

(2.) The Commonwealth Electoral Officer for the State shall decide whether any ballot-paper, reserved for his decision in pursuance of this section, is to be allowed and admitted or disallowed and rejected.

(3.) In the event of the validity of the election being disputed, the Court of Disputed Returns may consider any ballot-papers which were reserved for the decision of the Commonwealth Electoral Officer for the State, but shall not order any further re-count of the whole or any part of the ballot-papers in connexion with the election unless it is satisfied that the re-count is justified.

#### PART XV.—THE RETURN OF THE WRITS.

**141.**—(1.) In elections for the Senate, the Commonwealth Electoral Officer for the State for which the election is held shall, as soon as conveniently may be after the result of the election has been ascertained—

Return of writ  
for election of  
Senators.

Amended by  
No. 17, 1928,  
s. 25.

(a) at the place of nomination declare the result of the election and the names of the candidates elected :

<sup>(a)</sup> Concerning a similar provision in the *Commonwealth Electoral Act 1902-1906* (s. 161A) it was held by the High Court that the fact that the Commonwealth Electoral Officer for a State directed a re-count of all the ballot-papers before the declaration of the poll does not debar the Court of Disputed Returns from ordering a further re-count under the control of the Court. *Blundell v. Fardon*, (1907) 4 C.L.R. 1463.

(b) by indorsement under his hand certify on the writ the names of the candidates elected, and return the writ to the Governor of the State in respect of which it was issued.

(2.) Where the Commonwealth Electoral Officer for the State—

Amended by  
No. 17, 1928,  
s. 25.

(a) has been advised by a Divisional Returning Officer that certain ballot-papers, issued at some remote polling place in connexion with the election or posted or delivered to any Divisional Returning Officer or any Assistant Returning Officer or presiding officer in pursuance of sub-section (2.) of section ninety-two of this Act, cannot reach him for the purpose of the scrutiny without unduly delaying the declaration of the poll, or

Amended by  
No. 14, 1922,  
s. 21, and No.  
17, 1928, s. 25.

(b) has been advised by a Divisional Returning Officer that he cannot complete his inquiries into the facts set out in the declarations of certain persons to whom ballot-papers were issued under the provisions of section ninety-one A, section one hundred and twenty-one or section one hundred and twenty-one A of this Act, without unduly delaying the declaration of the poll, and

(c) in either case, is satisfied that the votes recorded on those ballot-papers could not possibly affect the result of the election,

he may, subject to the concurrence of the Chief Electoral Officer, declare the result of the election and return the writ without awaiting the receipt of the ballot-papers or the completion of inquiries, as the case may be.

Return of writs  
for House of  
Representatives.

**142.**—(1.) In a House of Representatives election the Divisional Returning Officer shall, as soon as conveniently may be after the result of the election has been ascertained—

(a) at the chief polling place for the Division publicly declare the result of the election and the name of the candidate elected;

(b) by indorsement under his hand certify on the writ the name of the candidate elected, and return the writ through the Commonwealth Electoral Officer for the State.<sup>(a)</sup>

(2.) Where the Divisional Returning Officer—

Amended by  
No. 17, 1928,  
s. 26.

(a) is satisfied that certain ballot-papers, issued at some remote polling place in connexion with the election or posted or delivered to any Divisional Returning Officer or any Assistant Returning Officer or presiding officer in pursuance of sub-section (2.) of section ninety-two of this Act, cannot reach him for the purpose of the scrutiny without unduly delaying the declaration of the poll, or

(a) Held by the High Court that the "return of the writ" within the meaning of s. 135 is not complete until the writ indorsed as required by s. 141 (1) (b) has come into the possession of the Governor of the State. *Muleahy v. Payne*, (1920) 27 C.L.R. 470; 26 A.L.J. 135. (But N.B. sub-section (2) of section 214 which has since been added by the Amending Act of 1929.)



- (b) cannot complete his inquiries into the facts set out in the declarations received by him in pursuance of the provisions of section ninety-one A, section one hundred and twenty-one or section one hundred and twenty-one A of this Act, without unduly delaying the declaration of the poll, and
- (c) in either case, is satisfied that the votes recorded on those ballot-papers could not possibly affect the result of the election,

Amended by  
No. 14, 1922,  
s. 22, and  
No. 17, 1928,  
s. 26.

he may, subject to the concurrence of the Chief Electoral Officer declare the result of the election and return the writ without awaiting the receipt of the ballot-papers or the completion of inquiries, as the case may be.

**143.** Any delay, error, or omission in the printing, preparation, issue, transmission, or return of any roll, writ, ballot-papers, or certified list of voters, may be remedied, removed, rectified, and supplied by proclamation specifying the matter dealt with, and providing for the course to be followed, and such course shall be valid and sufficient.

Correction of  
errors.

**144.** Within twenty days before or after the day appointed for any election the person causing the writ to be issued may provide for extending the time for holding the election or for returning the writ, or meeting any difficulty which might otherwise interfere with the due course of the election; and any provisions so made shall be valid and sufficient:

Extension of  
time.

Provided that—

- (a) public notice shall be immediately given in the State or Division for which the election is to be held of any extension of the time for holding the election; and
- (b) no polling day shall be postponed under this section at any time later than seven days before the time originally appointed.

#### PART XVI.—LIMITATION OF ELECTORAL EXPENSES.

**145.** No electoral expense shall be incurred or authorized by a candidate in respect of any candidature—

Rates of  
expenditure.

- (a) in a Senate election, in excess of Two hundred and fifty pounds;
- (b) in a House of Representatives election, in excess of One hundred pounds.

**146.** No electoral expense shall be incurred or authorized except in respect of the following matters:—

Expenses  
allowed.

- (i) Printing, advertising, publishing, issuing, and distributing addresses by the candidate and notices of meetings;
- (ii) Stationery, messages, postages, and telegrams;
- (iii) Committee rooms;
- (iv) Public meetings and halls therefor;
- (v) Scrutineers.

Electoral  
expenses.

**147.** “Electoral expense” includes all expenses incurred by or on behalf or in the interests of any candidate at or in connexion with any election, excepting only the purchasing of electoral rolls, and the personal and reasonable living and travelling expenses of the candidate.

Expenditure on  
behalf of a  
candidate.

**148.** Any person incurring or authorizing any electoral expense on behalf of a candidate without the written authority of the candidate shall be guilty of a contravention of this Act.

Employment  
of paid  
canvassers or  
committeemen  
prohibited.

**149.**—(1.) A candidate or a person acting on behalf of, or in the interests of, a candidate, shall not employ, for reward, any person as canvasser or committeeman or in any capacity in connexion with an election, unless the expense incurred could be lawfully incurred by the candidate under this Part of this Act.

Penalty: One hundred pounds.

(2.) “Reward” in this section includes any payment or promise of payment direct or indirect to the person employed or to the wife or husband or any relative of that person.

Gifts by  
candidate.

**150.**—(1.) Any person who, having announced himself within three months before the day of election as a candidate for election to the Parliament, shall before the poll for the election is closed offer promise or give directly or indirectly to or for any club or other association, any gift, donation, or prize, shall be guilty of an offence against this section.

Penalty: Five pounds, in addition to any other penalty provided by law.

(2.) No proceedings shall be taken for a contravention of this section except within three months after the act complained of.

Returns of  
candidates’  
expenses.

**151.**—(1.) Within eight weeks after the result of any election has been declared, every candidate at the election shall sign and declare before a Justice of the Peace and file with the Commonwealth Electoral Officer for the State a true return of his electoral expenses, showing—

(a) all electoral expenses paid:

(b) all disputed and unpaid claims for electoral expenses.

(2.) The return shall be in accordance with Form G in the Schedule and shall be accompanied by a receipted bill of particulars vouching each payment of Two pounds or more.

(3.) The return and the receipted bills of particulars shall be retained by the Commonwealth Electoral Officer for the State, and shall be open to public inspection during ordinary office hours on payment of the prescribed fee, for a period of six months from the date of polling at the election.

Return of  
expenses by  
political  
organizations.

**152.**—(1.) Every trades union registered or unregistered, organization, association, league, or body of persons which has, or person who has, in connexion with any election, expended any money or incurred any expense—

(a) on behalf of, or in the interests of, any candidate, or

(b) on behalf of, or in the interests of, any political party, shall in accordance with this section make a return of the money so expended or expense so incurred.

(2.) Every trades union registered or unregistered, organization, association, league, or body of persons which has, and every person who has, in connexion with any election, expended any money or incurred any expense in printing publishing or issuing electoral advertisements or notices, or procuring the insertion in any newspaper of any advertisement article or report or matter intended or calculated to affect the result of the election, shall in accordance with this section make a return of the money so expended or expense so incurred.

(3.) The return shall be in accordance with the prescribed form, and shall be signed and declared to before a Justice of the Peace by the President or Chairman and the Secretary or other officer of the trades union registered or unregistered, organization, association, league, or body of persons, or by the person concerned, and shall contain particulars of the money expended or expense incurred, and shall be filed with the Commonwealth Electoral Officer for the State in which the election took place within twelve weeks after the result of the election has been declared.

(4.) If any trades union registered or unregistered, organization, association, league, or body of persons satisfies the Chief Electoral Officer that it has in connexion with any political campaign expended money or incurred expense on behalf of or in the interests of a political party in all the States or in more than one State, he may permit it to file with him in lieu of any other return under this section a return of the whole of the money expended or expense incurred by it in the campaign.

(5.) If any trades union registered or unregistered, organization, association, league, or body of persons fails to comply with this section, every person who was an officer thereof at the time the money was expended or expense incurred shall be liable to a penalty of Fifty pounds.

(6.) If any person fails to comply with this section he shall be liable to a penalty of Fifty pounds.

(7.) Any person who wilfully makes an untrue statement in any return under this section shall be liable to a penalty of One hundred pounds or to imprisonment for six months.

(8.) The Chief Electoral Officer may by notice in writing in the prescribed form require the President or Chairman and the Secretary or other officer of any trades union registered or unregistered, organization, association, league, or body of persons, or any person, within such time, not being less than one month as is specified in the notice, to make a return in accordance with this section, of any money expended or expense incurred in respect of which a return is required to be made under sub-section (1.) or sub-section (2.) of this section, and the President or Chairman and Secretary or other officer or person who neglects or refuses to

comply with the notice shall be guilty of an offence, and liable to a penalty not exceeding One hundred pounds, or to imprisonment for any period not exceeding six months.

(9.) Every return filed in pursuance of this section shall, subject to the regulations, be open to public inspection.

Return by  
newspaper  
proprietors.

**153.**—(1.) The proprietor or publisher of a newspaper published in the Commonwealth shall, in accordance with this section, make or cause to be made a return setting out the amount of electoral matter in connexion with any election inserted in his newspaper in respect of which payment was or is to be made, the space occupied by such electoral matter, the amount of money paid or owing to him in respect of such electoral matter and the names and addresses of the trades unions registered or unregistered, organizations, associations, leagues, bodies of persons, or persons authorizing the insertion thereof.

Penalty (on proprietor) : One hundred pounds.

(2.) In this section “electoral matter” includes advertisements, articles, and other matter intended or calculated to affect the result of the election.

(3.) Where an election for the Senate and a general election for the House of Representatives take place on the same day, the particulars as regards both elections may be included in one return.

(4.) The return shall be in accordance with the prescribed form, and shall be signed by the person making it, and shall be declared to before a Justice of the Peace, and shall be filed with the Commonwealth Electoral Officer for the State in which the newspaper is published within twelve weeks after the result of the election has been declared.

(5.) Every return made in pursuance of this section shall, subject to the regulations, be open to public inspection.

#### PART XVII.—ELECTORAL OFFENCES.

Offences.

**154.** To secure the due execution of this Act and the purity of elections the following acts are hereby prohibited and penalized :—

- (i) Breach or neglect of official duty ;
- (ii) illegal practices, including—
  - (a) bribery ;
  - (b) undue influence ;
- (iii) electoral offences.

Breach or  
neglect by  
officers.

**155.** “Breach or neglect of official duty” includes—

- (i) any attempt by any officer to influence the vote of any elector, or, except by recording his vote, the result of any election ;
- (ii) the disclosure of any knowledge officially acquired by any officer or scrutineer touching the vote of any elector ;
- (iii) any neglect or refusal by any officer to discharge any official duty, or observe any direction issued by lawful authority, and any violation by any officer of any provision of this Act ;



- (iv) any wilful misfeasance or wilful or grossly negligent act of commission or omission contrary to the provisions of this Act or the regulations thereunder.

Breach or neglect of official duty is punishable by a penalty not exceeding Two hundred pounds, or by imprisonment not exceeding one year.

**156.** Any person who—

*Bribery.*

- (a) promises, or offers, or suggests any valuable consideration, advantage, recompense, reward, or benefit for or on account of, or to induce any candidature, or withdrawal of candidature, or any vote or omission to vote, or any support of, or opposition to any candidate, or any promise of any such vote, omission, support, or opposition;
- (b) gives or takes any valuable consideration, advantage, recompense, reward, or benefit for, or on account of, any such candidature, withdrawal, vote, omission, support, or opposition, or promise thereof; or
- (c) promises, offers, or suggests any valuable consideration, advantage, recompense, reward, or benefit for bribery, or gives or takes any valuable consideration, advantage, recompense, reward, or benefit for bribery,

shall be guilty of bribery.

**157.** Without limiting the effect of the general words in the preceding section, "bribery" particularly includes the supply of meat, drink, or entertainment after the nominations have been officially declared, or horse or carriage hire for any voter whilst going to or returning from the poll, with a view to influence the vote of an elector.

*Definition.*

**158.** Any person who—

- (a) threatens, offers, or suggests any violence, injury, punishment, damage, loss, or disadvantage for or on account of, or to induce any candidature, or withdrawal of candidature, or any vote, or any omission to vote, or any support or opposition to any candidate, or any promise of any vote, omission, support, or opposition; or
- (b) uses, causes, inflicts, or procures any violence, punishment, damage, loss, or disadvantage for or on account of any such candidature, withdrawal, vote, omission, support, or opposition,

*Undue influence.*

shall be guilty of undue influence.

**159.** Without limiting the effects of the general words in the preceding section, "undue influence" includes every interference or attempted interference with the free exercise of the franchise of any voter.

*Definition.*

**160.** No declaration of public policy or promise of public action shall be deemed bribery or undue influence.

*Exception.*

Illegal practices.

**161.** In addition to bribery and undue influence the following shall be illegal practices :—

- (a) Any publication of any electoral advertisement handbill or pamphlet or any issue of any electoral notice (other than the announcement by advertisement in a newspaper of the holding of a meeting) without at the end thereof the name and address of the person authorizing the same :
- (b) Printing or publishing any printed electoral advertisement handbill or pamphlet (other than an advertisement in a newspaper) without the name and place of business of the printer being printed at the foot of it :
- (c) Any contravention by a candidate of the provisions of Part XVI. of this Act relating to the limitation of electoral expenses :
- (d) Printing, publishing, or distributing any electoral advertisement, notice, handbill, pamphlet, or card containing any representation of a ballot-paper or any representation apparently intended to represent a ballot-paper, and having thereon any directions intended or likely to mislead or improperly interfere with any elector in or in relation to the casting of his vote :
- (e) Printing, publishing, or distributing any electoral advertisement, notice, handbill, pamphlet, or card containing any untrue or incorrect statement intended or likely to mislead or improperly interfere with any elector in or in relation to the casting of his vote :
- (f) Wilfully informing any elector on polling day that he is not enrolled, or that he is not enrolled for a particular Subdivision, when as a fact he is enrolled, or is enrolled for that Subdivision, as the case may be :

Added by No.  
17, 1928, s. 27.

Provided that nothing in paragraphs (d) and (e) of this section shall prevent the printing, publishing, or distributing of any card, not otherwise illegal, which contains instructions how to vote for any particular candidate, so long as those instructions are not intended or likely to mislead any elector in or in relation to the casting of his vote.

Punishment.

**162.** Any illegal practice shall be punishable as follows :—

- (a) Bribery or undue influence, by a penalty not exceeding Two hundred pounds, or by imprisonment not exceeding one year :
- (b) any other illegal practice, by a penalty not exceeding One hundred pounds, or by imprisonment not exceeding six months.

Heading to  
electoral  
advertisements.

**163.**—(1.) The proprietor of every newspaper shall cause the word “advertisement” to be printed as a headline in letters not smaller than ten point or long primer to each article or paragraph in his newspaper containing electoral matter, the insertion of which

is or is to be paid for or for which any reward or compensation or promise of reward or compensation is or is to be made.

Penalty : Fifty pounds.

(2.) The words "electoral matter" include all matter intended or calculated to affect the result of the election, and any report of the speech of a candidate if the report is or is to be paid for.

**164.**—(1.) On and after the date of issue and before the return of any writ for the election of a Member of the Senate, or of the House of Representatives, or for the taking of any referendum vote, every article, report, letter, or other matter commenting upon any candidate, or political party, or the issues being submitted to the electors, printed and published in any newspaper, circular, pamphlet, or "dodger" shall be signed by the author or authors, giving his or their true name and address or names and addresses at the end of the said article, report, letter, or other matter, or where part only of the article, report, letter or matter appears in any issue of a newspaper, circular, pamphlet, or "dodger", at the end of that part.<sup>(a)</sup>

Articles to be signed.

Penalty : Fifty pounds.

(2.) Any newspaper editor or proprietor who permits, in any newspaper which he edits or owns, the publication of any unsigned article, report, letter, or other matter commenting upon any candidate, or political party, or the issues being submitted to the electors after the issue and before the return of any writ for the election of a member of the Senate, or of the House of Representatives, or for the taking of a referendum vote, shall be deemed guilty of an offence against this Act.<sup>(a)</sup>

Penalty : Fifty pounds.

(3.) This section shall not apply to the publication in a newspaper of—

Added by No. 17, 1928, s. 28.

(a) a leading article ; or

(b) an article in a newspaper which consists solely of a report of a meeting and does not contain any comment (other than comment made by a speaker at the meeting) upon any candidate, or political party, or the issues being submitted to the electors.

**165.**—(1.) A person shall not exhibit or leave in any polling booth any card or paper having thereon any direction or instruction as to how an elector should vote or as to the method of voting.

Cards in polling booth.

Penalty : Twenty pounds.

(2.) This section shall not apply to any official instructions exhibited by proper authority at any polling booth.

**166.**—(1.) A person shall not make any untrue statement in any electoral paper, or in answer to any question under this Act, or

Untrue statements in forms.

(a) A similar provision in the *Commonwealth Electoral Act 1902-1911* (s. 181AA) was held by the High Court to be *intra vires* the Commonwealth Parliament. *Smith v. Oldham*, (1912) 15 C.L.R. 355 ; 18 A.L.R. 448. Held also by the Supreme Court of Western Australia that that section required the printing of the name or signature and address of the author at the end of the published matter and that the signing of the original manuscript was not sufficient. *Sunday Times Publishing Co. v. Cathie*, (1913) 15 W.A.L.R. 89.

in any information supplied to any officer or canvasser for the purposes of the preparation, maintenance and revision of rolls.

Penalty : Twenty pounds.

(2.) Sub-section (1.) of this section shall not affect the liability of any person to be proceeded against in respect of any other offence but he shall not be liable to be punished twice in respect of the same offence.

(3.) In this section the words "electoral paper" include any prescribed form.

Signature to  
electoral paper.

**167.**—(1.) Every electoral paper which by this Act or the regulations has to be signed by any person shall be signed by that person with his personal signature.

(2.) Where a person who is unable to sign his name in writing makes his mark as his signature to an electoral paper, the mark shall be deemed to be his personal signature, if it is identifiable as such, and is made in the presence of a witness who signs the electoral paper as such witness :

Provided that nothing in this section shall authorize any person to sign any electoral paper by a mark or otherwise than in his own handwriting in cases where the Act or the regulations require him to sign the electoral paper in his own handwriting.

(3.) A person shall not make the signature of any other person on an electoral paper.

Penalty : Fifty pounds.

(4.) Sub-section (3.) of this section shall not affect the liability of any person to be proceeded against for forgery, but so that he shall not be liable to be punished twice in respect of the same offence.

(5.) In this section the words "electoral paper" include any prescribed form.

Witnessing  
electoral papers.

**168.**—(1.) A person shall not—

(a) sign his name as witness on any blank electoral paper ; or

(b) sign his name as witness on any electoral paper which has been wholly or partly filled up unless it has been signed by the person intended to sign it ; or

(c) sign his name as witness on any electoral paper unless he has seen the person, whose signature he purports to witness, sign it ;<sup>(a)</sup> or

(d) write on any electoral paper as his own name—

(i) the name of another person ; or

(ii) any name not being his own name.

Penalty : Fifty pounds.

(2.) In this section the words "electoral paper" include any prescribed form.

Making marks  
on ballot-  
papers.

**169.** Except where expressly authorized by this Act, a person (other than the elector to whom the ballot-paper has been lawfully

<sup>(a)</sup> Concerning a similar provision in the *Commonwealth Electoral Act 1902-1911* (s. 207B (1) (c)) the Supreme Court of Western Australia held that where the witness had not in fact seen the person sign it was immaterial that he acted *bona fide* in witnessing a signature acknowledged by the elector to be hers. *Roberts v. Swain*, (1916) 18 W.A.L.R. 121.



issued) shall not make any mark or writing on the ballot-paper of any elector.

Penalty: Fifty pounds.

**170.** The matters mentioned in the first column of the table at the foot of this section are electoral offences punishable as provided in the second column of the table opposite the statement of the offence.

Electoral offences.

*Table of Electoral Offences and Punishments.*

First Column. — Offences.	Second Column. — Punishments.
Falsely personating any person to secure a ballot-paper to which the personator is not entitled, or personating any other person for the purpose of voting	Imprisonment not exceeding two years
Fraudulently destroying or defacing any nomination paper or ballot-paper	Imprisonment not exceeding two years
Fraudulently putting any ballot-paper or other paper into the ballot-box	Imprisonment not exceeding six months
Fraudulently taking any ballot-paper out of any polling booth	Imprisonment not exceeding six months
Taking any ballot-paper out of any polling booth ...	Penalty not exceeding Fifty pounds
Forging or uttering, knowing the same to be forged, any nomination paper or ballot-paper	Imprisonment not exceeding two years
In any polling booth on polling day misconducting himself, or failing to obey the lawful directions of the presiding officer	Penalty not exceeding Fifty pounds, or imprisonment not exceeding one month
Supplying ballot-papers without authority ...	Imprisonment not exceeding six months
Unlawfully destroying, taking, opening, or otherwise interfering with ballot-boxes or ballot-papers	Imprisonment not exceeding six months
Voting more than once at the same election ...	Penalty not exceeding Fifty pounds, or imprisonment not exceeding three months
Wagering on the result of any election ...	Penalty not exceeding Fifty pounds
Wilfully defacing, mutilating, destroying, or removing any notice, list, or other document affixed by any Returning Officer or by his authority	Penalty not exceeding Two pounds
Knowingly making any false statement in any claim, application, return, or declaration, or in answer to a question under this Act	Imprisonment not exceeding two years
Distributing any advertisement, hand-bill, or pamphlet published in contravention of section one hundred and sixty-one	Penalty not exceeding Fifty pounds, or imprisonment not exceeding one month
Any contravention of this Act for which no other punishment is provided	Penalty not exceeding Fifty pounds

**171.** The following acts are, on polling day, and on all days to which the polling is adjourned, prohibited at the entrance<sup>(a)</sup> of or within a polling booth, or in any public or private place within twenty feet of the entrance of a polling booth, namely:—

Prohibition of canvassing near polling booths.

(a) canvassing for votes; or

(b) soliciting the vote of any elector; or

(a) As to the meaning of "entrance" see *Crouch v. Ozanne*, (1910) 12 C.L.R. 539; but N.B. that case was decided on the *Commonwealth Electoral Act 1902-1909*, s. 182A of which did not contain the words "or in any public or private place within twenty feet of the entrance of a polling booth".

- (c) inducing any elector not to vote for any particular candidate ; or
- (d) inducing any elector not to vote at the election ; or
- (e) exhibiting any notice or sign (other than an official notice) relating to the election.

Penalty : Twenty-five pounds.

Witness to application must satisfy himself of truth of statement.

**172.** The person witnessing any claim for enrolment or transfer of enrolment shall, before he affixes his signature thereto, satisfy himself, by inquiry from the claimant or otherwise, that the statements contained in the claim are true unless he knows that the statements contained in the claim are true.

Penalty : Fifty pounds.

Failure to transmit claim.

**173.** Any person who accepts, for transmission to a Registrar, the custody of a claim for enrolment or transfer of enrolment shall forthwith transmit the claim to the Registrar.

Penalty : Fifty pounds.

Forging or uttering electoral papers.

**174.**—(1.) A person shall not—

- (a) forge any electoral paper, or
- (b) utter any forged electoral paper, knowing it to be forged.

Penalty : Imprisonment for two years.

(2.) In this section the words “electoral paper” include any prescribed form.

Employers to allow employes leave of absence to vote.

**175.**—(1.) If an employé who is an elector notifies his employer before the polling day that he desires leave of absence to enable him to vote at any election, the employer shall, if the absence desired is necessary to enable the employé to vote at the election, allow him leave of absence without any penalty or disproportionate deduction of pay for such reasonable period not exceeding two hours as is necessary to enable the employé to vote at the election.

(2.) No employé shall under pretence that he intends to vote at the election, but without the *bona fide* intention of doing so, obtain leave of absence under this section.

(3.) This section shall not apply to any elector whose absence may cause danger or substantial loss in respect of the employment in which he is engaged.

Penalty : Five pounds.

Protection of the official mark.

**176.**—(1.) A person shall not, without lawful authority, proof whereof shall lie upon him—

- (a) make any official mark on or in any paper ;
- (b) have in his possession any paper bearing any official mark ; or
- (c) make use of or have in his possession any instrument capable of making on or in any paper an official mark.

Penalty : One hundred pounds.

(2.) A person who, without lawful authority, proof whereof shall lie upon him, makes on or in any ballot-paper, or on or in any paper purporting to be a ballot-paper, an official mark, shall be deemed to have a forged ballot-paper, and shall be punishable accordingly.

(3.) All paper bearing an official mark, and all instruments capable of making on or in paper an official mark, made, used, or in the possession of any person without lawful authority (proof whereof shall lie upon him) shall be forfeited to the King, and may without warrant be seized by any member of the police force of the Commonwealth or of a State and destroyed or dealt with as prescribed.

(4.) In this section the words "official mark" mean any prescribed mark to be placed or made on or in any electoral paper, and include any mark so nearly resembling an official mark as to be likely to deceive.

**177.**—(1.) Any person who, at any public meeting to which this section applies, acts in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting is held shall be guilty of an offence against this Act.

Disorderly  
behaviour at  
meeting.

Penalty : Five pounds, or imprisonment for one month.

(2.) This section applies to any lawful public political meeting held in relation to any election of members of the Parliament between the date of the issue of the writ for the election and the date of the return of the writ.

(3.) The chairman of any meeting to which this section applies may direct any member of the Police Force of a State or Territory, or of the Commonwealth, to remove from the room or building in which the meeting is being held any person who, in the opinion of the chairman, is preventing the transaction of the business for which the meeting is held, and thereupon the member may take such steps as are necessary for the removal of the person from the room or building.

Added by No. 9,  
1934, s. 11.

(4.) Any person—

(a) who has been removed from a room or building in accordance with a direction given under the last preceding sub-section ; or

(b) whose removal from a room or building has been directed under the last preceding sub-section and who has left that room or building,

Added by No. 9,  
1934, s. 11.

and who, without the authority of the Chairman (proof whereof shall lie upon that person) returns to that room or building while the meeting is in progress, shall be guilty of an offence.

Penalty : Ten pounds or imprisonment for one month.

(5.) A member of the Police Force of a State or Territory, or of the Commonwealth, may arrest without warrant any person who commits an offence against the last preceding sub-section.

Added by No. 9,  
1934, s. 11.

Neglect to  
initial ballot-  
paper, &c.

**178.** Any officer who, contrary to his duty, fails to initial any ballot-paper, correctly mark any certified list of voters, or properly attest any declaration shall be guilty of an offence.

Penalty : Ten pounds.

Offender may  
be removed  
from polling  
booth.

**179.** Any person who in any polling booth on polling day misconducts himself, or fails to obey the lawful directions of the presiding officer, shall be guilty of an offence and may be removed from the polling booth by any constable or by any person authorized by the presiding officer.

Further  
punishment.

**180.** Any person who has been removed from a polling booth by direction of the presiding officer under the authority of the preceding section, and who re-enters the polling booth without the permission of the presiding officer, shall be guilty of a further electoral offence, punishable on conviction by twice the penalty prescribed in the table for the original offence.

Defamation of  
candidate.

**181.—(1.)** A person shall not make or publish any false and defamatory statement in relation to the personal character or conduct of a candidate.

Penalty : One hundred pounds, or imprisonment for six months :

Provided always that it shall be a defence to a prosecution for an offence against this sub-section if the defendant proves that he had reasonable ground for believing and did in fact believe the statement made or published by him to be true.

(2.) Any person who makes a false and defamatory statement in relation to the personal character or conduct of a candidate in contravention of this section may be restrained by injunction at the suit of the candidate aggrieved, from repeating the statement or any similar false and defamatory statement.

Liability for  
indirect acts.

**182.** Every person shall be liable for an illegal practice committed directly or indirectly by himself, or by any other person on his behalf, and with his knowledge or authority.

## PART XVIII.—COURT OF DISPUTED RETURNS.

### *Division 1.—Disputed Elections and Returns.*

Method of  
disputing  
elections.

**183.—(1.)** The validity of any election or return may be disputed by petition addressed to the Court of Disputed Returns and not otherwise.

(2.) The choice of a person to hold the place of a Senator by the Houses of Parliament of a State or the appointment of a person to hold the place of a Senator by the Governor of a State under section fifteen of the Constitution shall be deemed to be an election within the meaning of this section.

The Court of  
Disputed  
Returns.

**184.—(1.)** The High Court shall be the Court of Disputed Returns, and shall have jurisdiction either to try the petition or to refer it for trial to the Supreme Court of the State in which the election was held or return made.



(2.) When a petition has been so referred for trial to the Supreme Court of a State, that Court shall have jurisdiction to try the petition, and shall in respect of the petition be and have all the powers and functions of the Court of Disputed Returns.

(3.) The jurisdiction of the High Court or of the Supreme Court of a State sitting as a Court of Disputed Returns, or in the exercise of powers conferred by this section, may be exercised by a single Justice or Judge.

**185.** Every petition disputing an election or return in this Part of this Act called the petition shall—

Requisites of petition.

- (a) set out the facts relied on to invalidate the election or return :
- (b) contain a prayer asking for the relief the petitioner claims to be entitled to :
- (c) be signed by a candidate at the election in dispute or by a person who was qualified to vote thereat.<sup>(a)</sup>
- (d) be attested by two witnesses whose occupations and addresses are stated :<sup>(a)</sup>
- (e) be filed in the Principal Registry of the High Court or in the District Registry of that Court in the capital city of the State in which the election was held within forty days after the return of the writ ;<sup>(b)</sup> or (if the facts relied on in support of the petition are breaches by a candidate of the provisions of Part XVI. of this Act) within forty days after the filing by the candidate of the return of his electoral expenses.<sup>(a)</sup>

**186.** At the time of filing the petition the petitioner shall deposit with the Principal Registrar or District Registrar (as the case may be) of the High Court the sum of Fifty pounds as security for costs

Deposits as security for costs.

**187.** No proceedings shall be had on the petition unless the requirements of the preceding sections are complied with.<sup>(a)</sup>

No proceedings unless requisites complied with.

**188.** The Chief Electoral Officer shall be entitled by leave of the Court of Disputed Returns to enter an appearance in any proceedings in which the validity of any election or return is disputed, and to be represented and heard thereon, and in such case shall be deemed to be a party respondent to the petition.

Right of Chief Electoral Officer to be represented.

**189.**—(1.) The Court of Disputed Returns shall sit as an open Court and its powers shall include the following<sup>(c)</sup> :—

Powers of Court.

- (i) To adjourn :

(a) Held by the High Court that no proceedings could be had upon a telegram embodying a petition since it was neither signed by a person qualified to vote nor attested by two witnesses. *In re Porter*, (1923) 31 C.L.R. 600 ; 29 A.L.J.R. 204.

(b) Held by the High Court that the return of the writ is not complete until the writ indorsed as required by s.141 (1) (b) has come into the possession of the Governor of the State. *Mulcahy v. Payne*, (1920) 27 C.L.R. 470 ; 26 A.L.J.R. 135. (But N.B. sub-section (2) of section 214 which has since been added by the amending Act of 1929.)

(c) For the additional powers of the Court of Disputed Returns in respect of any petition disputing an election of Senators at which there are one or more casual vacancies to be filled, as well as periodical vacancies, see *Senate Elections Act 1903-1922*, s. 11 (*infra*, p. 948).

Inserted by  
No. 14, 1922,  
s. 23.

- (ii) To compel the attendance of witnesses and the production of documents :
- (iia) To grant to any party to a petition leave to inspect in the presence of a prescribed officer the rolls and other documents (except ballot-papers) used at or in connexion with any election and to take, in the presence of the prescribed officer, extracts from those rolls and documents :
- (iii) To examine witnesses on oath :
- (iv) To declare that any person who was returned as elected was not duly elected :
- (v) To declare any candidate duly elected who was not returned as elected :
- (vi) To declare any election absolutely void :
- (vii) To dismiss or uphold the petition in whole or in part :
- (viii) To award costs :
- (ix) To punish any contempt of its authority by fine or imprisonment.

(2.) The Court may exercise all or any of its powers under this section on such grounds as the Court in its discretion thinks just and sufficient.

(3.) Without limiting the powers conferred by this section, it is hereby declared that the power of the Court to declare that any person who was returned as elected was not duly elected, or to declare an election absolutely void, may be exercised on the ground that illegal practices were committed in connexion with the election.

Production of  
postal vote  
certificate, &c.

Inserted by  
No. 14, 1922,  
s. 24.

Amended by No.  
17, 1928, s. 29.

**189A.**—(1.) Without limiting the powers conferred by the last preceding section—

- (a) when it is proved that a ballot-paper issued under the regulations relating to absent voting or pursuant to section eighty-eight, section ninety-one A, section one hundred and twenty-one or section one hundred and twenty-one A has, in any election, been marked by a person who was not entitled to vote at the election,<sup>(a)</sup> the Court may require the production of—

- (i) the postal vote certificate delivered to or posted to that person ; or

- (ii) the declaration made by that person under the regulations relating to absent voting or pursuant to section ninety-one A, section one hundred and twenty-one or section one hundred and twenty-one A,

as the case may be ; and

- (b) the Court may reject the ballot-paper.

(2.) The production from proper custody of a ballot-paper purporting to have been used in an election and bearing an official number,

Amended by No.  
17, 1928, s. 29.

<sup>(a)</sup> Held by the Court of Disputed Returns (*Starke J.*) that the provisions of s. 112 (3) apply to absent voting. *Perkins v. Cusack*, (1930) 43 C.L.R. 70 ; 36 A.L.R. 241 ; 3 A.L.J. 397.

and of a postal vote certificate, or a declaration made under the regulations relating to absent voting or pursuant to section ninety-one A, section one hundred and twenty-one or section one hundred and twenty-one A, bearing an official number corresponding to the official number on the ballot-paper, shall be *prima facie* evidence that the person who marked the ballot-paper was the person to whom the postal vote certificate was delivered or posted or who made the declaration, as the case may be.

(3.) In the last preceding sub-section "official number" means a number purporting to have been placed on the ballot-paper, postal vote certificate or declaration, as the case may be, in pursuance of the regulations.

**190.** The Court shall inquire whether or not the petition is duly signed, and so far as Rolls and voting are concerned may inquire into the identity of persons, and whether their votes were improperly admitted or rejected, assuming the Roll to be correct, but the Court shall not inquire into the correctness of any Roll.<sup>(a)</sup>

Inquiries by Court.

**191.—(1.)** If the Court of Disputed Returns finds that a candidate has committed or has attempted to commit bribery or undue influence, his election, if he is a successful candidate, shall be declared void.

Voiding election for illegal practices.

(2.) No finding by the Court of Disputed Returns shall bar or prejudice any prosecution for any illegal practice.

(3.) The Court of Disputed Returns shall not declare that any person returned as elected was not duly elected, or declare any election void—

(a) on the ground of any illegal practice committed by any person other than the candidate and without his knowledge or authority; or

(b) on the ground of any illegal practice other than bribery or corruption or attempted bribery or corruption,

unless the Court is satisfied that the result of the election was likely to be affected, and that it is just that the candidate should be declared not to be duly elected or that the election should be declared void.<sup>(b)</sup>

**192.** When the Court of Disputed Returns finds that any person has committed an illegal practice, the Principal Registrar or District Registrar of the High Court shall forthwith report the finding to the Minister.

Court to report cases of illegal practices.

**193.** The Court shall be guided by the substantial merits and good conscience of each case without regard to legal forms or

Real justice to be observed.

(a) Held by the Court of Disputed Returns (Starke J.) that the Court is bound to assume that persons were correctly on the roll and that therefore evidence that addresses shown in the roll are outside the Electoral Division is inadmissible. *Perkins v. Cusack*, (1930) 43 C.L.R. 70; 36 A.L.R. 241; 3 A.L.J. 397.

(b) On a similar provision in the *Commonwealth Electoral Act 1902-1909* it was held by the High Court that where a candidate at an election is sought to be made responsible for illegal acts done during the election by his agent, it must be proved that the candidate either countenanced or directed the doing of those acts. *Crouch v. Ozanne*, (1910) 12 C.L.R., 539.

technicalities, or whether the evidence before it is in accordance with the law of evidence or not.<sup>(a)(b)</sup>

Immaterial errors not to vitiate election.

Amended by No. 14, 1922, s. 25.

Proviso added by No. 14, 1922, s. 25.

**194.** No election shall be avoided on account of any delay in the declaration of nominations, the polling, or the return of the writ, or on account of the absence or error of or omission by any officer which did not affect the result of the election :

Provided that where any elector was, on account of the absence or error of, or omission by, any officer, prevented from voting in any election, the Court shall not, for the purpose of determining whether the absence or error of, or omission by, the officer did or did not affect the result of the election, admit any evidence of the way in which the elector intended to vote in the election.

Evidence that person not permitted to vote.

Inserted by No. 14, 1922, s. 26.

**194A.** On the trial of any petition the Court shall not admit the evidence of any witness that he was not permitted to vote in any election during the hours of polling on polling day unless the witness satisfies the Court—

(a) that he claimed to vote, in the election, pursuant to that provision of this Act under which he was entitled or might be permitted to vote ; and

(b) that he complied with the requirements of this Act and the regulations made thereunder relative to voting by electors in so far as he was permitted so to do.

Decisions to be final.

**195.** All decisions of the Court shall be final and conclusive and without appeal, and shall not be questioned in any way.<sup>(a)</sup>

Copies of petition and order of Court to be sent to House affected.

**196.** The Principal Registrar or District Registrar of the High Court shall forthwith after the filing of the petition forward to the Clerk of the House of the Parliament affected by the petition a copy of the petition, and after the trial of the petition shall forthwith forward to such Clerk a copy of the order of the Court.

Counsel or solicitor.

**197.—(1.)** No party to the petition shall, except by consent of all parties, or by leave of the Court, be represented by counsel or solicitor.

(2.) In no case shall more than one counsel or one solicitor appear on behalf of any party.

Costs.

**198.** The Court may award costs against an unsuccessful party to the petition.

Deposits applicable for costs.

**199.** If costs are awarded to any party against the petitioner, the deposit shall be applicable in payment of the sum ordered, but otherwise the deposit shall be repaid to the petitioner.

(a) Concerning similar provisions in the *Commonwealth Electoral Act 1902-1911* (ss. 199 and 201) it was held by the Court of Disputed Returns (*Barton A.C.J.*) that neither of those sections could be read as a grant of additional power. *Hedges v. Burchell*, (1913) 17 C.L.R. 327 ; 20 A.L.R. 4.

(b) Held by the Court of Disputed Returns (*Starke J.*) that this section does not authorize the Court to ignore the imperative provisions of the Act. *Blakey and Findley v. Elliott*, (1929) 41 C.L.R. 502 ; 35 A.L.R. 86 ; 2 A.L.J. 406.