

THE FIRST SCHEDULE—*continued*.

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

Consecutive No.	Tariff Item.	Tariff Rates on Goods the Produce or Manufacture of New Zealand.
24 <i>cont.</i>	<p>110 (A) Apparel, other than knitted,—<i>continued</i>.</p> <p>(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.:—</p> <p>(a) Cotton, linen, or other material n.e.i. 25 per cent. ad val.</p> <p>(b) Wool or containing wool .. 25 per cent. ad val.</p> <p>(c) Silk or containing silk but not containing wool .. 25 per cent. ad val.</p> <p>(B) Apparel, knitted, and Apparel made from knitted or lock-stitched piece goods, viz.:—</p> <p>(1) Blouses, Skirts, Underwear, and Bathing Costumes—</p> <p>(a) Cotton or other material n.e.i. 25 per cent. ad val.</p> <p>(b) Wool or silk or containing wool or silk 25 per cent. ad val.</p> <p>(2) Coats, Jumpers, Cardigans, Sweaters, and similar garments—</p> <p>(a) Girls' or Boys', i.e., with chest measurement under 34 inches.. .. 25 per cent. ad val.</p> <p>(b) Women's or Men's, i.e., with chest measurement 34 inches and over .. 25 per cent. ad val.</p> <p>(3) Costumes, Dresses or Robes—</p> <p>(a) Cotton or other material n.e.i. 25 per cent. ad val.</p> <p>(b) Wool or containing wool but not containing silk 25 per cent. ad val.</p> <p>(c) Silk or containing silk 25 per cent. ad val.</p> <p>(c) Corsets 25 per cent. ad val.</p> <p>(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.</p> <p>(E) Neck Ties for human wear 25 per cent. ad val.</p>	
25	<p>112 Furs and other skins and Articles made thereof:—</p> <p>(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.</p>	

THE FIRST SCHEDULE—continued.

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

Consecutive No.	Tariff Item.	Tariff Rates on Goods the Produce or Manufacture of New Zealand.
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.
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 .. Agricultural Machines and Implements, namely :—	4s. 6d. per cwt.
32	Ex 176 (F) } Ex 208 (A) } Wool-presses Ex 303 (A) }	} Free
33	Ex 161 (A) Hay and Straw Baling Presses	
34	Ex 160 (A) Threshing-machines and Threshing-mills	
35	Ex 161 (A) } Fibre-scutching Machines, Fibre Strippers Ex 176 (F) } Washers and Presses Ex 208 (A) }	
36	Ex 161 (A) } Ploughs, Harrows other than disc, Ex 162 } Potato Diggers and Sorters, Grubbers Ex 163 } 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)	

THE FIRST SCHEDULE—*continued*.

TRADE AGREEMENT BETWEEN THE COMMONWEALTH OF AUSTRALIA AND THE
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Consecutive No.	Tariff Item.	Tariff Rates on Goods the Produce or Manufacture of New Zealand.
40	Ex 162 } Spring-tined Cultivators, Disc Harrows,	} 10 per cent. ad val.
	Ex 163 (A) } Seed and Fertilizer Sowers or Drills	
41	Ex 161 (A) } Seed-cleaners and Seed separators	} 10 per cent. ad val.
	Ex 176 (F) }	
42	Ex 164 } Dairying Machines and Implements, viz.:—Churns, Cheese-presses, and Dairy-coolers	
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) } Knees, bends, elbows, junction and in- Ex 153 (D) } spection boxes and covers, and other Ex 208 (A) } 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 ..	10 per cent. ad val.
	176 (F) }	
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.
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 (1) (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.

THE FIRST SCHEDULE—continued.

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

Consecutive No.	Tariff Item.	Tariff Rates on Goods the Produce or Manufacture of New Zealand.
60	Ex 176 (F) } Coal - screening Machinery ; Screens,	
	Ex 208 (A) } Metal, 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 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	£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.
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) } tone 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

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

Consecutive No.	Tariff Item.	Tariff Rates on Goods the Produce or Manufacture of New Zealand.
84	Ex 229 (1) Oils in vessels exceeding one gallon— Compounded rust resisting oil for the treatment of metal	Free
85	231 Paints and Colours, viz.:— (n) Kalsomine, Water Paints and Dis- tempers, in powder form (c) (1) Ground in liquid; Paints and Colours prepared for use; Sheep Marking Oils; Enamels; Enamel Paints and Glosses..	20 per cent. ad val. 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 Knot- ting; Oil and Wood Finishes; Petrify- ing Liquids; Lithographic Varnish; Printers' Ink Reducer; Terebine; Liquid Dryers; Gold Size; Liquid Stain for Wood.. .. . (B) Damp Wall Compositions including com- positions for waterproofing cement .. (c) Compounded Thinners for nitro-cellulose and acetyl-cellulose varnishes and lacquers, n.e.i.	20 per cent. ad val. 20 per cent. ad val. 20 per cent. ad val.
87	Ex 255 (B) Caseine	20 per cent. ad val.
88	255 (A) } Glue and Gelatine 255 (C) }	20 per cent. ad val. 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 (E) New Zealand White Pine, undressed, n.e.i., for use in the manufacture of butter boxes (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 (2) In sizes of 8 inches x 2 inches (or its equivalent) and upwards, and less than	Free Free Free Free

THE FIRST SCHEDULE—continued.

TRADE AGREEMENT BETWEEN THE COMMONWEALTH OF AUSTRALIA AND THE
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Consecutive No.	Tariff Item,	Tariff Rates on Goods the Produce or Manufacture of New Zealand.
94 cont.	291 Timber— <i>continued</i> . 12 inches x 6 inches (or its equivalent) (3) In sizes less than 8 inches x 2 inches (or its equivalent) (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 (h) Timber, undressed, n.e.i., viz.:—Other— (1) In sizes of 12 inches x 10 inches (or its equivalent) and over (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) (3) In sizes less than 7 inches x 2½ inches (or its equivalent) (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 . . (2) Timber, undressed, cut to size for making boxes	Free Free Free Free Free Free Free Free 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	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

THE FIRST SCHEDULE—*continued*.

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

Consecutive No.	Tariff Item.	Tariff Rates on Goods the Produce or Manufacture of New Zealand.
103	325 (A) Leather Manufacturers n.e.i.; Leather cut into shape; Harness n.e.i.; Razor Strops; 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, Ex 334 (K) } mill-glazed, or unglazed, including Ex 334 (G) } 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.
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.

THE FIRST SCHEDULE—continued.

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

Consecutive No.	Tariff Item.	Tariff Rates on Goods the Produce or Manufacture of New Zealand.
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. (excepting 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

SCHEDULE B.

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

Consecutive 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 unmanufactured, viz. :— Ex (4) Oats Ex (4) Peas, viz. :—(a) Wrinkled garden seed peas (b) Other kinds ..	1s. 6d. per cental Free 1s. 6d. per cental
5	5 Grain and pulse, ground or <i>manufactured</i> , viz. :— Ex (6) Oatmeal and Rolled Oats ..	2s. 6d. per cental
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 confectionery, liquorice n.e.i., and sugared or crystallized fruits	27½ per cent. ad val.

THE FIRST SCHEDULE—continued.

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

Consecutive No.		Tariff Item.	Tariff Rates on Goods the Produce or Manufacture of Australia.
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 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.	Free
16	37	Fruits, fresh—viz.:— (2) (a) Apricots, grapes, medlars, nec- tarines, passion-fruit, peaches, plums, quinces, tomatoes . . (b) Cherries	2d. per lb. 3d. per lb.
17	39	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.

THE FIRST SCHEDULE—continued.

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

Consecutive No.	Tariff Item.		Tariff Rates on Goods the Produce or Manufacture of Australia.
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 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.
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 small packages 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.
33	Ex 196	(1) Boots and shoes composed of canvas with rubber soles solutioned to the uppers, including goloshes .. (2) Boots, shoes, clogs, pattens, slippers, shoettes, sandals, overshoes, and other footwear n.e.i.	25 per cent. ad val. 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.

THE FIRST SCHEDULE—*continued*.

TRADE AGREEMENT BETWEEN THE COMMONWEALTH OF AUSTRALIA AND THE
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Consecutive No.		Tariff Item.	Tariff Rates on Goods the Produce or Manufacture of Australia.
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 <i>other</i> <i>appliances</i> , n.e.i., viz.:— Ex (1) Gas heating and gas cooking appliances	35 per cent. ad val.
		Ex (2) <i>Oil-engines</i> not exceeding 100 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.
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, 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.

THE SECOND SCHEDULE—*continued.*

[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.

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.

THE SECOND SCHEDULE—*continued.*

[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.

[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.

[COPY.]

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

Senator the Hon. W. Massy 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.

CUSTOMS TARIFF (PAPUA AND NEW GUINEA
PREFERENCE) 1936-1950.^(a)

An Act relating to Duties of Customs on goods imported into
Australia from the Territory of Papua or the Territory
of New Guinea.

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 (Papua and New Guinea Preference) 1936-1950.*^(a) Short title.
Short title
amended
No. 32, 1918,
s. 2.
2. This Act shall commence on a time and date to be fixed by Proclamation.^(a) Commence-
ment.
3. The *Customs Tariff (Papua and New Guinea Preference) 1934* is repealed. Repeal of
Customs Tariff
(*Papua and*
New Guinea
Preference)
1934.
4. The *Customs Act 1901-1935* shall be incorporated and read as one with this Act. Incorporation
of *Customs Act*
1901-1935.
5. In this Act, unless the contrary intention appears— Definitions.

“ Departmental By-law ” means a By-law made by the Minister and published in the *Gazette* ;

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

(a) The *Customs Tariff (Papua and New Guinea Preference) 1936-1950* comprises the *Customs Tariff (Papua and New Guinea Preference) 1936* as amended. Particulars of the Principal Act and of the amending Act are set out in the following table :—

Act.	Year and Number.	Date of Assent.	Date of Commencement.
<i>Customs Tariff (Papua and New Guinea Preference) 1936</i>	1936, No. 84	7th December, 1936	21st December, 1936 (see <i>Gazette</i> , 1936, p. 2277)
<i>Statute Law Revision Act 1950</i>	1950, No. 80	16th December, 1950	31st December, 1950

Imposition
of duties.

6.—(1) From and after the time and date fixed by Proclamation under section two of this Act, duties of Customs shall be imposed on goods produced or manufactured in the Territory of Papua or the Territory of New Guinea and imported into Australia direct from either of those Territories, as follows :—

- (a) on all goods specified in the Schedule to this Act—
Duties at the rates specified in the column in that Schedule headed “Rate of Duty”; and
- (b) on all other goods—duties at the rates in force under the British Preferential Tariff.

(2.) Duties of Customs shall be payable at the rates of duty in force under the British Preferential Tariff, and shall be charged, collected and paid to the use of the King for the purposes of the Commonwealth, on the undermentioned goods (not being goods the produce or manufacture of the Territory of Papua or the Territory of New Guinea), namely, goods—

- (a) which, on or after the time and date of the commencement of this Act, are imported into Australia from either of those Territories; 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.

(3.) The duties imposed on any goods in accordance with this Act shall be in lieu of the duties (if any) imposed on those goods in accordance with the *Customs Tariff* 1933-1936.

Application
of duties.

7. The rates of duty imposed by sub-section (1.) of section six of this Act shall be charged, collected and paid to the use of the King for the purposes of the Commonwealth on all goods subject to those rates which—

- (a) are imported into Australia after the time and date fixed by the Proclamation issued under section two of this Act; or
- (b) were imported into Australia before that time and are not entered for home consumption until after that time.

* * * * *

Section 8
repealed by
No. 80, 1950,
s. 3 and First
Schedule.

THE SCHEDULE.

Section 6.

Item No.	Item No. of Customs Tariffs 1933.	Item.	Rate of Duty.
✓ 1	437	Arecanuts.. .. .	Free
✓ 2	44 (A) ..	Cocoa Beans, whole or broken, raw; Cocoa Shells, raw	Free
✓ 3	43 (A) ..	Coffee, raw and kiln dried	Free
✓ 4	287	Essential Oil, viz.:—Massoi oil	Free
✓ 5	53 (A) ..	Fruits, Dried, viz.:—Lychee	Free
✓ 6	.. ..	Fruits, Fresh, viz.:—	
✓ (A)	52 (A) ..	Bananas per cental	8s. 4d.
✓ (B)	52 (B) and (C)	Abiu, Akee, Avocado, Chicomamey, Durian, Grumichama, Ilama, Imbu, Jaboticaba, Jak Fruit, Kao Pan Seedless Pummelo, Langsat, Longan, Lychee, Mangosteen, Pulasan, Rambutan, Sapote, Sapodilla, Star-apple	Free
✓ 7	101 or 102 ..	Fungi, edible	Free
✓ 8	56 (A) ..	Ginger, green	Free
✓ 9	56 (E) ..	Ginger, dry, unground	Free
✓ 10	400 (B) ..	Goods, secondhand, owned by persons resident in the Territories of Papua and New Guinea, sent to the Commonwealth for repair and return to such Territories	Free
✓ 11	57 (D)	Grain and Pulse, viz.:—	
✓ 12	254 (C) ..	Rangoon Beans	Free
		Gums, viz.:—	
		Balata, Gum Arabic, Gum Copal, Gum Damar, Gutta Percha, Jelutong, Sticklac and Seedlac	Free
✓ 13	78	Nuts, viz.:—	
✓ (A)	.. ..	Coconuts, whole	Free
✓ (B)	.. ..	Coconuts, prepared	Free
✓ (C)	.. ..	Other, shelled or unshelled	Free
✓ 14	275 (C) ..	Pyrites, other than pyrites prescribed by Departmental By-laws per ton	5s. (
✓ 15	87 (B) ..	Sago and Tapioca, not being packed for household use.. .. .	Free
✓ 16	92	Seeds, viz.:—Kapk ; Sesame.. .. .	Free
✓ 17	96 (A) (1) ..	Spices, unground, viz.:—	
		Cardamom, Chillies, Cinnamon, Cloves, Mace, Nutmegs, Pepper, Pimento	Free
✓ 18	3 (F) ..	Spirit of strength not less than 65 per cent. over proof, denatured, or to be denatured prior to delivery, for use as motor fuel, subject to conditions as prescribed by Departmental By-laws per gallon	1d. /
✓ 19	100 (B) ..	Tea in packages exceeding 20 lb. net weight per lb.	1d.
✓ 20	438	Vanilla Beans	Free

CUSTOMS TARIFF (PRIMAGE DUTIES) 1934-1950.^(a)

An Act relating to Primage Duties of Customs.

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

1. This Act may be cited as the *Customs Tariff (Primage Duties)* 1934-1950.^(a)

Incorporation.

2. The *Customs Act* 1901-1930 shall be incorporated and read as one with this Act.

Definitions.

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

“British Preferential Tariff” means the rates of duty set out in the Schedule to the *Customs Tariffs* 1933 in the column headed “British Preferential Tariff”;

“Item” means Tariff Item as set out in the Schedule to the *Customs Tariffs* 1933;

“The Schedule” means the Schedule to this Act.

Time of
imposition of
Primage
Duties.

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.

(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.

(a) The *Customs Tariff (Primage Duties)* 1934-1950 comprises the *Customs Tariff (Primage Duties)* 1934 as amended. Particulars of the Principal Act and of the amending Act are set out in the following table:—

Act.	Year and Number.	Date of Assent.	Date of Commencement.
<i>Customs Tariff (Primage Duties)</i> 1934	1934, No. 6	14th July, 1934	5th October, 1933 (see s. 4(1))
<i>Statute Law Revision Act</i> 1950	1950, No. 80	16th December, 1950	31st December, 1950

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.

Imposition
of duties.

*	*	*	*	*	*
*	*	*	*	*	*
*	*	*	*	*	*

Sections 6, 7
and 8 repealed
by No. 80, 1950,
s. 3 and First
Schedule.

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.

Saving.

THE SCHEDULE.

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 (n), 423, 424 (E) and 427 (A) ;

Agricultural and horticultural seeds not covered by any Item ;

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,
Queensland, 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 manufacture of such dips washes and drenches ;

Fauna for Zoological Gardens at Sydney, Melbourne, Brisbane, Adelaide, Perth and Hobart ;

THE SCHEDULE—*continued.*

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 viticultural 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 }
 Potash } for use as a fertilizer or in the manufacture of fertilizers ;
 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 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 ;

THE SCHEDULE—continued.

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

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 ;^(b)

(a) For Proclamations exempting further goods see *Gazettes*, 1934, pp. 1103, 2527 and 2529 ; 1935, pp. 350, 499, 1103, 1378, 1450, 1867 and 1954 ; 1936, pp. 513, 1017, 1725, 1871, 2279, 2336 and 2337 ; 1937, pp. 393, 705, 952, 1033, 1064, 2181 and 2182 ; 1938, pp. 866, 1257, 2661, 2787 and 2837 ; 1939, pp. 1957, 2774 and 2775 ; 1940, pp. 1112, 1242, 1861 and 2521 ; 1941, pp. 778, 1437, 1739 and 2667 ; 1942, p. 2877 ; 1943, p. 463 ; 1945, p. 1183 ; 1946, pp. 2077, 3165 and 3267 ; 1947, pp. 67, 1376, 2305, 2645, 2837, 3043, 3383 (*corrigendum* at p. 3539), 3465 and 3598 ; 1948, pp. 1555, 1963, 2041, 2369, 2370, 2434, 2485, 2486, 2542, 2849, 2850, 3101, 3283, 3284, 3835, 4033 and 4103 ; 1949, pp. 49, 50, 195, 1899, 2543, 2546 and 3001 ; and 1950, pp. 1119, 1261, 1431, 3155 and 3309.

(b) For Proclamations specifying further goods upon which primage duty at the rate of four per centum is imposed see *Gazettes* 1934, pp. 1104 and 2528 ; 1935, pp. 351, 500, 1379 and 1867 ; 1936, pp. 513, 1725, 2280 and 2336 ; 1937, p. 1063 ; 1938, pp. 865, 2788 and 2789 ; 1939, pp. 1958 and 2775 ; 1940, pp. 1111 and 1242 ; 1943, p. 464 ; 1945, p. 1184 ; 1947, pp. 2305 and 3385 (*corrigendum* at p. 3539) ; 1948, pp. 3103 and 3835 ; and 1950, p. 1121.

THE SCHEDULE—continued.

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 (c) 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 Novem-
36,	78 (F),	ber, 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,

THE SCHEDULE—continued.

Items—continued.

124,	179 (c),	187 (D),
126 (B),	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 (B),
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 de-	319 (A) (1),	354 (A),
ferred 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 (E) (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; (a) 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 (E) (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.

(a) For Proclamations adding goods to the list of goods upon which primage duty at the rate of five per cent. is imposed see *Gazettes*, 1934, pp. 1104 and 2528; 1935, pp. 351, 499, 1378 and 1868; 1936, pp. 514, 1017, 1726, 2281 and 2337; 1937, pp. 1063, 1519 and 2181; 1938, pp. 896, 1525, 1527, 2789 and 2836; 1939, pp. 1894, 1958, 2005, 2661 and 2774; 1940, pp. 1111, 1112 and 1242; 1943, p. 464; 1945, p. 1185; 1947, pp. 2837 and 3385 (*corrigendum* at p. 3539); 1948, pp. 3104 and 3836; 1949, p. 2547; and 1950, p. 1120.

CUSTOMS TARIFF (SOUTHERN RHODESIAN PREFERENCE) 1941-1948.^(a)

An Act relating to Duties of Customs.

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,
Short title
amended
No. 32, 1918,
s. 2.
Commence-
ment.

1. This Act may be cited as the *Customs Tariff (Southern Rhodesian Preference)* 1941-1948.^(a)

2. This Act shall come into operation at a time and date to be fixed by Proclamation.^(a)

Incorporation
of Customs
Act.

3. The *Customs Act* 1901-1936 shall be incorporated and read as one with this Act.

Definitions.

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

“British Preferential Tariff”, in respect of any goods in relation to which the expression is used, means the rate of duty for the time being set out opposite the tariff item or portion of a tariff item covering those goods in the Schedule to the Customs Tariff and, where that rate is proposed to be varied by any tariff proposal introduced into the House of Representatives, means that rate as so proposed to be varied ;

“Customs Tariff” means the *Customs Tariff* 1933-1939, and includes that Act as amended from time to time and any Act passed in substitution for that Act, or for that Act as so amended.

Imposition of
duties.

5.—(1.) After the commencement of this Act,^(b) duties of Customs at the rates specified in the column headed “Rate of duty” in the Schedule to this Act shall be imposed on the goods specified in that Schedule which—

(a) are the produce of Southern Rhodesia ; and

(b) are imported into Australia direct from Southern Rhodesia.

(a) The *Customs Tariff (Southern Rhodesian Preference)* 1941-1948 comprises the Acts set out in the following table :—

Act.	Year and Number.	Date of Assent.	Date of Commencement.
<i>Customs Tariff (Southern Rhodesian Preference)</i> 1941	1941, No. 13	7th April, 1941	10th April, 1941. See <i>Gazette</i> , 1941, p. 778
<i>Customs Tariff (Southern Rhodesian Preference)</i> 1948	1948, No. 2	27th April, 1948	15th November, 1946

(b) As to the time of the imposition of duties imposed by the *Customs Tariff (Southern Rhodesian Preference)* 1948 see footnote * to the Schedule, *infra*.

(2.) The duties of Customs imposed on any goods by this Act shall be in lieu of the duties imposed on those goods under the Customs Tariff.

6. The duties of Customs imposed by sub-section (1.) of section five of this Act shall be charged, collected and paid to the use of the King for the purposes of the Commonwealth on all goods subject to those duties which are imported into Australia after the commencement of this Act, or are imported into Australia before, and are not entered for home consumption until after, the commencement of this Act.

Application of duties.

THE SCHEDULE.

Sec. 5*.

Substituted by No. 2, 1948, s. 2 and Schedule.*

Tariff Item.	Rate of Duty.
DIVISION II.—TOBACCO AND MANUFACTURES THEREOF.	
19 (A) Tobacco, unmanufactured, entered to be locally manufactured into tobacco other than fine cut tobacco suitable for the manufacture of cigarettes—to be paid at the time of removal to the factory—	
(1) Unstemmed	per lb.
(2) Stemmed, or partly stemmed, or in strips	per lb.
(3) For the manufacture of tobacco containing not less than such proportion by weight of stemmed Australian-grown tobacco leaf (or its equivalent in terms of unstemmed tobacco leaf) to the total stemmed tobacco leaf (or its equivalent in terms of unstemmed tobacco leaf) used, as the Minister may from time to time determine having regard to the available supply of suitable Australian-grown tobacco leaf, as prescribed by Departmental By-laws—	
(a) Unstemmed	per lb.
(b) Stemmed, or partly stemmed, or in strips	per lb.
19 (B) Tobacco, unmanufactured, entered to be locally manufactured into cigarettes or into fine cut tobacco suitable for the manufacture of cigarettes—to be paid at the time of removal to the factory—	
(1) Unstemmed	per lb.
(2) Stemmed, or partly stemmed, or in strips	per lb.
(3) For the manufacture of cigarettes containing not less than such proportion by weight of stemmed Australian-grown tobacco leaf (or its equivalent in terms of unstemmed tobacco leaf) to the total stemmed tobacco leaf (or its equivalent in terms of unstemmed tobacco leaf) used, as the Minister may from time to time determine having regard to the available supply of suitable Australian-grown tobacco leaf, as prescribed by Departmental By-laws—	
(a) Unstemmed	per lb.
(b) Stemmed, or partly stemmed, or in strips	per lb.

British
Preferential
Tariff less
9d. per lb.

* Sections 2 and 3 of the Customs Tariff (Southern Rhodesian Preference) 1948 (No. 2 of 1948) are as follow:—

"2. The Schedule to the Principal Act is amended as set out in the Schedule to this Act and duties of Customs are hereby imposed in accordance with the first-mentioned Schedule as amended by the last-mentioned Schedule.

3. The time for the imposition of the duties of Customs imposed by this Act is the fifteenth day of November, One thousand nine hundred and forty-six, at nine o'clock in the forenoon reckoned according to standard time in the Australian Capital Territory, and this Act shall be deemed to have come into operation at that time."

DAIRYING INDUSTRY ASSISTANCE ACT 1943.^(a)

An Act to provide for the granting of Assistance to the Dairying Industry with the object of aiding the Prosecution of the War, and for other purposes.

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 *Dairying Industry Assistance Act 1943*.^(a)

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

Definitions. 3. In this Act—
 “dairy produce” means cows’ milk, or any produce derived from cows’ milk, which is to be processed at a factory into butter, cheese, dried milk (not being skimmed milk powder), condensed milk or concentrated milk;
 “factory” means premises registered under any law of a State for the processing of dairy produce into butter, cheese, dried milk, condensed milk or concentrated milk, or, in accordance with the provisions of any law of the Commonwealth in relation to the exportation of those commodities or any of them, but does not include a factory which processes dairy produce into butter or cheese in respect of which the Minister is not satisfied that the requisite contribution has been made to an equalization scheme approved by the Minister;
 “primary producer” means a person who produces dairy produce, and, where dairy produce is produced in pursuance of a share-farming agreement, includes every party to the agreement.

Assistance to primary producers. 4. There shall be applied, in accordance with the Regulations, in respect of each year ending on the thirty-first day of March, in making payments to primary producers, such amounts as are appropriated by the Parliament for the purpose.

Terms and conditions of employment in the dairying industry. 5.—(1.) With the object of ensuring an adequate supply of dairy produce during the war, the Minister or the Attorney-General may request the Commonwealth Court of Conciliation and Arbitration

(a) No. 37, 1943; assented to, and commenced, on 3rd July, 1943, See s. 2.

to determine any matters with respect to the terms and conditions of employment to be observed in relation to persons employed in the dairying industry or any part thereof.

(2.) Upon a request to the Court under this section in respect of any matter, the Court may, notwithstanding that an industrial dispute within the meaning of the *Commonwealth Conciliation and Arbitration Act 1904-1934*^(a) affecting the matter does not exist, proceed to hear and determine the matter in like manner as if it were such an industrial dispute.

(3.) Any award, order or determination made by the Court in pursuance of the powers conferred by this section shall have the like force and effect, and the provisions of the *Commonwealth Conciliation and Arbitration Act 1904-1934*^(a) shall apply, in relation thereto, in like manner, as if it were made in pursuance of the powers conferred by that Act.

6. If the Minister finds that the rates of wages paid to, or the conditions of employment, or any of them, observed in respect of the persons employed by any primary producer in the production of dairy produce, were less favourable to those persons than the rates and conditions prescribed by any award, order or determination of the Commonwealth Court of Conciliation and Arbitration applicable to those persons, he may direct that of any amount (specified by the Minister) which, but for this section, would be payable under this Act to that primary producer shall not be payable, and that amount shall thereupon not be payable.

Assistance
may be
withheld in
certain cases.

7. A person shall not—

Offences.

- (a) obtain any payment under this Act by means of any false or misleading statement; or
- (b) present, to any officer or other person doing duty in relation to this Act or the regulations, any document, or make to any such officer or person any statement, which is false in any particular.

Penalty: Five hundred pounds, or imprisonment for two years.

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

Regulations.

- (a) the manner of allocating the moneys appropriated by the Parliament for the purposes of this Act;
- (b) the primary producers to whom payments may be made under this Act;

^(a) Now the *Conciliation and Arbitration Act 1904-1950*, *supra*.

- (c) the conditions subject to which payments shall be made to primary producers;
 - (d) persons who may make inquiries and investigations for the purposes of this Act or determine matters arising in relation to the allocation of moneys under this Act, the powers, authorities, rights, immunities and privileges of those persons and the obligations, liabilities and protection of persons called upon to give or giving evidence in connexion with any such inquiries, investigations or determinations;
 - (e) the obligations of manufacturers of butter, cheese, dried milk, condensed milk or concentrated milk to furnish returns in connexion with this Act; and
 - (f) penalties not exceeding a fine of Fifty pounds or imprisonment for a period not exceeding three months for any breach of the regulations.
-

DAIRY PRODUCE EXPORT CHARGES ACT 1924-1937.^(a)

An Act to impose Charges upon the Export of Dairy Produce.

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 *Dairy Produce Export Charges Act 1924-1937*.^(a) Short title.
Short title amended,
No. 32, 1918,
s. 2.
Definitions.
Amended by
No. 40, 1937,
s. 2.
2. In this Act, unless the contrary intention appears—
 “dairy produce” means butter and cheese.
 “the Board” means the Australian Dairy Produce Board constituted under the *Dairy Produce Export Control Act 1924-1936*.
- 3.—(1.) A charge is imposed and shall be levied and paid on all dairy produce exported from the Commonwealth after a date to be fixed by Proclamation.^(b) Charge on
export of dairy
produce.
- (2.) Subject to a lower rate being prescribed by the regulations—
 (a) the rate of the charge in respect of butter shall be one-eighth of a penny for each pound of butter exported; and
 (b) the rate of the charge in respect of cheese shall be one-sixteenth of a penny for each pound of cheese exported.
- (3.) All moneys payable under this section in respect of any dairy produce shall be paid on or before the entry of that dairy produce for export to such officers in the respective States of the Commonwealth as are prescribed. Substituted by
No. 15, 1929,
s. 2.

3A.—(1.) The Governor-General may, from time to time, by order published in the *Gazette*, after report to the Minister by the Board, exempt any dairy produce from the charges imposed by this Act.^(c) Exemption
from charges.
Inserted by
No. 15, 1929,
s. 3 and
amended by
No. 40, 1937,
s. 3.

(a) The *Dairy Produce Export Charges Act 1924-1937* comprises the Acts set out in the following table:—

Act.	Year and Number.	Date of Assent.	Date of Commencement.
<i>Dairy Produce Export Charges Act 1924</i>	1924, No. 39 ..	20th October, 1924 ..	20th October, 1924
<i>Dairy Produce Export Charges Act 1929</i>	1929, No. 15 ..	25th March, 1929 ..	25th March, 1929
<i>Dairy Produce Export Charges Act 1937</i>	1937, No. 40 ..	16th September, 1937	16th September, 1937

(b) The date fixed was 1st July, 1925. See *Gazette*, 1925, p. 941.

(c) See *Gazette*, 1929, p. 929 which exempts butter and cheese exported from the Commonwealth where the amount involved does not exceed two shillings.

(2.) Any exemption under this section may be unconditional, or may be in respect of such period (if any), and subject to such conditions, as are specified in the order of exemption.

(3.) The Governor-General may, by order published in the *Gazette*, cancel any exemption made under this section of any dairy produce from the charges imposed by this Act, and thereupon those charges shall, from the date fixed by the order, become payable in respect of that dairy produce.

Regulations.
Substituted by
No. 15, 1929,
s. 4 and
amended by
No. 40, 1937,
s. 4.

4.^(a) The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which are by this Act required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Act, and, in particular, after report to the Minister by the Board, for prescribing lower rates of the charges imposed on dairy produce exported from the Commonwealth.

Duration of
Act.

5. This Act shall continue in force until a date which the Governor-General may fix by Proclamation.^(b)

(a) Section 5 of the *Dairy Produce Export Charges Act 1937* reads as follows:—

"5. The regulations contained in Statutory Rules 1936, No. 108, being regulations purporting to have been made under the *Dairy Produce Export Charges Act 1924-1929*, shall be deemed to be, and at all times to have been, as valid and effectual for all purposes as if this Act had been in force on the date when they were made."

(b) No such date has yet been proclaimed (31st December 1951).

DAIRY PRODUCE EXPORT CONTROL ACT 1924-1947. ^(a)

An Act relating to the Export of Dairy Produce.

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 *Dairy Produce Export Control Act 1924-1947.* ^(a)

Short title.
Short title
amended by
No. 32, 1918,
s. 2.
Commence-
ment.

2. Sections one, two, five and thirty of this Act shall commence on the day on which this Act receives the Royal assent and the remaining sections of this Act shall commence on a date to be fixed by Proclamation. ^(a)

* * * * *

Proviso
omitted by
No. 45, 1934,
s. 2 and Fourth
Schedule.

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

“butter factory”, in relation to any election under this Act, means any factory which, during the year ended the thirtieth day of June last preceding the election, has manufactured not less than twenty tons of butter;

“cheese factory”, in relation to any election under this Act, means any factory which, during the year ended the thirtieth day of June last preceding the election, has manufactured not less than ten tons of cheese;

Definitions.
Amended by
No. 70, 1935,
s. 3, and No. 53,
1947, s. 3.

(a) The *Dairy Produce Export Control Act 1924-1947* comprises the *Dairy Produce Export Control Act 1924*, as amended. Particulars of the Principal Act and of the amending Acts are set out in the following table:—

Act.	Year and Number	Date of Assent.	Date of Commencement.
<i>Dairy Produce Export Control Act 1924</i>	1924, No. 38 ..	20th October, 1924 ..	23rd February, 1925 (See <i>Gazette</i> , 1925, p. 244*)
<i>Statute Law Revision Act 1934</i>	1934, No. 45 ..	6th August, 1934 ..	6th August, 1934
<i>Dairy Produce Export Control Act 1935</i>	1935, No. 70 ..	9th December, 1935..	9th December, 1935
<i>Dairy Produce Export Control Act 1936</i>	1936, No. 26 ..	28th May, 1936 ..	28th May, 1936
<i>Dairy Produce Export Control Act 1937</i>	1937, No. 20 ..	16th September, 1937	16th September, 1937
<i>Dairy Produce Export Control Act 1938</i>	1938, No. 18 ..	5th July, 1938 ..	2nd August, 1938
<i>Dairy Produce Export Control Act 1942</i>	1942, No. 24 ..	9th June, 1942 ..	7th July, 1942
<i>Dairy Produce Export Control Act 1947</i>	1947, No. 53 ..	1st November, 1947..	1st July, 1948 (See <i>Gazette</i> , 1948, p. 2535)

* Except for sections 1, 2, 5 and 30 which commenced on 20th October, 1924.

Section 2 of the *Dairy Produce Export Control Act 1935*, is as follows:—

“2. Notwithstanding anything contained in section two of the Principal Act, any sections inserted in that Act by this Act shall commence on the date on which this Act receives the Royal Assent, and any sections of the Principal Act which are amended by this Act shall have effect, as so amended, on and from that date.”

"dairy produce" means butter and cheese and includes such other products derived from milk or the constituent parts of milk (whether or not any other substance is added thereto) as are prescribed;

"member" means a member of the Board;

"owner", in relation to any election under this Act, means—

(i) in the case of a proprietary butter or cheese factory—the Chairman of the Board of Directors of that butter or cheese factory; or a person appointed by the Chairman or by the Directors to act in that behalf; and

(ii) in the case of a privately-owned butter or cheese factory owned by a firm—any one partner of the firm appointed by the firm to act in that behalf;

"producers" means persons carrying on business as suppliers of milk or cream to factories manufacturing dairy produce;

"the Board" means the Australian Dairy Produce Board constituted under this Act;

"the fund" means the Dairy Produce Fund established under this Act.

Australian
Dairy Produce
Board.

Substituted by
No. 53, 1947,
s. 4 (1).*

4.—(1.) For the purposes of this Act, there shall be an Australian Dairy Produce Board.

(2.) The Board shall consist of—^(a)

- (a) two members to represent the dairy farmers of Australia;
- (b) one member from each of the States of New South Wales, Victoria, Queensland, South Australia, Western Australia and Tasmania to represent the co-operative butter and cheese factories in each of those States;
- (c) two members to represent proprietary butter and cheese factories and privately owned butter and cheese factories of Australia;
- (d) one member to represent employees of butter and cheese factories; and
- (e) one member to represent the Commonwealth Government.

(3.) The members of the Board shall be appointed by the Governor-General in accordance with the provisions of this section.

(4.) Each member appointed to represent the dairy farmers of Australia shall be a person nominated by the Minister from a panel of names submitted to him by the Australian Dairy Farmers Federation.

* Sub-section (2.) of section 4 of the *Dairy Produce Export Control Act 1947* reads as follows:—

"(2.) Notwithstanding the repeal effected by sub-section (1.) of this section, the Australian Dairy Produce Board established under the Principal Act shall be preserved and continue in existence under and subject to the provisions of the Principal Act as amended by this Act, so that the corporate identity of the Australian Dairy Produce Board shall not be affected."

(a) See footnote (a) to s. 4 of the *Dried Fruits Export Control Act 1924-1938*, *infra*.

(5.) Each member appointed to represent the co-operative butter and cheese factories of Australia shall be a person elected in such manner as is prescribed.

(6.) Each member appointed to represent proprietary butter and cheese factories and privately owned butter and cheese factories shall be a person elected by the owners of those factories in such manner as is prescribed.

(7.) A person shall not be entitled to vote at any election held under the provisions of sub-section (5.) or (6.) of this section unless he is enrolled as an elector in pursuance of Part VII. of the *Commonwealth Electoral Act 1918-1946*.

(8.) The member appointed to represent employees of butter and cheese factories shall be a person nominated by the Minister after consulting, wherever practicable, with representatives of the appropriate union or unions.

(9.) The member appointed to represent the Commonwealth Government shall be Chairman of the Board and shall hold office for such period as the Governor-General directs:

Provided that the Governor-General may, on the recommendation of the Minister, remove the Chairman from his office for incapacity, incompetence or misbehaviour.

(10.) Members of the Board, other than the Chairman, shall, subject to this section, hold office for a period of three years and shall be eligible for re-appointment.

(11.) A member of the Board, other than the Chairman, may be removed from office by the Governor-General on the recommendation of the Board.

(12.) On the occurrence of any vacancy in the membership of the Board by reason of the death, resignation or removal from office of any member, the Governor-General may appoint a person to fill the vacancy and any person so appointed, other than the Chairman, shall hold office for the residue of the term of the member whose place became vacant:

Provided that, where the member whose place has become vacant was elected in pursuance of sub-section (5.) or (6.) of this section, the person appointed to fill the vacancy shall be appointed on the recommendation of the Board.

(13.) The exercise of the powers and functions of the Board shall not be affected by reason only of there being a vacancy in the membership of the Board.

* * * * *

Sec. 5 repealed
by No. 45, 1934,
s. 2 (3) and
Fourth Schedule.

6. The Board shall be a body corporate with perpetual succession and a common seal and shall be capable of suing and being sued and of holding real and personal property.

Incorporation
of Board.

Deputies of members.

Amended by No. 18, 1933, s. 3, and by No. 53, 1947, s. 5.

7.—(1.) In the event of the illness or absence of a member of the Board, the Governor-General may appoint a person to be the deputy of that member and a person so appointed shall have all the powers of the member of whom he is the deputy.

(1A.) Where the member who is ill or absent is a member appointed in pursuance of sub-section (4.) of section four of this Act, the person appointed to be the deputy of that member shall be appointed upon the nomination of the Australian Dairy Farmers Federation.

(2.) Where the member who is ill or absent is an elected member the person appointed to be the deputy of that member shall be a person named by the Board.

(3.) No such appointment of a deputy and no acts done by him as such shall in any proceedings be questioned on the ground that the occasion for his appointment had not arisen or had ceased.

Fees and expenses.

Amended by No. 26, 1933, s. 2, and by No. 53, 1947, s. 6.

8.—(1.) The members of the Board, and the deputies of members of the Board while acting as such, shall, subject to this section receive such salaries, fees and expenses as are prescribed.

(2.) No fees shall be payable under this section to any member of the Board or deputy of a member of the Board who is also a member of the Parliament of the Commonwealth or of a State if, prior to becoming a member of that Parliament or prior to becoming a member of the Board or the deputy of a member of the Board (whichever event last occurs), he has lodged with the Secretary of the Board a declaration that during any period during which he is or may be a member of that Parliament he will not accept any fees under this section.

(3.) A member of the Board or deputy of a member of the Board to whom the last preceding sub-section applies shall be entitled to receive only such expenses as he actually incurs in or in connexion with the performance of his duties as a member of the Board or as the deputy of a member of the Board, as the case may be.

Chairman to preside at meetings of Board.

Substituted by No. 53, 1947, s. 7.

9.—(1.) The Chairman shall preside at all meetings of the Board.

(2.) At any meeting of the Board at which the Chairman is not present the members present shall appoint one of their number to preside at that meeting.

Meetings of the Board.

Amended by No. 53, 1947, s. 8.

10.—(1.) Subject to this Act, meetings of the Board shall be held at such times and places within the Commonwealth as the Board from time to time determines.

(2.) The Chairman of the Board, or any three members thereof, may at any time call a special meeting of the Board.

(3.) At all meetings of the Board six members shall form a quorum.

(4.) At any meeting of the Board the Chairman or other person presiding at that meeting shall have a deliberative vote, and in the case of an equality of votes shall also have a casting vote.

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

(5A.) If the Chairman or other person presiding at any meeting of the Board dissents from any decision of the Board at that meeting and signifies at that meeting to the other members present in person his intention to bring his dissent to the notice of the Minister and, within twenty-four hours after the close of the meeting, transmits to the Minister notice of his dissent together with full particulars of the decision, the decision shall have no effect unless the Minister approves of the decision (whether with or without variation) and, if the Minister approves of the decision subject to a variation, the varied decision as so approved shall be deemed to be the decision of the Board.

(6.) The Board shall keep a record of its proceedings.

11.—(1.) There shall be an Executive Committee of the Board consisting of the Chairman of the Board and four members of the Board to be elected annually by the Board.

Executive
Committee of
Board.

(2.) The Executive Committee shall have such powers and functions of the Board as the Board thinks fit, but the Board may at any time exercise any of its powers and functions notwithstanding the appointment of the Committee.

Amended by
No. 70, 1935,
s. 5.

(3.) At any meeting of the Executive Committee three members shall form a quorum.

(4.) In the event of the absence of the Chairman of the Board from any meeting of the Executive Committee, the members present at the meeting may elect one of their number to be the Chairman of the meeting.

(5.) At any meeting of the Executive Committee the Chairman shall have a deliberative vote and, in the case of an equality of votes, shall also have a casting vote.

(6.) All questions before a meeting of the Executive Committee shall be decided by a majority of votes.

(7.) In the event of a vacancy occurring in the Executive Committee, the Board may elect one of its members to hold the vacant office for the residue of the term for which the member whose office is vacant was elected.

12.—(1.) The Board may appoint a person or persons approved by the Minister to represent the Board in London.

London
representation.

(2.) The representative or representatives of the Board in London shall hold office on such terms and conditions as the Board determines.

Substituted by
No. 70, 1935,
s. 8, and by
No. 53, 1947,
s. 9.

13.—(1.) The Board may appoint such officers as are necessary to assist the Board in carrying out its functions under this Act.

Appointment
of officers.

(2.) Where an officer appointed in pursuance of this section was, immediately before his appointment, an officer of the Public Service of the Commonwealth, his service as an officer of the Board shall, for the purpose of determining his existing and accruing rights, be

Amended by
No. 53, 1947,
s. 10.

taken into account as if it were service in the Public Service of the Commonwealth and the *Officers' Rights Declaration Act 1928-1940* shall apply to that officer in like manner as if this Act and section were specified in the Schedule to that Act.

(3.) The salaries and conditions of employment of officers appointed in pursuance of this section shall be as prescribed.

Powers and
functions of
Board.

Inserted by
No. 24, 1942,
s. 2.

13A. The Board may—

- (a) make recommendations to the Minister in relation to the making of regulations for the purpose of controlling the export, and the sale and distribution after export, of Australian dairy produce;
- (b) make reports and suggestions to the Minister on such matters as the quality, standards and grading of any particular class or kind of dairy produce to be exported from Australia; and
- (c) with the approval of the Minister, take, or arrange for the taking of, either on its own behalf or in collaboration with any other Board or authority, any action which, in the opinion of the Board, is likely—
 - (i) to lead to the improvement of the quality of dairy produce, or the prevention of deterioration, before or during transport from Australia of dairy produce; or
 - (ii) to expand existing markets or to secure new markets for dairy produce,

and shall have such other powers and functions as are conferred by this Act.

Dairy produce
not to be
exported save
in accordance
with
determination
of Board.

Amended by
No. 70, 1935,
s. 7 and by
No. 26, 1936,
s. 3.

Sub-section (1A)
inserted by
No. 70, 1935,
s. 7; omitted
by No. 26,
1936, s. 3.

Sub-section (2)
omitted by
No. 53, 1947,
s. 11.

14.—(1.) For the purpose of enabling the Board effectively to control the export and the sale and distribution after export of Australian dairy produce, the Governor-General may by proclamation prohibit the export from the Commonwealth of any dairy produce except in accordance with a licence granted under this Act.^(a)

* * * * *

* * * * *

Licensing of
traders in dairy
produce.

Amended by
No. 70, 1935,
s. 8, and by
No. 26, 1936,
s. 4.

15.—(1.) Where the Governor-General issues a proclamation in pursuance of the last preceding section, the Minister, or any person thereto authorized in writing by the Minister, may grant to any

(a) The exportation of any dairy produce was originally prohibited, unless in accordance with a licence, as from 1st July, 1925. See *Gazette*, 1925, p. 941. But by a subsequent Proclamation this date was amended to 1st August, 1925. See *Gazette*, 1925, p. 1025.

By a further Proclamation the date fixed for the prohibition of the exportation of dairy produce was further amended to 1st August, 1936. See *Gazette*, 1936, p. 1373.

person desiring to export dairy produce from the Commonwealth a licence to do so.

(2.) A licence under this section shall, subject to this section, be for such period as is specified in the licence and shall be granted upon such terms and conditions as are prescribed after recommendation to the Minister by the Board.

(3.) Where the Minister is satisfied, on report by the Board, that any person to whom a licence under this section has been granted has contravened or failed to comply with any term or condition upon which the licence was granted, the Minister may cancel the licence.

16. Any person who—

- (a) exports dairy produce from the Commonwealth in contravention of any proclamation under this Act; or
 - (b) being the holder of a licence under the last preceding section, contravenes or fails to comply with any term or condition upon which the licence was granted,
- shall be guilty of an offence.

Penalty: One hundred pounds.

Penalty for export in contravention of proclamation.

17. The Board may accept control of any dairy produce placed under its control for the purposes of this Act.

Board may accept control of dairy produce intended for export.

* * * * *

Sec. 18 repealed by No. 45, 1934, s. 2 and Fourth Schedule.

19.—(1.) After the constitution of the Board, or after such later date as the Minister on the recommendation of the Board, by notice in the *Gazette*, appoints, no contract for the carriage by sea to any place beyond the Commonwealth of any dairy produce shall be made except by the Board acting as the agent of the owners of the dairy produce or of other persons having authority to export the dairy produce, or in conformity with conditions approved by the Board.

Contracts for shipment of dairy produce.

(2.) Every contract for the carriage of dairy produce by sea to any place beyond the Commonwealth made otherwise than in accordance with this section shall be void.

(3.) Any person who, after the constitution of the Board or after such later date as the Board appoints, exports any dairy produce from the Commonwealth shall, on making entry therefor under the *Customs Act 1901-1923* and before the entry has been passed, satisfy the Collector or other officer of Customs that the contract for the shipment of the dairy produce has been approved by the Board.

* * * * *

Sub-section (4) omitted by No. 45, 1934, s. 2 and Fourth Schedule.

Particular
powers of
Board.

Amended by
No. 53, 1947,
s. 12.

20.—(1.) The Board shall, subject to any direction of the Minister, with respect to any dairy produce intended for export from the Commonwealth, have full authority to make such arrangements and give such directions as it thinks fit for the following matters:—

- (a) The handling, marketing and storage of the dairy produce;
- (b) The shipment of the dairy produce on such terms and in such quantities as it thinks fit;
- (c) The sale and disposal of dairy produce on such terms as it thinks fit;
- (d) The insurance against loss of any such dairy produce either in the Commonwealth or in transit from the Commonwealth and until disposed of;
- (e) All such matters as are necessary for the due discharge of its functions in handling, distributing and disposing of the dairy produce; and
- (f) The purchase and sale for the purpose of export, on behalf of the Commonwealth, of dairy produce and the management and control of all matters connected with the handling, storage, protection, treatment, transfer and shipment of the dairy produce so purchased or sold by the Commonwealth.

(2.) For the purpose of securing any advances made to the Board, or, at the request of the Board, to the owners of any dairy produce placed under the control of the Board, the Board shall, by virtue of this Act and without further authority, have full power, on behalf of the owners of the dairy produce, to give security over the dairy produce and to execute all mortgages and other instruments of assurance in the same manner in all respects as if the Board were the legal owners of the dairy produce.

Repeal of
National
Security (Dairy
Produce
Acquisition)
Regulations.

Inserted by
No. 53, 1947,
s. 13.

20AA.—(1.) The National Security (Dairy Produce Acquisition) Regulations as in force under the *Defence (Transitional Provisions) Act 1946* are repealed.

(2.) Notwithstanding the repeal effected by this section, the Board shall have and may exercise, in relation to any dairy produce acquired or purchased by the Commonwealth or by the Dairy Produce Control Committee on behalf of the Commonwealth under the repealed Regulations, all the powers, authorities and functions which, immediately prior to the commencement of this section, were vested in or conferred on that Committee by those Regulations, and for that purpose—

- (a) the Board shall by force of this Act be substituted for the Dairy Produce Control Committee;
- (b) the assets of the Dairy Produce Control Committee shall, by force of this Act, be vested in the Board;
- (c) all rights, obligations and liabilities which, immediately prior to the commencement of this section, were vested in or imposed on the Dairy Produce Control Committee shall

by force of this Act be vested in or imposed on the Board;
and

- (d) in any contract, agreement or other instrument to which the Dairy Produce Control Committee was a party, any reference to the Dairy Produce Control Committee shall be read as a reference to the Board.

(3.) The members of the Dairy Produce Control Committee shall, by force of this section, cease to be such members.

(4.) All the persons who, immediately before the commencement of this section, were in the employment of the Dairy Produce Control Committee shall, as from the date of the commencement of this section, be in the employment of the Board and be deemed to have been employed under this Act.

20A. The Board shall, from time to time, advise the Minister as to any action which the Board considers should be taken—

Board to advise Minister.

Inserted by
No. 70, 1935,
s. 9.

- (a) to improve the quality of dairy produce, and of herds and pastures used in the production of dairy produce;
(b) with respect to the transport of dairy produce; and
(c) to secure new markets, and the expansion of existing markets, for dairy produce.

20B.—(1.) The Board shall open and maintain with the Commonwealth Bank of Australia an account or accounts, into which shall be paid—

Finance.

Inserted by
No. 53, 1947,
s. 14.

- (a) all moneys received in the exercise of the powers and functions of the Board under this Act except moneys forming part of the Fund;
(b) all moneys appropriated by the Parliament for use by the Board on behalf of the Commonwealth; and
(c) all moneys advanced by the Treasurer to the Board for the purpose of the exercise of the powers and functions of the Board under this Act.

(2.) The Minister may arrange with the Commonwealth Bank of Australia for the making by that Bank of advances to the Commonwealth for use by the Board on behalf of the Commonwealth for the purposes of this Act and may guarantee to the Bank the repayment, out of moneys made available by the Parliament, of any advance made by the Bank in pursuance of the arrangement.

21.—(1.) There shall be a Dairy Produce Fund into which shall be paid out of the Consolidated Revenue Fund, which is hereby appropriated accordingly, all moneys received by the Collector of Customs under the *Dairy Produce Export Charges Act 1924-1929.*^(a)

Dairy Produce Fund.

Sub-section (1)
substituted by
No. 70, 1935,
s. 10 (1).

(a) Sub-section (2.) of section 10 of the *Dairy Produce Export Control Act 1935* reads—

"(2.) Any moneys which at the commencement of this section are standing to the credit of the fund constituted under sub-section (1.) of section twenty-one of the Principal Act shall upon the commencement of this section be credited to the Dairy Produce Fund."

(2.) Where any account referred to in section twenty-three of this Act is opened, payment into that account of the moneys mentioned in the last preceding section shall be held to be payment into the fund.

(3.) Income derived from the investment of the fund shall form part thereof.

(4.) The income of the fund shall not be subject to taxation by the Commonwealth or a State.

Application of
moneys by
Board.

Substituted by
No. 53, 1947,
s. 15.

22. The moneys paid into any account or accounts opened by the Board in pursuance of section twenty B of this Act or into the Fund shall be applied by the Board—

- (a) in payment for purchases of dairy produce;
- (b) in payment of the expenses and other charges incurred by the Board or for which the Board may become liable in the course of its business;
- (c) in payment of the prescribed salaries and allowances of officers of the Board;
- (d) in payment of travelling allowances, fees or other remuneration to members of the Board or of the representative or representatives of the Board in London;
- (e) in repayment to the Commonwealth of any moneys advanced to the Board;
- (f) in investment in any securities of, or guaranteed by, the Government of the Commonwealth or of a State; and
- (g) in payment of any costs or expenses incurred in connexion with any experiment, act or thing undertaken or done in pursuance of any arrangement made by the Board under the powers conferred by paragraph (c) of section thirteen A of this Act.

Moneys in fund
uninvested
may be lodged
in bank.

23. Moneys held in the fund, uninvested by the Board, may be lodged either in an account at call or on fixed deposit, or partly in an account at call and partly on fixed deposit with the Commonwealth Bank, or with any other prescribed bank, and while in such bank shall be held to be moneys of the Crown.

How cheques
signed.

24. Cheques drawn on any account referred to in the last preceding section shall be signed as prescribed.

Sec. 25 repealed
by No. 53, 1947,
s. 16.

* * * * *

Power to call
for returns.

26.—(1.) The Board may call upon any person to furnish, within such time as is specified by the Board, such returns in relation to the dairy industry as are necessary for the purposes of carrying out this Act.

(2.) Any person who, being called upon in pursuance of this section to furnish a return in relation to any matter within his know-

ledge or under his control, fails to furnish the return within the time specified shall be guilty of an offence.

Penalty: One hundred pounds.

27. The accounts of the Board shall be subject to inspection and audit by the Auditor-General for the Commonwealth.

28.—(1.) The Board in its corporate capacity shall, in all its operations under this Act, be deemed to be the agent of the owners of all dairy produce of which the Board has accepted control, and the mutual rights, obligations and liabilities of the Board and the several owners shall accordingly be determined in accordance with the law governing the relations between principals and agents, save that nothing in this Act shall be construed to limit the power of the Board to exercise, without the authority of the owner of any dairy produce, any power with respect to such dairy produce which is expressly or by implication conferred on the Board by or under this Act.

Liability of Board for its acts.

(2.) The members of the Board shall not be personally liable for any act or default of the Board done or omitted to be done in good faith in the course of the operations of the Board.

29.—(1.) The Board shall, not later than the thirtieth day of September in each year, report to the Minister generally as to the operation of the Act.

Annual report.
Amended by
No. 18, 1938,
s. 4.

(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 regarding the operation of the Act.

30. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular for prescribing penalties not exceeding Fifty pounds for any breach of the regulations.^(a)

Regulations.

(a) Cf. footnote (a) to s. 29 of the *Dried Fruits Export Control Act 1924-1938*, *infra*.

DEBT CONVERSION AGREEMENT ACT 1931.^(a)

An Act to approve an Agreement^(a) between the Commonwealth of Australia of the First Part and the States of New South Wales, Victoria, Queensland, South Australia, Western Australia and Tasmania of the Second, Third, Fourth, Fifth, Sixth and Seventh Parts respectively, relating to the Conversion of the Internal Public Debts of the Commonwealth and the States.

Preamble.

WHEREAS by section one hundred and five A of the Constitution it is provided that the Commonwealth may make Agreements with the States with respect to the Public Debts of the States, including (*inter alia*) the consolidation, renewal, conversion, and redemption of those debts: And whereas it is further provided by the said section that the Parliament may make laws for the carrying out by the parties thereto of any such Agreement:

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.

1. This Act may be cited as the *Debt Conversion Agreement Act 1931*.^(a)

Commence-
ment.

2. This Act shall commence on a date to be fixed by Proclamation.^(a)

Approval of
Agreement.

3. The Agreement,^(b) a copy of which is set forth in the Schedule to this Act, is approved.

 THE SCHEDULE.
DEBT CONVERSION AGREEMENT.^(b)

Agreement made the twenty-first day of July One thousand nine hundred and thirty-one BETWEEN THE COMMONWEALTH OF AUSTRALIA (in this Agreement called the Commonwealth) of the first part, THE STATE OF NEW SOUTH WALES of the second part, THE STATE OF VICTORIA of the third part, THE STATE OF QUEENSLAND of the fourth part, THE STATE OF SOUTH AUSTRALIA of the fifth part, THE STATE OF WESTERN AUSTRALIA of the sixth part, and THE STATE

(a) No. 14, 1931; assented to, and commenced, on 30th July, 1931. See *Gazette*, 1931, p. 1271.

(b) This Agreement has been affected by a further Agreement. See the *Debt Conversion Agreement Act* (No. 2) 1931, *infra*.

THE SCHEDULE—*continued*.

OF TASMANIA of the seventh part (each of the parties of the second, third, fourth, fifth, sixth, and seventh parts being in this Agreement referred to as a State, and the expression "the States" in this Agreement meaning where the context so permits or requires all of such parties):

WHEREAS by section 105A of the Constitution it is provided that the Commonwealth may make agreements with the States with respect to the public debts of the States, including (*inter alia*) the consolidation, renewal, conversion, and redemption of such debts:

AND WHEREAS at a Conference between Ministers of the Commonwealth and Ministers of the States convened in Melbourne on the twenty-fifth day of May, 1931, it was resolved, as part of a plan for establishing the financial stability of the Commonwealth and of the States, that a conversion should be arranged of the internal public debts of the Commonwealth and of the States and the following conditions were provisionally agreed upon as recommendations by the Conference to the Australian Loan Council, namely:—

General Conditions.

1. Holders of all existing securities to be invited to convert their holdings into new stock—conversion to apply to all securities the holders of which do not dissent as prescribed by Commonwealth law.

2. On conversion all existing securities to be subject to a general reduction of $22\frac{1}{2}$ per cent. in the interest yield provided that holders of 3, $3\frac{1}{2}$, and $3\frac{3}{4}$ per cent. stocks who acquired such securities prior to 4th August, 1914, shall not have their interest reduced below 3 per cent.

3. New securities to be restricted to three flat rates of interest, viz., 4, $3\frac{1}{2}$, and 3 per cent., and to be spread over ten (10) fixed maturity dates as follows, subject to the Government having the right to redeem in whole or in part at any time after 31st December, 1950:—

Period—Years.						Rate of Interest per cent.	
7	4 and 3
10	4
13	4 and 3
16	4 and $3\frac{1}{2}$
19	4
22	4
24	4
26	4
28	4
30	4 and 3

4. The new securities to be Commonwealth securities, and to be in the form of bearer-bonds, debentures, or inscribed stock, &c., as at present.

5. The equivalent amount of new stock to be determined by actuarial valuation after taking into account the interest rate and date of maturity of each existing security, and after allowing for the general reduction of $22\frac{1}{2}$ per cent. in the interest yield.

6. Existing securities (£450,000,000) now bearing interest at $5\frac{1}{2}$ per cent. and over to be converted into 4 per cent. at a premium. As a general rule each holding to be spread equally over the ten maturity dates, but special arrangements to be made to consolidate small holdings on conversion.

7. Existing securities (£45,000,000) now bearing interest at 5 per cent. to be converted, at option of holder, into $3\frac{1}{2}$ per cent. stock at par, maturing in sixteen years, or 4 per cent. stock (at a discount).

8. Existing securities (£61,000,000) now bearing interest at less than 5 per cent. to be converted, at option of holder, into 3 per cent. stock maturing in seven years and thirteen years (at a premium), or into 4 per cent. stock (at a discount).

9. To facilitate the issue of new securities, all fractions below £10 to be paid off in cash, subject to holders being entitled to contribute cash to make up the next higher £10.

THE SCHEDULE—*continued*.

10. The interest on the new securities to be free from the present Commonwealth super-tax of $7\frac{1}{2}$ per cent., and from any further taxation which may be imposed by the Commonwealth or by any State, but to be subject to other existing Commonwealth and State taxes.

11. Where overseas trade money has been temporarily invested in short-term securities, because of exchange difficulties, the holders to be given the right to convert into a short-term new security, subject to other conditions similar to the main conversion.

Special Conditions Applicable to Tax-Free Securities.

12. Tax-free securities with definite dates of maturity—

- (i) Holders to be invited to convert into new securities subject to the general reduction of $22\frac{1}{2}$ per cent. in the interest yield, with the proviso set out in clause 2 above.
- (ii) Holders of tax-free securities who so convert to be given new securities at the reduced rates, such securities to be tax-free only until the existing date of maturity.
- (iii) The new securities issued to replace the tax-free securities maturing in 1932, 1933, and 1934 to be re-converted on maturity dates into 4 per cent. securities maturing in 1941, on the same basis as other conversions into the new 4 per cent. issue.
- (iv) The new securities to replace all other tax-free securities to retain their present maturity dates.

13. Tax-free securities which are "Interminable," "Redeemable at option of Government," &c.—

Holders to be invited to convert into new securities, subject to the general reduction of $22\frac{1}{2}$ per cent. in the interest yield, with the proviso set out in clause 2 above, the general conditions attaching to the new securities to be the same as those attaching to the original securities.

Government Securities Held by State Savings Banks.

14. Dates of maturities of securities held by the State Savings Banks to stand, if so desired by the Treasurer of the State concerned, on same conditions as conversion issue.

Treasury Bills.

15. The rate of interest on Treasury Bills taken up by the banks in Australia to be reduced to 4 per cent., and all other questions in relation to the Bills to be settled by the Loan Council in consultation with the banks.

Loan Council.

16. The terms herein set out to be regarded as recommendations by the Conference to the Loan Council, which it is to be understood is at liberty to modify any details of the plan, and to settle all details not included above:

AND WHEREAS the said conditions with certain modifications have been embodied in a Bill for an Act to be known as the *Commonwealth Debt Conversion Act 1931* which has been passed by both Houses of the Federal Parliament and is ready for presentation to the Governor-General for the Royal assent and is hereinafter referred to as the said Act:

AND WHEREAS there have been incorporated in the said Act additional provisions deemed to be convenient for carrying out the said conditions as so modified as aforesaid:

NOW THIS AGREEMENT WITNESSETH:

1. This Agreement shall have full force and effect, and shall be binding on all the parties, when it is approved by the Parliaments of the Commonwealth and of the States.

2. The Commonwealth is authorized to arrange and effect a conversion, on the basis of a twenty-two and a half per centum reduction of interest, in accordance with the terms and conditions of sections three, eight, and ten to twenty-two inclusive, of the said Act, of all public debts of the States the liability for which has been assumed by the Commonwealth under the Financial Agreement hereinafter mentioned and the interest and principal of which are payable in Australia, and of all public debts of the Commonwealth (including borrowings by the Commonwealth for or on behalf of a State under the said Financial Agreement) the interest and principal of which are payable in

THE SCHEDULE—*continued*.

Australia. The said sections of the said Act shall be binding upon the parties hereto as part of this Agreement.

3. The Commonwealth will take the necessary action to submit to the Federal Parliament any legislation necessary to carry out or give effect to this Agreement.

4. So far as the provisions of this Agreement may not be in accordance with any provisions of the Financial Agreement between the parties hereto, dated the 12th day of December, 1927, the provisions of this Agreement shall prevail.

5. Subject to the last preceding clause, the provisions of the said Financial Agreement, and the undertakings and obligations of the Commonwealth and of the States therein contained, shall apply to the public debts after conversion in the same manner as they applied before conversion.

Signed by the Prime Minister of the Commonwealth of Australia for and on behalf of the said Commonwealth in the presence of— G. L. CAMPBELL.	}	J. H. SCULLIN.
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Signed by the Premier of the State of New South Wales for and on behalf of the said State in the presence of— C. R. CHAPMAN.	}	JOHN T. LANG.
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Signed by the Premier of the State of Victoria for and on behalf of the said State in the presence of— H. A. PITT.	}	E. J. HOGAN.
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Signed by the Premier of the State of Queensland for and on behalf of the said State in the presence of— G. W. WATSON.	}	A. E. MOORE.
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Signed by the Premier of the State of South Australia for and on behalf of the said State in the presence of— S. R. WHITFORD.	}	LIONEL L. HILL.
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Signed by the Premier of the State of Western Australia for and on behalf of the said State in the presence of— L. E. SHAPCOTT, J.P.	}	JAMES MITCHELL.
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Signed by the Premier of the State of Tasmania for and on behalf of the said State in the presence of— E. PARKES.	}	J. C. MCPHEE.
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DARWIN LANDS ACQUISITION ACT 1945.^(a)

An Act to authorize the acquisition by the Commonwealth, for certain purposes, of land in the Northern Territory of Australia comprised in the Town of Darwin and its environs, and for other purposes.

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 *Darwin Lands Acquisition Act* 1945.^(a)
- Definitions. 2. In this Act—
 “the Act” means the *Lands Acquisition Act* 1906–1936, as applied by the *Lands Acquisition Ordinance* 1911–1926 of the Territory, subject to any modifications of that Act in its application to the Territory made by that Ordinance or by any other Ordinance of the Territory, whether made before or after the commencement of this Act;
 “the Territory” means the Northern Territory of Australia.
- Certain land may be acquired. 3. Subject to this Act, the land in the Territory described in the Schedule to this Act, being land comprised in the Town of Darwin and its environs, may be acquired, whether by agreement or by compulsory process, in accordance with the provisions of the Act, for either or both of the following purposes, which shall be deemed to be public purposes of the Territory, namely:—
 (a) The re-planning and development of the Town of Darwin and its environs; and
 (b) The institution of a system of leasehold tenure from the Crown in respect of any such land.
- Date as at which land to be valued. 4. The value of any land acquired in pursuance of this Act by compulsory process shall, notwithstanding the provisions of section twenty-nine of the Act, be assessed according to the value of the land on the date of acquisition, without reference to any increase in value arising from the proposal to carry out any purpose specified in section three of this Act.
- Appropriation. 5. There shall be payable out of the Consolidated Revenue Fund, which is hereby appropriated accordingly, such sums as are necessary

(a) No. 24, 1945; assented to on 16th August, 1945; commenced on 13th September, 1945.

for the purpose of paying the consideration agreed to be paid, or the compensation payable, in respect of the acquisition of land in pursuance of this Act.

6. Land acquired in pursuance of this Act shall become Crown land of the Territory.

Acquired land
to be Crown
land of the
Territory.

THE SCHEDULE.

All that land containing an area of ninety square miles be the same more or less being part of the Hundreds of Sanderson and Bagot County of Palmerston Northern Territory of Australia commencing on Low Water Mark of the Timor Sea at Shoal Bay at its intersection with the prolongation northerly of the western side of the road west of Section 21 Hundred of Sanderson and bounded thence by that prolongation and part of that side of that road southerly to the northeastern corner of Section 119 Hundred of Bagot thence by part of the southern side of a road easterly to the northwestern corner of Section 121 Hundred of Bagot thence by the western boundaries of Sections 121, 116, 111, 106, 101 and their prolongation southerly to the northwestern corner of Section 94 Hundred of Bagot thence by the western boundaries of Sections 94, 89, 61, 66 and 72 Hundred of Bagot southerly to the southwestern corner of that Section 72 thence by part of the northern side of a road and its prolongation westerly to the eastern boundary of Section 397 Hundred of Bagot thence by part of the western side of a road and its prolongation southerly to its intersection with the centre of Hudson Creek thence by the centre of that Creek downwards to Low Water Mark of Port Darwin at East Arm thence by Low Water Mark of Port Darwin and of the Timor Sea generally westerly northerly northeasterly and southeasterly to the point of commencement and including all land held for any estate or interest whatsoever and all land used for any purpose whatsoever pursuant to or under any licence authority or permission and all land so held or used below and contiguous to the said Low Water Marks and all tanks water pumping apparatus or appliances wharves jetties breakwaters and other erections structures fences and fixtures in or upon the said lands.

DEBT CONVERSION AGREEMENT ACT (No. 2) 1931.^(a)

An Act to approve an Agreement between the Commonwealth of Australia of the First Part and the States of New South Wales, Victoria, Queensland, South Australia, Western Australia and Tasmania of the Second, Third, Fourth, Fifth, Sixth and Seventh Parts respectively.

Preamble.

WHEREAS by section one hundred and five A of the Constitution it is provided that the Commonwealth may make Agreements with the States with respect to the Public Debts of the States including (*inter alia*) the consolidation, renewal, conversion, and redemption of those debts:

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.

1. This Act may be cited as the *Debt Conversion Agreement Act* (No. 2) 1931.^(a)

Commence-
ment.

2. This Act shall commence on a date to be fixed by Proclamation.^(a)

Approval of
Agreement.

3. The Agreement, a copy of which is set forth in the Schedule to this Act, is hereby approved.

THE SCHEDULE.

AGREEMENT made the twenty-second day of October One thousand nine hundred and thirty-one BETWEEN THE COMMONWEALTH OF AUSTRALIA (in this agreement called "the Commonwealth") of the first part THE STATE OF NEW SOUTH WALES of the second part THE STATE OF VICTORIA of the third part THE STATE OF QUEENSLAND of the fourth part THE STATE OF SOUTH AUSTRALIA of the fifth part THE STATE OF WESTERN AUSTRALIA of the sixth part and THE STATE OF TASMANIA of the seventh part (the expression "the States" in this agreement meaning where the context so permits or requires all of the parties of the second, third, fourth, fifth, sixth and seventh parts):

WHEREAS by section 105A of the Constitution it is provided that the Commonwealth may make agreements with the States with respect to the public debts of the States, including (*inter alia*) the consolidation, renewal, conversion and redemption of such debts:

AND WHEREAS by an agreement^(b) made the twenty-first day of July One thousand nine hundred and thirty-one between the parties hereto the Commonwealth was authorized to arrange and effect a conversion, on the basis of a 22½ per cent. reduction of interest, in accordance with the terms and conditions now contained in sections 3, 8 and 10 to 22 inclusive of the *Commonwealth Debt Conversion Act* 1931 (hereinafter called "the said Act") of all public debts of the States the liability for which has been assumed by the Commonwealth under the Financial Agreement between the parties hereto dated the twelfth day of December One thousand nine hundred and twenty-seven and the principal and interest of which are payable in Australia and of all public debts of the Commonwealth (including borrowings by the Commonwealth for or on behalf of a State under the said Financial Agreement) the interest and principal of which are payable in Australia:

(a) No. 52, 1931; assented to on 12th November, 1931; commenced on 15th January, 1932. See *Gazette*, 1932, p. 48.

(b) See the Schedule to the *Debt Conversion Agreement Act* 1931, *supra*.

THE SCHEDULE—*continued.*

AND WHEREAS by the said Act provision has been made for the conversion into new securities of existing securities, comprised in the said public debts, the holders of which did not, within the time and in the manner prescribed, signify dissent from the conversion:

AND WHEREAS approximately ninety-seven per centum of existing securities have been converted under the said Act, and it is expedient that the remainder of the existing securities should be converted on the same terms and conditions:

NOW THIS AGREEMENT WITNESSETH:

1. THIS agreement shall have full force and effect, and shall be binding on all the parties, when it is approved by the Parliaments of the Commonwealth and of the States.

2. IN this agreement the terms "existing securities" and "new securities" have the same meaning as in the said Act.

3. NOTWITHSTANDING anything in the above-recited Debt Conversion Agreement or in the said Act contained, every holder of existing securities which have not been converted into new securities in accordance with the provisions of the said Act shall, notwithstanding that any holder of those existing securities may have signified or may signify dissent, be deemed to have made an application in accordance with section 9 of the said Act for their conversion into new securities, and they shall be deemed to be so converted accordingly:

PROVIDED that nothing in this clause shall apply to Commonwealth Treasury Bills issued to a Bank in Australia with the approval of the Australian Loan Council or to securities issued with the like approval to such a Bank in exchange for such Bills.

4. THE Government of the Commonwealth will take the necessary action to submit to the Federal Parliament any legislation necessary to carry out and give effect to this agreement.

5. So far as this agreement may not be in accordance with the provisions of the said Financial Agreement the provisions of this agreement shall prevail.

6. SUBJECT to the last preceding clause, the provisions of the said Financial Agreement and the undertakings and obligations of the Commonwealth and of the States therein contained shall apply to the public debts after conversion in pursuance of clause 3 of this agreement in the same manner as they applied before such conversion.

SIGNED by the Prime Minister of the Commonwealth of Australia for and on behalf of the said Com- monwealth in the presence of— F. STRAHAN	}	J. H. SCULLIN
SIGNED by the Premier of the State of New South Wales for and on behalf of the said State in the presence of— C. R. CHAPMAN		JOHN T. LANG
SIGNED by the Premier of the State of Victoria for and on behalf of the said State in the presence of— C. C. GALE	}	E. J. HOGAN
SIGNED by the Premier of the State of Queensland for and on behalf of the said State in the presence of— G. W. WATSON		A. E. MOORE
SIGNED by the Premier of the State of South Australia for and on behalf of the said State in the presence of— M. A. F. PEARCE	}	LIONEL L. HILL
SIGNED by the Premier of the State of Western Australia for and on behalf of the said State in the presence of— L. E. SHAPCOTT, J.P.		JAMES MITCHELL
SIGNED by the Premier of the State of Tasmania for and on behalf of the said State in the presence of— E. PARKES	}	J. C. MCPHEE

DEFENCE ACT 1903-1950.^(a)

An Act to provide for the Naval and Military Defence and Protection of the Commonwealth and of the several States.

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 1903-1950*.^(a)

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

(a) The *Defence Act 1903-1950* comprises the *Defence Act 1903*, as amended. Particulars of the Principal Act and of the amending Acts are set out in the following table:—

Act.	Year and Number.	Date of Assent.	Date of Commencement.
<i>Defence Act 1903</i> ..	1903, No. 20 ..	22nd October, 1903 ..	1st March, 1904 (See <i>Gazette</i> , 1904, p. 119)
<i>Defence Act 1904</i> ..	1904, No. 12 ..	9th December, 1904 ..	9th December, 1904
<i>Defence Act 1909</i> ..	1909, No. 15 ..	13th December, 1909	1st January, 1911 (See <i>Gazette</i> , 1910, p. 1571)
<i>Naval Defence Act 1910</i> ..	1910, No. 30 ..	25th November, 1910	25th November, 1910
<i>Defence Act 1910</i> ..	1910, No. 37 ..	1st December, 1910 ..	1st December, 1910
<i>Defence Act 1911</i> ..	1911, No. 15 ..	22nd December, 1911	22nd December, 1911
<i>Defence Act 1912</i> ..	1912, No. 5 ..	4th September, 1912	4th September, 1912
<i>Defence Act 1914</i> ..	1914, No. 36 ..	21st December, 1914	21st December, 1914
<i>Defence Act 1915</i> ..	1915, No. 3 ..	30th April, 1915 ..	30th April, 1915
<i>Defence Act 1917</i> ..	1917, No. 36 ..	25th September, 1917	25th September, 1917
<i>Defence Act 1918</i> ..	1918, No. 16 ..	19th June, 1918 ..	19th June, 1918
<i>Defence Act (No. 2) 1918</i> ..	1918, No. 47 ..	25th December, 1918	25th December, 1918
<i>Defence Act 1927</i> ..	1927, No. 1 ..	8th April, 1927 ..	8th April, 1927
<i>Defence Act 1932</i> ..	1932, No. 50 ..	21st November, 1932	21st November, 1932
<i>Statute Law Revision Act 1934</i> ..	1934, No. 45 ..	6th August, 1934 ..	6th August, 1934
<i>Defence Act 1939</i> ..	1939, No. 13 ..	21st June, 1939 ..	6th July, 1939 (See <i>Gazette</i> , 1939, p. 1263)
<i>Defence Act (No. 2) 1939</i> ..	1939, No. 38 ..	26th September, 1939	26th September, 1939
<i>Defence Act (No. 3) 1939</i> ..	1939, No. 70 ..	15th December, 1939	15th December, 1939
<i>Air Force Act 1939</i> ..	1939, No. 74 ..	15th December, 1939	15th December, 1939
<i>Defence Act 1941</i> ..	1941, No. 4 ..	4th April, 1941 ..	4th April, 1941 (except sections 3 and 4 which were deemed to commence on 3rd September, 1939)
<i>Re-establishment and Employment Act 1945</i> ..	1945, No. 11 ..	28th June, 1945 ..	27th August, 1945 (See <i>Gazette</i> , 1945, p. 1859)
<i>Defence (Transitional Provisions) Act 1947</i> ..	1947, No. 78 ..	11th December, 1947	1st January, 1948
<i>Commonwealth Public Service Act 1948</i> ..	1948, No. 35 ..	26th June, 1948 ..	1st September, 1948 (See <i>Gazette</i> , 1948, p. 3115)
<i>Defence Act 1949</i> ..	1949, No. 71 ..	28th October, 1949 ..	1st January, 1950
<i>Statute Law Revision Act 1950</i> ..	1950, No. 80 ..	16th December, 1950	31st December, 1950

Section 20 of the *Defence Act 1949*, reads as follows:—

"20.—(1.) Regulations one, one B, six and twelve of the National Security (Military Forces) Regulations, and the National Security (Prisoners of War) Regulations, as in force immediately prior to the commencement of this Act, shall be in force by virtue of this Act but may be amended or repealed by regulations made under the Principal Act as amended by this Act.

(2.) A person shall not contravene, or fail to comply with, any provision of any regulation in force by virtue of this section.

Penalty: One hundred pounds or imprisonment for six months.

(3.) Each order or other instrument, made, given or issued under any provision of the National Security (Military Forces) Regulations as in force immediately prior to the commencement of this Act shall, if a corresponding provision is in force by virtue of this Act, be in force or subsisting as if made, given or issued, under those Regulations as in force by virtue of this Act and those Regulations as so in force shall apply to it accordingly.

(4.) Each order or other instrument made, given or issued under any provision of the National Security (Prisoners of War) Regulations as in force immediately prior to the commencement of this Act shall be in force or subsisting as if made, given or issued under those Regulations as in force by virtue of this Act and those Regulations shall apply to it accordingly.

(5.) Each order or other instrument in force by virtue of either of the last two preceding sub-sections may be amended or revoked by the authority having power under any Regulations in force by virtue of this Act to make, give or issue orders or instruments with respect to the matter dealt with by that order or instrument."

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.
 Part XI.—Regulations.
 Part XII.—Universal obligation in respect of Naval Military or Air Force Training.
 Part XIII.—Exemptions from Personal Service.
 Part XIV.—Registration and Enrolment for Naval Military or Air Force Training.
 Part XV.—Military College.

Parts.

Amended by
 No. 15, 1909,
 s. 3; No. 37,
 1910, s. 2;
 No. 5, 1912,
 s. 2, and No. 74,
 1939, s. 3 and
 Schedule.

3. This Act shall commence on a day to be fixed by proclamation.^(a) Commence-
ment 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”—In relation to a person subject to military law, means the service rendered by that person—

Substituted by
 No. 71, 1949,
 s. 3.

(a) when he is attached to or forms part of a force which—

- (i) is engaged in operations against an enemy;
- (ii) is engaged in military operations in a country or place wholly or partly occupied by an enemy; or
- (iii) is in military occupation of a foreign country; or

(b) during a period or in an area in respect of which the Governor-General, by notice in the *Gazette*,

(a) Proclaimed to commence 1st March, 1904. See *Gazette*, 20th February, 1904, p. 119.

declares that the force to which he is attached or of which he forms part is, or persons serving during that period or in that area are, on active service.

Inserted by
No. 74, 1939,
s. 3 and
Schedule.

Inserted by
No. 74, 1939,
s. 3 and
Schedule.

Inserted by
No. 74, 1939,
s. 3 and
Schedule.

Inserted by
No. 74, 1939,
s. 3 and
Schedule.

Inserted by
No. 13, 1939,
s. 3.

Amended by
No. 36, 1917,
s. 2.

Inserted by
No. 12, 1904,
s. 2.

Amended by
No. 30, 1910,
s. 4, and by
No. 74, 1939,
s. 3 and
Schedule.

Substituted by
No. 71, 1949,
s. 3.

“Air Force Act”—Means the Imperial Act called the Air Force Act.

“Aircraft”—Includes aeroplanes, seaplanes, balloons, kite balloons, airships and other machines for flying.

“Aircraft Material”—Includes any engines, fittings, guns, gear, instruments, ammunition, bombs or apparatus for use in connexion with aircraft, and any components or accessories of aircraft, and petrol and any other substance used for providing motive power for aircraft, and lubricating oil.

“Airman”—Does not include an officer but includes every enlisted person subject to the *Air Force Act* 1923-1939.

“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.

“Australia”—Includes the Territories of the Commonwealth to which this Act extends.

“District Commandant”—Means the Commandant of a Military District.

“Inspector-General”—Means the Inspector-General of the Military Forces appointed under this Act.

“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, soldier and airman.

“Military Decoration”—Means any order, medal, clasp, good conduct badge or decoration conferred for service in the Naval, Military or Air Forces of any part of the King's dominions or of any ally of His Majesty in any war in which His Majesty is or has been engaged, and includes the ribbon of any such order, medal, clasp, badge or decoration and any colourable imitation, representation or miniature of any such order, medal, clasp, badge or decoration.

“Military District”—Means a military district appointed under this Act.

* * * * *	Definitions of "Naval Discipline Act" and "Naval Commandant" omitted by No. 30, 1910, s. 4.
"Naval, Military or Air Force Offence"—Means any offence against this Act, the Army Act, the Naval Discipline Act or the Air Force Act.	Substituted by No. 74, 1939, s. 3 and Schedule.
"Minister"—Means the Minister for the time being administering this Act.	Amended by No. 16, 1918, s. 2.
"Non-commissioned Officer"—Includes any acting non-commissioned officer and a warrant officer not holding an honorary commission.	
"Oath"—Includes affirmation in the case of any person who has a conscientious objection to take an oath.	
"Officer"—As regards the Military or Air Forces, means an officer commissioned or in pay as an officer of the Military or Air Forces and includes an officer appointed or promoted to war substantive, local, provisional, probational, temporary, 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.	Substituted by No. 36, 1917, s. 2. Amended by No. 74, 1939, s. 3 and Schedule; and by No. 71, 1949, s. 3.
"Prescribed"—Means prescribed by this Act.	
"Regulations"—Means regulations made under this Act.	
"Seaman"—Includes any member of the Naval Forces, not being an officer.	Amended by No. 30, 1910, s. 4.
"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.	
"The Commonwealth"—Includes the Territories of the Commonwealth to which this Act extends.	Inserted by No. 13, 1939, s. 3.
"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. ^(a)	

(a) For proclamations of the existence of danger of war and of the existence of war see *Gazette*, 1939, pp. 1845 and 1849, and Commonwealth Statutory Rules, 1939, pp. 781 and 782.

"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.

Amended by
No. 74, 1939,
s. 3 and
Schedule.

"War Service"—Means active service, any naval, military or air-force service in time of war, and any naval, military or air-force 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.

Added by No. 71,
1949, s. 3.

"War Substantive Rank"—Means rank conferred in a military force raised in time of war for service during time of war only or for a specified period.

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.

Extension of
Act to
Territories.

Inserted by
No. 13, 1939,
s. 4; amended
by No. 80, 1950,
s. 3 and First
Schedule.

5A.—(1.) This Act shall extend to the Territories of the Commonwealth as if each of those Territories were part of the Commonwealth.

(2.) Parts IV., V., XII., XIII. and XIV. of this Act shall not apply to the native inhabitants of any Territory governed by the Commonwealth under a Trusteeship Agreement.

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.

Act does not
appropriate
money.

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

PART II.—ADMINISTRATION.

8. The Governor-General may—

- (a) appoint a Military Officer to be Inspector-General of the Military Forces;
- (b) appoint any part of Australia to be a Command or Military District;
- (c) divide any Command or Military District in such manner as he thinks fit;
- (d) direct what forces shall be established in any Command or Military District, or in any portion of a Command or Military District into which it has been divided in pursuance of paragraph (c) of this section;
- (e) appoint and promote officers of the Defence Force and issue commissions to them; and
- (f) appoint an officer of the Defence Force to command the whole or any portion of the Defence Force.

Power to
appoint
Commands,
Military
Districts, &c.

Substituted by
No. 13, 1939,
s. 5.*

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

* Sub-section (2.) of s. 5 of the *Defence Act* 1939 (No. 13 of 1939) is as follows:—

“(2.) All appointments and promotions of officers, all commissions, all appointments of Military Districts and sub-districts, and all directions as to the forces to be established in any Military District or sub-district, made, issued or given under section eight of the *Principal Act* shall continue in force as if made, issued or given under section eight of the *Defence Act* 1903-1939.”

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.

Powers and duties of Inspector-General of Military Forces.
Substituted by No. 12, 1904, s. 4.
Amended by No. 30, 1910, s. 4.

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.

Continuance of existing officers.

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.

Preference to be given to persons who have served in the ranks.

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.

Promotion from the ranks.
Inserted by No. 15, 1909, s. 4.
Amended by No. 30, 1910, s. 4.

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:

Substituted by No. 36, 1914, s. 2.

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:

Added by No. 36, 1914, s. 2.

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 which under his engagement or by any agreement with the Commonwealth are due to him.^(a)

Ex-member of
Defence Force
may bring suit
for moneys due.

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. 36, 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.^(b)

Appointments
held during
pleasure.

16A.—(1.) A member of the Military Forces who has been appointed or promoted to war substantive rank shall, on ceasing to be engaged on war service, revert to his true rank.

Adjustment of
ranks after
war service.

(2.) Where a member of the Military Forces has been appointed or promoted to war substantive rank, and has ceased to be engaged on war service, the Governor-General may confer on that member

Substituted by
No. 71, 1949,
s. 4.

(a) Held by the High Court, that certain deferred pay and interest claimed by the plaintiff, a former commissioned officer in the Air Force, were not moneys due and payable by the Commonwealth to the plaintiff under an agreement with the Commonwealth within the meaning of either Regulation 31 of the Air Force Regulations or this section. *Commonwealth v. Welsh*, (1947) 74 C.L.R. 245; 53 A.L.J. 215; 21 A.L.J. 75.

(b) 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. 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.*

such rank and seniority in the Military Forces as the Military Board recommends.

Resignation of
commission.
Inserted by
No. 37, 1910,
s. 3.

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.

(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.

Added by
No. 71, 1949,
s. 5.

(3.) Acceptance of the resignation tendered by an officer of the Australian Regular Army who is on the unattached list or the reserve of officers and, on transfer to the unattached list or the reserve of officers, has been paid gratuity otherwise than under the *War Gratuity Act 1945-1947* or has received payment from the Defence Forces Retirement Benefits Fund established under the *Defence Forces Retirement Benefits Act 1948-1949*, shall be subject to the payment to the Commonwealth of such amount as is prescribed.

Appointment of
warrant and
non-commissioned
officers.

18. Warrant officers and non-commissioned officers shall be appointed and shall hold their offices as prescribed.

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.

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.

Seniority of
officers in
Reserve
Forces.

20. The seniority of officers in the Reserve Military Forces shall be as prescribed.

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.

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 major in the Military Forces shall be promoted unless he has previously passed the prescribed examination for promotion to a higher rank.

Promotion of officers.
Amended by No. 30, 1910, s. 4; and by No. 71, 1949, s. 6.

(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 a prescribed corps, 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.

Promotion to rank above Captain.
Inserted by No. 37, 1910, s. 4; amended by No. 71, 1949, s. 7.

(2.) An officer of the Military Forces, other than an officer of a prescribed corps, 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.

Promotion to rank above Major.
Amended by No. 71, 1949, s. 7.

* * * * *

Sub-section (3) omitted by No. 71, 1949, s. 7.

(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.

Added by No. 36, 1914, s. 5.

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. 36, 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 distinguished 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.

Half-pay list.
Amended by
No. 30, 1910,
s. 4.

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.

Unattached
lists.

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.

Reserve of
officers list.

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.

Retired list.

26. The Governor-General may place officers of the Defence Force on retired lists.

Compulsory
retirement.
Discretion to
extend.

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.

Council of
Defence.
Substituted by
No. 12, 1904,
s. 7; amended by
No. 30, 1910,
s. 4.
Board of
Administration
for Military
Forces.

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.

Sec. 29 repealed
by No. 37, 1910,
s. 5.

* * * * *

PART III.—THE DEFENCE FORCE.^(a)

Division 1.—Constitution of the Defence Force.

30. The Defence Force shall consist of the Naval, Military and Air Forces of the Commonwealth,^(b) and shall be divided into two branches called the Permanent Forces and the Citizen Forces.

Defence Force.
Amended by
No. 74, 1939,
s. 3 and
Schedule.

31.—(1.) The Permanent Military Forces shall consist of Active Forces and Reserve Forces.

Permanent
Military Forces.
Substituted by
No. 71, 1949,
s. 8.

(2.) The Active Permanent Military Forces shall consist of officers appointed to, and of soldiers who are bound to continuous military service during the continuance of their engagement in—

(a) the Australian Regular Army; or

(b) a military force raised in time of war for service during time of war only or for a specified period.

(3.) The Reserve Permanent Military Forces shall consist of officers appointed or transferred to, and of soldiers enlisted for service as prescribed in—

(a) the Regular Army Reserve; or

(b) the Regular Army Special Reserve.

* * * * *

Sub-section (4)
omitted by
No. 80, 1950,
s. 3 and First
Schedule.
S. 32 omitted by
No. 30, 1910,
s. 4.

32A.—(1.) The Citizen Military Forces shall consist of Active Forces and Reserve Forces.

Constitution of
Citizen Military
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.

Inserted by
No. 15, 1909,
s. 6.
Active Forces.

(3.) The Reserve Citizen Military Forces shall consist of officers appointed or transferred to those Forces and of all persons who are, in time of war, liable to serve in the Citizen Forces under section fifty-nine of this Act and are not members of the Active Forces, the Citizen Naval Forces, the Reserve Permanent Military Forces or the Air Force Reserve.

Reserve Forces.
Substituted by
No. 71, 1949,
s. 9.

(a) The existence and scope of the rule of international law that aliens may not be compelled to serve in the defence forces of a foreign state in which they happen to be, and the effect of the rule on the construction of statutes was considered by the High Court in *Polites and anor. v. Commonwealth*, (1945) 70 C.L.R. 60; 51 A.L.R. 113; 19 A.L.J. 92.

Held by the High Court that s. 13A of the *National Security Act 1939-1943* should be construed as authorizing the Governor-General to make regulations under which the service of any persons in Australia, including aliens, might be compelled for defence purposes, and that regulation 7 of the *National Security (Aliens Service) Regulations* and the regulations substituted for that regulation by S.R. 1943 No. 108, (providing for the compulsory enrolment of aliens in the armed forces organized by the Commonwealth to wage war against its external enemies) were valid. *Ibid.*

The nature of the relationship between the Crown and a member of the defence forces was considered in *Commonwealth v. Quince*, (1944) 68 C.L.R. 227; 50 A.L.R. 50; 17 A.L.J. 370.

(b) See also *Air Force Act 1923-1941*, *supra*.

Division 2.—The Raising of the Defence Force and the Enlistment and Discharge of Members thereof.

Power to
raise Forces.

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.

Section 34
repealed by
No. 45, 1934,
s. 2 and Fourth
Schedule.

* * * * *

Voluntary
enlistment.

Amended by
No. 5, 1912,
s. 5.

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.

Period of
enlistment.

Amended by
No. 15, 1909,
s. 7; by No. 30,
1910, s. 4; and
by No. 36, 1917,
s. 7.

36. Persons voluntarily enlisting as members of the Military Forces may be required to engage to serve for a prescribed period:

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:

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.

Oath to be
taken by
members of
Active Forces.

Amended by
No. 30, 1910,
s. 4.

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.

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.

Time of
discharge.

Substituted by
No. 16, 1918,
s. 4.

39.—(1.) Subject to this section, a soldier shall be entitled to be discharged—

(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 the last preceding sub-section, be entitled to be discharged shall not, in time of war, be entitled to be discharged. Substituted by No. 71, 1949, s. 10.

(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.

40. A voluntarily enlisted soldier of the Active Citizen Military Forces may, except in time of war, claim his discharge before the expiration of the period of service, for which he engaged, provided he has given not less than three months' notice in writing to his commanding officer of his intention to claim his discharge, and the claim shall with all reasonable speed be allowed. Discharge of members of Citizen Forces. Substituted by No. 71, 1949, s. 11.

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. Enlistment of persons serving under articles of apprenticeship. Inserted by No. 47, 1918, s. 4, and amended by No. 11, 1945, s. 35.

* * * * *

41. Except in time of war, a soldier of the Regular Army Reserve, upon payment of such amount as is prescribed, may claim his discharge before the expiration of the period for which he engaged, provided he has given not less than fourteen days' notice in writing to his commanding officer of his intention to claim his discharge, and the claim shall with all reasonable speed be allowed. Discharge of members of Regular Army Reserve. Substituted by No. 71, 1949, s. 12.

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.^(a)—(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.

(a) Held by the Supreme Court of N.S.W. that the effect of this section is that every person *de facto* serving or in pay as a soldier, whether duly enlisted or not, and whether an allied national or not, must be deemed while so serving or in pay, to be a soldier for all purposes of the Act. *Ex parte Koutalianos; Re Rushton*, (1945) 45 S.R. (N.S.W.) 269.

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.

Exemption
from sitting
on juries.

Substituted by
No. 71, 1949,
s. 13.

43. Members of the Permanent Naval Forces, the Active Permanent Military Forces, the Regular Army Special Reserve and the Permanent Air Force, and, while called up for war service, members of the Regular Army Reserve and of the Citizen Forces, shall be exempt from serving as jurors.^(a)

Power to
disband.

Substituted by
No. 36, 1917,
s. 9.

44.—(1.) The Governor-General may at any time, by order published in the *Gazette*, disband any corps or portion of a corps.

(2.) A soldier may at any time be discharged or dismissed by the Governor-General or as prescribed.

Division 3.—The Service of the Forces. Permanent Forces.

Permanent
Forces may be
employed on
war service.

Amended by
No. 36, 1917,
s. 10.

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.

Citizen Forces.

Power to call
out Citizen
Forces.

Amended by
No. 36, 1917,
s. 11.

46.—(1.) The Governor-General may, in time of war, by proclamation, call out the Citizen Forces or any part thereof for war service.^(b)

(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.

(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.

Added by
No. 15, 1909,
s. 8.

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.

^(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.

^(b) For proclamation calling out the citizen forces see *Gazette* 1939, p. 1847, and Commonwealth Statutory Rules, 1939, p. 773.

* * * * *

S. 43 omitted by
No. 30, 1910,
s. 4.

Military Forces 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.

Defence Force
not liable to
serve beyond
Commonwealth.

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.

Citizen Forces
to be returned
to districts.

Amended by
No. 36, 1917,
s. 13.

Protection of the States against Domestic Violence.

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:

Protection of
States from
domestic
violence.
See sec. 119
of the
Constitution.

Provided always that the Citizen Forces of the Commonwealth shall not be called out or utilized in connexion with an industrial dispute.

Added by
No. 36, 1914,
s. 8.

Division 4.—General Provisions.

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.

Drill and
training.

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, the King's Regular Naval Forces or the King's Regular Air Force, as the case may be.

Command of
force in time
of war.

Amended by
No. 74, 1939,
s. 3 and
Schedule.

* * * * *

S. 54 omitted by
No. 30, 1910,
s. 4.

54A.—(1.) Members of the Military Forces whether on war service or not—

Application of
Army Act.

- (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,

Substituted by
No. 36, 1917,
s. 14.

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.

Military Forces
on war service
subject to
Army Act.
Substituted by
No. 36, 1917,
s. 15.

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^(a) 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:

Provided that the regulations shall not increase the fine for any offence so that it exceeds Twenty pounds.

S. 56 omitted by
No. 30, 1910,
s. 4.

* * * * *

Provision for
families of men
killed, etc.

Amended by
No. 30, 1910,
s. 4, and by
No. 36, 1917,
s. 16.

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.^(b)

Responsibility
of commanding
officer.

Amended by
No. 74, 1939,
s. 3 and
Schedule.

58. The commanding officer of every corps, ship's company or air-force unit or station shall be responsible for the safe keeping and good order of all articles, the property of the Commonwealth, supplied to his corps, ship's company or air-force unit or station, and the value of any of those articles may, if lost or damaged while in possession of the corps, ship's company or air-force unit or station 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.

(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.

Held by the High Court that the effect of s. 158 (2) of the Army Act is that a soldier who has been convicted by court-martial and discharged as well as sentenced to undergo detention, is, during the term of his detention, subject to all the powers of that Act relevant to his status and situation. *The King v. Cox and ors., Ex parte Smith*, (1945) 71 C.L.R. 1; 51 A.L.R. 330; 19 A.L.J. 194.

A charge cannot be maintained under s. 7 (3) of the Army Act in respect of a disturbance or defiance of authority by confinees all of whom have been discharged from the forces as well as sentenced. *Ibid.*

It was held further by Latham, C.J., Dixon and Williams, J.J., that the provisions of the Act which result in empowering a court-martial to hear and determine charges against persons discharged from the forces do not contravene s. 71 of the Constitution. *Ibid.*

(b) See s. 24 of the *Repatriation Act 1920-1950, infra*, and Part V. of the *Defence Forces Retirement Benefits Act 1948-1950, infra*.

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.

Heading
amended by
No. 15, 1909,
s. 10.
Persons liable
to serve.
Amended by
No. 15, 1909,
s. 10.

60.^(a)—(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.

Calling out of
the Reserves.
Substituted by
No. 15, 1909,
s. 11; and
amended by
No. 47, 1918,
s. 5.

(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—

Inserted by
No. 47, 1918,
s. 5.

(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.

^(a) For proclamations calling upon persons to enlist and serve in the Citizen Forces see *Gazettes*, 1939, p. 2641; 1940, pp. 1635 and 2711; 1941, pp. 1435 and 2767; and 1942, pp. 349, 605 and 609 and Commonwealth Statutory Rules, 1939, p. 771; 1940, pp. 869 and 870; 1941, p. 1125; and 1942, pp. 1383 and 1384. See also footnote (a) to s. 76, *infra*.

Persons exempt
from service.
Substituted by
No. 37, 1910,
s. 7.

Para. (a)
amended
by No. 74, 1939,
s. 3 and
Schedule.

Amended by
No. 38, 1939,
s. 3.

Amended by
No. 47, 1918,
s. 6.

Added by
No. 47, 1918,
s. 6.

Added by
No. 38, 1939,
s. 3.

61. ^(a)—(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, military or air-force 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 ^(b); 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 whose 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.

(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:

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.

(3.) In this section "conscientious beliefs" includes all conscientious beliefs, whether the ground thereof is or is not of a religious character, and whether the beliefs are or are not part of the doctrines of any religion.

(a) *Per Webb, C.J.* (in the Supreme Court of Queensland): This section extends only to persons who are not already incorporated in the Australian Military Forces. *R. v. Simpson; Ex parte Buchanan*, 1943 Q.W.N. 11.

(b) Held by the Court of Quarter Sessions (N.S.W.) (Holt, Ch. Q.S.) that the faith of Jehovah's Witnesses was a "religion" and that an adherent who devoted his full time to the work of the faith and to whom a certificate of ordination had been issued was a "Minister of Religion" within the meaning of this sub-section. *Appeal of Frank Grundy*, (1944) 61 W.N. (N.S.W.) 102.

Per Webb, C.J. (in the Supreme Court of Queensland): A salesman, not a member of any religious organization, who preaches the gospel in his spare time, is not a Minister of Religion within the meaning of this sub-section. *Lumsdaine v. Corbett; Ex parte Corbett*, 1943 Q.W.N. 34.

61A.—(1.) 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.

(2.) If an application for exemption under paragraph (i) of sub-section (1.) of section sixty-one of this Act is refused by any court authorized as provided in sub-section (1.) of this section, an appeal shall lie from the decision to the High Court or to the Supreme Court of the State or Territory of the Commonwealth in which the application was made.

Added by No. 38, 1939, s. 4.

(3.) An appeal may be on questions of fact as well as on questions of law, and shall, at the request of the appellant, be by way of re-hearing.

Added by No. 38, 1939, s. 4.

(4.) The Justices of the High Court or a majority of them may make Rules of Court for regulating the practice and procedure in relation to appeals to a Court under sub-section (2.) of this section.

Added by No. 38, 1939, s. 4.

PART V.—CADETS.

62.—(1.) All those liable to be trained as Junior Cadets shall be trained as prescribed:

Cadets.
Substituted by No. 15, 1909, 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, Military or Air Forces, and shall be trained as prescribed in elementary naval, military or air-force exercises and in musketry, and shall be organized in naval, military or air-force 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.

Amended by No. 74, 1939, s. 3 and Schedule.
Uniform.
Officers and N.C.O's.

(4.) Officers and non-commissioned officers of Junior and Senior Cadets shall be appointed as prescribed, and without regard to the conditions prescribed for the corresponding ranks of the Citizen Forces.

(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, and such as are allotted to the Air Force, who shall be under the orders of the officer appointed for that purpose by the Air Board.

Commandants.
Amended by No. 74, 1939, s. 3 and Schedule.

(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.

Commissioned ranks.

(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.

Eligibility of Senior Cadet Officers.
Added by No. 37, 1910, s. 8.
Amended by No. 3, 1915, s. 5.

Officers may
continue to
serve in
Senior Cadets.

Added by
No. 5, 1912,
s. 6.

(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.

Australian
Cadet Corps.

Inserted by
No. 71, 1949,
s. 14.

62A.—(1.) The Military Senior Cadets shall consist of—

(a) persons required to serve therein under Part XII. of this Act; and

(b) persons who volunteer and are accepted for training therein.

(2.) The Military Senior Cadets shall be known as the Australian Cadet Corps.

PART VI.—SPECIAL POWERS IN RELATION TO DEFENCE.

General powers
for defence
purposes.

63.—(1.) The Governor-General may^(a)—

Para. (a)
omitted by No.
30, 1910, s. 4.

* * * * *

(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, military and air-force equipment and uniforms;^(b)

Para. (da)
inserted by No.
15, 1909, s. 13,
and amended by
No. 74, 1939,
s. 3 and
Schedule.

Para. (db)
inserted by
No. 15, 1909,
s. 13;
omitted by
No. 35, 1948,
s. 4.

* * * * *

Para. (dc)
inserted by
No. 37, 1910,
s. 9.

(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.^{(b)(c)}

(a) For additional powers of the Governor-General in relation to Defence, see *Naval Defence Act 1910-1949*, s. 41.

(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. Commonwealth*, (1935) 52 C.L.R. 533; 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. Commonwealth v. Colonial Ammunition Co. Ltd.*, (1924) 34 C.L.R. 198, at p. 220.

* * * * *

Sub-section (2)
omitted by
No. 35, 1948,
s. 4.

(3.) All appointments in the Departments of Defence, the Navy, the Army and Air (other than appointments under the *Commonwealth Public Service Act 1922-1948*^(a) and appointments in a civil capacity under section forty-one of the *Naval Defence Act 1910-1934* shall be appointments in the Naval Military or Air Defence Forces, and members of the Permanent Naval Military or Air 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.
Amended by
No. 37, 1910,
s. 9, by No. 36,
1917, s. 17,
by No. 74, 1939,
s. 3 and
Schedule, and
by No. 35, 1948,
s. 4.

64. The Governor-General may in time of war authorize any officer to assume control of any railway for transport for naval, military or air-force purposes.

Control of
railways in
time of war.
Amended by
No. 12, 1904,
s. 8, and by
No. 74, 1939,
s. 3 and
Schedule.

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, aircraft, aircraft material 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.

Railways to
carry troops,
&c., when
required.
Amended by
No. 74, 1939,
s. 3 and
Schedule.

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.^(b)

Conveyance
by railway
and tramway.

67. The owner of any vehicle, horse, mule, bullock, aircraft, aircraft material, boat or vessel, or of any goods, required for naval, military or air-force 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,

Registration
and impress-
ment of
vehicles, &c.
Substituted by
No. 15, 1909,
s. 14.
Amended by
No. 5, 1912,
s. 7, and by
No. 74, 1939,
s. 3 and
Schedule.

(a) Now the *Public Service Act, 1922-1950, infra*.

(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. 665, at 370.

aircraft, aircraft material, boats or vessels may be required by the regulations to register them periodically.^(a)

Billeting and
quartering.

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.^(b)

Authority to
enter lands
for training.

Substituted by
No. 15, 1909,
s. 15.

Amended by
No. 3, 1915,
s. 6, and by
No. 74, 1939,
s. 3 and
Schedule.

Added by No. 3,
1915, s. 6.

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, military or air-force 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.^(b)

Penalty: Twenty pounds.

Tolls.

Amended by
No. 74, 1939,
s. 3 and
Schedule, and
by No. 80, 1950,
s. 3 and First
Schedule.

70. No toll or due, whether demandable by virtue of any Act or State Act or otherwise, at any wharf, landing place, aerodrome, 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, military or air-force arms, stores, baggage, aircraft or aircraft material; or
- (d) Any animal drawing any such vehicle.^(c)

(a) Although no regulations had been made by the Governor-General under s. 124 (r) in relation to this section the Commonwealth, purporting to act in pursuance thereof, requisitioned and took possession of two steamers belonging to the H. Company. Held by Rich, Starke, Dixon and Williams, J.J., that the steamers were lawfully requisitioned under the section and that, in the absence of regulations prescribing the method of recompense, the compensation payable must be worked out on general legal principles. By Latham, C.J., and McTiernan, J. that the taking of the steamers was upon an implied promise by the Commonwealth to pay a fair price for them since this section does not operate until authority is given by regulations to an officer to act thereunder. *Commonwealth v. Huon Transport Pty. Ltd.*, (1945) 70 C.L.R. 293; 51 A.L.R. 141; 19 A.L.J. 89.

Question of what interest on compensation should be allowed in these circumstances considered. *Ibid.*

(b) 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.

(c) 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.

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.^(a)

Stopping traffic.

72. No ships boats or person 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.

Regulations as to traffic.
Amended by No. 15, 1909, s. 16.

Penalty: Fifty pounds.

PART VII.—OFFENCES.

73.—(1.) Any member of the Defence Force who—

Falsifying pay rolls.
Substituted by No. 36, 1917, s. 18.

- (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.

(2.) Any member of the Defence Force who—

Claiming or receiving pay improperly.

- (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,

shall be guilty of an offence.

(3.) Any member of the Defence Force who—

Fraudulently obtaining or retaining pay.

- (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,

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 air-force aerodrome or establishment or any other naval, military or air-force information, shall be guilty of an offence.

Unlawfully giving or obtaining information as to defences.
Inserted by No. 36, 1917, s. 18.
Amended by No. 74, 1939, s. 3 and Schedule.

(2.) Any person who unlawfully obtains any plan, document, or information relating to any fort, battery, field work, fortification, or

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

defence work, or air-force aerodrome or establishment, or to any of the defences of the Commonwealth or any other naval, military or air-force information, shall be guilty of an offence.

Falsifying and forging parade states, orders, &c.

Inserted by No. 36, 1917, s. 18.

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,

shall be guilty of an offence.

Supplying inferior food, materials and equipment.

Inserted by No. 36, 1917, s. 18, and amended by No. 4, 1941, s. 3.

73C.—(1.) Any contractor, purveyor or other person, and any employee of a contractor, purveyor or other person, who supplies to the Commonwealth or any officer of the Commonwealth for use by the Defence Force—

- (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, unless he proves that he supplied the article, material, equipment or beast without intent to defraud and that he neither knew nor had reasonable means of knowing that the article was so inferior or less in quantity or that the material, equipment or beast was so inferior.^(a)

(2.) Any officer of the Commonwealth who 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, unless he proves that he received the article, material, equipment or beast without intent to defraud, and that he neither knew nor had reasonable means of knowing that it was supplied in contravention of this section.

Possession of certain things an offence.

Substituted by No. 4, 1941, s. 4.

73D.^(a)—(1.) Any contractor who has in his possession—

- (a) any goods (being goods of a like kind to goods which he has contracted to supply to the Commonwealth for use by the Defence Force or any portion thereof, or being goods of a like kind to goods which are suitable to form a constituent part of, or to be used in the manufacture or production of, goods so contracted to be supplied)—
 - (i) to which is applied, without lawful authority, any mark or design or the impression of any seal or

^(a) Held by the High Court (Starke and Williams, JJ.) that the liability under s. 73E of a director or person concerned in the management of a body corporate does not extend to cases where the body corporate is guilty only of an attempt to commit an offence against s. 73C or s. 73D. *Millner v. Raith*, (1942) 66 C.L.R. 1; 48 A.L.R. 248; 16 A.L.J. 142.

stamp indicating that the goods have been inspected by or on behalf of the Commonwealth or have been accepted by or on behalf of the Commonwealth for delivery for such use;

(ii) to which is applied any mark or design or the impression of any seal or stamp so nearly resembling any such mark, design or impression as is referred to in the last preceding sub-paragraph as to be likely to lead to the belief that the goods had been so inspected or accepted; or

(iii) on which any mark or design or the impression of any seal or stamp applied by authority of the Commonwealth has, without lawful authority, been altered, added to or effaced or has in any way been falsified; or

(b) any die, device, seal or stamp capable of making any such mark, design or impression as is referred to in the last preceding paragraph,

shall be guilty of an offence, unless he proves that he had possession of the goods, die, device, seal or stamp without intent to defraud and that, in relation to any such goods, the mark, design or impression was applied without his knowledge and without his having the means of knowing of its application.

(2.) For the purposes of this section—

(a) a mark or design shall be deemed to be applied to goods if it is impressed on, or annexed or affixed to, the goods; and

(b) a mark, design or impression shall be deemed to be applied to goods if—

(i) it is applied to the goods themselves; or

(ii) it is applied to any container, covering, label or thing in or with which the goods are had in possession.

73E.^(a)—Where a person to whom section seventy-three c or section seventy-three d of this Act applies is a body corporate, the body and every person being a director or a person concerned in the management of the body shall, in respect of any act or fact specified in either of those sections, be guilty of an offence unless—

Application of secs. 73c and 73d to bodies corporate.

Inserted by No. 4, 1941, s. 4.

(a) in the case of the body, it proves—

(i) that the act or fact took place or existed without the knowledge of any director, or of any person concerned in the management, of the body; and

(ii) that no such director or person concerned had reasonable means of preventing the act or fact taking place or coming into existence; or

^(a) See footnote (a) to s. 73c (1.), *supra*.

- (b) in the case of a person being a director or person concerned in the management of the body, he proves—
- (i) that the act or fact took place or existed without his knowledge; and
 - (ii) that he did not have reasonable means of preventing the act or fact taking place or coming into existence.

Penalty,
inserted by
No. 4, 1941,
s. 4.

73F.—(1.) An offence under any of the six last preceding sections may be prosecuted either summarily or upon indictment, but an offender shall not be liable to be punished more than once in respect of the same offence.

(2.) The punishment for an offence under any of the six last preceding sections shall be—

- (a) if the offence is prosecuted summarily—a fine not exceeding One hundred pounds or imprisonment for six months or both; or, in the case of a body corporate, a fine not exceeding One thousand pounds; or
- (b) if the offence is prosecuted upon indictment—a fine of any amount or imprisonment for any term, or both.

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. 19.

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. ^(a)

When drafted, refusing to be sworn, &c.—
Punishment.
Amended by
No. 47, 1918,
s. 9.

Penalty: Imprisonment for six months.

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, 1918,
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 or Air 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 or the Air Force Act, as the case may be.

Absence for more than seven days deemed to be desertion.
Substituted by
No. 36, 1917,
s. 20.
Amended by
No. 74, 1939,
s. 3 and
Schedule.

79.—(1.) Any person who—

- (a) unlawfully disposes of or removes or
- (b) fails to deliver up when lawfully required so to do or

Unlawfully disposing of arms, &c.
Amended by
No. 15, 1909,
s. 17, by No. 36,
1914,
s. 9; and by
No. 74, 1939,
s. 3 and
Schedule.

(a) A form of oath substantially in accord with the Third Schedule to the Act was tendered to the defendant, a person liable to compulsory service in the citizen forces. On the defendant's refusing to take the oath he was charged under this section and convicted. The High Court upheld the conviction on the ground that the form tendered was not objectionable although not precisely in the form in the Third Schedule and although it did not limit the defendant's obligation to service within Australia. *Skitch v. Pratt*, (1940) 64 C.L.R. 191; 46 A.L.R. 319; 14 A.L.J. 261.

Held by the Supreme Court of Queensland (Webb, C.J. and E. A. Douglas, J.; Macrossan, S.P.J., dissenting) that a person in gaol serving a sentence of imprisonment cannot be required to take the oath of enlistment, nor, on refusal to take such oath when tendered to him, can he be convicted of an offence under this section. *Sellars v. Nielsen*, 1943 St. R. Qd. 217.

A defendant can be convicted under this section notwithstanding that he had previously been convicted for refusal to take the oath (*Ibid—per totam curiam*).

Held by the Supreme Court of Queensland that an offence against this section is committed when a person declares his unwillingness to take the oath and it is not necessary for the officer tendering the oath to recite the terms thereof. *Lumsdaine v. Corbett*; *Ex parte Corbett*, 1943 Q.W.N. 34.

(c) has in his possession, except for lawful cause (the proof of which shall lie upon him),

any arms accoutrements or other naval, military or air-force articles belonging to the Commonwealth or to any corps, unit or station, 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.

Sub-section (1A.)
inserted by
No. 50, 1932,
s. 2.

Amended by
No. 74, 1939,
s. 3 and
Schedule.

(1A.) In any prosecution under this section for failure to deliver up when lawfully required so to do any arms, accoutrements or other naval, military or air-force articles belonging to the Commonwealth or to any corps, unit or station—

(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.

Amended by
No. 74, 1939,
s. 3 and
Schedule, and
by No. 80, 1950,
s. 3, and First
Schedule.

80A.—(1.) Any person who falsely represents himself to be a returned soldier, sailor or airman 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 as a member of the Military Forces of any Ally of Great Britain;

(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 as a member of the Naval Forces of any Ally of Great Britain; and

(c) "returned airman" means a person who has served abroad during any war as a member of any Air Force, air service or flying corps raised in Australia or in any other part of the British Empire or as a member of the air 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, sailor or airman shall be deemed to be proved in the absence of proof to the contrary.

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.

Disposal of decorations prohibited.
Inserted by No. 36, 1917, s. 21.

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.

Receiving of decorations prohibited.
Inserted by No. 36, 1917, s. 21.

Penalty: Twenty pounds.

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.

Buying or receiving in exchange decorations.
Inserted by No. 36, 1917, s. 21.

Penalty: Twenty pounds.

80E.—(1.) A person shall not, unless lawfully entitled thereto (proof whereof shall lie upon him), wear or make use of any military decoration.

Unlawfully wearing decorations.
Inserted by No. 36, 1917, s. 21.

Penalty: Twenty pounds.

(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

Forfeiture.
Inserted by No. 36, 1917, s. 21.

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.

Minister may grant permits.
Inserted by
No. 36, 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.

(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.

Disposition by will or devolution.
Inserted by
No. 36, 1917,
s. 21.

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.

Defacing or melting decorations.
Inserted by
No. 36, 1917,
s. 21.

80I. A person shall not deface or destroy, by melting or otherwise, any military decoration.

Penalty: Twenty pounds.

Obstructing drill, &c.
Amended by
No. 74, 1939,
s. 3 and
Schedule.

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, military or air-force service or duty, shall be liable to a penalty not exceeding Twenty pounds.

Sketching, &c., of fortifications prohibited.
Amended by
No. 74, 1939,
s. 3 and
Schedule.

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 aircraft air-force establishment aircraft material or any naval, military or air-force 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.

Penalty for offending against provisions.

Penalty in case of person found in or near forts with drawing materials, &c.
Amended by
No. 74, 1939,
s. 3 and
Schedule.

(2.) Any person who, without lawful authority, enters or approaches any fort battery fieldwork fortification aircraft air-force establishment aircraft material or any naval, military or air-force 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 air-force establishment or any naval, military or air-force 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, or any aircraft, shall be liable to a penalty not exceeding Twenty pounds.

Penalty in case of persons trespassing.
Amended by No. 36, 1917, s. 22, and by No. 74, 1939, s. 3 and Schedule.

(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.—(1.) A person shall not, without lawful authority—

- (a) use, wear or have in his possession; or
- (b) make, supply or offer to supply,

any uniform or emblem to which this section applies or any colourable imitation, representation or miniature of any such uniform or emblem.

Unauthorized use, possession or supply of uniforms and emblems.
Substituted by No. 71, 1949, s. 15.

Penalty: Fifty pounds.

(2.) This section applies to any uniform or emblem of the Naval, Military or Air Forces of the Commonwealth, or any other part of the King's dominions, or, in time of war, of any ally of His Majesty, and to such other uniforms and emblems related to the defence of the Commonwealth in respect of any war in which His Majesty is or has been engaged as are specified by the Minister, by notice in the *Gazette*, to be uniforms or emblems to which this section applies.

(3.) An authority for the purpose of sub-section (1.) of this section may be given by the Naval Board, the Military Board or the Air Board, or by a person thereto authorized in writing by any of those Boards, and shall be subject to such limitations (if any) as are specified in the authority.

(4.) A person on whose behalf or at whose place of business an article is supplied or offered in contravention of this section, whether contrary to the instructions of that person or not, shall be guilty of an offence, and shall, on conviction, be liable to a fine not exceeding Fifty pounds.

(5.) The wearing of a uniform or emblem to which this section applies in the course of a stage play, a music hall or circus performance or a *bona fide* military representation, or in the making of a cinema film, shall not be an offence against this section.

(6.) Where an offence against this section has been committed, the court may, if it thinks fit, order the forfeiture of any uniform or emblem in respect of which that offence was committed.

(7.) In this section—

“emblem” includes a badge, a regimental or other distinctive mark and an armlet; and

“uniform” includes an accoutrement or other part of a uniform.

Penalty for bringing contempt on uniform.

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.

Penalty for contravening the Act in any way.

Amended by No. 47, 1918, s. 11.

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.

Power to constitute courts-martial.

Amended by No. 36, 1917, s. 23, and by No. 74, 1939, s. 3 and Schedule.

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 or air-force 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 think fit.

Added by No. 36, 1917, s. 23.

Amended by No. 74, 1939, s. 3 and Schedule.

(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 or the Air Force Act in regard to the Air Force of convening courts-martial and confirming the findings and sentences of those courts.

Powers may be delegated.

Amended by No. 13, 1939, s. 6, and by No. 74, 1939, s. 3 and Schedule.

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 locality, place or district, or to any Command, Military District or sub-district.

(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 their findings and sentences, the like laws and regulations in relation to the King's Regular Naval Forces shall similarly apply in the case of the Naval Forces and the like laws and regulations in relation to the King's Regular Air Force shall apply in the case of the Air Force.

Laws applicable to courts-martial. Substituted by No. 36, 1917, s. 24. Amended by No. 74, 1939, s. 3 and Schedule.

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.

(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.

Substituted by No. 36, 1917, s. 25.

(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 or of the Air Force Act (as the case may be).

Amended by No. 74, 1939, s. 3 and Schedule.

91. Contempt of court shall be punishable as follows:—

Punishment for contempt of court.

- (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;

Amended by No. 36, 1917, s. 26.

- (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.

93. Members of the Permanent Forces may be ordered to attend any court-martial to give evidence and produce documents.

Power to
summon
witnesses.

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, and by
No. 74, 1939,
s. 3 and
Schedule.

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 or air-force 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.

Powers of
court-martial
as to
sentencing.
Amended by
No. 36, 1917,
s. 29, and by
No. 74, 1939,
s. 3 and
Schedule.

97. Every court-martial may sentence any member of the Defence Force found guilty of any naval, military or air-force offence to the punishment provided for the offence and may in addition—

- (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 aircraft, 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.^(a)

Sentence of death in certain cases only—subject to approval of Governor-General.
Amended by No. 74, 1939, s. 3 and Schedule.

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, the Naval Discipline Act or the Air Force 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.

^(a) Held by the High Court that a seaman of the Commonwealth Naval Forces who has been unconditionally transferred to the King's Naval Forces and who has been found guilty of murder by a court-martial may be sentenced to death in accordance with s. 45 of the *Naval Discipline Act 1866 (Imp.)* notwithstanding the provisions of this section. *The King v. Bevan*; *Ex parte Elias and Gordon*, (1942) 66 C.L.R. 452; 48 A.L.R. 170; 16 A.L.J. 213.

Amended by No. 74, 1939, s. 3 and Schedule.

(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.

(3.) A person charged with any naval, military or air-force 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.

* * * * *

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.

Imprisonment
may be
awarded in lieu
of penal
servitude.

Amended by
No. 74, 1939,
s. 3 and
Schedule.

106. Where the punishment for any offence against the Army Act, the Naval Discipline Act or the Air Force 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.

Amended by
No. 74, 1939,
s. 3 and
Schedule.

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, military or air-force 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; by No.
36, 1917, s. 32,
and by
No. 74, 1939,
s. 3 and
Schedule.

108.—(1.) The regulations may authorize the officer commanding any corps, ship, unit or air-force station 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.

Added by
No. 36, 1917,
s. 32.

Amended by
No. 74, 1939,
s. 3 and
Schedule.

(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.

(3.) When on war service commanding officers shall have all the powers conferred by the Army Act, the Naval Discipline Act

and the Air Force Act respectively subject to such modifications and adaptations as are prescribed.

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.

Time for commencement of prosecutions.

Substituted by No. 36, 1914, s. 11.

(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, unit or air-force station.

Amended by No. 36, 1917, s. 33, and by No. 74, 1939, s. 3 and Schedule.

110.—(1.) A civil prosecution for an offence against this Act or the Regulations may be brought in any Court of summary jurisdiction.^(a)

On whose complaint prosecutions may be brought.

Substituted by No. 5, 1912, s. 8.

(2.) A civil prosecution against an officer of the Military Forces shall be brought by or by the authority of the District Commandant.

Amended by No. 36, 1917, s. 34, and by No. 74, 1939, s. 3 and Schedule.

(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.

(3A.) A civil prosecution against an officer of the Air Force shall be brought by or by the authority of the Air Board.

Inserted by No. 74, 1939, s. 3 and Schedule.

(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 or the Air Board 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, airman 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 the commanding officer or adjutant of the unit to which the airman belongs, or by an area officer, or by any prescribed officer.

110A.—(1.) A Company or Flight Roll Book shall be kept by such persons as the Regulations prescribe.

Company Roll Book.

(2.) The entries in the Company or Flight 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 or Flight Roll Book shall be *prima facie* evidence of the entries contained therein.

Amended by No. 74, 1939, s. 3 and Schedule.

(a) 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.J.R. 466; (see now, however, s. 135C which was afterwards inserted by the amending Act of 1914).

Subscription, arms, &c., vested in commanding officer.

Amended by No. 12, 1904, s. 10; by No. 36, 1917, s. 35, and by No. 74, 1939, s. 3 and Schedule.

111.—(1.) 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, or air-force unit or station 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, or air-force unit or station or part thereof, and not being the private property of a member of the corps or ship's company or air-force unit or station, as the case may be, shall be deemed to be the property of the commanding officer of the corps or ship's company or air-force unit or station, as the case may be.

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 air-force unit or station or part thereof, or it is uncertain to which corps or part thereof or ship's company or part thereof, or air-force unit or station or part thereof, it belongs, it shall be deemed to be the property of the District Commandant or District Naval Officer or the Air Board as the case may be.

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.^(a)

Added by No. 71, 1949, s. 16.

(2.) For the purposes of this section, "corps" includes unit.

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. 30, 1910, s. 4; by No. 36, 1917, s. 36; and by No. 74, 1939, s. 3 and Schedule.

112. When not on war service any commanding officer, if authorized by the Regulations so to do, may disrate or discharge any seaman, soldier or airman of the Citizen Forces (not serving under Part XII. of this Act) for any good cause, but the seaman, soldier or airman, 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, and by No. 74, 1939, s. 3 and Schedule.

113. Any member of the Defence Force when not on war service charged with any naval, military or air-force offence when

(a) L., a soldier, was convicted under the *Road Traffic Act* (S.A.) of unlawfully using a motor vehicle without first obtaining the consent of the "Commonwealth Military Defence Department", alleged in the complaint to be the owner of the vehicle. Held by the Supreme Court of South Australia (Mayo, J.) that the conviction was bad as the owner of the vehicle, by virtue of this section must be deemed to be the commanding officer of the corps. *Logan v. Copp*, (1942) S.A.S.R. 45.

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, ship's company or air-force unit 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.

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.

Arrest of deserter and persons charged with offences.

Substituted by No. 36, 1917, s. 38.

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.

Warrants. Sub-section (1) 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.

Sub-section (2) substituted by No. 36, 1917, s. 39.

(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, military or air-force custody.

Amended by No. 74, 1939, s. 3 and Schedule.

116. Any member of the Defence Force sentenced to penal servitude, imprisonment or detention for any naval, military or air-force 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 insubordination, &c.

Amended by No. 36, 1917, s. 40, and by No. 74, 1939, s. 3 and Schedule.

PART X.—MISCELLANEOUS.

Right to
volunteer
for service
beyond limits
of the
Commonwealth.

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.

Civilians
accompanying
Forces subject
to Act.

Inserted by
No. 36, 1917,
s. 41; amended
by No. 71, 1949,
s. 17.

117A. A person, not being a member of the Defence Force, who accompanies any part of the Military Forces, whether within or beyond Australia, shall be subject to this Act as if he were a member of the Military Forces in the following manner:—

- (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.

Penalty
against raising
of Forces
without
authority.

Amended by
No. 74, 1939,
s. 3 and
Schedule.

118. Any person who induces or attempts to induce any other person to enlist or engage to serve in any Naval, Military or Air 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.

Employer not
to prevent
employee from
serving.

Inserted by
No. 36, 1917,
s. 42.

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.

Penalty: One hundred pounds.

Amended by
No. 80, 1950,
s. 3 and
First Schedule.

(2.) An employer shall not in any way penalize or prejudice in his employment any employee for rendering or being liable to render 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.^(a)

(a) Section 8 of the *Re-establishment and Employment Act 1945* reads as follows:—

"Sub-section (3.) of section one hundred and eighteen A. of the *Defence Act 1903-1945* shall, insofar as it is inconsistent with this Division, be inoperative."

(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.

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.

Stoppage of pay in certain cases.

Substituted by No. 36, 1917, s. 43.

Amended by No. 47, 1918, s. 13.

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.

Notice, &c., need not be in writing unless required herein.

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.

Delegation not to lapse on Governor-General ceasing to hold office.

Inserted by No. 36, 1917, s. 44.

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.

Proof of warrant, &c.

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.

Police to aid in arrest of deserters.

Amended by No. 5, 1912, s. 10; and by No. 36, 1917, s. 45.

Funds for annuities or gratuities.

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.

Intoxicating liquors.

Inserted by No. 15, 1909, s. 18.

Amended by No. 74, 1939, s. 3 and Schedule.

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, military or air-force 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, military or air-force camp, fort, or post, except as prescribed for purely medical purposes.

Intoxicating liquors not to be supplied to Cadets.

Inserted by No. 5, 1912, s. 11.

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.

Penalty: Twenty pounds.

Religion.

Inserted by No. 15, 1909, s. 18.

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.

Married establishment.

Inserted by No. 15, 1909, s. 19.

123C. All married men in the Permanent Forces who have served for three years shall be entitled to be placed on the married establishment.

Military bands.

Inserted by No. 37, 1910, s. 11.

123D. After the expiration of three years from the commencement of Part XII, of this Act,^(a) the number of soldiers allotted to military bands shall not exceed two per cent. of the persons undergoing training.

Supply of uniforms.

Inserted by No. 37, 1910, s. 11.

Amended by No. 74, 1939, s. 3 and Schedule.

123E. Uniforms shall be supplied free of charge to all ranks of the Citizen Forces.

PART XI.—REGULATIONS.

Regulations.
Amended by No. 15, 1909, s. 10.

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

(a) Part XII. of this Act commenced on 1st January, 1911, that being the date on which the *Defence Act 1909*, by which Part XII. was inserted, was proclaimed to commence.

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—

- (a) The enlistment, appointment, promotion, discharge, and dismissal of members of the Defence Force; Para. (a) inserted by No. 36, 1917, s. 46, amended by No. 71, 1949, s. 18.
- (b) The regulation and good government of the Military College; Para. (b) substituted by No. 37, 1910, s. 12.
- (c) The enrolment of all persons liable to serve in the Citizen Forces in time of war and the choice by ballot or 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;
- (da) The deduction from the pay of any officer or member of the Military Forces 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; Para. (da) inserted by No. 3, 1915, s. 7*; amended by No. 71, 1949, s. 18.
- (db) The suspension, variation or cancellation by the prescribed authority of any allotment of pay made by an officer or member of the Military Forces; Para. (db) inserted by No. 71, 1949, s. 18.
- (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;
- (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. (g) amended by No. 36, 1917, s. 46.
- (ga) The execution of sentences of courts-martial and the suspension of the execution or currency thereof; Para. (ga) inserted by No. 36, 1917, s. 46.
- (gb) The validity and effect within Australia of sentences passed outside Australia upon, or punishments awarded outside Australia to, members of the Defence Force who are attached or lent to, or seconded for service outside Australia with, a force which is a Dominion Force or Home Force within the meaning of the *Defence (Visiting Forces) Act 1939*; Para. (gb) inserted by No. 71, 1949, s. 18.

* 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. See *Defence Act 1915*, s. 7 (2.).

Para. (k)
amended by
No. 47, 1918,
s. 14.

Para. (na)
substituted by
No. 71, 1949,
s. 18.

Para. (oa)
inserted by
No. 71, 1949,
s. 18.

Para. (pa)
inserted by
No. 1, 1927,
s. 2.

Para. (q)
amended by
No. 74, 1939,
s. 3 and
Schedule.

Para. (qa) to
(qf) inserted
by No. 71, 1949,
s. 18.

- (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;
- (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;
- (na) The regulation, control or prohibition of the construction or use of buildings, erections or installations, the use of apparatus, machines or vehicles, and the removal in whole or in part of buildings, erections, installations, apparatus, trees or other natural obstacles, within prescribed areas, being areas in which the regulation, control, prohibition or removal is necessary for the defence of the Commonwealth;
- (o) The establishment and conduct of canteens;
- (oa) The management and disposal of the funds and property of units of the Military Forces, including the funds and property of messes;
- (p) The regulation of artillery and rifle practice;
- (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, military or air-force operation or practice;
- (qa) The certification of death of members of the Defence Force who die while on service;
- (qb) The *post mortem* examination and disposal of the bodies of members of the Defence Force who die while on service;
- (qc) Prisoners of war;
- (qd) The command and discipline of bodies of the Naval, Military and Air Forces, or of any two of those Forces, when acting together;

- (qe) The administration of oaths to, the taking of affidavits of, and the attestation of the execution of documents by members of the Defence Force, and persons accompanying any part of the Defence Force, when serving outside Australia, including any such members or persons who are prisoners of war or interned in a place outside Australia;
- (qf) The execution and revocation of powers of attorney by persons under the age of twenty-one years who are members of the Defence Force and the validity and effect of powers of attorney executed by such persons;
- (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;^(a)
- (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.

Para. (ra)
inserted by
No. 3, 1915,
s. 7*.

Para. (s)
amended by
No. 3, 1915,
s. 7*.

(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, MILITARY OR AIR-FORCE TRAINING.^{†(b)(c)}

125. All male inhabitants of Australia (excepting those who are exempted by this Act), who have resided therein for six months,^(d)

Heading
amended by
No. 74, 1939,
s. 3 and
Schedule.

Persons who
are liable
to be trained.

Inserted by
No. 15, 1909,
s. 20.

Amended by
No. 37, 1910,
s. 13.

(a) See footnote (a) to s. 67, *supra*.

(b) This Part was inserted by Act No. 15, 1909, s. 20.

(c) 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. *Krepper v. Williams*, (1912) 15 C.L.R. 366; 18 A.L.J.R. 518.

(d) 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.

* 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.

and are British subjects, shall be liable to be trained, ^(a) as prescribed, as follows:—

- (a) From twelve years to fourteen years of age, in the Junior Cadets; and
- (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.

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:

Proviso omitted by No. 45, 1934, s. 2 and Fourth Schedule.

* * * * *

(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:

Proviso omitted by No. 45, 1934, s. 2 and Fourth Schedule.

* * * * *

Amended by No. 37, 1910, s. 14.

(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.

Duration of training.

Inserted by No. 15, 1909, s. 20.

Amended by No. 37, 1910, s. 15, and by No. 5, 1912, s. 12.

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:

Amended by No. 5, 1912, s. 12, and by No. 74, 1939, s. 3 and Schedule.

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 and to the Air Force 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:

(a) 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; 51 A.L.R. 518.

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:

Inserted by
No. 15, 1911,
s. 2.

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:

Amended by
No. 15, 1911,
s. 2.

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:

Added by No.
37, 1910, s. 15.
Amended by No.
15, 1911, s. 2,
and by No. 5,
1912, s. 12.

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:

Added by
No. 15, 1911,
s. 2.

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 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.

Added by
No. 15, 1911,
s. 2.

(2.) The regulations may provide that attendance at such drills as are prescribed shall be compulsory.

Compulsory
drills.

Added by No. 5,
1912, s. 12.

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:

Special
provision in
the case of
pupils at
educational
establishments.
Substituted by
No. 37, 1910,
s. 16.

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.

Persons
temporarily
unfit to be
trained in
Senior Cadets.
Substituted by
No. 36, 1917,
s. 47.

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.

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.

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.

Persons may serve voluntarily in Citizen Forces.

Inserted by No. 38, 1917, s. 48.

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.

Efficiency required.

Inserted by No. 15, 1909, s. 20.

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.

Employers may not prevent employees from serving.

Inserted by No. 15, 1909, s. 20.

Amended by No. 15, 1911, s. 3; by No. 36, 1917, s. 49; and by No. 74, 1939, s. 3 and Schedule.

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 is so serving or liable to serve^(a) 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 or by the Air Board, 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.^(b)

Penalty: One hundred pounds.

Inserted by No. 36, 1917, s. 49; amended by No. 16, 1918, 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

(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.

any time when he is absent from employment for the purpose of training in the Citizen Forces.

(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.

Amended by No. 15, 1911, 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.

Penalizing employees for rendering service.

Added by No. 3, 1915, s. 8.

135.—(1.) Every person who in any year, without lawful excuse,^(a) 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.

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 by No. 15, 1911, s. 4.

Inserted by No. 5, 1912, s. 13.

* * * * *

(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, 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

Amended by No. 5, 1912, s. 13.

(a) 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.J.R. 518.

which, in the opinion of the Court, would be taken up in rendering the personal service required.

Amended by
No. 36, 1914,
s. 12; and by
No. 47, 1918,
s. 15.

(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.

(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.

Sub-secs.
(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.

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 to gaol in default of payment of the pecuniary penalty imposed or costs awarded, as the Court thinks fit.

Total duration
of confinements
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.

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.

Offences by
Cadets to be
tried in
Children's
Courts.

Inserted by
No. 36, 1914,
s. 13.

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.

Disqualification
of persons who
evade service.

Inserted by
No. 15, 1909,
s. 20.

137. All persons employed upon sea-going vessels or upon aircraft registered in Australia, or upon vessels or upon aircraft 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 or upon such aircraft within the territorial limits of the Commonwealth shall be deemed residence in Australia.

Sea-going
persons.

Inserted by
No. 15, 1909,
s. 20.

Amended by
No. 74, 1939,
s. 3 and
Schedule.

PART XIII.—EXEMPTIONS FROM PERSONAL SERVICE.^(a)

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:—

Exemptions
from training
in time of
peace.

Inserted by
No. 15, 1909,
s. 20.

Sub-sec. (1.)
amended by
No. 36, 1917,
s. 50.

Para. (a)
amended by No.
74, 1939, s. 3
and Schedule.

(a) Those who have been reported by the prescribed medical authorities as unfit for any naval, military or air-force 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, military or air-force instruction or other prescribed course as Instructors or Officers of the Junior or Senior Cadets; and

Para. (c)
amended by No.
74, 1939, s. 3
and Schedule.

^(a) This Part was inserted by Act No. 15, 1909, s. 20.

Para. (d)
amended by No.
74, 1939, s. 3
and Schedule.

(d) Members of the Permanent Naval, Military or Air Forces; and

Para. (e)
added by
No. 36, 1914,
s. 14.

(e) Persons employed in the police or prison services of the Commonwealth or of a State; and

Para. (f)
added by
No. 36, 1914,
s. 14.

(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;

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.

Exemption
of theological
students.

Added by No. 37,
1910, s. 17;
amended by
No. 47, 1918,
s. 17.

(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.

Inserted by
No. 36, 1917,
s. 50.

(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.

Added by
No. 36, 1914,
s. 14.

(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*^(a) or not), or in any factory established in pursuance of this Act.

Burden of
proving
exemption.
Inserted by
No. 15, 1909,
s. 20.

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.

(a) Now the *Public Service Act, 1922-1950, infra*.

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 140A repealed by No. 36, 1914, s. 15.

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—

Persons not permitted to serve.

Inserted by No. 15, 1909, s. 20.

(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, MILITARY OR AIR FORCE TRAINING.^(a)

Heading amended by No. 74, 1939, s. 3 and 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—

Registration.

Inserted by No. 15, 1909, s. 20.

Amended by No. 5, 1912, s. 14; by No. 37, 1914, s. 16; and by No. 45, 1934, s. 2 and Fourth Schedule.

(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.

(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.

Inserted by No. 47, 1918, s. 18.

(2.) Any proceedings for an offence against this section may be instituted at any time within two years after the commission of the offence.

Added by No. 15, 1911, s. 5.

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

Offence of being unregistered.

Inserted by No. 47, 1918, s. 19.

Amended by No. 74, 1939, s. 3 and Schedule.

(a) This Part was inserted by Act No. 15, 1909, s. 20.

years and before he has attained the age of twenty-six years, not registered for naval, military or air-force training, shall be guilty of an offence.

Allotment to
arms and corps.
Inserted by
No. 15, 1909,
s. 20.

Amended by
No. 74, 1939,
s. 3 and
Schedule.

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 or the Air Force.

(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.^(a)

Inspection.
Inserted by
No. 15, 1909,
s. 20.

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.

Registered
address.
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.

Notices and
forms of
registration,
&c.

(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.

Record book.
Substituted by
No. 47, 1918,
s. 20.

146.—(1.) Every person who registers shall receive a Record Book in the prescribed form.

(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.^(b)

(a) See footnote (a) to s. 135, *supra*.

(b) 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.

PART XV.—MILITARY COLLEGE.^(a)

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.

148.—(1.) Subject to this section, a person who is not a graduate of the Military College as prescribed shall not be appointed an officer in the Australian Regular Army.

Appointment
of officers.
Substituted by
No. 71, 1949,
s. 19.

(2.) Any of the following persons may, notwithstanding that he is not a graduate of the Military College but subject to the regulations, be appointed as an officer in such position in, or corps of, the Australian Regular Army as is prescribed:—

- (a) a member of the Military Forces;
- (b) a person who has served with satisfactory record in time of war in—
 - (i) the Defence Force; or
 - (ii) any of His Majesty's Naval, Military or Air Forces;
 or
- (c) a person who possesses the prescribed technical or professional qualifications.

148A. A member of the Defence Force—

- (a) who has not attained the age of twenty-seven years;
 - (b) who has passed the prescribed examination; and
 - (c) is approved by the Governor-General,
- may be admitted, as prescribed, to the Military College.

Admission of
certain persons
to Military
College.
Inserted by
No. 71, 1949,
s. 19.

* * * * *

Ss. 149 and 150
repealed by
No. 37, 1910,
s. 21.

151. Officers attending the Military College shall receive such pay and allowances as may be prescribed.

Pay and
allowances.
Inserted by
No. 15, 1909,
s. 20.

* * * * *

S. 152 repealed
by No. 37, 1910,
s. 21.

(a) This Part was inserted by Act No. 15, 1909, s. 20.

SCHEDULES.

Section 6.

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>	South Australia
57 Vict. No. 1 ..	<i>Federal Garrison Act 1893</i>	Federal Council of Australasia

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.

Sections 37, 76.

THIRD SCHEDULE.^(a)

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.

(a) See footnote (a) to s. 76, *supra*.

DEFENCE FORCES RETIREMENT BENEFITS ACT 1948-1950.^(a)

An Act to provide Retirement Benefits for Members of the Permanent Defence Forces of the Commonwealth, and for other purposes.

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.

1. This Act may be cited as the *Defence Forces Retirement Benefits Act 1948-1950*.^(a)

Citation.
Short title amended
No. 32, 1918,
s. 2.
Commence-
ment.
2. This Act shall come into operation on a date to be fixed by Proclamation.^(a)
3. This Act is divided into Parts, as follows:—

Parts.
Amended by
No. 73, 1950,
s. 3.

 - Part I.—Preliminary.
 - Part II.—The Defence Forces Retirement Benefits Board.
 - Part III.—The Defence Forces Retirement Benefits Fund.
 - Part IV.—Contributions—

(a) The *Defence Forces Retirement Benefits Act 1948-1950* comprises the Acts set out in the following table:—

Act	Year and Number	Date of Assent	Date of Commencement
<i>Defence Forces Retirement Benefits Act 1948</i> ..	1948, No. 31 ..	26th June, 1948 ..	2nd July, 1948 (See <i>Gazette</i> , 1948, p. 2583)
<i>Defence Forces Retirement Benefits Act 1949</i> ..	1949, No. 37 ..	18th July, 1949 ..	2nd July, 1948
<i>Defence Forces Retirement Benefits Act 1950</i> ..	1950, No. 73 ..	15th December, 1950	15th December, 1950*

* Section 2 of the *Defence Forces Retirement Benefits Act 1950* reads:—

"2.—(1.) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.

(2.) The amendments of the Principal Act effected by paragraph (b) of section four, paragraph (a) of section nine, paragraphs (b) and (c) of section ten, paragraph (b) of section twenty-two and paragraph (b) of section twenty-three, and sections five, six, fourteen, nineteen, twenty and twenty-four of this Act shall be deemed to have come into operation on the date of commencement of the *Defence Forces Retirement Benefits Act 1948*.

(3.) Sub-section (3.) of section forty-one, inserted in the Principal Act by paragraph (b) of section nine of this Act, shall be deemed to have come into operation on the date of commencement of the *Defence Forces Retirement Benefits Act 1948*.

(4.) Sections forty-four and forty-seven, inserted in the Principal Act by sections eleven and twelve, respectively, of this Act, shall be deemed to have come into operation on the date of commencement of the *Defence Forces Retirement Benefits Act 1948*."

Section 30 of the *Defence Forces Retirement Benefits Act 1950* reads:—

"30.—(1.) The amount of pension payable to a person who is, at the date of commencement of this Act, in receipt of a pension under the Principal Act shall be increased by such amount (if any) as is necessary to raise the amount of pension to the amount which would have been payable if the pension had been granted under the Principal Act, as amended by this Act.

(2.) This section shall be deemed to have commenced to apply in respect of the payment of pension which fell due on the ninth day of November, One thousand nine hundred and fifty."

Division 1.—Contributions by members.

Division 2.—Scale of units.

Division 3.—Scale of contributions by members.

Division 4.—Contributions by the Commonwealth.

Division 5.—General provisions as to contributions.

Part V.—Pensions and Benefits—

Division 1.—Grant of pensions and benefits.

Division 2.—Commutation of pension.

Part VI.—Application of this Act to serving members.

Part VIA.—Application of this Act to members of the Nursing Services.

Part VII.—Miscellaneous.

Definitions.

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

“approved authority” means a prescribed authority of the Commonwealth;

“children” includes children adopted by a member and dependent on him at the time of his death;

“contributor” means a member who is or has been contributing under this Act to the Fund;

“initial engagement” means an engagement as a member which did not commence immediately upon the termination of a prior engagement as a member;

“member” means—

(a) a male member of the Permanent Naval Forces, the part of the Active Permanent Military Forces known as the Australian Regular Army or the Permanent Air Force on full-time continuous service, and includes a cadet enrolled at a naval, military or air force college but does not include—

(i) in the case of the Permanent Naval Forces—a member of the Naval Dockyard Police (Guard Section), an officer appointed for temporary service, an officer enrolled on the Emergency List or Retired List or a native member of the Papua and New Guinea Division; or

(ii) in the case of the Australian Regular Army—a native member of the Pacific Islands Regiment; or

(b) a female officer of the Royal Australian Army Nursing Service or the Royal Australian Air Force Nursing Service on full-time continuous service;

“officer” means—

(a) in relation to the Permanent Naval Forces—a member who is a commissioned officer, subordinate officer, warrant officer or branch officer, but does not include a petty officer;

Substituted by
No. 73, 1950,
s. 4.*

Amended by
No. 37, 1949,
s. 3.

* See footnote * to s. 1, *supra*.

- (b) in relation to the Permanent Military Forces—a member who is a commissioned officer; and
- (c) in relation to the Permanent Air Force—a member who is a commissioned officer,

and includes a cadet enrolled at a Naval, Military or Air Force College;

“rank” means—

Substituted by
No. 73, 1950,
s. 4.*

- (a) in relation to a member of the Permanent Naval Forces—confirmed rank;
- (b) in relation to a member of the Permanent Military Forces—the substantive rank to which the member has been appointed or promoted in his permanent corps or unit; and
- (c) in relation to a member of the Permanent Air Force—substantive rank;

“Reserve” means—

- (a) in relation to a member of the Permanent Naval Forces—the Emergency List of Officers or the Royal Australian Fleet Reserve;
- (b) in relation to a member of the Permanent Military Forces—the Reserve of Officers or the Australian Regular Army Reserve; and
- (c) in relation to a member of the Permanent Air Force—the Air Force Reserve;

“retiring age for the rank held”, in relation to a member, means the age for compulsory retirement of a member of the rank, branch and group of the member as prescribed, for the purposes of this Act, by regulations under this Act in force at the date of his retirement, or, if at that date no such age is so prescribed, as prescribed at the date of the commencement of this Act—

Amended by
No. 73, 1950,
s. 4.*

- (a) in the case of the Permanent Naval Forces—under section seventeen of the *Naval Defence Act 1910-1934*;
- (b) in the case of the Permanent Military Forces—under section twenty-seven of the *Defence Act 1903-1947*; and
- (c) in the case of the Permanent Air Force—under section nine of the *Air Force Act 1923-1941*;

“retirement”, in the case of a member not being an officer, includes discharge;

“service” means service as a member;

“Service Board” means—

- (a) in relation to the Permanent Naval Forces—the Naval Board;

* See footnote * to s. 1, *supra*.

(b) in relation to the Permanent Military Forces—the Military Board; and

(c) in relation to the Permanent Air Force—the Air Board;

“service for pension” means full-time continuous service as a member after attaining the age of twenty years, but does not include, in the case of a member not being an officer, any such service which was not served under engagement for a definite term;

“Service Minister” means—

(a) in relation to the Permanent Naval Forces—the Minister for the Navy;

(b) in relation to the Permanent Military Forces—the Minister for the Army; and

(c) in relation to the Permanent Air Force—the Minister for Air;

“Service Regulations” means—

(a) in relation to the Permanent Naval Forces—the Naval Forces Regulations and includes the Naval Financial Regulations;

(b) in relation to the Permanent Military Forces—the Australian Military Regulations and includes the Financial (Military) Regulations; and

(c) in relation to the Permanent Air Force—the Air Force Regulations;

“the Board” means the Defence Forces Retirement Benefits Board constituted by this Act;

“the Fund” means the Defence Forces Retirement Benefits Fund established under this Act;

“the Service” means the Permanent Naval Forces, the Permanent Military Forces or the Permanent Air Force as the case requires;

“the Superannuation Fund” means the Superannuation Fund established under the *Superannuation Act 1922-1948*.

(2.) In this Act, any reference to a Schedule shall be read as a reference to a Schedule to this Act.

PART II.—THE DEFENCE FORCES RETIREMENT BENEFITS BOARD.

Constitution of
Defence Forces
Retirement
Benefits Board.

5.—(1.) There shall be a Defence Forces Retirement Benefits Board which shall consist of the following members:—

(a) the President of the Superannuation Board constituted by the *Superannuation Act 1922-1948*;

(b) the Commonwealth Actuary;

(c) a person to represent the Treasury;

(d) a person to represent the Permanent Naval Forces;

(e) a person to represent the Permanent Military Forces; and

(f) a person to represent the Permanent Air Force.

(2.) The member of the Board representing the Treasury shall be appointed by the Governor-General.

(3.) Each member of the Board representing one of the Forces shall be appointed by the Governor-General after nomination by the relevant Service Board and approval of the relevant Service Minister.

(4.) Each member of the Board representing one of the Forces shall, subject to section seven of this Act, hold office for a term of two years.

(5.) The President of the Superannuation Board shall be the Chairman of the Board and in his absence the Commonwealth Actuary shall act as Chairman and in the event of the absence of both the President and the Commonwealth Actuary, the representative of the Treasury shall act as Chairman.

6. In the case of the illness or absence of any member of the Board, the Treasurer may appoint a deputy to act for such member during his illness or absence, and every deputy so appointed shall, while so acting, have all the powers and authority of the member, but no deputy so appointed shall act as Chairman. Appointment of deputies.

7. Where in the opinion of the Governor-General it is desirable or necessary to terminate any appointment made under section five of this Act, he may terminate that appointment accordingly. Termination of appointments.

8. The Chairman shall, at meetings of the Board, have a deliberative vote and, in the event of an equality of votes on any question he shall also have a casting vote. Voting at meetings.

9. The members of the Board shall be paid such remuneration as the Treasurer from time to time determines. Remuneration of members.

10.—(1.) Notice of any meeting of the Board shall be given by the Chairman personally or by post to all the members. Quorum.

(2.) Four members of the Board shall constitute a quorum for the purpose of transacting the business at any meeting.

11.—(1.) The Board shall be a body corporate, and shall have perpetual succession and a common seal. Incorporation of Board.

(2.) The seal of the Board shall not be attached to any document except on resolution of the Board, and shall be authenticated by the signatures of two members of the Board.

12.—(1.) The Board may, in relation to any particular matters or class of matters, by writing under its seal, delegate to any member of the Board all or any of its powers under this Act (except this power of delegation), so that the delegated powers may be exercised by that member with respect to the matters or class of matters specified in the instrument of delegation. Delegation.

(2.) Every delegation under this section shall be revocable at will, and no delegation shall prevent the exercise of any power by the Board.

Cost of
management.

13.—(1.) The cost of the administration of this Act shall be paid out of moneys appropriated from time to time by the Parliament for the purpose.

(2.) The moneys received and paid under this section, and the accounts in connexion therewith, shall be kept, as part of the Public Account, separately from the moneys and accounts of the Fund.

Reports.

14. The Board shall, in each year, submit to the Treasurer, to be laid before both Houses of the Parliament, a report dealing with the general administration and working of this Act.

PART III.—THE DEFENCE FORCES RETIREMENT BENEFITS FUND.

Establishment
of the Fund.

15.—(1.) There shall be a Defence Forces Retirement Benefits Fund, into which shall be paid the contributions of members and payments by the Commonwealth under this Act, and from which shall be paid the benefits provided for in this Act.

(2.) Income derived from the investment of the Fund shall form part thereof.

(3.) The income of the Fund shall not be subject to taxation by the Commonwealth or a State.

Investment of
Fund.

16. The assets of the Fund shall, so far as practicable, be invested by the Board—

- (a) in securities of the Commonwealth;
- (b) in loans to local governing bodies in Australia; or
- (c) in any other manner for the time being allowed by any Act or State Act for the investment of trust funds in Australia.

General
Account
and Pensions
Account.

17.—(1.) The Board shall maintain within the Fund—

- (a) a General Account; and
- (b) a Pensions Account.

(2.) Contributions by members under this Act and payments under the provisions of section thirty-three, of sub-section (4.) of section seventy-eight, and of section eighty-two, of this Act by the Commonwealth shall be credited to the General Account.

(3.) Payments by the Commonwealth pursuant to sections thirty-two and thirty-four of this Act shall be credited to the Pensions Account.

(4.) Income derived from the investment of the Fund shall be credited to the Pensions Account.

(5.) In respect of each year after the establishment of the Fund, interest at the prescribed rate on the mean balance of the General Account during that year shall be debited to the Pensions Account and credited to the General Account.

(6.) Where under this Act provision is made for the refund of any contributions or for the payment of a gratuity the refund or payment shall be debited to the General Account.

(7.) Where under this Act a pension becomes payable payments of the pension shall be debited to the Pensions Account.

(8.) Amounts may be transferred from the General Account to the Pensions Account whenever, in the opinion of the Board, it is necessary to do so.

18. Moneys held uninvested by the Board may be lodged either at call or on fixed deposit, or partly at call and partly on fixed deposit, with the Treasurer or with the Commonwealth Bank, and while in the bank shall be held to be moneys of the Crown.

Moneys uninvested may be lodged with Treasurer or in Bank.

19. Cheques drawn by the Board on any account in the Commonwealth Bank shall be signed as prescribed.

How cheques signed.

20. The accounts relating to the Fund shall be audited by the Auditor-General.

Audit.

21. The Board may borrow for, and the Treasurer may lend to, the Fund, moneys not exceeding two-thirds of the amount of, and on the security of, moneys of the Fund invested in Commonwealth securities.

Borrowing.

22.—(1.) An investigation as to the state and sufficiency of the Pensions Account shall be made as at the thirtieth day of June immediately following the expiration of five years after the commencement of this Act and thereafter at intervals of not less than five years.

Quinquennial investigation by Commonwealth Actuary.

(2.) The investigation shall be made by the Commonwealth Actuary.

(3.) The Commonwealth Actuary shall report to the Board the result of his investigation, and shall state whether the Pensions Account is sufficient to provide for the benefits which are a charge upon that account, and shall also certify the amount which, in his opinion, is the amount of the surplus or deficiency.

(4.) The Board shall inform the Treasurer of the result of any investigation made under the provisions of this section.

PART IV.—CONTRIBUTIONS.

Division 1.—Contributions by Members.

23.—(1.) Every member shall (except as otherwise provided in this Act) contribute to the Fund from such date as the Governor-General notifies in the *Gazette*^(a) (in this Act referred to as “the appointed date”) or, in the case of a member who becomes a member after the date so notified, from the date when he so becomes a member.

Commencement and cessation of contributions.

(2.) A member shall not be required to contribute to the Fund prior to his attaining the age of eighteen years.

(a) The date notified was 2nd July, 1948. See *Gazette*, 1948, p. 2705.

(3.) A member (not being an officer) serving under an initial engagement for a period of less than six years, shall not contribute to the Fund.

Amended by
No. 37, 1949,
s. 4.

(4.) The contributions of a member shall, subject to this section, cease to be paid when he ceases to be a member, or, in respect of each unit or part of a unit, immediately after the last fortnightly payment before the anniversary of his initial contribution in respect thereof next preceding the attainment by him of the age of sixty years, whichever first happens.

Substituted by
No. 37, 1949,
s. 4.

(5.) Where a member increases his contributions—

- (a) within twelve months before he attains the age of sixty years and a pension to which section forty-five of this Act applies is payable to him; or
- (b) in such circumstances that an increased pension is payable as a result of the increased contributions,

twenty-six contributions at the fortnightly rate applicable to the member in respect of each unit or part of a unit in relation to which his contributions are increased shall be paid before pension at the rate provided by this Act shall become payable.

Inserted by
No. 37, 1949,
s. 4.

(5A.) Where a member (not being a member to whom section seventy-seven or seventy-nine of this Act applies) retires within twelve months after the date on which he commenced to contribute to the Fund, twenty-six contributions at the fortnightly rate applicable to the member in respect of each unit or part of a unit for which contributions are being made shall be paid before pension at the rate provided by this Act shall become payable.

Inserted by
No. 37, 1949,
s. 4.

(5B.) The last two preceding sub-sections shall not apply to a member who retires on the ground of invalidity or of physical or mental incapacity to perform his duties or who dies before his retirement.

Amended by
No. 37, 1949,
s. 4.

(6.) For the purposes of sub-sections (4.), (5.) and (5A.) of this section the initial contribution of a member in respect of any unit or part of a unit shall be deemed to have been made on the date as from which the contribution became payable.

Contributions
under
*Superannuation
Act 1922-1948.*

24. Where a member, prior to becoming a contributor under this Act, was a contributor under the *Superannuation Act 1922-1948* and the reserve value held in respect of the contributions made by him under that Act has been paid from the Superannuation Fund into the Fund pursuant to the provisions of section eighty-two of this Act, the contributions made by him in respect of units of pension under that Act shall, for the purposes of this Act, be deemed to be contributions in respect of units under this Act.

Cessation of
membership.

25.—(1.) For the purposes of this Act, a member shall cease to be a member—

- (a) in the case of an officer—on the date of his retirement, or

if his commission is cancelled, on the date on which the cancellation takes effect; and

(b) in the case of a member other than an officer—on the date of his discharge.

(2.) Notwithstanding anything contained in the last preceding sub-section, a member (other than an officer) who is a contributor and is—

Added by
No. 73, 1950,
s. 5.*

(a) discharged from the Service; and

(b) appointed as an officer of the Service without any break in the continuity of his service,

shall not cease to be a member for the purposes of this Act by reason of being so discharged.

26.—(1.) Where a person became or becomes a member prior to the thirtieth day of June, One thousand nine hundred and fifty-one, he may elect to have the whole or any part of any period of full-time service by him as a member of the Defence Force of the Commonwealth after attaining the age of twenty years, and subsequent to the third day of September, One thousand nine hundred and thirty-nine, but prior to the date of his becoming a member for the purposes of this Act taken into account for the purposes of pension under this Act, and, on his so electing, that period of service or part thereof, as the case may be, shall be taken into account for the purposes of pension only.

Counting of
previous
service.

Amended by
No. 73, 1950,
s. 6.*

(2.) Where a member to whom the last preceding sub-section applies elects to have a period of service taken into account for the purposes of pension, he shall pay contributions of such amounts, and during such period, as the Board determines.

(3.) For the purposes of this section “service” includes full-time service although it was not under engagement for a definite term.

27.—(1.) Where a member (not being an officer), who is serving under an engagement for a term not less than six years, had commenced to serve the engagement forthwith upon completing an engagement of three years in the Defence Force of the Commonwealth, he may elect to have the whole or any part of the period served by him under that prior engagement, after attaining the age of twenty years, taken into account for the purposes of pension under this Act, and on his so electing that period or that part thereof shall be taken into account for the purposes of pension only.

Counting of
service under
short-term
engagement.

(2.) Where a member to whom the last preceding sub-section applies elects to have a period of service so served by him taken into account for the purposes of pension, he shall pay contributions of such amounts, and during such period, as the Board determines.

* See footnote * to s. 1, *supra*.

Division 2.—Scale of Units.

Scale of units.

28.—(1.) Subject to this Act, contributions by a member shall be in respect of units and the number of units in respect of which a member shall contribute shall have relation to his daily pay in accordance with the scale set out in the First Schedule.

Amended by
No. 73, 1950,
s. 7.

(2.) For the purposes of this Act, the daily pay of a member shall be the sum of the following amounts calculated on a daily basis:—

- (a) the amount prescribed for the purposes of this paragraph by regulations under this Act applicable to the rank, branch, group and period of service of the member; and
- (b) such pay allowances, payable to the member under the relevant Service Regulations, as are specified in regulations under this Act.

(3.) If the daily pay of a member is increased and, by reason of that increase, falls within a pay group in column One of the scale contained in the First Schedule higher than the pay group in which it fell prior to the increase, the number of units in respect of which the member shall contribute shall be increased to the number specified in column Two of that scale opposite to the pay group within which his increased pay falls.

(4.) Any increased contribution payable in pursuance of the last preceding sub-section shall be payable as from the date upon which the daily pay at the increased rate becomes payable:

Provided that, where the date from which any increased contribution is payable is not a pay day, the increased contribution shall be payable as from the next following pay day.

Reduction in
contributions.
Amended by
No. 37, 1949,
s. 5.

29. Where the daily pay of a member is or has been reduced and by reason of that reduction in pay falls within a pay group in column One of the scale contained in the First Schedule lower than the pay group in which it fell prior to the reduction, the number of units in respect of which he shall contribute shall be reduced to the number appropriate to the pay group within which his reduced pay falls.

*Division 3.—Scale of Contributions by Members.*Contributions,
how
ascertained.

30. The amount of contribution which shall be paid by a member shall, except where otherwise provided in this Act, be based upon—

- (a) the number of units or parts of units in respect of which the member is required to contribute; and
- (b) the age at which the member commences to contribute for each unit or part of a unit.

Tables of
contributions
in Schedules.

31. The contributions payable by members under this Act shall, except as otherwise provided in this Act, be in accordance with the table of contributions set out in the Second Schedule.

Division 4.—Contributions by the Commonwealth.

32.—(1.) In respect of each payment of pension paid under this Act from the Fund to or in respect of a member, the Commonwealth shall pay to the Fund such sum (if any) as, on the advice of the Commonwealth Actuary, should be paid by the Commonwealth to the Fund as the result of the application of the following formula:—

Calculation of contributions by Commonwealth.

$$\frac{(A - B)}{A} \times C.$$

(2.) For the purpose of making calculations in accordance with the formula contained in the last preceding sub-section—

- (a) A means the capital value, as at the date when contributions by the member cease to be payable, and at the prescribed rate of interest, of the pensions which become, and may become, payable to or in respect of the member;
- (b) B means the accumulated value, as at the date when contributions by the member cease to be payable, and at the prescribed rate of interest, of the contributions paid to the Fund by the member (including any amount of deferred pay and interest thereon paid to the Fund under the provisions of sub-section (4.) of section seventy-eight of this Act, and any amount paid from the Superannuation Fund into the Fund under the provisions of section eighty-two of this Act); and
- (c) C means the amount of each payment of pension:

Provided that, if the member is entitled to a refund of contributions as well as to pension, the accumulated value as represented by B shall be reduced by the amount of the contributions to be refunded.

33. In respect of a payment of benefit made to a member in accordance with the provisions of this Act, other than a benefit by way of pension, the Commonwealth shall pay to the Fund a sum representing the excess of the amount of benefit payable over the accumulated value, as at the date of payment and at the prescribed rate of interest, of the contributions paid to the Fund by the member (including any amount of deferred pay and interest thereon paid to the Fund under the provisions of sub-section (4.) of section seventy-eight of this Act and any amount paid from the Superannuation Fund into the Fund under the provisions of section eighty-two of this Act):

Payments by Commonwealth in respect of benefits other than pensions.

Provided that, if the member is entitled to a pension as well as to a refund of contributions, the Commonwealth shall pay to the Fund the amount of the gratuity (if any) payable to the member.

34. If as the result of any investigation of the Pensions Account made in pursuance of section twenty-two of this Act the Commonwealth Actuary certifies—

Application of surplus.

- (a) that there is a surplus in the Pensions Account—the Treasurer may direct that the whole or any part of the surplus shall be used to reduce, during such period as the Treasurer specifies, the payments by the Commonwealth to the Fund; or
- (b) that there is a deficiency in the Pensions Account—the Treasurer may direct that additional sums, not exceeding in the aggregate the amount of the deficiency, shall be paid, in such amounts and during such period as he specifies, by the Commonwealth to the Fund.

Appropriation.

35.—(1.) Payments by the Commonwealth to the Fund for the purposes of this Act shall be made from the Consolidated Revenue Fund which is hereby appropriated accordingly.

(2.) The payments shall be made in such manner and at such periods as are prescribed.

Division 5.—General Provisions as to Contributions.

Contributions while on leave.

36. A member who is on leave of absence, either with or without pay, shall pay his contributions during or in respect of the period of leave, as for a period of service, without reduction.

Deduction of contributions.

37. The contributions of members shall be deducted fortnightly from their pay and shall be paid, without deduction for postage, forwarding or exchange, to the Board:

Provided that, where a member is on leave of absence through illness, either without pay or at less than full pay, the Board may, upon his application, permit the contributions falling due during his absence to be paid by him in such smaller sums, and at such periods, as the Board approves.

PART V.—PENSIONS AND BENEFITS.

Division 1.—Grant of Pensions and Benefits.

Pension on retirement after twenty years' service for pension—officers.

38.—(1.) An officer who is a contributor and who has completed twenty years' service for pension shall be entitled to a pension on his retirement on or after attaining the retiring age for the rank held by him.

(2.) Subject to the provisions of section fifty of this Act, the pension payable under this section shall be the pension set out, opposite the rank of the officer, in the Third Schedule.

Pension on retirement after fifteen years' service for pension—officers.

39.—(1.) An officer who is a contributor and who has completed fifteen years' service for pension, but has not completed twenty years' service for pension, shall be entitled to a pension on his retirement on or after attaining the retiring age for the rank held by him.

(2.) Subject to the provisions of section fifty of this Act, the pension payable under this section shall be the pension set out opposite the rank of the officer in the Third Schedule, less a deduction for

each year or part of a year by which his service for pension is less than twenty years.

(3.) The deduction under the last preceding sub-section shall be calculated in accordance with the scale of deductions set out in the Fourth Schedule.

40. An officer who is a contributor shall, on retirement on or after attaining the retiring age for the rank held—

(a) if he has, at the date of retirement, completed ten years' service for pension but has not completed fifteen years' service for pension—be entitled to a refund of the amount of his contributions and to receive as a gratuity—

Benefits after less than fifteen years' service for pension—officers.
Amended by No. 73, 1950, s. 8.

(i) a sum equal to one and one-half times the amount of those contributions; and

(ii) where he has completed more than twelve years' service for pension, a sum equal to one-half of the amount of the contributions paid by him after the completion of that service (but not including contributions paid before the date on which this paragraph came into operation, or so much of any fortnightly contribution as exceeds Eighteen shillings); or

(b) if he has not, at the date of retirement, completed ten years' service for pension—be entitled to a refund of the amount of his contributions.

41.—(1.) A member (not being an officer) who is a contributor and who has completed twenty years' service for pension shall be entitled to a pension on his retirement after completion of his engagement or, if he has had successive and continuous engagements, after completion of the last of those engagements.

Pensions after twenty years—other ranks.
Amended by No. 73, 1950, s. 9.*

(2.) Subject to the provisions of section fifty of this Act, the pension payable under this section shall be the pension set out in column Four of the Fifth Schedule, opposite the rank held by the member on his retirement, together with, in the case of a member who has completed more than twenty years' service for pension prior to attaining the retiring age for his rank, an additional pension for each completed year of such service in excess of twenty years, at the rate set out in column Five of that Schedule, opposite the rank held by him on retirement.

(3.) Where a member is entitled to a pension under this section, he shall, in addition to that pension, be entitled on retirement to a refund of the amount of the contributions (but not including, in the case of a member to whom sub-section (5.) of section twenty-three of this Act applies, the twenty-six contributions referred to in that sub-section) paid by him in respect of a period subsequent to—

Substituted by No. 73, 1950, s. 9.*

* See footnote * to s. 1, *supra*.

- (a) in the case of a member who completes his twentieth year of service for pension prior to the date of his attaining the retiring age for his rank—the completion of the last year of service for pension which was completed prior to that date; or
- (b) in the case of any other member—the completion of his twentieth year of service for pension,

and to be paid a gratuity equal to one and one-half times the amount of those contributions.

Sub.-sec. (4.)
added by No.
73, 1950, s. 9.*

(4.) Where the Commonwealth Actuary certifies that the value of the benefits payable to a member under this section exceeds the value of the benefits as at age sixty which the member would have received if he had continued to serve until he had attained that age and had continued during that service to contribute for the same number of units as he was contributing for at the date of his retirement, he shall be entitled to receive so much only, as certified by the Commonwealth Actuary, of the gratuity otherwise payable under this section as, together with the value of the other benefits to which he is entitled under this section, does not exceed the value of the benefits as at age sixty referred to in this sub-section.

Gratuity
where not
pensionable—
other ranks.
Amended by
No. 73, 1950,
s. 10.*

42.—(1.) Subject to this section, a member (not being an officer) who is a contributor and who, on retirement after completion of his engagement, or, if he has had successive and continuous engagements, after completion of the last of those engagements, is not entitled to a pension under the provisions of the last preceding section, shall, on retirement, be entitled to a refund of the amount of any contributions paid by him under this Act and to receive a gratuity equal to—

- (a) one and one-half times the amount of those contributions and, where he has completed more than twelve years' service for pension, a sum equal to one-half of the amount of the contributions paid by him after the completion of that service (but not including contributions paid before the date on which this paragraph came into operation, or so much of any fortnightly contribution as exceeds Eighteen shillings); or
- (b) an amount of Twenty pounds for each completed year of service for pension,

whichever is the greater.

Amended by
No. 73, 1950,
s. 10.*

(2.) In the case of a member who on retirement—

- (a) has not completed twelve year's service for pension—the amount of the gratuity shall not, except as provided in the next succeeding sub-section, be greater than One hundred and twenty pounds; and
- (b) has completed twelve years' service for pension—the gratuity shall not be less than a sum calculated at the

* See footnote * to s. 1 *supra*.

rate of Thirty pounds for each completed year of service for pension.

(2A.) In the case of a member who has completed not less than six years' service for pension and retires on or after attaining the retiring age for his rank but prior to the completion of twelve years' service for pension, the gratuity which he is entitled to receive under this section shall be a sum calculated at the rate of Twenty pounds for each completed year of service for pension.

Inserted by
No. 73, 1950,
s. 10.

(3.) If a member to whom this section applies, is on retirement requested by the Service Board to serve on the Reserve maintained by the Service of which he was a member, and does not agree so to serve—

- (a) in the case of a member who on retirement has not completed twelve years' service for pension—he shall not be entitled to be paid any gratuity under this section; and
- (b) in the case of a member who on retirement has completed twelve years' service for pension—the gratuity to which he shall be entitled under this section shall be a sum calculated at the rate of Twenty pounds for each completed year of service for pension.

(4.) For the purpose of this section "service for pension" shall be deemed to include any service after the thirtieth day of June, One thousand nine hundred and forty-seven, as a member, prior to attaining the age of twenty years, under the engagement or successive and continuous engagements referred to in sub-section (1.) of this section, but does not include any period of such service under an initial engagement of less than six years.

43. Except as otherwise provided in this Act, where a member (not being an officer), who is a contributor, retires before completing the engagement under which he was serving immediately prior to his retirement, he shall be entitled to a refund of the amount of any contributions paid by him under this Act in respect of the period served under the uncompleted engagement and shall also be entitled, as from the date of his retirement, to the pension or benefits (if any) to which he would have been entitled if he had retired immediately before commencing to serve under that engagement:

Non-com-
pletion of
engagement.

Provided that a member who has completed twenty years' service for pension prior to attaining the retiring age for his rank and retires with the approval of the Service Board shall not be entitled to a refund under this section, but shall be entitled to the same pension as that to which he would have been entitled if the pension had been granted under section forty-one of this Act and if the engagement, which was uncompleted at the date of his retirement, had been an engagement for the completed portion thereof and he had retired on the completion of that engagement.

Completion of
engagement.
Substituted by
No. 73, 1950,
s. 11.†

44.—(1.) Subject to this section, a member shall not, for the purposes of the last three preceding sections, be deemed to have completed an engagement unless he has served under the engagement up to the date upon which the engagement was due to terminate.

(2.) Subject to the next succeeding sub-section, where a member—

- (a) has engaged to serve for a period of twelve years;
- (b) has completed not less than six years' service, but less than twelve years' service, under that engagement;
- (c) retires with the approval of the Service Board or is discharged for reasons other than disciplinary reasons; and
- (d) agrees, if requested by the Service Board so to do, to serve on the Reserve maintained by the Service of which he was a member,

then, for the purposes of section forty-two of this Act, that engagement shall be deemed to have been for a period of six years and that member shall be deemed to have completed that engagement.

(3.) For the purposes of section forty-two of this Act, where a member—

- (a) has engaged to serve for a period exceeding six years;
- (b) has completed not less than six years' service for pension but less than twelve years' service for pension; and
- (c) retires with the approval of the Service Board on or after attaining the retiring age for his rank,

that engagement shall be deemed to have been for the period served up to the date of his retirement and that member shall be deemed to have completed that engagement.

Pension on
retiring at age
sixty or
over.

Substituted by
No. 73, 1950,
s. 11.*

45. Notwithstanding anything contained in sections thirty-eight, thirty-nine, forty, forty-one and forty-two of this Act—

- (a) if a member to whom any of those sections applies retires, on or after attaining the age of sixty years, he shall be entitled on retirement, in lieu of any pension or payment under any of those sections, to a pension—
 - (i) where the number of units for which contributions have been completed up to the age of sixty years does not exceed eight—at the rate of Thirty-nine pounds per annum in respect of each of those units; or
 - (ii) where the number of units for which contributions have been completed up to the age of sixty years exceeds eight—at the rate of Thirty-nine pounds per unit per annum in respect of eight of those

* Section 11 (2) of the *Defence Forces Retirement Benefits Act 1950* reads:—

“Section forty-five of the Principal Act shall be deemed to have had effect, at all times prior to the commencement of this Act, as if the words “and forty-one” had been omitted and the words “, forty, forty-one and forty-two” had been inserted in their stead.”

† See footnote * to s. 1, *supra*.

units and the rate of Thirty-two pounds ten shillings per unit per annum in respect of the remaining units; and

- (b) if any such member retires not less than one year after attaining the age of sixty years, the pension payable to him shall be increased by an amount ascertained by multiplying the portion of the pension which is the actuarial equivalent of the contributions paid by him by a percentage ascertained in accordance with the following table:—

Age attained on retirement.					Percentages.
61 years	..	..	..	..	5
62 years	..	..	..	..	10
63 years	..	..	..	..	16
64 years	..	..	..	..	23
65 years or over	..	..	..	..	31

46.—(1.) Where the retiring age for the rank held by an officer who is entitled to a pension under either section thirty-eight or thirty-nine of this Act is not less than fifty-seven years, and the officer continues to serve beyond that retiring age but retires before attaining the age of sixty years, and the pension to which he is entitled under that section is less than the pension which would have been payable to him if he had continued to serve until he attained the age of sixty years, he shall on retirement be entitled, in addition to the pension payable to him under that section, to an additional pension for each completed year of service beyond the retiring age for the rank held by him, and the additional pension shall be calculated as provided in the next succeeding sub-section.

Retirement
after age
fifty-seven—
officers.

(2.) For the purpose of the last preceding sub-section, the additional pension for each completed year of service beyond the retiring age for the rank held on retirement shall be calculated by dividing the difference between the pension payable to the officer under either section thirty-eight or thirty-nine of this Act, whichever is applicable, and the pension which would have been payable to him if he had continued to serve until he attained the age of sixty years, by the number of years by which the retiring age for the rank held is less than sixty years.

(3.) Any contributions (but not including, in the case of a member to whom sub-section (5.) or (5A.) of section twenty-three of this Act applies, the twenty-six contributions referred to in that sub-section) paid by an officer to whom this section applies, in respect of an incomplete year of service beyond the retiring age for the rank held, shall, on his retirement, be refunded to him and he shall be entitled to receive a gratuity equal to one and one half times the amount of those contributions.

Amended by
No. 37, 1949,
s. 7.

Gratuity payable to an officer for service after age for retirement.

Substituted by No. 73, 1950, s. 12.*

47. Where an officer who is a contributor, not being an officer to whom either of the last two preceding sections applies, continues to serve beyond the retiring age for the rank held by him and is, on retirement, entitled to a pension under section thirty-eight or thirty-nine of this Act, he shall, on retirement, be entitled, in addition to that pension, to a refund of the amount of any contributions (but not including, in the case of a member to whom sub-section (5.) or (5A.) of section twenty-three of this Act applies, the twenty-six contributions referred to in that sub-section) paid by him in respect of—

- (a) the period served after the attainment by him of the retiring age for the rank held by him; or
- (b) the period served after the completion of the period of service for pension which qualified him for the pension to which he is entitled,

whichever is the shorter, and to receive a gratuity equal to one and one-half times the amount of those contributions.

Reduction in gratuity in certain circumstances.

Inserted by No. 73, 1950, s. 12.

47A. Where the Commonwealth Actuary certifies that the value of the benefits payable to an officer under this Act exceeds the value of the benefits as at age sixty which the officer would have received if he had continued to serve until he had attained that age and had continued during that service to contribute for the same number of units as he was contributing for at the date of his retirement, he shall be entitled to receive so much only, as certified by the Commonwealth Actuary, of any gratuity otherwise payable under this Act as, together with the value of the other benefits to which he is entitled under this Act, does not exceed the value of the benefits as at age sixty referred to in this section.

Retirement before reaching retiring age.

48.—(1.) Where an officer who is a contributor retires before reaching the retiring age for the rank held by him (otherwise than on the ground of invalidity or of physical or mental incapacity to perform his duties) and the Board is satisfied that the purpose of the retirement of the officer is to meet the needs of the Service he shall be entitled to benefits in accordance with the provisions of this section.

(2.) If, at the date of retirement of the officer, he has completed twenty years' service for pension, he shall, subject to section fifty of this Act, and to the next two succeeding sub-sections, be entitled on retirement to a pension in accordance with section thirty-eight of this Act, for the rank held by him less a deduction, in accordance with the scale of deductions set out in the Fourth Schedule, in respect of each year or part of a year by which his age is less than the retiring age for the rank held by him.

(3.) Where the officer referred to in the last preceding sub-section, had, at the date of his retirement, completed the period of service

* See footnote * to s. 1, *supra*.

for pension, set out opposite the rank held by him, in the scale in the Sixth Schedule—

- (a) if the date of retirement is within two years of the date of his attaining the retiring age for the rank held by him— he shall on retirement be entitled to a pension, in accordance with section thirty-eight of this Act, for the rank held by him, and no deduction shall be made therefrom; or
- (b) if the date of retirement is not within two years of the date of his attaining the retiring age for the rank held by him—the deduction to be made from the pension shall be determined by subtracting two years from the number of years by which his age is less than the retiring age for the rank held by him.

(4.) The pension payable to an officer under either of the last two preceding sub-sections shall not be reduced by deductions to a pension less than that to which he would have been entitled if he were an officer of the next lower rank and had retired at the same age.

(5.) If, at the date of his retirement the officer has not completed twenty years' service for pension, but has completed twelve years' service for pension, he shall be entitled to a refund of the amount of his contributions and to receive a gratuity equal to—

Amended by
No. 73, 1950,
s. 13.

- (a) one and one-half times the amount of those contributions and, a sum equal to one-half of the amount of the contributions paid by him after the completion of twelve years' service for pension (but not including contributions paid before the date on which this paragraph came into operation, or so much of any fortnightly contribution as exceeds Eighteen shillings); or
- (b) an amount of Thirty pounds for each completed year of service for pension,

whichever is the greater.

(6.) If, at the date of his retirement the officer has completed less than twelve years' service for pension, he shall be entitled to a refund of the amount of his contributions.

49. If the retiring age for the rank held by a member who is an officer is, at any time after the commencement of this Act, lowered or raised, any pension or benefit payable under this Act to or in respect of that member shall be such as is prescribed:

Alteration of
retiring age—
officers.

Provided that, where the retiring age has been raised, the rate of pension or benefit so prescribed shall not be less than the rate of pension or benefit which would be payable to or in respect of the member under this Act if the retiring age had not been raised.

50.—(1.) Notwithstanding anything contained in this Act, if any member who on retirement is entitled to a pension under this Act is, on retirement, requested by the Service Board to serve on the Reserve

Service on
Reserve.

maintained by the Service of which he was a member, and does not agree so to serve, the pension payable to that member shall be two and one half times the pension which is the actuarial equivalent of the value of the contributions made by him, accumulated at the prescribed rate of interest and at the date when his contributions cease to be payable, after excluding any contributions refunded to him.

(2.) If the member on retirement agrees so to serve on that Reserve and, at any time thereafter, is released at his own request from his agreement, the pension payable to him, as from the date of his release, shall be the pension which would have been payable to him under the last preceding sub-section if he had not agreed so to serve on that Reserve.

(3.) When any member to whom the last preceding sub-section applies is, at his own request, released from his agreement, the Service Board shall forthwith notify the Board of the release.

Classification
of percentage
of incapacity.
Amended by
No. 73, 1950,
s. 14.*

51. Where a member who is a contributor has been, or is about to be, retired, prior to attaining the retiring age for the rank held by him, on the ground of invalidity or of physical or mental incapacity to perform his duties, not, in the opinion of the Board, due to wilful action on his part for the purpose of obtaining pension or benefit, the Board shall determine the percentage of total incapacity of the member in relation to civil employment and shall classify the member according to the percentage of incapacity as follows:—

Percentage of Incapacity.	Class.
60 or over	A.
30 and less than 60	B.
Under 30	C.

Pension
payable on
incapacity.
Sub-section (1.)
substituted by
No. 73, 1950,
s. 15.

52.—(1.) A member who is retired prior to attaining the retiring age for the rank held by him and who is classified as Class A under the last preceding section shall, on retirement, be entitled to a pension for each unit or part of a unit for which contributions were being paid by him immediately prior to his retirement and for each fully paid unit or part of a unit credited to him under the provisions of sub-section (4.) of section seventy-eight of this Act, as follows:—

- (a) where the number of those units does not exceed eight, pension shall be payable at the rate of Thirty-nine pounds per unit per annum; and
- (b) where the number of those units exceeds eight, pension shall be payable at the rate of Thirty-nine pounds per unit per annum in respect of eight of those units and at the rate of Thirty-two pounds ten shillings per unit per annum in respect of the remaining units.

* See footnote * to s. 1, *supra*.

(2.) A member who is retired prior to attaining the retiring age for the rank held by him and who is classified as Class B under the last preceding section shall, on retirement—

Amended by
No. 73, 1950,
s. 15.

- (a) if he is an officer who has completed twenty years' service for pension—he entitled to a pension for the rank held by him at the date of retirement in accordance with the scale set out in the Third Schedule;
- (b) if he is a member (not being an officer) who has completed twenty years' service for pension prior to attaining the retiring age for his rank—he entitled to the pension to which he would have been entitled under section forty-one of this Act, if the engagement which was uncompleted at the date of his retirement had been completed by him and he had retired on the completion thereof; and
- (c) if he is a member who has not completed twenty years' service for pension—he entitled to a pension for each unit or part of a unit for which contributions were being paid by him immediately prior to his retirement and for each fully paid unit or part of a unit credited to him under the provisions of sub-section (4.) of section seventy-eight of this Act, as follows:—
 - (i) where the number of those units does not exceed eight, pension shall be payable at the rate of Nineteen pounds ten shillings per annum in respect of each of those units; and
 - (ii) where the number of those units exceeds eight, pension shall be payable at the rate of Nineteen pounds ten shillings per annum per unit in respect of eight of those units and at the rate of Sixteen pounds five shillings per annum per unit in respect of the remaining units.

(3.) A member who is retired prior to attaining the retiring age for the rank held by him and who is classified as Class C under the last preceding section shall, on retirement—

Amended by
No. 73, 1950,
s. 15.

- (a) if he is an officer who has completed twenty years' service for pension—he entitled to the same pension as that to which he would have been entitled had the pension been granted under section forty-eight of this Act;
- (b) if he is a member (not being an officer) who has completed twenty years' service for pension prior to attaining the retiring age for his rank—he entitled to the same pension as that to which he would have been entitled if the pension had been granted under section forty-one of this Act and if the engagement which was uncompleted at the date of his retirement had been an engagement for the completed portion thereof and he had retired on the completion of that engagement; and

(c) if he is a member who has not completed twenty years' service for pension—be entitled to a refund of his contributions under this Act and to receive as a gratuity—

(i) a sum equal to one and one-half times the amount of his contributions and, where he has completed more than twelve years' service for pension, a sum equal to one-half of the amount of the contributions paid by him after the completion of that service (but not including contributions paid before the date on which this paragraph came into operation, or so much of any fortnightly contribution as exceeds Eighteen shillings); or

(ii) an amount calculated at the rate of Thirty pounds for each completed year of service for pension,

whichever is the greater.

(4.) Notwithstanding anything contained in the last two preceding sub-sections—

(a) a member to whom either paragraph (a) or (b) of sub-section (2.) of this section applies may elect to receive pension in accordance with paragraph (c) of that sub-section; and

(b) a member to whom either paragraph (a) or (b) of sub-section (3.) of this section applies may elect to receive benefit in accordance with paragraph (c) of that sub-section,

in lieu of the pension to which he would otherwise have been entitled and on his so electing he shall be entitled to such pension or benefit accordingly.

Reclassification
of percentage
of incapacity.

53.—(1.) The Board may, from time to time, if it is satisfied that the percentage of incapacity of a pensioner classified under section fifty-one of this Act has altered, or, because of the nature of his employment, should be varied, reclassify him in accordance with the altered percentage of incapacity.

(2.) When a pensioner is reclassified under this section, he shall be entitled, from such date as is specified by the Board, to pension, at the rate appropriate to his reclassification, in accordance with section fifty-two of this Act.

(3.) Where a pensioner is reclassified under this section as Class C and, at the date of his retirement, he had—

(a) if an officer, not completed twenty years' service for pension; and

(b) if a member other than an officer, not completed twenty years' service for pension prior to attaining the retiring age for his rank,

he shall be paid the excess (if any) of the sum of the payments referred to in paragraph (c) of sub-section (3.) of section fifty-two of this Act over the total payments of pension received by him under

that section, and shall not thereafter be entitled to any pension under that section.

54. Where a member is retired on the ground of invalidity or physical or mental incapacity to perform his duties and the invalidity or incapacity is, in the opinion of the Board, due to wilful action on his part for the purpose of obtaining pension, he shall, subject to the regulations, be entitled to a refund of his contributions under this Act.

Incapacity due to wilful action.

55.—(1.) On the death before retirement of a married member who is a contributor, pension shall be paid to his widow as follows:—

Pension on death of married member.

(a) a pension during her life, in respect of the units or part of a unit for which contributions were being paid by the member immediately prior to his death and in respect of each fully paid unit or part of a unit credited to him under the provisions of sub-section (4.) of section seventy-eight of this Act—

Amended by No. 73, 1950, s. 16.

(i) where the number of those units does not exceed eight—at the rate of Nineteen pounds ten shillings per unit per annum; and

(ii) where the number of those units exceeds eight—at the rate of Nineteen pounds ten shillings per unit per annum in respect of eight of those units and at the rate of Sixteen pounds five shillings per unit per annum in respect of the remaining units; and

(b) in respect of each of her or the member's children (except children of her remarriage) who are under the age of sixteen years—a pension at the rate of Thirteen pounds per annum.

(2.) On the death of a widow who was in receipt of a pension under the last preceding sub-section, pension shall, in addition to the pension payable in pursuance of paragraph (b) of that sub-section, be payable, in respect of each of the children of the widow (except children of her remarriage) or of the member, who are under the age of sixteen years, at the rate of Thirteen pounds per annum.

(3.) Where the member had attained the age of sixty years before his death, the pension payable to his widow under paragraph (a) of sub-section (1.) of this section shall be increased by one half of the amount (if any) by which the pension, which would have been payable to the member if he had retired immediately prior to his death, would have been increased under paragraph (b) of section forty-five of this Act.

56.—(1.) Where an officer who is a contributor retires on the ground of invalidity or of physical or mental incapacity to perform his duties or dies, and the officer was, immediately prior to his

Alternative benefits for officers serving under short service commissions.

retirement or death, serving under a commission which is a short service commission within the meaning of the appropriate Service Regulations and, under the terms of his appointment to that commission, he was, on retirement, or some other person was on his death, entitled to the payment of a gratuity otherwise than under this Act, and the officer or, in the case of his death, that other person, elects to be paid the amount of that gratuity, the amount of the contributions made by the officer under this Act shall be paid to him or in the case of his death to that other person, and no pension or other benefit under this Act shall be payable to or in respect of the officer.

Added by
No. 73, 1950,
s. 17.

(2.) Where an officer who is a contributor—

- (a) is serving under a commission which is a short service commission within the meaning of the Service Regulations;
- (b) is entitled on the termination of that commission to be paid a gratuity otherwise than under this Act; and
- (c) is to be appointed to a permanent commission or to a further short service commission on the termination of the short service commission,

he may elect, prior to the date of his appointment to the permanent commission or to the further short service commission, or, within such extended period as the Board allows, not to be paid the gratuity.

Added by
No. 73, 1950,
s. 17.

(3.) If an officer referred to in the last preceding sub-section does not make an election under that sub-section—

- (a) he shall be entitled to a refund of the contributions made by him to the Fund during the period of the short service commission;
- (b) those contributions shall not be taken into account in the calculation of any gratuity payable under this Act; and
- (c) the period of his service under the short service commission shall not be taken into account as service for pension for the purposes of this Act.

Added by
No. 73, 1950,
s. 17.

(4.) If an officer referred to in sub-section (2.) of this section makes an election under that sub-section, he shall not be paid the gratuity which he has elected not to be paid.

Pension on
death of
pensioner.

57.—(1.) On the death of a male pensioner, pension shall, subject to this section, be paid to his widow as follows:—

- (a) during her life—one half of the pension payable to her husband at the time of his death; and
- (b) in respect of each of her or the pensioner's children (except children of her remarriage) who are under the age of sixteen years—a pension at the rate of Thirteen pounds per annum.

(2.) For the purposes of the last preceding sub-section, the pension payable to the widow of a male pensioner during her life shall, in any case where the male pensioner has commuted any

portion of his pension, be calculated upon the rate of pension which would have been payable to the male pensioner at the time of his death if no portion had been commuted.

(3.) If the male pensioner, at the time of his death, was in receipt of a pension under section fifty-two or fifty-three of this Act, and the Board is satisfied that his death was due to the disease or injury which was the cause of his retirement, the pension payable to his widow shall, in respect of each unit or part of a unit for which contributions were being paid by the pensioner immediately prior to his retirement and in respect of each fully paid unit or part of a unit credited to him under the provisions of sub-section (4.) of section seventy-eight of this Act, be at the rate of—

Substituted by
No. 73, 1950,
s. 18.

- (a) where the number of those units does not exceed eight—
Nineteen pounds ten shillings per unit per annum; and
- (b) where the number of those units exceeds eight—Nineteen pounds ten shillings per unit per annum in respect of eight of those units and at the rate of Sixteen pounds ten shillings per unit per annum in respect of the remaining units.

(4.) On the death of a widow who was in receipt of a pension under the foregoing provisions of this section, pension shall, in addition to the pension payable in pursuance of paragraph (b) of sub-section (1.) of this section, be payable, in respect of each of the children of the widow (except children of her remarriage) or of the male pensioner, who are under the age of sixteen years, at the rate of Thirteen pounds per annum.

58.—(1.) Where the wife of a member who is a contributor or of a male pensioner is dead or divorced, and the member or pensioner dies leaving children of himself or of his wife who are under the age of sixteen years and who were dependent upon him at the time of his death, the pension payable under this Act in respect of each child shall be at the rate of Twenty-six pounds per annum.

Pensions payable in respect of orphans.

(2.) Where the present value, as determined by the Commonwealth Actuary, of a pension or pensions payable, on the death of a member, in pursuance of the last preceding sub-section is less than the contributions made by him, the amount of the difference shall be paid to the personal representatives of the member or, failing them, to such persons (if any) as the Board determines.

59. Where a member, who is unmarried or is a widower without children under the age of sixteen years, dies before retirement, the contributions paid by him shall be paid to his personal representatives, or, failing them, to such persons (if any) as the Board determines.

Benefits on death of unmarried contributor.

60.—(1.) Where a contributor is dismissed from the Service or his commission is cancelled or, except in the circumstances provided for in section forty-eight or fifty-two of this Act, he retires before

Refund of contributions on dismissal or premature retirement.

attaining the retiring age for the rank held by him, he shall, subject to the regulations and unless otherwise entitled to benefit under this Act, be entitled to a refund of the amount of the contributions paid by him under this Act.

(2.) Where a contributor has, under the last preceding sub-section, received a refund of the amount of his contributions, and again becomes a member and a contributor, he shall contribute as provided in section twenty-three of this Act, but shall not be entitled to claim any further benefit in respect of his previous service.

Desertion by
male pensioner
of wife or
children.

61.—(1.) Where a pensioner deserts his wife or leaves her without means of support, the wife may, from time to time, apply to a court of summary jurisdiction constituted by a Police, Stipendiary or Special Magistrate, and, on proof that the wife has been deserted or left without means of support, the court may order the payment to the wife, during such period as it thinks fit, of the whole or part of the pension which otherwise would be payable to the pensioner.

(2.) Where a pensioner, whose wife is dead or divorced, deserts any of his children who are dependent on him, or leaves them without means of support, the guardian of the children, or the Board, may, from time to time, apply to a court of summary jurisdiction constituted by a Police, Stipendiary or Special Magistrate, and, on proof that any child of the pensioner who is dependent on him has been deserted or left without means of support, the court may order the payment to the guardian of the children, during such period as it thinks fit, of the whole or part of the pension which otherwise would be payable to the pensioner.

(3.) The Board shall comply with any order made under this section and the amount of the pension payable to the pensioner shall be reduced by the amount payable to the wife or the guardian, as the case may be, in pursuance of the order.

Disposal of
pension on
imprisonment.

62.—(1.) Where a male pensioner is sentenced to imprisonment for any period exceeding one month, the Board may cause his pension or any part thereof, to be paid, in such manner and subject to such conditions as the Board directs, during the period of imprisonment, to his wife, or if his wife is dead or divorced, for the benefit of such of the children of himself or of his late wife as are under the age of sixteen years.

(2.) Where a female pensioner is sentenced to imprisonment for any period exceeding one month, the Board may cause her pension or any part thereof, and any pension payable to her in respect of children, to be paid, in such manner and subject to such conditions as the Board directs, during the period of imprisonment, for the benefit of such of the children of the pensioner, or of her late husband, as are under the age of sixteen years.

63.—(1.) Where a male pensioner is detained as a patient in a hospital for the insane, the Board may cause his pension, or any part thereof, to be paid, in such manner and subject to such conditions as the Board directs, during the period of detention, to his wife if alive, or if his wife is dead or divorced, for the benefit of such of the children of himself or of his late wife as are under the age of sixteen years.

Disposal of pension on insanity of pensioner.

(2.) Where a female pensioner is detained as a patient in a hospital for the insane, the Board may cause her pension, or any part thereof, to be paid, in such manner and subject to such conditions as the Board directs, during the period of detention, for the benefit of such of the children of the pensioner, or of her late husband, as are under the age of sixteen years.

64.—(1.) Where pensions in respect of children are payable under this Act at the rate of Twenty-six pounds per annum the pensions shall be payable to the guardian of the children to be used for their support and education.

Childrens' pensions payable to guardian.

(2.) Notwithstanding anything contained in this Act, any money payable out of the Fund in respect of a child under the age of sixteen years may, at the discretion of the Board, be paid to the guardian of the child or expended by the Board for the benefit of the child.

65.—(1.) Except where otherwise provided in this Act, a pension shall be payable during the life of the person entitled thereto.

General provisions as to pensions.

(2.) Pensions in respect of children shall be payable until they attain the age of sixteen years or die before attaining that age.

(3.) A person who is the widow of a deceased member or pensioner and is in receipt of a pension under this Act shall, upon remarriage, cease to be entitled to receive a pension except in respect of children.

(4.) Where a male pensioner marries after his retirement, pension shall not, upon the death of the pensioner, be payable to the widow or in respect of any child of the marriage.

66.—(1.) Pensions shall be paid in fortnightly instalments.

Instalments of pension.

(2.) In order to ascertain the amount of an instalment of a pension covering a period of a fortnight the annual pension shall be divided by twenty-six.

(3.) The amount of a pension payable in respect of each day shall be one-fourteenth of the amount of a fortnightly instalment.

67. Where, in the opinion of the Board, payment of pension, refund of contributions or other benefit under this Act should be made to a person other than the pensioner or beneficiary, the Board may, subject to this Act, authorize payment to such person accordingly.

Payment of pensions otherwise than to pensioner.

Commence-
ment of
pensions or
benefits.

68. Subject to this Act, where any member becomes liable under this Act to contribute in respect of any units or additional units, he shall be deemed to be a contributor in respect of those units or additional units as from the date when he becomes liable to contribute, but, if any pension or benefit becomes payable to or in respect of that member before he has actually commenced to make contributions or additional contributions, there shall be deducted from the first payment of pension or benefit such contributions as are due by him in respect of those units or additional units or, if a pay day has not occurred before the pension or benefit becomes payable, one fortnightly contribution.

Re-employ-
ment of
pensioner.

69.—(1.) Where a pensioner is employed by the Commonwealth or by an approved authority for more than twenty-eight working days in any period of twelve months and is paid salary or wages in respect of that employment, so much of the pension as is equivalent to the amount payable by the Commonwealth under section thirty-two of this Act shall be cancelled during the period of employment in excess of those twenty-eight working days.

(2.) The rate of pension payable under section fifty-seven of this Act to the widow of a pensioner who died or dies while so employed shall not be affected by the fact that he was so employed.

(3.) Where a person in receipt of a pension under section fifty-five or fifty-seven of this Act becomes an employee, as defined in section four of the *Superannuation Act 1922-1948*, so much of her pension as is equivalent to the amount payable by the Commonwealth under section thirty-two of this Act shall be cancelled during the period of employment.

(4.) Where a person referred to in the last preceding sub-section is a contributor under the provisions of the *Superannuation Act 1922-1948*, she shall, on retirement on pension under that Act, be entitled to receive, in addition to such pension—

- (a) the proportion of the pension payable under this Act which is based upon the contributions paid by her husband; and
- (b) the amount (if any) by which the proportion of the pension payable by the Commonwealth under this Act exceeds the proportion of the pension payable by the Commonwealth under the *Superannuation Act 1922-1948*.

(5.) Where a person referred to in sub-section (3.) of this section is a contributor to the Provident Account under the provisions of the *Superannuation Act 1922-1948*, she shall, on ceasing to be such a contributor, be entitled to receive a pension at the same rate as that which she was receiving under this Act at the date of commencement of her employment:

Provided that nothing in this sub-section shall authorize payment of pension in respect of a child who has attained the age of sixteen years.

70. A member shall not, on and after the appointed date, be required or permitted to contribute for units of pension under the *Superannuation Act 1922-1948*, nor shall pension under that Act be payable to or in respect of the member.

Contributions and pensions under *Superannuation Act 1922-1948* to cease.

71. Pension or gratuity shall not be payable under this Act to, or in respect of, any member who absents himself without leave for more than twenty-one days or becomes a deserter and who, during the period of absence or desertion, becomes incapacitated or dies.

Absence or desertion.

72.—(1.) Where in this Act provision is made for the payment to a member of a gratuity and the gratuity is calculated by reference to an amount for each completed year of service for pension by the member, any period of the service for pension by the member, as a member of the Permanent Naval Forces or as an officer of the Permanent Air Force, and in respect of which deferred pay was credited to him and either paid to him or paid by the Commonwealth to the Fund under the provisions of sub-section (4.) of section seventy-eight of this Act shall not be included in his service for pension for the purpose of such calculation.

Prevention of double retirement benefit.

Amended by No. 73, 1950, s. 19.*

(2.) For the purposes of this section "deferred pay", in relation to an officer of the Permanent Air Force, shall not include deferred pay under the Air Force (War Financial) Regulations.

73. A member who is a cadet or an apprentice or who is serving under an initial engagement for a period of not less than six years and who, prior to attaining the age of eighteen years, is retired, on the ground of invalidity or of physical or mental incapacity to perform his duties, not, in the opinion of the Board, due to wilful action on his part for the purpose of obtaining pension or benefit, shall be entitled to pension or benefit as set out in column Two of the Eighth Schedule.

Pension and benefit to members under eighteen years of age.

73A.—(1.) Subject to sub-section (5.) of section seventy-eight of this Act—

Deferred pay. Inserted by No. 37, 1949, s. 9.

(a) where any pension or benefit, not being a refund of contributions, is granted to a member or to a widow or children of a member under this Act, the member or his widow or children, as the case may be, shall cease to be entitled to any payment in the nature of deferred pay which, but for this section, would have been payable under any other Act or under any regulations under any other Act and the amount of that deferred pay shall, upon the grant of pension or benefit, be paid into the Consolidated Revenue Fund; and

(b) where any payment in the nature of deferred pay is paid after the appointed date under any other Act or under

* See footnote * to s. 1, *supra*.

any regulations under any other Act, to or in respect of a member, no pension or benefit under this Act shall be paid to or in respect of that member but a refund of his contributions shall be paid to him, or, if he is dead, to his personal representatives or, failing them, to such persons (if any) as the Board determines.

Amended by
No. 73, 1950,
s. 20.*

(2.) Any reference in sub-section (1.) of this section to a payment in the nature of deferred pay shall not include—

- (a) a payment in respect of service as a commissioned warrant officer of the Permanent Air Force prior to the second day of November, One thousand nine hundred and forty-two;
- (b) a payment under the War Financial (Military) Regulations or the Air Force (War Financial) Regulations;
- (c) a payment in respect of service by a person as an officer of the Citizen Air Force prior to the date on which he became a contributor, not being service by a person who was, on the thirtieth day of June, One thousand nine hundred and forty-seven, a contributor under the *Superannuation Act 1922-1947*;
- (d) a payment in respect of service as a member of the Citizen Naval Forces; or
- (e) a payment in respect of service which is not, under the provisions of this Act other than sections twenty-six and twenty-seven, service for pension.

Division 2.—Commutation of Pension.

Commutation
of pension.

Amended by
No. 37, 1949,
s. 10 and by
No. 73, 1950,
s. 21.

74.—(1.) Subject to the regulations, a pensioner who has not attained the age of fifty-seven years may apply to the Board for the commutation of so much of his pension as does not exceed fifty per centum of the amount of pension which would be payable if the increases in the rates of pensions effected by the *Defence Forces Retirement Benefits Act 1950* had not been made.

(2.) When an application is made to the Board under this section, the Board may, at its discretion, grant or refuse the application, or grant the application subject to such terms and conditions as the Board thinks fit.

PART VI.—APPLICATION OF THIS ACT TO SERVING MEMBERS.

Interpretation.

Amended by
No. 37, 1949,
s. 11.

75.—(1.) In this Part, “serving member” means a member who was a member at the date of the commencement of this Act.

(2.) In the application of the provisions of this Act to serving members—

- (a) the expression “service for pension” shall include service for pension, as defined in section four of this Act, whether the service was rendered before or after the commencement of this Act;

* See footnote * to s. 1, *supra*.

- (b) wherever reference is made to the contributions of a member, the reference shall include all contributions which have been made by him under the provisions of the *Superannuation Act 1922*, or of that Act as amended, and the reserve value of which has been paid into the Fund under the provisions of section eighty-two of this Act.

76. The provisions of this Act shall not apply to a serving member who, at the date of the commencement of this Act, had attained the retiring age for the rank held by him, unless the member, immediately prior to that date, was an employee within the meaning of section sixty A of the *Superannuation Act 1922-1947* and was a contributor under that Act, but subject to this Part, the provisions of this Act shall apply to serving members as from the date of the commencement of this Act.

Application of Act to serving members.

Amended by No. 37, 1949, s. 12.

77.—(1.) This section shall apply to serving members (not being officers as defined in section sixty A of the *Superannuation Act 1922-1947*) who were, immediately prior to the appointed date, contributors under the provisions of the *Superannuation Act 1922-1947*.

Transfers from Superannuation Act to this Act.

Amended by No. 37, 1949, s. 13.

(2.) A serving member to whom this section applies shall, subject to this section, continue to contribute for the purposes of this Act, at the rate of his contributions under the *Superannuation Act 1922-1947*, and, if those contributions are in respect of the number of units appropriate under this Act to his pay group, he shall be entitled to pension and benefits in accordance with this Act.

Amended by No. 37, 1949, s. 13.

(3.) Where a serving member to whom this section applies was not contributing in respect of the full number of units for which he was entitled to contribute under the *Superannuation Act 1922-1947* he shall, for the purposes of this Act, continue to pay the same contributions, and shall, where the benefits are calculated in accordance with the number of units, be entitled to pension and benefits under this Act in respect of the same number of units as the number for which he was contributing under the *Superannuation Act 1922-1947* and, where the pension is calculated in accordance with rank, the pension he shall receive shall bear the same proportion to the pension to which he would otherwise be entitled under this Act, if the increases in the rates of pensions effected by the *Defence Forces Retirement Benefits Act 1950* had not been made, as the number of units for which he was actually contributing bears to the number of units for which he would otherwise be required to contribute.

Amended by No. 37, 1949, s. 13, and by No. 73, 1950, s. 22.*

(3A.) Where a pension payable in accordance with the last preceding sub-section is calculated in accordance with rank, the annual rate of pension shall be increased—

Inserted by No. 73, 1950, s. 22.*

* See footnote * to s. 1, *supra*.

- (a) if the member was contributing for eight or more units—by an amount equal to the difference between the pension which would be payable under this Act if he had not been a serving member and the pension which would be so payable if the increases in the rates of pension effected by the *Defence Forces Retirement Benefits Act* 1950 had not been made;
- (b) if he was contributing for less than eight units and was of the rank of able seaman or relative rank, private or relative rank, or aircraftman, first class—by an amount which bears the same proportion to that difference as the number of units for which he was contributing bears to seven; or
- (c) if he was contributing for less than eight units but was not a person to whom the last preceding paragraph applies—by an amount which bears the same proportion to that difference as the number of units for which he was contributing bears to eight.

(4.) When the pay of a serving member to whom this section applies is increased and, by reason of the increase, falls within a higher pay group as set out in the First Schedule, the member shall pay additional contributions in accordance with this Act.

Inserted by
No. 37, 1949,
s. 13.

(4A.) If a serving member to whom the last preceding sub-section applies was, immediately before the date upon which the increase in pay became payable, contributing for a number of units less than the number of units appropriate to his pay group in column one of the scale in the First Schedule, he shall pay additional contributions for the number of units equal to the difference between the number of units appropriate to his increased pay and the number appropriate to his pay before the increase.

Inserted by
No. 37, 1949,
s. 13.

Amended by
No. 73, 1950,
s. 22.*

(4B.) A serving member to whom sub-section (4.) of this section applies and who had, at the date of commencement of this Act, attained the retiring age for the rank held by him may, within four months after the date upon which the increase in pay becomes payable, or within such extended time as the Board allows, elect not to pay the additional contributions.

Amended by
No. 37, 1949,
s. 13.

(5.) Where a serving member referred to in sub-section (3.) of this section elects, within four months after the date of the commencement of this section or within such extended period as the Board allows, to increase his contributions under this Act, the Board shall determine the extent of the increased benefits to which the member shall be entitled by reason of the increased contributions.

Amended by
No. 37, 1949,
s. 13.

(6.) Where a serving member to whom this section applies was contributing under the *Superannuation Act* 1922-1947 for a pension payable on retirement at the age of sixty-five years, he shall, as from

See footnote * to s. 1 *supra*.

the appointed date, pay contributions at the rate which he would have paid under that Act if, from the date when he first commenced to contribute for those units, he had been a contributor for benefits at age sixty.

(7.) As from the date upon which a serving member to whom this section applies becomes liable to contribute under this Act, he shall not be required or permitted to contribute for units of pension under the *Superannuation Act 1922-1948* nor shall any pension or benefit be payable under that Act to or in respect of that member.

78.—(1.) Where a serving member (not being a member to whom the last preceding section applies) would be entitled on his retirement to receive any payment of deferred pay, he may elect—

Elections by members entitled to deferred pay.
Amended by No. 37, 1949, s. 14 and by No. 73, 1950, s. 23.

- (a) to become a contributor for full benefits under this Act;
- (b) to become a contributor for limited benefits under this Act; or

- (c) not to become a contributor under this Act:

Provided that a serving member, who is an officer as defined in section sixty A of the *Superannuation Act 1922-1947*, and was immediately prior to the appointed date, a contributor under the provisions of that Act, shall not be entitled to elect not to become a contributor under this Act and shall be subject to the provisions of the next succeeding section.

(2.) An election under the last preceding sub-section shall be made in writing to the Board within four calendar months after the appointed date (or within such extended period as the Board allows) and, if within that period, he does not forward his election to the Board, he shall be deemed to have elected to become a contributor for full benefits under this Act, as from that date.

Amended by No. 37, 1949, s. 14.

(3.) A member shall not be permitted to vary any election he has made or is deemed to have made under this section.

(4.) If a member elects under this section to become a contributor for full benefits under this Act—

- (a) the amount of any deferred pay and interest thereon credited or accrued to him at the date of the commencement of this Act shall be paid by the Commonwealth to the Fund, and shall be credited as payment of contributions in respect of fully paid units, calculated in accordance with the scale set out in the Seventh Schedule:

Provided that, in any case where provision is made under this Act for the payment to a member of a gratuity and the gratuity is calculated by reference to the amount of the contributions made by the member under this Act, the amount credited to him as payment of contributions under this paragraph shall not be deemed to be contributions for the purpose of that calculation; and

- (b) as from the appointed date, the member shall contribute under this Act in respect of such number of units (including where necessary a part of a unit) as represents the difference between the units appropriate to his pay group as set out in the First Schedule and the number of units or part of a unit as are fully paid.

(5.) If a member elects under this section to become a contributor for limited benefits under this Act—

- (a) the amount of any deferred pay and interest thereon, credited to him at the date of the commencement of this Act, shall be retained by the Commonwealth and the amount so credited to him, together thereafter with interest at the rate of three and one half per centum per annum or such other rate as is prescribed shall, subject to the regulations, be paid by the Commonwealth to him on his retirement or to his legal personal representative on his death; and
- (b) the member shall, as from the appointed date, contribute under this Act in respect of such number of units (including where necessary a part of a unit) as represent the difference between the units appropriate to his pay group as set out in the First Schedule and the number of units or part of a unit which would have been fully paid if he had become a contributor for full benefits under this Act.

Amended by
No. 73, 1950,
s. 23.*

(6.) Where a member elects under this section to become a contributor for limited benefits under this Act, any pension payable under this Act to the member on his retirement or to his widow on his death shall bear the same ratio to the pension which would have been payable if he had elected to become a contributor for full benefits under this Act, if the increases in the rates of pensions effected by the *Defence Forces Retirement Benefits Act 1950* had not been made, as the number of units in respect of which he is contributing bears to the number of such units in respect of which he would contribute if he had so elected.

(7.) For the purposes of this section, the expression "deferred pay" does not include that part of an apprentice's pay, payment of which is, under the terms of his apprenticeship, deferred until the completion or termination of his apprenticeship.

Inserted by
No. 73, 1950,
s. 23.

(7A.) Where a pension payable in accordance with the last preceding sub-section is calculated in accordance with rank, the annual rate of pension shall be increased—

- (a) if the member was contributing for eight or more units—
by an amount equal to the difference between the pension which would be payable under this Act if he had not been a serving member and the pension which would be

* See footnote * to s. 1, *supra*.

so payable if the increases in the rates of pension effected by the *Defence Forces Retirement Benefits Act 1950* had not been made;

- (b) if he was contributing for less than eight units and was of the rank of able seaman or relative rank, private or relative rank, or aircraftman, first class—by an amount which bears the same proportion to that difference as the number of units for which he was contributing bears to seven; or
- (c) if he was contributing for less than eight units but was not a person to whom the last preceding paragraph applies—by an amount which bears the same proportion to that difference as the number of units for which he was contributing bears to eight.

(8.) If a member elects under this section not to become a contributor under this Act, he shall not be required or permitted to contribute to the Fund and shall not be entitled to any benefit under this Act.

79. Where a serving member, who is an officer as defined in section sixty A of the *Superannuation Act 1922-1947*, was immediately prior to the appointed date, a contributor under the provisions of that Act, the following provisions shall apply:—

Air Force officers contributing under Superannuation Act.

- (a) the amount of the reserve value held by the Superannuation Fund under the *Superannuation Act 1922-1947* in respect of the contributor shall be paid from the Superannuation Fund into the Fund;
- (b) if he elects to become a contributor for full benefits or for limited benefits under this Act, the reserve value paid to the Fund shall be used to reduce the contributions payable to the Fund under paragraph (b) of sub-section (4.), or paragraph (b) of sub-section (5.), of section seventy-eight of this Act by such an amount as the Board determines;
- (c) if he does not elect to become a contributor for full benefits or for limited benefits under this Act he shall, for the purposes of this Act, continue to pay the same contributions as he was paying, and shall be entitled under this Act to the same benefits as those to which he would have been entitled, under the *Superannuation Act 1922-1947*;
- (d) where the pay of a serving member referred to in the last preceding paragraph is increased and, by reason of the increase, falls within a higher pay group, the member shall pay additional contributions as prescribed.

Amended by No. 37, 1949 s. 15.

80. Where a serving member not being an officer was not, immediately prior to the appointed date, a contributor under the provisions of the *Superannuation Act 1922-1947*, he may elect not to become a contributor under this Act.

Election not to contribute under this Act. Amended by No. 37, 1949, s. 16.

Minimum benefits for contributors under Superannuation Act.

Substituted by No. 37, 1949, s. 17; amended by No. 73, 1950, s. 24.*

81.—(1.) Where a serving member was, immediately before the appointed date, a contributor under the *Superannuation Act 1922-1947* and is entitled on his retirement to the benefits provided under section forty or forty-two of this Act, the amount payable to him under that section shall not be less than twice the amount of the contributions which have been paid by him.

(2.) Where a serving member was a contributor under the *Superannuation Act 1922-1947* and is entitled on his retirement (or his dependants or beneficiaries are entitled in the event of his death before retirement) to the benefits provided under any of the provisions of Division 1 of Part V. of this Act, the amount payable under those provisions shall be not less than the amount of the benefits which would have been payable under the *Superannuation Act 1922-1947* in respect of the number of units of pension (other than reserve units of pension) for which he was contributing under that Act immediately before the appointed date.

Transfers from Superannuation Fund to the Fund under this Act.

Amended by No. 37, 1949, s. 18.

82. Where, by virtue of this Act, a serving member who was a contributor under the provisions of the *Superannuation Act 1922-1947* becomes a contributor under this Act, the amount of the reserve value held by the Superannuation Fund under that Act in respect of the contributor, as determined by the Commonwealth Actuary, shall be paid from the Superannuation Fund into the Fund.

PART VIA.—APPLICATION OF THIS ACT TO MEMBERS OF THE NURSING SERVICES.

Part VIA. inserted by No. 73, 1950, s. 25.

Definition.

Inserted by No. 73, 1950, s. 25.

Interpretation.

Inserted by No. 73, 1950, s. 25.

82A. In this Part, "member" means an officer of the Royal Australian Army Nursing Service or the Royal Australian Air Force Nursing Service.

82B. In the application of the provisions of this Act to members, the expression "service for pension" does not include service rendered prior to the commencement of this Part except service during a period of service which the member elects, under section twenty-six of this Act, to have taken into account for the purposes of pension under this Act.

Members over thirty years of age may elect not to be members.

Inserted by No. 73, 1950, s. 25.

82C.—(1.) A person who is a member at the date of commencement of this Part and has, at that date, attained the age of thirty years, may, by notice in writing given to the Board within four months after that date, or within such extended time as the Board allows, elect not to be a contributor under this Act.

(2.) If a member elects not to be a contributor under this Act, she shall not be entitled to any benefits under this Act.

* See footnote * to s. 1, *supra*.

82D. On the death before retirement of a member, the contributions paid by her shall be paid to her personal representatives or, failing them, to such persons (if any) as the Board determines and no other payment in respect of that member shall be made under this Act.

Benefits on death of a member before retirement.
Inserted by No. 73, 1950, s. 25.

PART VII.—MISCELLANEOUS.

83.—(1.) Any dispute under this Act shall be determined in the first place by the Board:

Decision of disputes.

Provided that any person aggrieved by a decision of the Board may appeal to the High Court constituted by a single Justice of that Court.

(2.) The decision of the Court shall be final and conclusive and without appeal.

84.—(1.) The Board may, at any time, require any authority of the Commonwealth to furnish, with respect to members or to pensioners under this Act who are employed by or serving under the Authority, such returns as the Board requires for the purposes of this Act and may, at any time, require any member or pensioner under this Act to furnish such information as the Board deems necessary for the purpose of any investigation in connexion with the Fund.

Board may require returns.

(2.) Any member or pensioner under this Act who, without reasonable excuse (proof whereof shall lie with him) fails to furnish the information required of him under this Act shall be guilty of an offence.

Penalty: Ten pounds.

85. Pensions and other benefits under this Act shall not be in any way assigned or charged or passed by operation of law to any person other than the pensioner or beneficiary, and any moneys payable out of the Fund, on the death of a member or beneficiary, shall not be assets for the payment of his debts or liabilities:

Assignment of pensions.

Provided that nothing in this section shall prevent the making of an order in the nature of a garnishee order against any instalment of a pension payable to a person who has been a member.

86. The Board may recover contributions under the Act in any court of competent jurisdiction.

Recovery of contributions.

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

Regulations.

- (a) prescribing the time within which an election under this Act may be made in any case in which the time for making the election is not specified in this Act; and
- (b) prescribing penalties, not exceeding Fifty pounds, for any offence against the regulations.
- (2.) The Governor-General may make regulations providing for—
- (a) the application of this Act in the event of change in the conditions of service;
- (b) the application of this Act to and in respect of additional classes of members of the Defence Force; and
- (c) the method of keeping the Accounts of the Fund,
- and any regulation so made shall have effect notwithstanding any provision of this Act.

SCHEDULES.

THE FIRST SCHEDULE.

Section 28.

SCALE SHOWING NUMBER OF UNITS IN RESPECT OF DAILY PAY.

Column One.						Column Two.
Where the daily pay of the member—						Number of units.
£	s.	d.		£	s.	d.
			Does not exceed	0	14	2 ..
				0	17	1 ..
Exceeds	0	14	2 and does not exceed	0	19	11 ..
Exceeds	0	17	1 and does not exceed	1	2	9 ..
Exceeds	0	19	11 and does not exceed	1	5	7 ..
Exceeds	1	2	9 and does not exceed	1	8	5 ..
Exceeds	1	5	7 and does not exceed	1	11	4 ..
Exceeds	1	8	5 and does not exceed	1	14	2 ..
Exceeds	1	11	4 and does not exceed	1	17	0 ..
Exceeds	1	14	2 and does not exceed	1	19	10 ..
Exceeds	1	17	0 and does not exceed	2	2	8 ..
Exceeds	1	19	10 and does not exceed	2	5	7 ..
Exceeds	2	2	8 and does not exceed	2	8	5 ..
Exceeds	2	5	7 and does not exceed	2	11	3 ..
Exceeds	2	8	5 and does not exceed	2	14	1 ..
Exceeds	2	11	3 and does not exceed	2	16	11 ..
Exceeds	2	14	1 and does not exceed	3	2	8 ..
Exceeds	2	16	11 and does not exceed	3	8	4 ..
Exceeds	3	2	8 and does not exceed	3	14	0 ..
Exceeds	3	8	4 and does not exceed	3	19	9 ..
Exceeds	3	14	0 and does not exceed	4	5	5 ..
Exceeds	3	19	9 and does not exceed	4	11	2 ..
Exceeds	4	5	5 and does not exceed	..	..	..
Exceeds	4	11	2 .. ..	..	..	..

First Schedule
amended by
No. 73, 1950,
s. 26.

THE SECOND SCHEDULE.

Section 31.

RATES OF CONTRIBUTION TO BE PAID FORTNIGHTLY BY MEMBERS.

Age next birthday on becoming a contributor.						Contribution for first two units.	Contribution for each subsequent unit.
						£ s. d.	£ s. d.
19	..	..	..	..	..	0 3 4	0 1 7
20	..	..	..	..	..	0 3 6	0 1 8
21	..	..	..	..	..	0 3 8	0 1 9
22	..	..	..	..	..	0 3 10	0 1 10
23	..	..	..	..	..	0 4 1	0 2 0
24	..	..	..	..	..	0 4 3	0 2 1
25	..	..	..	..	..	0 4 6	0 2 2
26	..	..	..	..	..	0 4 9	0 2 3
27	..	..	..	..	..	0 4 11	0 2 5
28	..	..	..	..	..	0 5 2	0 2 6
29	..	..	..	..	..	0 5 6	0 2 8
30	..	..	..	..	..	0 5 9	0 2 9
31	..	..	..	..	..	0 6 1	0 2 11
32	..	..	..	..	..	0 6 5	0 3 1
33	..	..	..	..	..	0 6 9	0 3 3
34	..	..	..	..	..	0 7 2	0 3 6
35	..	..	..	..	..	0 7 7	0 3 8
36	..	..	..	..	..	0 8 0	0 3 11
37	..	..	..	..	..	0 8 6	0 4 2
38	..	..	..	..	..	0 9 1	0 4 5
39	..	..	..	..	..	0 9 8	0 4 8
40	..	..	..	..	..	0 10 3	0 5 0
41	..	..	..	..	..	0 11 0	0 5 5
42	..	..	..	..	..	0 11 10	0 5 9
43	..	..	..	..	..	0 12 9	0 6 3
44	..	..	..	..	..	0 13 9	0 6 9
45	..	..	..	..	..	0 14 10	0 7 4
46	..	..	..	..	..	0 16 2	0 7 11
47	..	..	..	..	..	0 17 9	0 8 8
48	..	..	..	..	..	0 19 6	0 9 7
49	..	..	..	..	..	1 1 7	0 10 8
50	..	..	..	..	..	1 4 1	0 11 11
51	..	..	..	..	..	1 7 3	0 13 5
52	..	..	..	..	..	1 11 1	0 15 5
53	..	..	..	..	..	1 16 1	0 17 10
54	..	..	..	..	..	2 2 9	1 1 2
55	..	..	..	..	..	2 12 0	1 5 9
56	..	..	..	..	..	3 6 1	1 12 9
57	..	..	..	..	..	4 8 11	2 4 2
58	..	..	..	..	..	6 15 3	3 7 2
59	..	..	..	..	..	13 13 0	6 15 8
60	..	..	..	..	..	13 15 6	6 17 0

Third Schedule
substituted by
No. 73, 1950,
s. 27.*

THE THIRD SCHEDULE.

Section 38.

PENSIONS FOR OFFICERS.

Table I.—Officers other than those referred to in Table II. and Table III.

Column 1. Permanent Naval Forces.	Column 2. Permanent Military Forces.	Column 3. Permanent Air Force.	Column 4. Annual amount of pension.
			£ s. d.
Vice-Admiral (and relative rank) Rear-Admiral (and relative rank)	Lieutenant-General	Air Marshal ..	897 0 0
.. .. .	Major-General ..	Air Vice-Marshal	798 0 0
Captain (and relative rank) of six years' or more service in that rank	Brigadier ..	Air Commodore	695 10 0
Captain (and relative rank) of less than six years' service in that rank	Colonel	Group Captain .	655 10 0
Commander (and relative rank)	Lieutenant-Colonel ..	Wing Commander	514 0 0
Lieutenant-Commander (and relative rank)	Major	Squadron-Leader	392 10 0
Lieutenant (and relative rank)	Captain	Flight-Lieutenant ..	307 10 0
.. .. .	Lieutenant ..	Flying Officer ..	232 10 0

Table II.

Column 1. Permanent Naval Forces.	Column 2. Permanent Military Forces.	Column 3. Annual amount of pension.
		£ s. d.
Officers promoted from Warrant Rank or from Branch Rank (except those specially selected and promoted direct to Lieutenant)—		
Commander (and relative rank) .. .. .	.. .. .	595 10 0
Lieutenant-Commander (and relative rank) ..	Major (Quartermaster) ..	495 10 0
Lieutenant (and relative rank)	Captain (Quartermaster) ..	445 10 0
Commissioned Officer from Warrant Rank and Senior Commissioned Officer .. ..	.. .. .	395 10 0
Warrant Officer and Commissioned Officer	Lieutenant (Quartermaster)	345 10 0

Table III.

Column 1. Rank held by Officer on retirement.	Column 2. Annual amount of pension.
	£ s. d.
Matron-in-chief	470 10 0
Principal Matron	390 10 0
Matron	365 10 0
Senior Sister	285 10 0
Sister	235 10 0

* See footnote * to s. 1, *supra*.

THE FOURTH SCHEDULE.

Section 39.

DEDUCTION FROM PENSION FOR EACH YEAR OR PART OF A YEAR NOT SERVED.

Pension per annum.	Deduction for each year or part thereof.
	£
Exceeds £650	30
Exceeds £400 but does not exceed £650	20
Exceeds £300 but does not exceed £400	15
Exceeds £200 but does not exceed £300	10
Does not exceed £200	5

THE FIFTH SCHEDULE.

Section 41. Fifth Schedule substituted by No. 73, 1950, s. 28.*

PENSIONS FOR MEMBERS OTHER THAN OFFICERS.

Column 1.	Column 2.	Column 3.	Column 4.	Column 5.
Permanent Naval Forces.	Permanent Military Forces.	Permanent Air Force.	Annual pension in respect of twenty years' service for pension.	Annual additional pension for each year of service for pension over twenty years' service for pension.
			£ s. d.	£
Chief Artificer	Warrant Officer (Class I.)	Warrant Officer Master Pilot Master Navigator Master Signaller Master Gunner Master Engineer	181 0 0	9
Chief Petty Officer or relative rating (other than Chief Artificer)	Warrant Officer (Class II.) Staff Sergeant	Flight Sergeant Pilot I. Navigator I. Signaller I. Gunner I. Engineer I.	171 0 0	8
Petty Officer or relative rating	Sergeant ..	Sergeant Pilot II. Navigator II. Signaller II. Gunner II. Engineer II.	156 0 0	7
Leading Seaman or relative rating	Corporal or relative rank Lance Corporal or relative rank	Corporal Leading Aircraftman Pilot III. or IV. Navigator III. or IV. Signaller III. or IV. Gunner III. or IV. Engineer III. or IV.	136 0 0	7
Able Seaman or relative rating	Private or relative rank	Aircraftman 1st Class	117 15 0	7

* See footnote * to s. 1, *supra*.

THE SIXTH SCHEDULE.

Section 48.

PERIOD OF SERVICE FOR PENSION REFERRED TO IN SUB-SECTION (3),
SECTION 48 OF THIS ACT.

Rank.			Period.
Permanent Naval Forces.	Permanent Military Forces.	Permanent Air Force.	
Rear-Admiral (and relative rank) or above	Major-General or above	Air Vice-Marshal or above	30 years
Captain (and relative rank)	Brigadier	Air Commodore ..	28 years
.. .. .	Colonel	Group Captain ..	26 years
Commander (and relative rank)	Lieutenant-Colonel	Wing Commander	24 years
Lieutenant-Commander (and relative rank)	Major	Squadron Leader	22 years
Lieutenant (and relative rank)	Captain or below ..	Flight Lieutenant or below	20 years

THE SEVENTH SCHEDULE.

Section 78.

PROPORTION OF A UNIT EQUIVALENT TO £100 DEFERRED PAY CREDITED TO A SERVING MEMBER.

[illegible]

THE SEVENTH SCHEDULE—*continued*.

Age next birthday, on the appointed date, of a person electing to become a contributor.								Proportion of unit equivalent to £100 of deferred pay.
46	..	..	..	..	..	..	..	.3572
47	..	..	..	..	..	..	..	.3451
48	..	..	..	..	..	..	..	.3334
49	..	..	..	..	..	..	..	.3221
50	..	..	..	..	..	..	..	.3112
51	..	..	..	..	..	..	..	.3007
52	..	..	..	..	..	..	..	.2905
53	..	..	..	..	..	..	..	.2807
54	..	..	..	..	..	..	..	.2712
55	..	..	..	..	..	..	..	.2621
56	..	..	..	..	..	..	..	.2532
57	..	..	..	..	..	..	..	.2446
58	..	..	..	..	..	..	..	.2364
59	..	..	..	..	..	..	..	.2284
60	..	..	..	..	..	..	..	.2206

THE EIGHTH SCHEDULE.

BENEFITS BEFORE AGE 18.

Section 73. Eighth Schedule amended by No. 73, 1950, s. 29.*

Column 1. Event.	Column 2.
Member becoming Invalid—	
Class A	Pension of £156 per annum
Class B	Pension of £78 per annum
Class C	Nil

* See footnote * to s. 1, *supra*.

DEFENCE (TRANSITIONAL PROVISIONS) ACT 1946-1950.^(a)

An Act to make provision for the Security and Defence of the Commonwealth during a Time of Transition from War Conditions to Conditions of Peace, and for other purposes.

Preamble.

WHEREAS a state of war still exists between His Majesty and Germany, Japan and other countries:

AND WHEREAS legislative provision is required in order to bring about a gradual and orderly return to conditions of peace:

AND WHEREAS it is now necessary, for the peace, order and good government of the Commonwealth—

- (a) to make certain provisions to operate during a time of transition from war conditions to conditions of peace;
- (b) to make provision for the carrying on or completion, during that time of transition, of arrangements, activities, actions and proceedings entered upon or subsisting in pursuance of certain of the regulations made under the *National Security Act 1939-1946*^(b) and of the orders, rules and by-laws made under those regulations; and
- (c) to provide for matters incidental to the termination of that Act and of the regulations made thereunder and of the orders, rules and by-laws made under any of those regulations:

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:—

PART I.—PRELIMINARY.

1. This Act may be cited as the *Defence (Transitional Provisions) Act 1946-1950*.^(a)

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

(a) The *Defence (Transitional Provisions) Act 1946-1950* comprises the *Defence (Transitional Provisions) Act 1946* as amended. Particulars of the Principal Act and of the amending Acts are set out in the following table:—

Act.	Year and Number.	Date of Assent.	Date of Commencement.
<i>Defence (Transitional Provisions) Act 1946</i> ..	1946, No. 77 ..	14th December, 1946	1st January, 1947
<i>Defence (Transitional Provisions) Act 1947</i> ..	1947, No. 78 ..	11th December, 1947	1st January, 1948*
<i>Defence (Transitional Provisions) Act 1948</i> ..	1948, No. 88 ..	21st December, 1948	1st January, 1949*
<i>Defence (Transitional Provisions) Act 1949</i> ..	1949, No. 70 ..	28th October, 1949	1st January, 1950*
<i>Defence (Transitional Provisions) Act 1950</i> ..	1950, No. 78	16th December, 1950	16th December, 1950

*Sections 1, 2 and 3 commenced on the date of assent.

(b) The *National Security Act 1939-1946* ceased to have effect at midnight on 31st December, 1946 (see Act No. 15 of 1946, s. 2).

2. This Act shall come into operation on the first day of January, Commence-
ment.
One thousand nine hundred and forty-seven.

3. This Act is divided into Parts, as follows:—

Parts.

Part I.—Preliminary.

Part II.—Temporary Preservation of certain Regulations and
Instruments.

Part III.—Amendment of certain Acts.

Part IV.—Miscellaneous.

4.—(1.) In this Act, “the National Security Act” means the Interpretation.
National Security Act 1939,^(a) and includes that Act as amended from
time to time.

(2.) Any reference in this Act to a Schedule shall be read as a
reference to a Schedule to this Act.

5. Where any regulation, order, rule or by-law in force by virtue Application of
Act to
Territories.
of, this Act contains provisions which specifically require its applica-
tion in any Territory of the Commonwealth (not being part of the
Commonwealth), that regulation, order, rule or by-law shall have
effect in that Territory accordingly and this Act shall extend to that
Territory to the extent necessary to give effect to that regulation,
order, rule or by-law.

PART II.—TEMPORARY PRESERVATION OF CERTAIN REGULATIONS AND INSTRUMENTS.

6.^(b)—(1.) The Regulations the titles of which are specified in the Operation
of certain
Regulations.
first column of the First Schedule, being the Regulations having
those respective titles as in force under the National Security Act
immediately prior to the commencement of this Act, shall, subject
to this Act, be in force until midnight on the thirty-first day of
December, One thousand nine hundred and fifty-one (in this Act and
in the Regulations in force by virtue of this section referred to as
“the prescribed time”) and no longer, with such amendments (if
any) as are respectively specified in the third column of that
Schedule.

(2.) The Governor-General may, before the prescribed time, make
regulations—

(a) repealing any Regulations in force by virtue of the last
preceding sub-section; and

(b) amending any of those Regulations, but so that any such
amendment shall be in respect of a matter dealt with by
those Regulations.

(3.) Regulations made under the last preceding sub-section may
include provision for—

(a) The *National Security Act 1939* was amended by Acts No. 44 of 1940 (*See Sessional
Volume XXXVIII*, p. 78); No. 38 of 1943 (*See Sessional Volume XLI*, p. 108) and by No. 15
of 1946 (*See Sessional Volume XLIV*, p. 42) and as so amended may be cited as the *National
Security Act 1939-1946*.

(b) *See note of Hume v. Higgins and Crouch v. Commonwealth* under section 51 (vi) of the
Constitution, *supra*.

- (a) conferring original jurisdiction on the High Court in any matter arising under the regulations;
- (b) defining the jurisdiction of any federal court, other than the High Court, with respect to any matter arising under the regulations; and
- (c) investing any court of a State with federal jurisdiction with respect to any matter arising under the regulations.

Temporary
preservation
of certain
orders.

7.^(a)—(1.) The orders specified in the first column of the Second Schedule, as in force immediately prior to the commencement of this Act, shall, subject to this Act, be in force until the prescribed time and no longer, with such amendments (if any) as are respectively specified in the fourth column of that Schedule.

(2.) A Minister may, before the prescribed time, by order, amend or revoke any order in force by virtue of the last preceding sub-section, but so that any such amendment shall be in respect of a matter dealt with by that order.

Savings.

8.—(1.) Subject to sub-section (3.) of this section, each order, rule and by-law in force or subsisting immediately prior to the commencement of this Act and made under any provision of any Regulations under the National Security Act the title of which is specified in the First Schedule, shall, if the Regulations having the same title as in force by virtue of this Act contain substantially the same provision, be in force or subsisting as if made under the last-mentioned Regulations and those Regulations shall apply to them accordingly.

(2.) Subject to the next succeeding sub-section, each declaration, determination, exemption, delegation, notice, guarantee, authority, approval, consent, permit, requirement, valuation, certificate, licence, report, register, direction and other instrument or document in force or subsisting immediately prior to the commencement of this Act and made, given, issued or established—

- (a) under any provision of any Regulations under the National Security Act the title of which is specified in the First Schedule, if the Regulations having the same title as in force by virtue of this Act contain substantially the same provision;
 - (b) under any order, rule or by-law under any such provision;
or
 - (c) under any order specified in the Second Schedule,
- shall be in force or subsisting as if made, given, issued or established under the Regulations, order, rule or by-law as in force by virtue of this Act and those Regulations, or that order, rule or by-law, shall apply to it accordingly.

(3.) Each award, order and determination in force or subsisting immediately prior to the commencement of this Act and made or

(a) See footnote (c) to s. 6, *supra*.

given by any industrial authority having power to fix rates of pay or conditions of employment under any regulation under the National Security Act, shall remain in force or subsisting until revoked by competent authority.

(4.) Each authority constituted or holding office and each person employed, immediately prior to the commencement of this Act—

(a) under any provision of any Regulations under the National Security Act the title of which is specified in the First Schedule, if the Regulations having the same title as in force by virtue of this Act contain substantially the same provision; or

(b) under any order, rule or by-law made under any such provision,

shall be deemed to be constituted, to hold office or to be employed, as the case may be, under the Regulations, order, rule or by-law as in force by virtue of this Act.

(5.) Any contract or agreement—

(a) to which the Commonwealth, a Minister or any authority of the Commonwealth is a party;

(b) which was subsisting immediately prior to the commencement of this Act; and

(c) which was entered into under regulations made under the National Security Act,

shall, subject to the next succeeding sub-section, continue in full force and effect.

(6.) Where an authority of the Commonwealth is a party to any such contract or agreement and that authority has ceased to exist, the Commonwealth shall be deemed to be substituted for that authority as a party to the contract or agreement.

(7.) Where, immediately prior to the commencement of this Act, an authority of the Commonwealth constituted under any regulations under the National Security Act was a party to an action or other proceeding and that authority has ceased to exist, the Commonwealth shall be substituted for that authority as a party to that action or proceeding.

(8.) Where, immediately prior to the commencement of this Act, property or assets were, under any regulations under the National Security Act, vested in an authority of the Commonwealth and that authority has ceased to exist, that property or those assets shall be deemed to be vested in the Commonwealth.

9. Any order, rule or by-law in force by virtue of sub-section (1.) of the last preceding section may be amended or revoked by the authority having power under any regulations in force by virtue of this Act to make orders, rules or by-laws with respect to the matter dealt with by that order, rule or by-law. Power to amend or revoke orders.

PART III.—AMENDMENT OF CERTAIN ACTS.

Amendments
of Acts.

10.—(1.) The Acts specified in the first column of the Third Schedule are amended as respectively specified in the second column of that Schedule.

(2.) Each Act specified in the first column of the Fourth Schedule, as amended by this Act, may be cited in the manner specified in the second column of that Schedule opposite to the reference to that Act in the first column.

Amendments of
the Seamen's
War Pensions
and Allowances
Act.

11.—(1.) The *Seamen's War Pensions and Allowances Act* 1940 is in this section referred to as the Principal Act.

(2.) The Principal Act, as amended by this section, may be cited as the *Seamen's War Pensions and Allowances Act* 1940-1946.

(a)* * * * *

Amendments
of the Land
Tax Assess-
ment Act.

12.—(1.) The *Land Tax Assessment Act* 1910-1940 is in this section referred to as the Principal Act.

(2.) The Principal Act, as amended by this section, may be cited as the *Land Tax Assessment Act* 1910-1946.

Sub-section (6)
omitted by
No. 78, 1947,
s. 6.

(b)* * * * *

PART IV.—MISCELLANEOUS.

War-time
compensation
preservation.

13.—(1.) In this section, "the Regulations" means the National Security (Civil Constructional Corps Compensation) Regulations, the National Security (Civil Defence Workers' Compensation) Regulations and the National Security (War Injuries Compensation) Regulations, as in force immediately prior to the commencement of this Act.

(2.) Notwithstanding that the Regulations ceased to have effect at midnight on the thirty-first day of December, One thousand nine hundred and forty-six (in this sub-section referred to as "that time")—

- (a) any pension granted under the Regulations which is in force at that time, shall, subject to the provisions of the Regulations under which it was granted and the conditions under which it was granted, continue to be payable after that time;
- (b) any pension, or determination in relation to a pension, granted or made under the Regulations may, in accordance with the provisions of the Regulations under which it was granted or made, be reviewed after that time and

(a) The amendments made to the *Seamen's War Pensions and Allowances Act* 1940 by sub-sections (3.)-(8.) of section 11 have been incorporated in the print of that Act, *infra*.

(b) The amendments made to the *Land Tax Assessment Act* 1910-1940 by sub-sections (3.)-(5.) of section 12 have been incorporated in the print of that Act, *infra*.

any such pension or determination may be varied or cancelled or a new pension or determination may be granted or made;

- (c) where any right to make a claim for a pension under the Regulations has accrued before that time, the person entitled to make the claim may, within three months after that time, make a claim in accordance with the provisions of the Regulations under which the right accrued;
- (d) any claim made in accordance with the last preceding paragraph, and any claim, made under the Regulations prior to that time but not dealt with prior to that time, may, after that time, be considered and dealt with in the manner specified in the Regulations; and
- (e) any person or authority appointed, constituted or specified by or under the Regulations shall, for the purposes of paragraphs (a), (b), (c) and (d) of this sub-section, continue to hold that appointment or to remain constituted or specified after that time, and shall have and may exercise all the powers and functions specified in the Regulations which are necessary to give effect to the provisions of paragraphs (a), (b), (c) and (d) of this sub-section.

(3.) For the purposes of the last preceding sub-section, "pension" includes compensation of a periodical nature.

14.—(1.) Sections forty-eight and forty-nine of the *Acts Interpretation Act 1901-1941* shall apply to orders, rules and by-laws made under this Act or made under any regulation in force by virtue of this Act which are of a legislative and not of an executive character, in like manner as they apply to regulations. Provisions in respect of orders.

(2.) Orders, rules and by-laws so made shall not be deemed to be Statutory Rules within the meaning of the *Rules Publication Act 1903-1939*.

(3.) The *Acts Interpretation Act 1901-1941* shall apply to the interpretation of all orders, rules or by-laws so made in like manner as it applies to the interpretation of regulations, and, for the purpose of section forty-six of that Act, as so applied, all such orders, rules and by-laws shall be deemed to be regulations.

15.—(1.) Any person who contravenes, or fails to comply with, any provision of any regulation in force by virtue of this Act, or of any order, rule or by-law in force by virtue of this Act, or made under any such regulation, shall be guilty of an offence against this Act. Trial of offences.

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

(3.) The punishment for an offence against this Act shall be—

- (a) if the offence is prosecuted summarily—a fine not exceeding One hundred pounds or imprisonment for a term not exceeding six months; or
- (b) if the offence is prosecuted upon indictment—a fine not exceeding Five hundred pounds or imprisonment for a term not exceeding two years.

(4.) An offence against this Act shall not be prosecuted summarily without the written consent of the Attorney-General, or a person thereto authorized in writing by the Attorney-General, and an offence against this Act shall not be prosecuted upon indictment except in the name of the Attorney-General.

(5.) For the purpose of the trial of a person summarily or upon indictment for an offence against this Act, the offence shall be deemed to have been committed either at the place in which it was actually committed or at any place in which the person may be.

(6.) In addition to any other punishment, a court may, if it thinks fit, order the forfeiture of any money or goods in respect of which an offence against this Act has been committed.

Offences by
corporations.

16. Where a person convicted of an offence against this Act is a body corporate, every person who, at the time of the commission of the offence, was a director or officer of the body corporate shall be deemed to be guilty of the offence, unless he proves that the offence was committed without his knowledge, or that he used all due diligence to prevent the commission of the offence.

Power to order
recognizances.

17.—(1.) When any person is convicted of an offence against this Act, the court before which he is convicted may, either in addition to or in lieu of any punishment provided for the offence, require him to enter into recognizances with or without sureties to comply with the provisions of the regulations, orders, rules or by-laws in relation to which the offence was committed.

(2.) If any person fails to comply with an order of the court requiring him to enter into recognizances, the court may order him to be imprisoned for any term not exceeding six months.

Delegation of
powers under
regulations.

18.—(1.) A Minister may, in relation to any matters or class of matters, or in relation to any particular State or part of Australia, by writing under his hand, delegate all or any of his powers and functions under any regulation in force by virtue of this Act (except this power of delegation) so that the delegated powers or functions

may be exercised by the delegate with respect to the matters or class of matters, or the State or part of Australia, specified in the instrument of delegation.

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

(3.) Where in any regulation in force by virtue of this Act the exercise of any power or function by a Minister, or the operation of any provision of that regulation, is dependent upon the opinion, belief or state of mind of a Minister in relation to any matter, that power or function may be exercised by the person to whom that power or function has been delegated by the Minister or that provision may operate, as the case may be, upon the opinion, belief or state of mind of that person in relation to that matter.

(4.) Any delegation made by a Minister under the National Security Act which is in force immediately prior to the commencement of this Act and relates to the exercise of any power or function under any regulation in force by virtue of this Act shall continue in force as if made under this Act.

19. The provisions of section eight of the *Acts Interpretation Act* 1901-1941 shall apply in relation to the termination of the *National Security Act* 1939-1946, and of any regulations made thereunder and of any orders, rules and by-laws made under any such regulation, as if that termination were a repeal and any such regulation, order, rule or by-law were an Act. General preservation of rights, obligations, &c.



THE SCHEDULES.

FIRST SCHEDULE.

Section 6.

Amended by
No. 78, 1947,
s. 4 and 1st
Schedule; by
No. 88, 1948,
s. 4 and 1st
Schedule and
s. 5 and 2nd
Schedule; and by
No. 70, 1949,
s. 4 and 1st
Schedule.

First Column. Regulations.	Second Column. Department by which Administered.	Third Column. Amendments.
National Security (Apple and Pear Acquisition) Regulations	Commerce and Agriculture	Omit regulation 2 Omit regulation 26, insert— “26. A person shall False returns. not furnish any return required to be furnished under these Regulations which is false in any particular.” Regulation 26B— After “National Security Act 1939”, insert “or the Defence (Transitional Provisions) Act 1946”
*National Security (Beef Shortage) Regulations	Commerce and Agriculture	Regulation 5— Omit from paragraph (a) “for the efficient prosecution of the war”
National Security (Capital Issues) Regulations	Treasury ..	Omit regulation 2 Regulation 3— Omit sub-regulation (1.) Omit from sub-regulation (2.) “Regulations so repealed”, insert “previous Regulations” Regulation 5— Omit definition of “the previous Regulations”, insert “the pre- vious Regulations” means any regulations in force under the National Security Act 1939, or under that Act as amended, having the title ‘National Security (Capital Issues) Regulations’.”
National Security (Coal Mining Industry Employment) Regulations	Labour and National Ser- vice	
**		
†National Security (Disposal of Commonwealth Property) Regulations	Supply and Shipping	
National Security (Economic Organization) Regulations	Treasury and (Part V.) La- bour and Na- tional Service	Omit regulations 7 and 10A After regulation 22 add— “23. Where, prior to Validation, the ninth day of Feb- ruary, 1945— (a) the Treasurer or a delegate of the Treasurer has, acting or purporting to act in pursuance of the National Security (Eco- nomic Organization) Regula- tions, given his consent to any

* Repealed by Statutory Rules 1948, No. 163.

** The Defence (Transitional Provisions) Act 1946 contained a reference to the “National Security (Dairy Produce Acquisition) Regulations”. Act No. 88 of 1948 (s. 5 and 2nd Schedule) purported to omit from the 1st Schedule to the Principal Act the reference to the National Security (Dairy Products Acquisition) Regulations.

† Repealed by Statutory Rules 1950, No. 85.

FIRST SCHEDULE—continued.

First Column. Regulations.	Second Column. Department by which Administered.	Third Column. Amendments.
National Security (Evidence) Regulations	Attorney-General	<p>transaction to which the Public Trustee or Public Curator or the Curator of Estates of Deceased Persons, or any similar authority, of any State or Territory of the Commonwealth (in this regulation referred to as 'the Public Officer') was a party;</p> <p>(b) the consent was given on the condition that the consideration for the transaction should not exceed an amount or value specified by the Treasurer or the delegate; and</p> <p>(c) the consideration obtained by the Public Officer was equal to that so specified,</p> <p>the Public Officer shall not be subject to any liability, civil or criminal, by reason only of the fact that a greater consideration could or might have been obtained by him in respect of the transaction."</p> <p>Regulation 18— Omit "made in pursuance of power given by any regulation under the <i>National Security Act 1939-1943</i>", insert "in force by virtue of the <i>Defence (Transitional Provisions) Act 1946</i>"</p> <p>Regulation 19— Omit "under the <i>National Security Act 1939-1943</i>, or of any order, rule or by-law under any such regulation", insert ", order, rule or by-law in force by virtue of the <i>Defence (Transitional Provisions) Act 1946</i>"</p> <p>Omit the proviso</p>
Regulations 2 and 3 of Statutory Rules 1945, No. 205	External Terri- tories	
*National Security (Food Control) Regulations	Commerce and Agriculture	<p>Omit regulation 3</p> <p>Regulation 9— Omit from sub-regulation (1.) "growing, production, manufacture, processing," and "grown, produced, manufactured, processed," (wherever occurring)</p> <p>Omit regulation 15</p> <p>Omit all regulations except the following regulations and amend the last-mentioned regulations as specified hereunder:— 1, 2 3— Omit definition of "the Act"</p>
National Security (General) Regulations	Administered by Departments appropriate to subject matter of individual regulations	

* Repealed by Statutory Rules 1950, No. 52.

FIRST SCHEDULE—continued.

First Column. Regulations.	Second Column. Department by which Administered.	Third Column. Amendments.
		<p>11— Omit all sub-regulations except sub-regulation (3A.)</p> <p>25— Omit sub-regulation (1.), insert— “(1.) Each order under regulation 25 of the National Security (General) Regulations as in force prior to the first day of January, 1947, and subsisting immediately prior to that date shall, unless sooner revoked by a Minister, by order, be in force until the prescribed time and no longer.” Omit from sub-regulation (2.) “made under”, insert “in force by virtue of” Omit sub-regulations (3.) and (4.)</p> <p>26— Omit sub-regulations (1.) and (1A.), insert “(1.) Where an order for the detention of any person made under regulation 26 of the National Security (General) Regulations as in force prior to the first day of January, 1947, was subsisting immediately prior to that date, the person to whom the order relates shall be detained in accordance with the National Security (Internment Camps) Regulations as in force by virtue of the <i>Defence (Transitional Provisions) Act 1946</i> and all constables and Commonwealth officers shall take such action as is necessary to give effect to the order.” Omit sub-regulations (2.) to (9.) inclusive</p> <p>31A— Omit from sub-regulation (2.) “After the expiration of seven days from the date of commencement of this regulation, a”, insert “A”</p> <p>37</p> <p>54— Omit sub-regulations (1.) and (2.), insert “(2.) Where, in pursuance of sub-regulation (1.) of regulation 54 of the National Security (General) Regulations, as</p>

FIRST SCHEDULE—continued.

First Column. Regulations.	Second Column. Department by which Administered.	Third Column. Amendments.
		<p>in force prior to the first day of January, 1947, possession had been taken of any land and that land was, immediately prior to that date, in the possession of the Commonwealth or of any person or authority on behalf of the Commonwealth, the possession of that land may, subject to termination by a Minister, be continued and any order, authorization or direction made or given in relation to that land shall continue to have effect."</p> <p>55AA and 55A— After "Regulations" (wherever occurring), insert "(as in force prior to the first day of January, 1947)"</p> <p>57— Omit sub-regulations (1.), (1A.), (1B.) and (3.) Add the following sub-regulation:— "(10.) Any reference in this regulation to an order or to a requisition in pursuance of an order shall be deemed to refer to an order or requisition made and effected under this regulation as in force prior to the first day of January, 1947."</p> <p>60B— Omit from paragraph (a) "Army", insert "Interior"</p> <p>60c</p> <p>60D— After "sub-regulations" (last occurring) in sub-regulation (1.), insert "while those regulations and sub-regulations were in force," Omit from sub-regulation (1.) "within one month after the commencement of this regulation, or, if the thing is done after the commencement of this regulation, within two months after the doing of the thing on which the claim is based, or, in either case," insert "within two months after the doing of the thing on which the claim is based, or,"</p> <p>60E to 60G (inclusive) 60J to 60M (inclusive)</p> <p>66— Omit from sub-regulation (1.) "or the efficient prosecution of the war"</p>

FIRST SCHEDULE—continued.

First Column. Regulations.	Second Column. Department by which Administered.	Third Column. Amendments.
		<p>Insert after "carriage" in paragraph (b) of sub-regulation (1.), " , stacking or storage"</p> <p>69A— Omit sub-regulations (2.), (3.) and (4.)</p> <p>73— Omit from paragraph (a) "made under the Act", insert "or order in force by virtue of the <i>Defence (Transitional Provisions) Act 1946</i>"</p> <p>84— Omit from sub-regulations (1.) and (2.) "a war offence" (wherever occurring), insert "an offence against the <i>National Security Act 1939-1946</i> or the <i>Defence (Transitional Provisions) Act 1946</i>"</p> <p>Omit from sub-regulation (5.) "public safety, the defence of the Commonwealth or the efficient prosecution of the war", insert "security or defence of the Commonwealth"</p> <p>87</p> <p>88— Omit "under the Act", insert "in force by virtue of the <i>Defence (Transitional Provisions) Act 1946</i>"</p> <p>Omit "seventeen of the Act", insert "twenty of that Act"</p> <p>91— Omit from sub-regulation (1.) "Act", insert "<i>National Security Act 1939-1946</i> or the <i>Defence (Transitional Provisions) Act 1946</i>"</p> <p>Omit sub-regulations (2.), (3.) and (4.)</p> <p>Omit regulations 2 and 3</p>
*National Security (Hide and Leather Industries) Regulations	Commerce and Agriculture	
National Security (Industrial Peace) Regulations	Labour and National Service	<p>Regulation 9A— Omit "the <i>National Security Act 1939-1940</i>", insert "or in force by virtue of the <i>Defence (Transitional Provisions) Act 1946</i>"</p> <p>Regulation 9c— Omit sub-regulation (2.)</p> <p>Regulation 16AA— Omit "(Statutory Rules 1941, No. 25, as amended for the time being)"</p>

* Repealed by Statutory Rules 1950, No. 20.

FIRST SCHEDULE—*continued.*

First Column. Regulations.	Second Column. Department by which Administered.	Third Column. Amendments.
National Security (Industrial Property) Regulations	Attorney-General	Omit regulations 3 and 8
National Security (Maritime Industry) Regulations	S u p p l y a n d Shipping	Regulation 2— Omit "during the present war" Omit regulation 10
National Security (Medical Bene- fits for Seamen) Regulations	S u p p l y a n d Shipping	Omit regulation 3
†National Security (Rationing) Regulations	Trade and Cus- toms	Omit regulation 3 Regulation 25— Omit from sub-regulation (1.) "or the National Security (Emer- gency Supplies) Regulations" Omit regulation 28g
National Security (Shipping Co- ordination) Regulations	S u p p l y a n d Shipping	Omit regulation 2 Regulation 4— Omit "Part VII.—Cargo Pro- tection." Omit regulations 13, 14 and 55 Omit Part VII.
National Security (Staff of War- time Authorities) Regulations	Commerce and Agriculture	Second Schedule— Omit "Field Peas Board.", "Vege- table Seeds Committee." Omit Ninth and Tenth Schedules
National Security (Supplementary) Regulations	Administered by Departments appropriate to subject matter of individual regulations	Omit all regulations except the fol- lowing regulations and amend the last-mentioned regulations as speci- fied hereunder:— 1, 3, 4, 11, 14 Regulation 16— Omit from sub-regulation (1.) "by or under any regulations made under the <i>National Security Act</i> 1939 or under that Act as amen- ded", insert ", or deemed to be constituted, by or under any regu- lations in force under the <i>Defence</i> <i>(Transitional Provisions) Act 1946</i> " 18, 33, 38, 47, 49, 52, 57, 58 Regulation 62— Omit "in pursuance of the last preceding regulation" (wherever occurring), insert "in any order in force by virtue of the <i>Defence</i> <i>(Transitional Provisions) Act 1946</i> whereby the assumption or use of that word or group is prohibited"

† Repealed by Statutory Rules 1940, No. 48.

FIRST SCHEDULE—continued.

First Column. Regulations.	Second Column. Department by which Administered.	Third Column. Amendments.
		<p>Regulation 63— Sub-regulation (6.)— At the end of paragraph (c) insert "or" At the end of paragraph (d), omit "or" Omit paragraph (e) 65, 80, 90 91— Omit sub-regulations (3.) and (4.), insert the following sub-regulation:— “(4.) Where any person in respect of whom notice was given under sub-regulation (3.) of regu- lation 91 of the National Security (Supplementary) Regulations, as in force prior to the first day of January, 1947, receives any amount referred to in that sub- regulation, he shall forthwith pay it into the trust account opened in pursuance of that sub-regulation.” 94, 96 Regulation 100— After “amended” in paragraph (a) of sub-regulation (3.), insert “, or under the <i>Defence (Transitional Provisions) Act 1946</i>” Omit from paragraph (b) of sub- regulation (3.) “that Act or under that Act as amended”, insert “or in force by virtue of either of those Acts” 105, 112 Regulation 116— Omit from sub-regulation (2.) all words after “made” (second occur- ring), insert “in force by virtue of the <i>Defence (Transitional Provi- sions) Act 1946</i> and includes any orders in force by virtue of that Act or made under any such regulations” 120, 128, 129 133— Omit from sub-regulation (1.) “made under the <i>National Security Act 1939</i>, or under that Act as amended”, insert “in force by virtue of the <i>Defence (Transitional Provisions) Act 1946</i>” 134 136— Omit from sub-regulation (1.) “made under the <i>National Security Act 1939</i>, or under that Act as amended”, insert “in force by virtue of the <i>Defence (Transitional Provisions) Act 1946</i>”</p>

FIRST SCHEDULE—continued.

First Column. Regulations.	Second Column. Department by which Administered.	Third Column. Amendments.
National Security (Tea Control) Regulations	Trade and Customs	139, 142 Regulation 9— Omit from sub-regulation (1.) "the National Security (Emergency Supplies) Regulations and to"
National Security (War Deaths) Regulations	Attorney-General	Regulation 3— Omit sub-regulation (1.) Omit from sub-regulation (2.) "the regulation repealed by this regulation", insert "regulation 25 of the National Security (Supplementary) Regulations"
National Security (War Service Moratorium) Regulations	Attorney-General	Omit regulation 3, insert— "3.—(1.) Nothing in Saving. these Regulations shall affect the operation of any order of a court made in pursuance of the previous Regulations and, where leave has been given to any person under the previous Regulations to do, or to continue or complete the doing of, any act, that person may, notwithstanding anything contained in these Regulations, do, or continue or complete the doing of, that act accordingly. "(2.) Any notice given under the previous Regulations which could have been given under these Regulations if they had been in force when the notice was given shall have the same effect as if these Regulations had been so in force and the notice had been given under these Regulations. "(3.) A certificate issued under the previous Regulations shall have the same effect as if it had been issued under these Regulations." Regulation 4— Omit "Part II.—Provisions relating to Mortgages and Agreements for the Purchase of Land. Part III.—Prohibition of Suspension of Proceedings." Regulation 5— Omit the definition of "the previous Regulations", insert— "the previous Regulations means any Regulations in force under the <i>National Security Act</i> 1939, or under that Act as amended, having the title 'National Security (War Service Moratorium) Regulations';" Omit Parts II. and III. Omit regulations 34, 34A, 35 and 36

SECOND SCHEDULE.

Section 7.

Amended by
No. 88, 1948,
s. 5 and 2nd
Schedule
and by
No. 70, 1949,
s. 5 and 2nd
Schedule.

First Column. Title or Description of Orders.	Second Column. Regulations under which Orders made.	Third Column. Department by which Administered.	Fourth Column. Amendments.
*Control of Tin- plate Order	Regulation 59 of the National Security (General) Regulations	Supply and Shipping	
Cordage and Fibre Order	Regulation 59 of the National Security (General) Regulations	Supply and Shipping	Paragraph 4— Omit sub-paragraphs (1.) and (2.) Omit from sub-para- graph (3.) "after the date this Order is notified in the <i>Gazette</i> " Paragraph 5— Omit "On and after the fifteenth day of April One thousand nine hundred and forty-four a", insert "A"
Jute Goods Order	Regulation 59 of the National Security (General) Regulations	Supply and Shipping	
†Control of New Commercial Motor Vehicles Order	National Security (Land Trans- port) Regu- lations	Transport	Omit from paragraph 2 of each Order the defini- tion of "prescribed transport authority", in- sert "prescribed trans- port authority" means a person or body of persons authorized in writing by the Minister to act under this Order."
†Control of New Motor Cars Order			Add at the end of sub- paragraph (1.) of para- graph 4 of each Order "or by a prescribed transport authority."
Orders under regulation 61 of the National Security (Supplemen- tary) Regula- tions	Regulation 61 of the National Security (Supplemen- tary) Regula- tions	Attorney- General	

* Repealed by Order dated 12th October, 1949; *Gazette* No. 78, 27th October, 1949, page 3061.

† Repealed by Order dated 4th February, 1949; *Gazette* No. 16, 17th February, 1949, page 385.

THIRD SCHEDULE.

Section 10 (1.) Amended by
No. 70, 1949,
s. 7.

(a)* * * * *

FOURTH SCHEDULE.

Section 10 (2.) Amended by
No. 70, 1949,
s. 7.

First Column. Acts Amended.	Second Column. Citations.
† <i>Black Marketing Act</i> 1942.. ..	<i>Black Marketing Act</i> 1942-1946
<i>Crimes Act</i> 1914-1941	<i>Crimes Act</i> 1914-1946
‡ <i>Papua-New Guinea Provisional Ad- ministration Act</i> 1945	<i>Papua-New Guinea Provisional Ad- ministration Act</i> 1945-1946
<i>Patents, Trade Marks, Designs and Copyright (War Powers) Act</i> 1939- 1940	<i>Patents, Trade Marks, Designs and Copyright (War Powers) Act</i> 1939- 1946
<i>Post and Telegraph Act</i> 1901-1934 ..	<i>Post and Telegraph Act</i> 1901-1946
<i>Wool Realization Act</i> 1945	<i>Wool Realization Act</i> 1945-1946

(a) The amendments made by s. 10 (1.) and the Third Schedule to the Acts specified in that Schedule (except the *Black Marketing Act* 1942 which was repealed by the *Statute Law Revision Act* 1950 and the *Papua-New Guinea Provisional Administration Act* 1945 which was repealed by the *Papua and New Guinea Act* 1949-1950) are incorporated in the prints of those Acts.

† Repealed by the *Statute Law Revision Act* 1950.

‡ Repealed by the *Papua and New Guinea Act* 1949.

DEFENCE (TRANSITIONAL PROVISIONS) ACT 1947.^(a)

An Act to amend the *Defence (Transitional Provisions) Act* 1946 and for other purposes.

Preamble.

WHEREAS the state of war referred to in the preamble to the *Defence (Transitional Provisions) Act* 1946 still exists:

AND WHEREAS the gradual and orderly return to conditions of peace so referred to is not yet completed:

AND WHEREAS the continued operation of certain of the Regulations declared by that Act to be in force until midnight on the thirty-first day of December, One thousand nine hundred and forty-seven will not, after that date, be necessary for the purposes specified in the preamble to that Act:

AND WHEREAS it is necessary, for the peace, order and good government of the Commonwealth, to provide that certain of those Regulations shall continue to operate during the time of transition referred to in that preamble or shall remain in force for the carrying on or completion, during that time of transition, of certain of the arrangements, activities, actions and proceedings so referred to:

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
and citation.

1.—(1.) This Act may be cited as the *Defence (Transitional Provisions) Act* 1947.^(a)

(2.) The *Defence (Transitional Provisions) Act* 1946 is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Defence (Transitional Provisions) Act* 1946–1947.

Commence-
ment.

2.—(1.) Sections one, two and three of this Act shall come into operation on the day on which this Act receives the Royal Assent.

(2.) The remaining sections of this Act shall come into operation on the first day of January, One thousand nine hundred and forty-eight.

Operation
of certain
Regulations.

3. Section six of the Principal Act is amended by omitting from sub-section (1.) the word “forty-seven” and inserting in its stead the word “forty-eight”.

^(a) No. 78, 1947; assented to on 11th December, 1947; commenced on 1st January, 1948, *see* s. 2.

4.^(a)—(1.) The First Schedule to the Principal Act is amended— Discontinuance
of certain
Regulations.

- (a) by omitting from the first column the titles of the Regulations the titles of which are specified in the First Schedule to this Act; and
- (b) by omitting from the second and third columns the provisions relating to those Regulations.

(2.) Any contract or agreement—

- (a) to which the Commonwealth, a Minister or an authority of the Commonwealth is a party;
- (b) which was subsisting immediately prior to the first day of January, One thousand nine hundred and forty-eight; and
- (c) which was entered into under any Regulations the title of which is specified in the First Schedule to this Act,

shall, subject to the next succeeding sub-section, continue in full force and effect.

(3.) Where an authority of the Commonwealth is a party to any such contract or agreement and that authority has ceased to exist, the Commonwealth shall be deemed to be substituted for that authority as a party to the contract or agreement.

(4.) Where, immediately prior to the first day of January, One thousand nine hundred and forty-eight—

- (a) an authority of the Commonwealth constituted under any Regulations the title of which is specified in the First Schedule to this Act was a party to an action or other proceeding and that authority has ceased to exist, the Commonwealth shall be substituted for that authority as a party to that action or proceeding; and
- (b) property or assets were, under any such Regulations, vested in an authority of the Commonwealth and that authority has ceased to exist, that property or those assets shall, by force of this Act, be vested in the Commonwealth.

(5.) The provisions of section eight of the *Acts Interpretation Act 1901-1947* shall apply in relation to—

- (a) the Regulations the titles of which are specified in the First Schedule to this Act;
- (b) the orders, rules and by-laws which were in force or subsisting immediately prior to the first day of January, One thousand nine hundred and forty-eight and were, by virtue of sub-section (1.) of section eight of the Principal Act, so in force or subsisting as if made under any of those Regulations; and
- (c) the orders, rules and by-laws which were in force or subsisting immediately prior to the commencement of

(a) The amendments effected by section 4 to the First Schedule to the Principal Act are incorporated in the print of that Act, *supra*.

this section and were made under any of those Regulations as in force by virtue of the Principal Act, as if those Regulations, orders, rules and by-laws were repealed on the first day of January, One thousand nine hundred and forty-eight and as if each of those Regulations, orders, rules and by-laws were an Act.

Amendment of continued Regulations.

5. The Regulations the titles of which are specified in the first column of the Second Schedule to this Act, being the Regulations having those respective titles as in force under the Principal Act immediately prior to the commencement of this section, are amended as respectively specified in the third column of that Schedule.

Amendments of Land Tax Assessment Act.

6.—(a) * * * * *

(5.) The *Land Tax Assessment Act* 1910–1946, as amended by the *Salaries (Statutory Offices) Adjustment Act* 1947 and by this section, may be cited as the *Land Tax Assessment Act* 1910–1947.

7.—(b) * * * * *

(3.) The *Acts Interpretation Act* 1901–1941, as amended by this section, may be cited as the *Acts Interpretation Act* 1901–1947.

Exemption from jury service.

8.—(c) * * * * *

(2.) The *Defence Act* 1903–1945, as amended by this section, may be cited as the *Defence Act* 1903–1947.

Repeal of National Registration Act.

9. The *National Registration Act* 1939 is repealed.

THE SCHEDULES.

FIRST SCHEDULE.(d)

Section 4.

REGULATIONS DISCONTINUED.

National Security (Agricultural Production) Regulations.
National Security (Aliens Control) Regulations.
National Security (Board of Business Administration) Regulations.
National Security (Change of Name) Regulations.
National Security (Claims against the Commonwealth in relation to Visiting Forces) Regulations.
National Security (Enemy Property) Regulations.
National Security (Patriotic Funds) Regulations.
National Security (Superphosphate Industry) Regulations.
National Security (Wine Industry) Regulations.

(a) The amendments made to the *Land Tax Assessment Act* 1910–1946 (as amended by the *Salaries (Statutory Offices) Adjustment Act* 1947), the *Defence (Transitional Provisions) Act* 1946, and to the *Salaries (Statutory Offices) Adjustment Act* 1947 by sub-sections (1.)–(4.) of section 6 have been incorporated in the prints of those Acts.

(b) The amendments made to the *Acts Interpretation Act* 1901–1941 by sub-sections (1.) and (2.) of section 7 have been incorporated in the print of that Act, *supra*.

(c) The amendment made to the *Defence Act* 1903–1945 by sub-section (1.) of section 8 has been incorporated in the print of that Act, *supra*.

(d) The Regulations specified in this Schedule are, by section 4 of this Act, omitted from the First Schedule to the Principal Act, and have been omitted from the First Schedule in the print of that Act, *supra*.

SECOND SCHEDULE.

Section 5.

First Column. Regulations.	Second Column. Department by which administered.	Third Column. Amendments.
National Security (Agricultural Aids) Regulations	Commerce and Agriculture	Omit regulation 4, insert— “4. In these Regula- Definition. tions, ‘agricultural aid’ means nicotine sulphate.” Omit regulation 8 Regulation 10— Omit from sub-regulation (1.) “agricultural aids”, insert “any agricultural aid”
National Security (Australian Bar- ley Board) Regulations	Commerce and Agriculture	After regulation 28 add— “29. These Regula- Limitation of tions shall not apply operation. to barley, oats or grain sorghum harvested after the thirtieth day of September, 1948.”
National Security (General) Regulations	Administered by Departments appropriate to subject-matter of individual regulations	Omit regulations 69A, 87 and 88
National Security (Potatoes) Regulations	Commerce and Agriculture	After regulation 20 add— “21. These Regula- Limitation of tions shall not apply operation. to potatoes harvested after the thirtieth day of November, 1948.”
National Security (Supplementary) Regulations	Administered by Departments appropriate to subject-matter of individual regulations	Omit regulations 4, 11, 14, 16, 38, 47, 49, 57, 65, 90, 96, 105, 120 and 134
National Security (Wheat Acquisi- tion) Regulations	Commerce and Agriculture	After regulation 30 add— “31. These Regula- Limitation of tions shall not apply operation. to wheat harvested after the thirtieth day of September, 1948.”
National Security (Wheat Industry Stabilization) Regulations	Commerce and Agriculture	Regulation 11— Omit sub-regulation (4.) After regulation 13 add— “14. These Regula- Limitation of tions shall not apply operation. to wheat sown after the thirty- first day of August, 1948.”

DEFENCE (TRANSITIONAL PROVISIONS) ACT 1948.^(a)An Act to amend the *Defence (Transitional Provisions) Act 1946–1947*, and for other purposes.

Preamble.

WHEREAS by the *Defence (Transitional Provisions) Act 1947* the operation of certain of the Regulations and Orders declared by the *Defence (Transitional Provisions) Act 1946* to be in force until midnight on the thirty-first day of December, One thousand nine hundred and forty-seven was continued until midnight on the thirty-first day of December, One thousand nine hundred and forty-eight:

AND WHEREAS the state of war referred to in the preamble to the *Defence (Transitional Provisions) Act 1946* still exists:

AND WHEREAS the gradual and orderly return to conditions of peace referred to in that preamble is not yet completed:

AND WHEREAS the continued operation of certain of the Regulations and Orders in force by virtue of the *Defence (Transitional Provisions) Act 1946* as amended by the *Defence (Transitional Provisions) Act 1947* until midnight on the thirty-first day of December, One thousand nine hundred and forty-eight will not, after that date, be necessary for the purposes specified in the preamble to the *Defence (Transitional Provisions) Act 1946*:

AND WHEREAS it is necessary, for the peace, order and good government of the Commonwealth, to provide that certain of those Regulations and Orders shall continue to operate during the term of transition referred to in that preamble or shall remain in force for the carrying on or completion, during that time of transition, of certain of the arrangements, activities, actions and proceedings so referred to:

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
and citation.

1.—(1.) This Act may be cited as the *Defence (Transitional Provisions) Act 1948*.^(a)

(2.) The *Defence (Transitional Provisions) Act 1946–1947* is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Defence (Transitional Provisions) Act 1946–1948*.

^(a) No. 88, 1948; assented to on 21st December, 1948; commenced on 1st January, 1949. See s. 2.

2.—(1.) Sections one, two and three of this Act shall come into operation on the day on which this Act receives the Royal Assent. Commence-
ment.

(2.) The remaining sections of this Act shall come into operation on the first day of January, One thousand nine hundred and forty-nine.

3. Section six of the Principal Act is amended by omitting from sub-section (1.) the word "forty-eight" and inserting in its stead the word "forty-nine". Operation
of certain
Regulations.

4.^(a)—(1.) The First Schedule to the Principal Act is amended— Discontinuance
of certain
Regulations.

(a) by omitting from the first column the titles of the Regulations the titles of which are specified in the First Schedule to this Act; and

(b) by omitting from the second and third columns the provisions relating to those Regulations.

(2.) Any contract or agreement—

(a) to which the Commonwealth, a Minister or an authority of the Commonwealth is a party;

(b) which was subsisting immediately prior to the first day of January, One thousand nine hundred and forty-nine; and

(c) which was entered into under any Regulations the title of which is specified in the First Schedule to this Act,

shall, subject to the next succeeding sub-section, continue in full force and effect.

(3.) Where an authority of the Commonwealth is a party to any such contract or agreement and that authority has ceased to exist, the Commonwealth shall be deemed to be substituted for that authority as a party to the contract or agreement.

(4.) Where, immediately prior to the first day of January, One thousand nine hundred and forty-nine—

(a) an authority of the Commonwealth constituted under any Regulations the title of which is specified in the First Schedule to this Act was a party to an action or other proceeding and that authority has ceased to exist, the Commonwealth shall be substituted for that authority as a party to that action or proceeding; and

(b) property or assets were, under any such Regulations, vested in an authority of the Commonwealth and that authority has ceased to exist, that property or those assets shall by force of this Act, be vested in the Commonwealth.

(5.) The provisions of section eight of the *Acts Interpretation Act* 1901–1947 shall apply in relation to—

(a) the Regulations the titles of which are specified in the First Schedule to this Act;

(a) The amendments effected by section 4 to the First Schedule to the Principal Act are incorporated in the print of that Act, *supra*.

- (b) the orders, rules and by-laws which were in force or subsisting immediately prior to the first day of January, One thousand nine hundred and forty-nine and were, by virtue of sub-section (1.) of section eight of the Principal Act, so in force or subsisting as if made under any of those Regulations; and
 - (c) the orders, rules and by-laws which were in force or subsisting immediately prior to the commencement of this section and were made under any of those Regulations as in force by virtue of the Principal Act,
- as if those Regulations, orders, rules and by-laws were repealed on the first day of January, One thousand nine hundred and forty-nine and as if each of those Regulations, orders, rules and by-laws were an Act.

Regulations and orders not in force under Defence (Transitional Provisions) Act.

5.^(a)—(1.) The First Schedule to the Principal Act is amended—

- (a) by omitting from the first column the titles of the Regulations the titles of which are specified in the Second Schedule to this Act; and
 - (b) by omitting from the second and third columns the provisions relating to those Regulations.
- (2.) The Second Schedule to the Principal Act is amended—
- (a) by omitting from the first column the titles of the Orders the titles of which are specified in the Second Schedule to this Act; and
 - (b) by omitting from the second, third and fourth columns the provisions relating to those orders.

Amendment of continued Regulations.

6. The Regulations the titles of which are specified in the first column of the Third Schedule to this Act, being the Regulations having those respective titles as in force under the Principal Act immediately prior to the commencement of this section are amended as respectively specified in the third column of that Schedule.

Amendments of Land Tax Assessment Act.

7.^(b)— * * * * *

(3.) The *Land Tax Assessment Act 1910-1947*, as amended by this section, may be cited as the *Land Tax Assessment Act 1910-1948*.

(a) The amendments effected by section 5 to the First and Second Schedules to the Principal Act are incorporated in the print of that Act, *supra*.

(b) The amendments made to the *Land Tax Assessment Act 1910-1947* by sub-sections (1.) and (2.) of section 7 have been incorporated in the print of that Act, *infra*.

THE SCHEDULES.

FIRST SCHEDULE.^(a)

Section 4.

National Security (Agricultural Aids) Regulations.
 National Security (Australian Tobacco Leaf) Regulations.
 National Security (Guarantee) Regulations.
 National Security (Jute) Regulations.
 National Security (Potatoes) Regulations.
 National Security (Requisitioned Cargoes) Regulations.
 National Security (War Damage to Property) Regulations.
 National Security (Wheat Industry Stabilization) Regulations.

SECOND SCHEDULE.^(b)

Section 5.

National Security (Boot Trades Dilution) Regulations.
 National Security (Control of Animal Diseases) Regulations.
 National Security (Dairy Products Acquisition) Regulations.
 National Security (Egg Industry) Regulations.
 National Security (Munitions) Regulations.
 National Security (Shipbuilding) Regulations.
 Agricultural Machinery Order No. 1.
 Control of Footwear (Styles and Quality) Order.
 Shirts, Collars and Pyjamas Order.

THIRD SCHEDULE.

Section 6.

First Column. Regulations.	Second Column. Department by which administered.	Third Column. Amendments.
National Security (Economic Organization) Regulations	Treasury and (Part V.) Labour and National Service	Omit regulation 6A
National Security (General) Regulations	Administered by Departments appropriate to subject-matter of individual regulations	Omit regulations 11 (3A.), 25, 26 and 91
† National Security (Hide and Leather Industries) Regulations	Commerce and Agriculture	Omit regulations 18 and 22
National Security (Supplementary) Regulations	Administered by Departments appropriate to subject-matter of individual regulations	Omit regulations 91, 112 and 136

(a) The Regulations specified in this Schedule are, by section 4 of this Act, omitted from the First Schedule to the Principal Act, and have been omitted from the First Schedule in the print of that Act, *supra*.

(b) The Regulations and orders specified in this Schedule are, by section 5 of this Act, omitted from the First Schedule to the Principal Act, and have been omitted from the First Schedule in the print of that Act, *supra*.

† Repealed by Statutory Rules 1948, No. 163.

DEFENCE (TRANSITIONAL PROVISIONS) ACT 1949.^(a)

An Act to amend the *Defence (Transitional Provisions) Act 1946–1948*, and for other purposes.

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

Short title
and citation.

1.—(1.) This Act may be cited as the *Defence (Transitional Provisions) Act 1949*.^(a)

(2.) The *Defence (Transitional Provisions) Act 1946–1948* is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Defence (Transitional Provisions) Act 1946–1949*.

Commence-
ment.

2.—(1.) Sections one, two and three of this Act shall come into operation on the day on which this Act receives the Royal Assent.

(2.) The remaining sections of this Act shall come into operation on the first day of January, One thousand nine hundred and fifty.

Operation of
certain
Regulations.

3. Section six of the Principal Act is amended by omitting from sub-section (1.) the word “forty-nine” and inserting in its stead the word “fifty”.

Discontinuance
of certain
Regulations.

4.^(b)—(1.) The First Schedule to the Principal Act is amended—

(a) by omitting from the first column the titles of the Regulations the titles of which are specified in the First Schedule to this Act; and

(b) by omitting from the second and third columns the provisions relating to those Regulations.

(2.) Any contract or agreement—

(a) to which the Commonwealth, a Minister or an authority of the Commonwealth is a party;

(b) which was subsisting immediately prior to the commencement of this section; and

(c) which was entered into under any Regulations the title of which is specified in Part I. of the First Schedule to this Act,

shall, subject to the next succeeding sub-section, continue in full force and effect.

^(a) No. 70, 1949; assented to on 28th October, 1949; commenced on 1st January, 1950. See s. 2.

^(b) The amendments effected by section 4 to the First Schedule to the Principal Act are incorporated in the print of that Act, *supra*.

(3.) Where an authority of the Commonwealth is a party to any such contract or agreement and that authority has ceased to exist, the Commonwealth shall be deemed to be substituted for that authority as a party to the contract or agreement.

(4.) Where, immediately prior to the commencement of this section—

- (a) an authority of the Commonwealth constituted under any Regulations the title of which is specified in Part I. of the First Schedule to this Act was a party to an action or other proceeding and that authority has ceased to exist, the Commonwealth shall be substituted for that authority as a party to that action or proceeding; and
- (b) property or assets were, under any such Regulations, vested in an authority of the Commonwealth and that authority has ceased to exist, that property or those assets shall, by force of this Act, be vested in the Commonwealth.

(5.) The provisions of section eight of the *Acts Interpretation Act* 1901–1948 shall apply in relation to—

- (a) the Regulations the titles of which are specified in Part I. of the First Schedule to this Act;
 - (b) the orders, rules and by-laws which were in force or subsisting immediately prior to the commencement of this section and were, by virtue of sub-section (1.) of section eight of the Principal Act, so in force or subsisting as if made under any of those Regulations; and
 - (c) the orders, rules and by-laws which were in force or subsisting immediately prior to the commencement of this section and were made under any of those Regulations as in force by virtue of the Principal Act,
- as if those Regulations, orders, rules and by-laws were repealed on the date of commencement of this section and as if each of those Regulations, orders, rules and by-laws were an Act.

5.^(a) The Second Schedule to the Principal Act is amended— Discontinuance of order.

- (a) by omitting from the first column the title of the order the title of which is specified in the Second Schedule to this Act; and
- (b) by omitting from the second and third columns the provisions relating to that order.

6. The Regulations the titles of which are specified in the first column of the Third Schedule to this Act, being the Regulations having those respective titles as in force under the Principal Act immediately prior to the commencement of this section, are amended as respectively specified in the third column of that Schedule. Amendment of continued Regulations.

(a) The amendments effected by section 5 to the Second Schedule to the Principal Act are incorporated in the print of that Act, *supra*.

Repeal of
Women's
Employment
Act.

7.—(1.) The *Women's Employment Act 1942* is repealed.

(a)* * * * *

Saving of
awards, &c.

8. Each award, order, determination and decision in force or subsisting immediately prior to the commencement of this section under the National Security (Female Minimum Rates) Regulations, the *Women's Employment Act 1942-1946* or the Women's Employment Regulations shall remain in force or subsisting until revoked by competent authority.

Secrecy.

9.—(1.) A person to whom this section applies shall not, directly or indirectly, communicate or divulge any information to which this section applies.

Penalty: One hundred pounds or imprisonment for six months.

(2.) Nothing in the last preceding sub-section prohibits—

(a) a person, whenever the Minister declares that it is necessary or desirable in the interests of justice so to do—

(i) from communicating to the Attorney-General of a State information which makes it appear that a person has committed, or is suspected of having committed, or is about to commit, an offence against a law of that State relating to secret commissions; or

(ii) from producing to the Attorney-General of a State, for use in connexion with a prosecution of a person for any such offence, any documents, books or papers containing any such information;

(b) the communication to the Commissioner of Taxation or a Deputy Commissioner of Taxation of information for the purpose of the administration of any law of the Commonwealth relating to taxation; or

(c) the communication to the Tariff Board constituted under the *Tariff Board Act 1921-1947* of information relating to a matter in respect of which an inquiry is being held by the Tariff Board.

(3.) Where the Minister declares that he is satisfied that a law of a State or Territory of the Commonwealth makes adequate provision for the preservation of the secrecy of information communicated to an authority or officer exercising powers and functions in relation to the control of prices and rates of goods or services in that State or Territory, nothing in this section prohibits a person thereto authorized by the Minister from communicating information to such an authority or officer.

(4.) A person to whom this section applies shall, if so required by the Minister or by an officer appointed by him to act under this

(a) The amendments made to the Third and Fourth Schedules to the Principal Act by ss. (2.) of s. 7 have been incorporated in the print of that Act, *supra*.

sub-section, sign a declaration, in accordance with a form approved by the Minister, that he will not unlawfully communicate any information to which this section applies.

(5.) In this section—

“information to which this section applies” means information obtained by the Commonwealth for the purposes of the Prices Regulations;

“person to whom this section applies” means any person who at any time exercised any power or performed any duty under or in relation to the Prices Regulations, and includes any person who is, or has at any time been, employed by the Commonwealth and possesses any information to which this section applies;

“the Minister” means the Minister of State for Trade and Customs;

“the Prices Regulations” means any Regulations having the title National Security (Prices) Regulations in force at any time under the *National Security Act 1939* or under the *Defence (Transitional Provisions) Act 1946*, or under either of those Acts as amended.

10. (a) * * * * * Amendments of Land Tax Assessment Act.

(3.) The *Land Tax Assessment Act 1910–1948*, as amended by this section, may be cited as the *Land Tax Assessment Act 1910–1949*.

THE SCHEDULES.

Section 4.

FIRST SCHEDULE.(b)

PART I.—REGULATIONS DISCONTINUED.

National Security (Australian Barley Board) Regulations.
National Security (External Territories) Regulations.
National Security (Female Minimum Rates) Regulations.
National Security (Internment Camps) Regulations.
National Security (Landlord and Tenant) Regulations.
National Security (Liquid Fuel) Regulations.
National Security (Military Forces) Regulations.
National Security (Minerals) Regulations.
National Security (Naval Charter Rates) Regulations.
National Security (Naval Forces) Regulations.
National Security (Prices) Regulations.
National Security (Prisoners of War) Regulations.
National Security (Rabbit Skins) Regulations.
National Security (Salvage) Regulations.
National Security (Tinplate Control) Regulations.
National Security (Women's Services) Regulations.

(a) The amendments made to the *Land Tax Assessment Act 1910–1948* by ss. (1.) and (2.) of s. 10 have been incorporated in the print of that Act, *infra*.

(b) The Regulations specified in this Schedule are, by section 4 of this Act, omitted from the First Schedule to the Principal Act, and have been omitted from that Schedule in the print of that Act, *supra*.

FIRST SCHEDULE—*continued*.

PART II.—REGULATIONS NOT IN FORCE UNDER DEFENCE (TRANSITIONAL PROVISIONS) ACT.

National Security (Wheat Acquisition) Regulations.

SECOND SCHEDULE.^(a)

Section 5.

ORDER DISCONTINUED.

Control of Essential Materials Order.

THIRD SCHEDULE.

Section 6.

REGULATIONS AMENDED.

First Column. Regulations.	Second Column. Department by which Administered.	Third Column. Amendments.
National Security (Economic Organization) Regulations	Treasury and (Part V.) Labour and National Service	<p>Regulation 2— Omit from sub-regulation (1.) “(other than Part V.)” Omit sub-regulation (2.) Regulation 3— Omit— “Part III. — Prohibition of Transfer of Certain Property. “Part IIIA.—Prohibition of Transfer of Residential Businesses.” Omit— “Part V. — Industrial Provisions.” Omit Parts III., IIIA. and V. Regulation 20— Omit “Part III., Part IIIA. or” Omit “either of those Parts”, insert “that Part” Regulation 21— Omit paragraph (a) Omit from paragraph (b) “Part III., Part IIIA. or” Regulation 22— Omit from sub-regulation (1.) “Part III., Part IIIA.” Omit from sub-regulation (1.) “any” (last occurring), insert “either” Omit regulations 23, 24 and 25</p>

(a) The Order specified in this Schedule, was, by section 5 of this Act, omitted from the Second Schedule to the Principal Act, and has been omitted from that Schedule in the print of that Act, *supra*.

THIRD SCHEDULE—*continued.*

First Column. Regulations.	Second Column. Department by which Administered.	Third Column. Amendments.
National Security (General) Regulations	Administered by Depart- ments appropriate to subject-matter of in- dividual regulations	Omit regulation 31A
National Security (Supplementary) Regulations	Administered by Depart- ments appropriate to subject-matter of indi- vidual regulations	Omit regulations 3, 18 and 128
National Security (War Service Moratorium) Regulations	Attorney-General ..	Omit regulations 30A to 30AF (both inclusive)

DEFENCE (TRANSITIONAL PROVISIONS) ACT 1950.^(a)An Act to amend the *Defence (Transitional Provisions) Act* 1946–1949, and for other purposes.

Preamble.

WHEREAS, by virtue of the *Defence (Transitional Provisions) Act* 1946, as subsequently amended, certain Regulations, orders and other instruments were declared to be maintained in force until the thirty-first day of December, One thousand nine hundred and fifty, for the purpose of bringing about a gradual and orderly return from war conditions to conditions of peace:

AND WHEREAS for that purpose it is desirable that certain of those Regulations, orders and other instruments should be maintained in force until the thirty-first day of December, One thousand nine hundred and fifty-one:

AND WHEREAS, for the further purpose of assisting to meet the increasing defence requirements and commitments of Australia as a member of the British Commonwealth of Nations and of the United Nations, it is desirable that certain of those Regulations, orders and other instruments should be in force until the thirty-first day of December, One thousand nine hundred and fifty-one:

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 and citation.

1.—(1.) This Act may be cited as the *Defence (Transitional Provisions) Act* 1950.^(a)

(2.) The *Defence (Transitional Provisions) Act* 1946–1949, as amended by this Act, may be cited as the *Defence (Transitional Provisions) Act* 1946–1950.

Commencement.

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

Operation of certain Regulations.

3. Section six of the *Defence (Transitional Provisions) Act* 1946–1949 is amended by omitting from sub-section (1.) the word “fifty” and inserting in its stead the word “fifty-one”.

(a) No. 78, 1950; assented to, and commenced on 16th December, 1950. See s. 2.

4.—(1.) The instruments to which the *Defence (Transitional Provisions) Act 1946–1949* purported to give force or subsistence immediately before the date of commencement of this Act shall, by force of this Act, be in force or subsisting until the thirty-first day of December, One thousand nine hundred and fifty-one. Certain instruments to be in force by virtue of this Act.

(2.) The *Defence (Transitional Provisions) Act 1946–1950* (including the provisions of that Act relating to amendment, repeal and revocation) shall, by force of this Act, have, in relation to those instruments as in force or subsisting by force of this Act, the same operation as the corresponding provisions of the *Defence (Transitional Provisions) Act 1946–1949* purported to have in relation to those instruments as in force or subsisting by force of that Act.

(3.) In this section, “instruments” includes Regulations, orders, awards and determinations.

DEFENCE (VISITING FORCES) ACT 1939-1950.^(a)

An Act to make provision, in relation to the Commonwealth or the Defence Force, with respect to the Naval, Military and Air Forces of other parts of His Majesty's Dominions and of Territories administered by His Majesty, and with respect to Members of those Forces, and for other purposes.

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

1. This Act may be cited as the *Defence (Visiting Forces) Act 1939-1950*.^(a)

Commence-
ment.

2. This Act shall commence on a date to be fixed by Proclamation.^(a)

Application of
Act to
Territories.

3. This Act shall extend to the Territories of the Commonwealth, and for the purposes of this Act the expression "the Commonwealth" includes those Territories.

Extra-
territorial
operation of
Act.

4. This Act shall apply, both within and beyond the Commonwealth, to the Defence Force and every part thereof, and to every member of a Home force or a Dominion force temporarily attached to any part of the Defence Force.

Definitions.
Amended by
No. 80, 1950,
s. 3 and First
Schedule.

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

"Colony" means any part of the King's dominions other than the United Kingdom and the Dominions, and includes any territory which is under His Majesty's protection, or which is governed by His Majesty's Government in the United Kingdom under a Trusteeship Agreement ;

"court" includes a service Court of Inquiry, and an officer empowered by the law of the United Kingdom or of a Dominion to review the proceedings of a service court, or

(a) The *Defence (Visiting Forces) Act 1939-1950* comprises the *Defence (Visiting Forces) Act 1939* as amended. Particulars of the Principal Act and of the amending Act are set out in the following table:—

Act	Year and Number	Date of Assent	Date of Commencement
<i>Defence (Visiting Forces) Act 1939</i>	1939, No. 5 ..	20th May, 1939 ..	1st June, 1940 (See <i>Gazette</i> , 1940, p. 1193)
<i>Statute Law Revision Act 1950</i>	1950, No. 80 ..	16th December, 1950	31st December, 1950

to investigate charges, or himself to dispose of charges, and the expression "sentence" shall be construed accordingly;

"Dominion" means the Dominion of Canada, the Dominion of New Zealand or the Union of South Africa;

"Dominion forces" means the Naval, Military and Air Forces of a Dominion, and "Dominion force" includes any body, contingent or detachment of those forces, or of any of them, wherever serving;

"forces" includes reserve and auxiliary forces;

"Home forces" means the Naval, Military and Air Forces of His Majesty raised, whether within or without the United Kingdom, under the law of the United Kingdom, and "Home force" includes any body, contingent or detachment of the Home forces, or of any of them, wherever serving;

"internal administration", in relation to any visiting force, includes the administration of the property of a deceased member of the force;

"member", in relation to a visiting force, being part of the Home forces or of any Dominion forces, includes any person subject by the law of the United Kingdom or of that Dominion, as the case may be, to the naval, military or air force law of the United Kingdom or of that Dominion, who, being a member of another force, is attached to the visiting force, or, being a civilian employed in connexion with the visiting force, entered into his engagement outside the Commonwealth;

"the Air Force Act" means the *Air Force Act* 1923, and includes the regulations made under that Act, or under that Act as subsequently amended;

"the Defence Act" means the *Defence Act* 1903-1934, and includes the regulations made under the *Defence Act* 1903, or under that Act as subsequently amended;

"the Defence Force" means the Naval, Military and Air Forces of the Commonwealth;

"the Naval Defence Act" means the *Naval Defence Act* 1910-1934, and includes the regulations made under the *Naval Defence Act* 1910, or under that Act as subsequently amended;

"the Naval Discipline Act" means the Imperial Act called the Naval Discipline Act, as amended from time to time, and includes any Imperial Act for the time being in force in substitution for that Act;

"the United Kingdom" means the United Kingdom of Great Britain and Northern Ireland;

“visiting force” means any Home force or Dominion force which is, with the consent of His Majesty’s Government in the Commonwealth, at any time lawfully present in the Commonwealth.

Discipline and
internal
administration
of visiting
forces.

6.—(1.) The naval, military and air force courts and authorities (in this Act referred to as the “service courts” and “service authorities”) of the United Kingdom, or, in the case of a Dominion force, the service courts and service authorities of that Dominion, may exercise within the Commonwealth in relation to members of the visiting force in matters concerning discipline and the internal administration of the force all such powers as are conferred upon them by the law of the United Kingdom or of the Dominion, as the case may be.

(2.) The members of a service court of the United Kingdom or of a Dominion exercising jurisdiction by virtue of this Act, and witnesses appearing before any such court, shall enjoy the like immunities and privileges as are enjoyed by a service court exercising jurisdiction under a law of the Commonwealth, and by witnesses appearing before such a court, or such immunities and privileges as are prescribed.

(3.) Where any sentence has, whether within or without the Commonwealth, been passed upon a member of a visiting force by a service court of the United Kingdom or of a Dominion, then for the purposes of any legal proceedings within the Commonwealth the court shall be deemed to have been properly constituted, and its proceedings shall be deemed to have been regularly conducted, and the sentence shall be deemed to be within the jurisdiction of the court and in accordance with the law of the United Kingdom or of the Dominion, as the case may be, and if executed according to the tenor thereof shall be deemed to have been lawfully executed, and any member of a visiting force who is detained in custody in pursuance of any such sentence, or pending the determination by a service court of the United Kingdom or the Dominion of a charge brought against him, shall for the purposes of any such proceedings be deemed to be in legal custody.

(4.) For the purposes of any such proceedings, a certificate under the hand of the officer commanding a visiting force that a member of that force is being detained for either of the causes referred to in the last preceding sub-section shall be conclusive evidence of the cause of his detention, but not of his being such a member, and a certificate under the hand of such an officer that the persons specified in the certificate sat as a service court of the United Kingdom or of the Dominion, as the case may be, shall be conclusive evidence of that fact.

(5.) Proceedings in respect of the pay, terms of service or discharge of a member of a visiting force shall not be entertained by any court of the Commonwealth or of a State.

(6.) For the purpose of enabling the service courts and service authorities of the United Kingdom or of a Dominion to exercise more effectively the powers conferred upon them by this section, the Naval Board, the Military Board or the Air Board, or the officer commanding any part of the Defence Force, as the case may be, if so requested by the Government of the United Kingdom or of the Dominion, or by the officer commanding a visiting force, may, from time to time, by general or special orders to the Defence Force or part thereof, direct the members thereof to arrest members of the visiting force alleged to have been guilty of offences against the law of the United Kingdom or of the Dominion, and to hand over any person so arrested to the appropriate authorities of the visiting force.

7.—(1.) The Governor-General may by order published in the *Gazette* authorize any Department of the Commonwealth or of a State, Minister of State or other person in the Commonwealth, to perform, at the request of such authority of the United Kingdom or of the Dominion in question as is specified in the order, but subject to such limitations as are so specified, any function in relation to a visiting force and members thereof, which that Department, Minister or person, performs or could perform in relation to a part of the Defence Force of like nature to the visiting force, or in relation to members of that part, and for the purpose of the exercise of any such function any power exercisable, by virtue of any law, by the Department, Minister or person, in relation to that part of the Defence Force or members thereof, shall be exercisable by him or them in relation to the visiting force and members thereof:

Relations of
visiting
forces to the
civil power
and civilians.

Provided that nothing in this sub-section shall authorize any interference with the visiting force in matters relating to discipline or to the internal administration of the force.

(2.) For the purposes of this section, the Naval Board, the Military Board and the Air Board shall be deemed to be Departments of the Commonwealth.

(3.) If the Governor-General by order published in the *Gazette* so provides, members of a visiting force if sentenced, whether within or without the Commonwealth, by a service court of the United Kingdom or of a Dominion to penal servitude, imprisonment or detention may, under the authority of a Minister of State given at the request of the officer commanding the visiting force, be temporarily detained in custody in prisons or detention barracks in any part of the Commonwealth, and if so sentenced to imprisonment may, under the like authority, be imprisoned during the whole or any part of the term of their sentences in prisons in any part of the Commonwealth, and the Governor-General may by the same or a subsequent order published in the *Gazette* make provision with respect to any of the following matters, that is to say:—

(a) the reception of such persons from, and their return to, the service authorities of the United Kingdom or the

Dominion, their treatment while in such custody, or while so imprisoned;

- (b) the circumstances under which they are to be discharged; and
- (c) the manner in which they are to be dealt with in the event of their unsoundness of mind while in such custody, or while so imprisoned.

(4.) Any costs incurred in the maintenance and return of, or otherwise in connexion with, any person dealt with in accordance with the provisions of this section shall be defrayed in such manner as is agreed between the Governor-General and the Government of the United Kingdom or of the Dominion, as the case may be.

(5.) Subject to this and the next succeeding sub-section, any law in force in any part of the Commonwealth which—

- (a) exempts, or provides for the exemption of, any vessel, vehicle, aircraft, machine or apparatus of, or employed for the purposes of, the Defence Force or any part thereof from the operation of any law;
- (b) in virtue of a connexion with the Defence Force or any part thereof, confers a privilege or immunity on any person;
- (c) in virtue of such a connexion, excepts any property, trade or business, in whole or in part, from the operation of any law, or from any tax, rate, imposition, toll or charge;
- (d) imposes upon any person or undertaking obligations in relation to the Defence Force, or any part thereof, or any member or service court thereof;
- (e) penalizes misconduct by any person in relation to the Defence Force or any part thereof, or any member or service court thereof,

shall, with any necessary modifications, apply in relation to a visiting force as it would apply in relation to any part of the Defence Force which is of a like nature to the visiting force:

Provided that the Governor-General may by order published in the *Gazette* either direct that any such law shall not apply, or that it shall apply with such exceptions and subject to such adaptations or modifications as are specified in the order.

(6.) An order under this section may apply either generally, or in relation to any particular visiting force, or in relation to any particular place.

Provisions with respect to deserters from overseas forces.

8.—(1.) Subject to this section, the provisions of the Defence Act relating to the arrest and temporary detention of deserters and absentees without leave shall, within the Commonwealth, apply in relation to a deserter or absentee without leave from any Home force or Dominion force (including any member of a reserve or auxiliary force of the United Kingdom or of a Dominion, as the case may be, who having failed to obey a notice calling upon him to

appear at any place for service, is, by the law of the United Kingdom, or the Dominion, liable to the same punishment as a deserter, or to the same punishment as an absentee without leave), in like manner as they apply in relation to a deserter or absentee without leave from the Defence Force.

(2.) No person who is alleged to be a deserter or absentee without leave from a Home force or a Dominion force shall be arrested or dealt with under this section except in compliance with a specific request from the Government of the United Kingdom or of the Dominion, as the case may be, and a person so dealt with shall be handed over to the authorities of the United Kingdom or of the Dominion, as the case may be, at such place on the coast or frontier of the Commonwealth as is agreed:

Provided that a person who is alleged to be a deserter or absentee without leave from a visiting force may be arrested and dealt with in compliance with a request, whether specific or general, from the officer commanding that force, and shall, if that force is still present in the Commonwealth, be handed over to the officer commanding that force at the place where the force is stationed.

(3.) For the purposes of any proceedings under this section—

- (a) a document purporting to be a certificate under the hand of the Secretary to the Department of Defence or a prescribed officer, that a request has been made under subsection (2.) of this section shall be admissible without proof as evidence of the making of such a request; and
- (b) a document purporting to be a certificate under the hand of the officer commanding a unit or detachment of a Home force or a Dominion force that a person named and described in the document was at the date of the certificate a deserter, or absentee without leave, from that force shall be admissible without proof as evidence of the facts so certified.

9.—(1.) The Naval Board, the Military Board, or the Air Board, as the case may be—

Attachment of personnel and mutual powers of command.

- (a) may attach temporarily to any part of the Defence Force any member of a Home force or of a Dominion force who is placed at their disposal for that purpose by the service authorities of the United Kingdom or the Dominion, as the case may be; and
- (b) subject to anything to the contrary in the conditions applicable to his service, may place any member of the Defence Force at the disposal of the service authorities of the United Kingdom or a Dominion in order that he may be attached temporarily by those authorities to a Home force or a Dominion force.

(2.) While a member of a Home force or a Dominion force is attached temporarily to the Defence Force, he shall be subject, as

the case may be, to the Naval Defence Act, or to military law as an officer or soldier, or to Air Force law, as an officer or airman in like manner, and shall be treated, and have the like powers of command and punishment over members of the part of the Defence Force to which he is attached, as if he were a member of that part of relative rank:

Provided that the Governor-General may by order published in the *Gazette*^(a) direct that in relation to members of a Home force or a Dominion force specified in the order, the Naval Defence Act, the Defence Act or the Air Force Act, as the case may be, shall apply with such exceptions and subject to such adaptations and modifications as are so specified.

(3.) When any part of the Defence Force and either a Home force or a Dominion force are serving together, either alone or together with any other force—

- (a) any member of the Home force or the Dominion Force shall be treated, and have over members of that part of the Defence Force the like powers of command, as if he were a member of the Defence Force of relative rank ; and
- (b) if the forces are acting in combination, any officer of the Home force or the Dominion force duly appointed to command the combined force, or any part thereof, shall be treated and shall have over members of the Defence Force the like powers of command and punishment and may be invested with the like authority to convene, and confirm the findings and sentences of, courts martial as if he were an officer of the Defence Force of relative rank and holding the same command.

(4.) For the purposes of this section, forces shall be deemed to be serving together or acting in combination if and only if they are declared to be so serving or so acting by order of the Governor-General or any person acting under the authority of the Governor-General and the relative rank of members of the Defence Force, Home forces and Dominion forces shall, if the forces serving together or acting in combination include a Home force, be such as is prescribed by regulations made by His Majesty, and, if those forces do not include a Home force, be such as is prescribed by regulations made under this Act.^(b)

Application of
Act to Colony,
&c.

10. This Act shall, subject to such exceptions, adaptations and modifications as are prescribed, apply—

- (a) in relation to any Naval, Military and Air Forces raised under the law of a Colony, and in relation to the members

^(a) For an order specifying adaptations and modifications of the Defence Act as applied to members of the Canadian Military Forces, see *Gazette*, 1944, p. 1966.

^(b) For orders under this sub-section, see *Gazettes*, 1944, p. 2130 and 1946, p. 1074.

of those forces, as if those forces were Dominion forces;
and

- (b) in relation to any Naval, Military and Air Forces raised under the law of any territory administered by His Majesty's Government in a Dominion including any territory in respect of which a mandate on behalf of the League of Nations is being exercised by that Government, and in relation to the members of those forces, as if those forces were forces of that Dominion.

11. So far as regards any naval force, and the members of any such force, the provisions of this Act shall be deemed to be in addition to and not in derogation of such of the provisions of the Naval Discipline Act and of any other Act, whether of the United Kingdom or of any other part of the King's dominions, as are for the time being applicable to that force and the members thereof. Saving of other enactments.

12. Nothing in this Act shall be construed to authorize any service court of the United Kingdom or of a Dominion to impose on a member of a visiting force in respect of any offence any penalty exceeding the penalty to which a member of the Defence Force would under the law of the Commonwealth be liable for a similar offence. Limitation of penalties.

13. 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.

DESIGNS ACT 1906-1950.^(a)

An Act relating to Copyright in Industrial Designs.

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.

Short title.
Short title
amended.
No. 32, 1918,
s. 2.
Commence-
ment.

1. This Act may be cited as the *Designs Act 1906-1950*.^(a)

2. This Act shall commence on a day to be fixed by proclamation.^(a)

Parts.
Amended by
No. 45, 1934,
s. 2 (3), 4th
Schedule.

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

Part I.—Introductory.

Part II.—Administration.

Part III.—Copyright in Designs.

Part IV.—Registration of Designs.

Part V.—Infringement of Copyright in Designs.

Part VI.—The Register of Designs.

Part VII.—Miscellaneous.

Definitions.

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

“Article” means any article or substance;

“Design” means an industrial design applicable, in any way or by any means, to the purpose of the ornamentation, or pattern, or shape, or configuration, of an article, or to any two or more of those purposes;

“The Law Officer” means the Attorney-General or the Crown Solicitor of the Commonwealth;

^(a) The *Designs Act 1906-1950* comprises the *Designs Act 1906* as amended. Particulars of the Principal Act and of the amending Acts are set out in the following table:—

Act.	Year and Number.	Date of Assent.	Date of Commencement.
<i>Designs Act 1906</i> ..	1906, No. 4 ..	28th August, 1906 ..	1st January, 1907 (See <i>Gazette</i> , 1907, p. 1)
<i>Patents, Trade Marks and Designs Act 1910</i> ..	1910, No. 19 ..	14th November, 1910	1st April, 1911 (See <i>Gazette</i> , 1911, p. 881)
<i>Designs Act 1912</i> ..	1912, No. 14 ..	6th November, 1912	6th November, 1912
<i>Designs Act 1932</i> ..	1932, No. 53 ..	28th November, 1932	28th November, 1932
<i>Patents, Trade Marks and Designs Act 1932</i> ..	1932, No. 70 ..	5th December, 1932	5th December, 1932
<i>Designs Act 1933</i> ..	1933, No. 36 ..	9th December, 1933	9th December, 1933
<i>Designs Act 1934</i> ..	1934, No. 42 ..	4th August, 1934 ..	4th August, 1934
<i>Statute Law Revision Act 1934</i> ..	1934, No. 45 ..	6th August, 1934 ..	6th August, 1934
<i>Statute Law Revision Act 1950</i> ..	1950, No. 80 ..	16th December, 1950	31st December, 1950

The operation of the *Designs Act 1906-1934* was affected by the *Patents, Trade Marks, Designs and Copyright (War Powers) Act 1939*, *infra*.

- "The Register" means the Register of Designs under this Act;
 "The Registrar" means the Registrar of Designs or a Deputy Registrar of Designs under this Act;
 "State Designs Act" means any State Act relating to the registration of designs;
 "The Supreme Court" means the Supreme Court of a State;
 "This Act" includes all regulations made thereunder.

4A.—(1.) On and after a date to be fixed by proclamation,^(a) this Act shall apply to the Territory of Papua as if that Territory were part of the Commonwealth, and no application for the registration of a design under any law for the registration of designs (other than this Act) applying to that Territory shall be receivable except pursuant to some right previously acquired.

Extension of
Act to Papua.
Inserted by
No. 14, 1912,
s. 2.

(2.) For the purposes of the application of this Act to the Territory of Papua, any reference in this Act to the Commonwealth or to Australia shall be deemed to include a reference to the Territory of Papua.

(3.) Nothing in this section shall affect—

- (a) any application for the registration of a design lodged at the Designs Office prior to the date fixed by proclamation under this section, or any certificate of the registration of a design granted on any application so lodged; or
- (b) any application for the registration of a design lodged or made in Papua prior to the said date, or any certificate of the registration of a design granted on any application so lodged or made.

4B.—(1.) This Act shall extend to such Territories under the authority of the Commonwealth (including any Territory governed by the Commonwealth under a Mandate) as the Governor-General, by proclamation, declares.^(a)

Extension of
Act to
Territories.
Inserted by
No. 53, 1932,
s. 2.

(2.) For the purposes of this section—

- (a) any reference in this Act to a State shall be deemed to include a reference to any Territory to which this Act has been extended; and
- (b) any reference in this Act to a State Designs Act shall be deemed to include a reference to any Act or law of that Territory relating to designs.

5. A design shall be deemed to be applied to an article when—

- (a) the article is made from or in accordance with the design;
or
- (b) the design is applied, in any way or by any means, to the purpose of the ornamentation, or pattern, or shape, or

When design
deemed to be
applied to
articles.

(a) As regards Papua the date originally fixed was 1st January, 1913 (see *Gazette*, 1913, p. 1869), but the proclamation has since been repealed and the date fixed, as regards Papua, Norfolk Island and New Guinea, is 1st April, 1935. See *Gazette*, 1935, p. 350.

configuration, of the article, or to any two or more of those purposes.

No new registrations under State Acts.

Cf. No. 20, 1905, s. 6 (c).

Amended by No. 45, 1934, s. 2 (3), 4th Schedule.

Sub-heading omitted by No. 45, 1934, s. 2 (3), 4th Schedule.

6. After the commencement of this Act, an application for the registration of a design shall not be receivable under any State Designs Act.

PART II.—ADMINISTRATION.

Administration.
Substituted by No. 19, 1910, s. 5.

7. This Act shall be administered by the Attorney-General, or by such other Minister as the Governor-General directs.

Registrar.

No. 20, 1905, s. 11.

8.—(1.) There shall be a Registrar of Designs.

(2.) Until the Governor-General otherwise determines, the Commissioner of Patents shall be the Registrar of Designs.

(3.) The Governor-General may appoint one or more Deputy Registrars of Designs, who shall, subject to the control of the Registrar of Designs, have all the powers conferred by this Act on the Registrar.

Designs Office.
Ib. s. 12.

9. For the purposes of this Act, an office shall be established which shall be called the Designs Office, and a sub-office shall be established in every State other than the State in which the Designs Office is established.

Seal of Designs Office.
Ib. s. 13.

10. There shall be a seal of the Designs Office,^(a) and impressions thereof shall be judicially noticed.

Div. 2 (s. 11.) repealed by No. 45, 1934, s. 2 (3), 4th Schedule.

* * * * *

PART III.—COPYRIGHT IN DESIGNS.^(b)

Copyright in designs.
Cf. No. 25, 1905, s. 13.

12.—(1.) Copyright in a design means the exclusive right to apply the design, or authorize another person to apply the design, to the articles in respect of which it is registered.

(2.) Copyright shall subsist in every design which is registered under this Act.

Term of copyright.
Cf. 46-7 Vict., c. 57, s. 50.
See s. 26.

13. The copyright in a design shall begin on the date on which the registration of the design takes effect, and shall continue so long as the registration of the design remains in force.

(a) For the design of the seal of the Designs Office, see *Gazette*, 20th April, 1907, p. 677.

(b) See section 22 of the Schedule to the *Copyright Act* 1912-1950 and the footnote thereto, *supra*.

14.—(1.) The author of a design shall be the first owner of the design, and shall be the person entitled to make application for the registration of the design.

First owner of design.
Cf. ib, s. 61.

(2.) If a design is made on behalf of any person for valuable consideration, the person on whose behalf the design is made shall be deemed to be the author of the design.

(3.) The author of an unregistered design may, by instrument in writing, assign the design and the right to make application for the registration of the design.

15. The person who is registered as the owner of a registered design shall be the owner of the copyright in the design.

Owner of copyright.

16. A registered design shall be personal property, and shall be capable of assignment and of transmission by operation of law, but no assignment of the design shall be valid unless it is in writing, and signed by the registered owner of the design.

Copyright to be personal property.
Cf. No. 25, 1905, s. 25.

PART IV.—REGISTRATION OF DESIGNS.

17. Any new or original design, which has not been published in Australia before the lodging of an application for its registration, may be registered under this Act in respect of all or any of the articles included in one or more of the classes in the prescribed classification.^(a)

Classes in which designs may be registered.
Cf. No. 20, 1905, s. 23.
Amended by No. 42, 1934, s. 2.

18.—(1.) Any person, claiming to be the owner of a design which may be registered under this Act, may make application, in accordance with the prescribed form, for the registration of the design.

Application for registration of a design.
Cf. 46-7 Viet., c. 57 s. 47.

(2.) The application must be lodged by being left at or sent by post to the Designs Office or a sub-office.

(3.) The application must be accompanied by the prescribed fee.

(4.) A separate application must be made in respect of each class in which the applicant desires the design to be registered.

19. After an application for the registration of a design has been lodged, the design may be published and used without prejudice to the validity of the registration of the design.

Use or publication of design after application.
Cf. No. 21, 1903, s. 53.

20. The applicant shall as prescribed furnish to the Registrar the prescribed number of drawings, photographs, tracings, exact representations, or specimens of the design.

Copies of design to be furnished.

21. If the applicant for the registration of a design dies while the application is pending, the proceedings on the application may be continued by his legal representative.

Death of applicant.
Cf. No. 20, 1905, s. 109.

^(a) As to the extent to which the arrangement of the straps of a swimming costume is a new or original design see *Macrae Knitting Mills Ltd. v. Lowes Ltd.*, (1936) 55 C.L.R. 725; 10 A.L.J. 201.

Amendment of application. **22.** The Registrar may permit the amendment of the application in any particular on such terms as he thinks fit.

Registrar may register design. **23.** The Registrar shall consider the application, and if he is satisfied that the design is a design which may be registered under this Act, and that the applicant is the owner thereof, he may, subject to this Act, register the design.

Registrar may refuse to register designs. **24.** The Registrar may refuse to register any design, either generally or as regards any particular article or class or classes of articles in respect of which registration is applied for:
Cf. 46-7 Vict., s. 47 (6).

Provided that the Registrar shall not refuse to register any design until the applicant has been given an opportunity of being heard.

Appeal to Law Officer. **25.—(1.)** The applicant may, within the time and in the manner prescribed, appeal to the Law Officer against any decision of the Registrar refusing any application for the registration of a design.
Cf. 46-7 Vict. c. 57, s. 47 (6) (7).

(2.) The Law Officer shall hear the appeal, and shall decide whether the application ought to be granted or refused.

(3.) The applicant may, within the time and in the manner prescribed, appeal to the Supreme Court against any decision of the law officer refusing any application for the registration of a design.

Certificate of registration of design. **26.—(1.)** If the Registrar decides to register a design, he shall enter in the register the prescribed particulars relating to the design, and shall issue to the applicant a certificate of registration in the prescribed form.
Cf. *ib.* s. 49.

(2.) The registration shall take effect as from the date of the lodging of the application for registration, and shall, subject to this Act, remain in force for a period of five years from that date.

Inserted by No. 14, 1912, s. 3; amended by No. 36, 1933, s. 2 (1.).* **(2a.)** If within the prescribed time application for the extension of the period of registration is made to the Registrar in the prescribed manner, the Registrar shall, on payment of the prescribed fee, extend the period of registration for a second period of five years from the expiration of the original period of five years.

Inserted by No. 14, 1912, s. 3; amended by No. 36, 1933, s. 2 (1.).* **(2b.)** If within the prescribed time application for the extension of the period of registration is made to the Registrar in the prescribed manner, the Registrar may, subject to the regulations and on payment of the prescribed fee, extend the period of registration for a third period of five years from the expiration of the second period of five years.

(3.) The certificate of registration shall be *prima facie* evidence of the facts stated therein, and of the validity of the registration.^(a)

(a) Held by the High Court that the question of the validity of registration for want of novelty may be raised on an action for infringement: *Macrae Knitting Mills Ltd. v. Lowes Ltd.*, (1936) 55 C.L.R. 725; 10 A.L.J. 201.

* Section 2 (2.) of the *Designs Act* 1933 reads "This section shall be deemed to have commenced on the first day of January, One thousand nine hundred and thirty-three."

27. After a design has been registered, the application for registration of the design and the drawings, photographs, tracings, representations, or specimens of it furnished to the Registrar shall, subject to the regulations, be open to public inspection.

Registered designs open to public inspection.
Cf. S.A. No. 95, 1878, s. 8.

28. At any time after the registration of a design any person interested may apply to the High Court—

Design to be used in manufacture in Australia.

(a) for the cancellation of the registration of the design on the ground that the design has been published in the Commonwealth prior to the date of the registration; or

Substituted by No. 70, 1932, s. 2.

(b) for the grant of a compulsory licence on the ground that the design is applied by manufacture to any article in a country outside the Commonwealth and is not so applied in the Commonwealth to such an extent as is reasonable in the circumstances of the case;

and the Court may make such order on the application as it considers just:

Provided that the Court shall not make any order under this section which is at variance with any treaty, convention, arrangement or engagement with any country outside the Commonwealth.

29.—(1.) The owner of a registered design shall cause each article to which the design is applied to be marked, before delivery for sale, with the prescribed mark to denote that the design is registered.

Duty of owner of registered design.
Cf. 46-7 Vict., c. 57, ss. 50, 51.

Penalty: Twenty pounds.

(2.) It shall be a defence to a prosecution under this section if the defendant proves to the satisfaction of the Court that he took all proper steps to insure the marking of the article in accordance with sub-section (1.) of this section.

(3.) Where it appears expedient and in the interests of any trade or industry so to do the Governor-General may make regulations dispensing with or modifying the provisions of sub-section (1.) of this section in its application to any class or description of articles to such extent and subject to such conditions as he thinks fit.

Added by No. 42, 1934, s. 3.

PART V.—INFRINGEMENT OF COPYRIGHT IN DESIGNS.

30. A person shall be deemed to infringe the copyright in a registered design if, whilst the copyright continues, he, without the licence or authority of the owner of the copyright—

Infringement of copyright in designs.
Cf. 46-7 Vict., c. 57, s. 58.

(a) applies the design or any fraudulent or obvious imitation of it to any article in respect of which the design is registered; or

(b) sells, or offers or keeps for sale, any article to which the design or any fraudulent or obvious imitation of it has been applied in infringement of the copyright in the design.^(a)

(a) Held by the High Court that the question of the validity of registration for want of novelty may be raised on an action for infringement. *Macrae Knitting Mills Ltd. v. Lobes Ltd.*, (1936) 55 C.L.R. 725; 10 A.L.J. 201.

Remedies for infringement of designs.

Cf. *ib.* s. 59.

Damages not to be awarded unless infringement knowingly committed.

Cf. *ib.* ss. 58, 59.

31. If any person infringes the copyright in a registered design, the owner of the design may maintain against him an action for damages or penalties or for an injunction or for any of those remedies:

Provided that no damages or penalty shall be awarded against any person for the infringement, unless the Court before which the action is tried is satisfied that the defendant committed the infringement knowingly, or after notice that the copyright in the design subsisted.

Penalty for knowingly infringing design.

Cf. *ib.* s. 58.

32.—(1.) A person shall not knowingly infringe the copyright in a registered design.

Penalty: Fifty pounds.

(2.) Any penalty under this section may be sued for and recovered for his own use by the registered owner of the design.

PART VI.—THE REGISTER OF DESIGNS.

Register of Designs.

Cf. *ib.* s. 55.

33. There shall be kept at the Designs Office a Register of Designs wherein shall be entered particulars of—

- (a) all registered designs, the names and addresses of their owners, and the date of registration and expiry thereof;
- (b) notifications of assignments and transmissions; and
- (c) any other prescribed matters.

Trusts not to be noticed.

46-7 Vict., c. 57 s. 85.

34. No notice of any trust, expressed implied or constructive, shall be received by the Registrar or entered in the register.

Inspection of register.

Ib. s. 88.

35. The register shall be open to the inspection of the public at all prescribed times, on payment of the prescribed fee.

False entries in register.

Cf. *ib.* s. 93.

36. No person shall wilfully—

- (a) make any false entry in the register; or
- (b) make any writing falsely purporting to be a copy of an entry in the register; or
- (c) produce or tender in evidence any writing falsely purporting to be a copy of an entry in the register.

Penalty: Three years' imprisonment.

Correction of register.

Ib. s. 91.

37.—(1.) The Registrar may, on request made in the prescribed manner by the registered owner of a design, amend or alter the register by—

- (a) correcting any error in the name or address of the registered owner of a design; or
- (b) altering the name or address of the registered owner who has changed his name or address.

(2.) Where the register has been amended or altered under this section, the Registrar may—

- (a) cancel the certificate of registration and issue a new certificate of registration; or

- (b) make such amendments or alterations in the certificate of registration as are rendered necessary by the amendment or alteration of the register.

38. Subject to the provisions of this Act, where a person becomes entitled by assignment or transmission to a registered design, the Registrar shall on request made in the prescribed manner, and on proof of title to his satisfaction, cause the name of the person to be entered on the register as owner of the design.

Registration of assignments, &c.
cf. ib. s. 87.

39.—(1.) Subject to this Act, the Supreme Court, on the application of any person aggrieved, may order the rectification of the register by—

Rectification of register by Court.
Cf. ib. s. 90,
51-2 Vict.,
c. 50 s. 23.

- (a) the making of any entry wrongly omitted to be made in the register; or
(b) the expunging of any entry wrongly made in or remaining on the register; or
(c) the correcting of any error or defect in the register.

(2.) Notice of every application under this section shall be given to the Registrar, who may be heard thereon.

(3.) An appeal shall lie to the High Court from any order made by a Supreme Court under this section.

40. The Registrar, upon being served with any order of the Court for the rectification of the register by the party seeking to enforce it, shall cause the rectification to be made accordingly.

Registrar to carry out orders for rectification.

PART VII.—MISCELLANEOUS.

41 The Governor-General may make regulations, not inconsistent with this Act, prescribing the fees to be paid under this Act and all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for giving effect to this Act or for the conduct of any business relating to the Designs Office.

Governor-General may make regulations.
No. 21, 1903,
s. 103.

42. A person shall not wilfully make any false statement or representation to deceive the Registrar or any officer in the execution of this Act, or to procure or influence the doing or omission of anything in relation to this Act or any matter thereunder.

False representation to Registrar or officer.
Patents Act,
1903, s. 112.

Penalty: Three years' imprisonment.

43. Any application or other document authorized or required under this Act to be left at the Designs Office, or served on or given to the Registrar, or any other person, may be sent by a prepaid letter through the post.

Applications and documents by post.
46-7 Vict.,
c. 57 s. 97.

44. Subject to the regulations the Registrar may permit any agent to do, on behalf of any other person, any act in connexion with the registration of industrial designs or any procedure relating thereto.

Registrar may recognize agents.
No. 20, 1905,
s. 110.

False representation that a design is registered.

45.—(1.) A person shall not knowingly falsely represent that any design applied to any article sold by him is registered.

Penalty: Twenty pounds.

(2.) A person shall be deemed, for the purposes of this section, to represent that a design applied to any article is registered, if there are stamped, engraved, or impressed on or otherwise applied to the article the word "registered" or the words "design registered," or any word or words expressing or implying that the design applied to the article has been registered.

Section 46 repealed by No. 80, 1950, s. 3 and First Schedule.

Exhibiting of designs at official or international exhibitions.

Cf. 46-7 Vict., c. 57 s. 57.

* * * * *

47.—(1.) The fact that a design, or any article to which a design has been applied, has been exhibited at an official or officially recognized international exhibition, or that a description of a design has been published during the holding of such an exhibition, shall not prejudice or prevent the registration of the design or invalidate the copyright therein, if the application for the registration of the design is made within six months after the opening of the exhibition.

(2.) A certificate by the Minister that an exhibition is an official exhibition, or an officially recognized international exhibition, shall, for the purposes of this section, be conclusive evidence that the exhibition is an official exhibition, or an officially recognized international exhibition, as the case requires.

International arrangements for protection of designs.

Cf. 46-7 Vict., c. 57, 103.

Cf. *Patents Act* 1903, s. 121.

Amended by No. 70, 1932, s. 3.

48.—(1.) If the King is pleased to apply to the Commonwealth^(a) any law of the United Kingdom for carrying into effect any arrangement made with the Government of any foreign State for the mutual protection of designs, then any person who has applied for protection for any design in the United Kingdom or the Isle of Man, or in any foreign State with which the arrangement has been made or the legal representative or assignee of that person, shall be entitled to registration of the design under this Act in priority to other applicants, and such registration shall have the same date as the date of the original application in the United Kingdom or the Isle of Man or such foreign State, as the case may be:

Provided that the application shall be made within six months from such person applying for protection in the United Kingdom or the Isle of Man or the foreign State with which the arrangement is in force:

Provided also that nothing in this section contained shall entitle the owner of a design to recover damages for infringements happen-

(a) The provisions of this section now apply to the countries which are Convention countries for the purpose of those provisions of the Imperial Patents and Designs Acts, 1907 to 1938, which relate to designs. See *Patents, Trade Marks, Designs and Copyright (War Powers) Act* 1939, section 15. For Orders of the King in Council declaring certain countries to be Convention countries for the purposes of the Imperial Patents and Designs Acts, 1907 to 1938, see *Gazettes*, 1939, pp. 2764 and 2766; 1949, pp. 592 and 1123; and Commonwealth Statutory Rules, 1939, p. 809.

ing prior to the date of the actual registration of the design in the Commonwealth.

(2.) The use of the design or the publication of a description or representation of it in the Commonwealth during the period aforesaid shall not invalidate its registration.

(3.) The application for the registration of a design under this section must be made in the same manner as an ordinary application under this Act.

(4.) The provisions of this section shall, in the case of foreign States, apply only to those foreign States with respect to which His Majesty, by Order in Council, has before or after the commencement of this Act declared the provisions of the aforesaid law to be applicable, and so long only in the case of each such State as the order continues in force with respect to that State.

49.—(1.) Where it is made to appear to the Governor-General that any British possession has made satisfactory provision for the protection in that possession of designs registered in the Commonwealth, the Governor-General may by order apply all or any of the provisions of the last preceding section, with such variations or additions (if any) as to him seem fit, to designs registered in that British possession.

Provision for
intercolonial,
&c., arrange-
ments.
Cf. *ib.*, s. 104.
Cf. *Patents Act*
1903, s. 122.

(2.) An order under this section shall, from a date to be mentioned therein, take effect as if its provisions were contained in this Act, but it shall be lawful for the Governor-General to revoke any such order.

DISTILLATION ACT 1901-1950.^(a)

An Act relating to Distillation.

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.

Short title,
Short title
amended;
No. 32, 1918,
s. 2.
Commence-
ment.

1. This Act may be cited as the *Distillation Act* 1901-1950.^(a)

2. This Act shall commence on a day to be fixed by proclamation.^(a)

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

Part I.—Introductory.

Part II.—Stills.

Part III.—Licences.

Part IV.—Excise supervision, Distillers' Books, and Regulation of Distilleries generally.

Part V.—Removal of Spirits, and Computation and Payment of Duty.

Part VI.—Vignerons.

Part VII.—Powers of Officers.

Part VIII.—Penal Provisions.

Part IX.—Miscellaneous.

Act to apply.

4. This Act shall apply to the distillation of spirits on which any duty of Excise is imposed by the Parliament.

Ordinary
course of
distillation.

5. For convenience in interpreting this Act the present ordinary course of and in connexion with the distillation of spirits is outlined as follows:—

(a) The *Distillation Act* 1901-1950 comprises the *Distillation Act* 1901 as amended. Particulars of the Principal Act and of the amending Acts are set out in the following table:—

Act.	Year and Number.	Date of Assent.	Date of Commencement
<i>Distillation Act</i> 1901 ..	1901, No. 8 ..	5th October, 1901 ..	7th October, 1901 (<i>See Gazette</i> , 1901, p. 167)
<i>Spirits Act</i> 1906 ..	1906, No. 21 ..	12th October, 1906 ..	1st January, 1907 (<i>See Gazette</i> , 1907, p. 1)
<i>Distillation Act</i> 1918 ..	1918, No. 34 ..	12th December, 1918	12th December, 1918
<i>Distillation Act</i> 1923 ..	1923, No. 9 ..	11th August, 1923 ..	11th August, 1923
<i>Distillation Act</i> 1925 ..	1925, No. 13 ..	7th December, 1925	7th December, 1925
<i>Distillation Act</i> 1931 ..	1931, No. 3 ..	18th April, 1931 ..	18th April, 1931
<i>Distillation Act</i> 1934 ..	1934, No. 8 ..	27th July, 1934 ..	27th July, 1934
<i>Distillation Act</i> 1947 ..	1947, No. 86 ..	11th December, 1947	8th January, 1948
<i>Statute Law Revision Act</i> 1950,	1950, No. 80 ..	16th December, 1950	31st December, 1950

- (I.) The material is mashed in a mash tun. The liquor product is wort.
- (II.) The wort is fermented in a back. The liquor product is wash.
- (III.) The wash is distilled in a still by heating to evaporation and condensing the vapor. The liquor product is spirits and the residue of the wash is spent wash.
- (IV.) The spirits pass into a receiver which may be of three kinds.
 - (a) Low wines receiver for the receipt of low wines. These are spirits of the first extraction requiring further distillation. All spirits received into a low wines receiver are low wines.
 - (b) Feints receiver for the receipt of feints. These may include low wines and are spirits requiring further distillation. All spirits received into a feints receiver are feints.
 - (c) Spirits receiver for the receipt of spirits not requiring further distillation.
- (V.) When liquor has been previously fermented it can be immediately utilized as wash.

6. In this Act except where otherwise clearly intended—

Interpretation.

"Australian wine" means wine the produce of Australia.

"Back" means any vessel in which wort is deposited for the purpose of fermentation.

"By authority" means by the authority of an officer doing duty in the matter in relation to which the expression is used.

"Collector" includes the Comptroller and any Collector of Customs for the State and any principal officer of Customs doing duty at the time and place and any officer doing duty in the matter in relation to which the expression is used. Substituted by
No. 34, 1918,
s. 2.

"Comptroller" means the Comptroller-General of Customs.

"Distiller" means a person who holds a spirit maker's licence issued pursuant to this Act.

"Distillery" means the licensed premises of a distiller.

"Feints" means spirits received into the feints receiver.

"Gazette Notice" means a notice signed by the Minister and published in the *Gazette*.

"Illicit spirits" means spirits distilled moved altered or interfered with in contravention of this Act.

"Illicit still" means any still, made, imported, used, set up, or in the possession or custody of any person without lawful authority.

"Lees of wine" includes grape skins and other residue from wine making.

- “Low wines” means spirits of the first extraction received into the low wines receiver.
- “Material store” means a store in a distillery for the storage of material for distillation.
- “Methylate” means to mix spirits with some substance in such manner as to render the spirits unfit for use as a beverage or in food and incapable of being converted to that use.
- “Officer” means an officer of Customs, and also in regard to vigneron’s licences any person authorized by the Collector.
- “Operations” includes all stages processes or operations in the course of or in connexion with the distillation of spirits.
- “Permission” means the written permission of the Collector.
- “Plant” includes machinery apparatus vessels utensils fittings and plant of all kinds.
- “Prescribed” means prescribed by this Act.
- “Spent wash” means the liquor which remains after the spirits have been extracted by distillation.
- “Spirit store” means a store for the storing of spirits.
- “Spirit warehouse” means a warehouse in distillery upon a distiller’s premises in which spirits may be warehoused without payment of duty.
- “Spirits” include all liquor upon which under the name of spirits any excise is imposed by the Parliament and whether distilled or made or in any stage of distillation or making.
- “Still” means any apparatus for or capable of distilling spirits and any part thereof and any apparatus connected or used in connexion therewith.
- “Still house” means the house or room in a distillery where distillation is carried on.
- “This Act” includes all regulations made thereunder.
- “Vigneron” means a person to whom a vigneron’s licence under this Act has been granted.
- “Wash” means the liquor from mashed material after it has commenced to ferment and before it has been distilled.
- “Wine” means the fermented juice of the grape.
- “Winery” means an establishment where not less than twenty thousand gallons of wine, or such reduced quantity as may for the time being be fixed by proclamation,^(a) is made from grapes or grapes and must annually purchased from growers or produced in the district and which is declared to be a winery by proclamation.
- “Wort” means the liquor from mashed material before it has commenced to ferment.

(a) The only such proclamation yet issued has been revoked. *See Gazette* 1930, p. 247.

* * * * *

Section 7
repealed by
No. 80, 1950,
s. 3 and First
Schedule.

8. Parts II., VIII., IX., X., XI., XII., XIII., and XIV. of the *Excise Act 1901* shall except so far as inconsistent with this Act be incorporated and read as one with this Act.

Parts of *Excise Act 1901* to apply.

9. Parts IV. and V. apply only to distillers holding spirit makers' licences.

Parts IV. and V. apply to spirit makers only.

PART II.—STILLS.

10. No person shall without permission—

Making, selling, or importing stills.

- (a) Make or commence to make any still.
- (b) Remove or set up or erect any still.
- (c) Sell or purchase any still, either by itself or with other property, or as part of any premises.
- (d) Import any still.

Penalty: One hundred pounds.

11.—(1.) Stills may be used for any purpose other than the distillation of spirits if the owner has—

Use of stills.

- (I.) Given written notice to the Collector for the State in which the still is used or is intended to be used specifying—
 - (a) The size or capacity of the still;
 - (b) The purpose for which the still is used or intended to be used;
 - (c) The place where the still is to be used or intended to be used.
- (II.) Given security to the Collector in such sum as the Collector requires not exceeding One hundred pounds that the still shall not be used for distilling spirits.

* * * * *

Sub-section (2)
omitted by
No. 80, 1950,
s. 3 and First
Schedule.

(3.) Any still used in contravention of this section shall be an illicit still.

11A. The provisions of the last two preceding sections shall not apply to any still of a capacity not exceeding one gallon if, prior to using the still, the owner gives notice in writing to the Collector for the State in which the still is intended to be used specifying the purpose for which, and the place at which, the still is intended to be used.

Stills of a capacity not exceeding one gallon.
Inserted by
No. 34, 1918,
s. 3, and
amended by
No. 3, 1931,
s. 2.

PART III.—LICENCES.

Distillation of spirits.

Substituted by No. 86, 1947, s. 2.

12. A person shall not distil spirits unless he is licensed under this Act so to do or otherwise than in accordance with the licence granted to him under this Act.

Penalty: Five hundred pounds.

Description of licences.

13. Licences to distil shall be divided into the following classes:—
 (a) Spirit makers' licences—(1.) General licences authorizing the licensee to distil spirits from any material. (2.) Wine distillers' licences authorizing the licensee to distil spirits from wine or lees of wine.
 (b) Vignerons' licences authorizing the licensee to distil spirits from wine or lees of wine for the purpose of fortifying wine.

Paragraph (c) omitted by No. 34, 1918, s. 4.

* * * * *

S. 14 repealed by No. 34, 1918, s. 5.

* * * * *

Persons incapable of holding licences.

15. No person who is licensed to retail spirits in less quantity than two gallons shall be licensed under this Act, and if any person licensed under this Act shall be licensed to retail spirits in such quantities his licence under this Act shall thereupon cease.

Licence fees.
 Substituted by No. 34, 1918, s. 6.

16.—(1.) The annual fees for licences shall be as prescribed.
 (2.) Until otherwise prescribed the amount of the fees for licences shall be in accordance with the scale in Schedule I. to this Act.

Applications.

17. Applications for licences may be made to the Collector and shall be in the form and be accompanied by the particulars prescribed.

Applicant to pay licence-fee and give security.

Substituted by No. 34, 1918, s. 7.

18.—(1.) The applicant for a licence shall pay to the Collector the prescribed licence fee and shall give security to the Collector for compliance with this Act in accordance with the scale prescribed.
 (2.) Until otherwise prescribed the amount of security shall be in accordance with the scale in Schedule II. to this Act.

How security given.

Substituted by No. 34, 1918, s. 8.

19. Where any security is required to be given it may, at the discretion of the Collector, be by bond or guarantee or cash deposit or all or any of those methods.

Collector to grant licence.

20. The Collector if satisfied that the application ought to be granted may grant a licence to the applicant, but if the application is refused the licence fee shall be returned to the applicant.

Period of licences.

21. Licences shall unless previously cancelled remain in force until the thirty-first day of December next after the granting of the licence.

22.—(1.) Licences may be renewed by the Collector upon an application for renewal before the expiry of the licence sought to be renewed and on payment of the annual licence-fee:

Renewal of
licences.
Amended by
No. 34, 1918,
s. 9.

Provided that the Collector may in exceptional circumstances extend for a period not exceeding seven days the time within which application for renewal of the licence and payment of the licence fee shall be made.

(2.) The liability of the subscribers to the security given in respect of the original licence shall, in the absence of any notice of termination on the part of the subscribers, remain in full force for the period for which the licence is renewed.

Added by
No. 34, 1918
s. 9.

23. The Collector may require the applicant for the renewal of a licence to give fresh security, and if fresh security is not given accordingly may refuse to renew the licence.

Fresh security.

24. Licences may be transferred by permission on security being given by the transferee and may be cancelled by the Minister by *Gazette* notice if the licensee is convicted of any offence against this Act.

Transfer and
cancellation.

25. Nothing in this Act shall prohibit a licence from being issued to any present licensee or in respect of any premises still or other plant lawfully in use for distilling at the commencement of this Act.

Saving of rights
as to existing
stills.

26. Where any premises or plant in respect of which any licence to distil is in force under any State Act at the commencement of this Act are not in accordance with the prescribed conditions, and anything shall thereafter occur which in the opinion of the Collector shall render it necessary that such conditions or some of them should be complied with, the Collector may fix a time not less than three months within which the distiller must comply with such prescribed conditions as far as the Collector shall require.

Time for
compliance as
to premises.

27. If the prescribed conditions required to be complied with are not complied with within the time specified by the Collector the licence may be cancelled by the Minister by *Gazette* notice.

Cancellation of
licence for
non-compliance

PART IV.—EXCISE SUPERVISION, DISTILLERS' BOOKS, AND REGULATION OF DISTILLERIES GENERALLY.

28. The distillation of spirits by distillers shall, for the protection of the revenue, be subject to the right of supervision by officers.

Supervision
by officers.

29. Every distiller shall provide in connexion with his distillery reasonable office accommodation for the supervising officer, and when required by the Collector board and lodging for the officer.

Accommoda-
tion for
officers.

Penalty: Fifty pounds.

Facilities to
officers.

30. Every distiller shall provide all reasonable facilities for enabling officers to exercise their powers under this Act.

Penalty: Fifty pounds.

Duties of
distiller.

31. In particular and without limiting the effect of the previous section every distiller shall in his distillery—

- (a) Provide to the satisfaction of the Collector windows or apertures for the admission of sufficient light;
- (b) Keep burning from sunset to sunrise or so long as operations are being carried on after sunset and before sunrise sufficient lamps or light to the satisfaction of the officer;
- (c) Provide and place strong safe and sufficient ladders so as to enable the officer to examine any vessel or utensil;
- (d) Provide assistance when requested by any officer for carrying out any duties requiring assistance;
- (e) Remove when requested by any officer any rubbish or any obstruction which may conceal from view any part of the operations which are being carried on upon his distillery;
- (f) Place every vessel and utensil in a convenient position so as to be easy of access to the officers;
- (g) Keep and maintain correct weights, scales, and measures, to the satisfaction of the Collector, available at all times for the use of officers;
- (h) Keep all plant in a secure and clean condition, and free from leakage;
- (i) Empty and re-gauge any plant whenever required by the Collector;
- (j) Draw off the water in any worm tub and clean the tub and worm when required to do so by an officer at any time when the still is not being worked, and keep the worm tub free from water for sufficient time not exceeding two hours for the officer to examine the tub and worm.

Penalty: One hundred pounds.

Books and
accounts.

32. For the information of officers distillers shall keep books and prepare and render accounts as prescribed and shall also as prescribed verify such books and accounts.

Penalty: One hundred pounds.

No other trade
to be carried
on upon the
premises.

33. No business, trade, or work other than that of a distiller shall be carried on in a distillery without the permission in writing of the Collector.

Penalty: One hundred pounds.

Distillation
only on
licensed
premises.

34. No distiller shall distil spirits on any premises other than his distillery.

Penalty: Five hundred pounds.

35. No distiller shall—

Prohibitions.

- (a) Mix with or add to any low wines feints or spirits in any receiver or charger any substance which increases their specific gravity, or prevents their true strength from being ascertained.
- (b) Use in mashing or mix with any wort or wash any material so that the specific gravity of the wort or wash cannot be correctly ascertained by the prescribed saccharometer.
- (c) Have in his distillery, except by authority, any wort, wash, or fermented liquor not made in the distillery.
- (d) Except by authority mix any wort, wash, or fermented liquor made in his distillery with any wort, wash, or fermented liquor made elsewhere.

Penalty: One hundred pounds.

36. No person shall—

No alteration to be made in premises without permission.

- (I.) Without permission use any place or plant in a distillery for any purpose other than that set out in the application for the licence or the plans models or description accompanying the application.
- (II.) Alter the size or position of any place or plant in a distillery without first submitting a plan or description of the proposed alteration, nor without permission to make such alteration.
- (III.) Bring into, or have in a distillery any plant which is not specified in the application for a licence or in the permission.
- (IV.) Without the written permission of the Comptroller first obtained place any pipe or tube used in a distillery below the surface of the ground unless it is enclosed in a wooden case, capable of being easily opened, so that the pipe or tube may be readily exposed to view.
- (V.) Place, affix, or make any cock, plug, pipe, or opening in, on, to, into, or from any vessel or utensil in a distillery in contravention of this Act.
- (VI.) Make or use any cover, fastening, cock, plug, or pipe so that any vessel or utensil in a distillery can be employed, opened, removed, filled, or emptied in contravention of this Act.

Amended by No. 34, 1918, s. 10.

Penalty: One hundred pounds.

37. A distiller may in the manner and subject to the conditions prescribed methylate spirits in his distillery.

Methylation.

38. Every distiller is responsible for the safe custody of all material, wort, wash, low wines, feints, and spirits in his distillery and for the observance of this Act within his distillery.

Responsibility of distillers.

PART V.—REMOVAL OF SPIRITS, AND COMPUTATION
AND PAYMENT OF DUTY.

Authority to
remove.

39. No spirits shall be removed from a distillery without an entry made and passed authorizing their removal.

Penalty: Five hundred pounds.

Strength and
quantity of
spirits removed.

Amended by
No. 13, 1925,
s. 2.

40. No entry authorizing the removal of spirits shall be passed in respect of a smaller quantity than ten gallons.

Hours for
removal.

41. No distiller shall except by authority remove or suffer to be removed from his distillery any spirits at any time except between the hours of nine o'clock in the forenoon and five o'clock in the afternoon.

Penalty: One hundred pounds.

Purposes for
which spirit
may be
removed.

Amended by
No. 34, 1918,
s. 11; and by
No. 86, 1947,
s. 3.

42. Entries may be made by the distiller or owner and passed by an officer, and may authorize the removal of spirits for—

- (a) Home consumption.
- (b) Removal to an approved place.
- (c) Exportation.

Security on
removal.

Amended by
No. 34, 1918,
s. 12.

43. The distiller shall give security for the due removal or exportation of the spirits before any entry is passed for the removal of spirits to an approved place or for exportation.

Deficiency in
quantity on
removal to
warehouse.

Amended by
No. 34, 1918,
s. 13.

44. Upon the delivery at the destination shown on the entry of spirits removed from a distillery an officer may re-gauge re-weigh or re-test the spirits, and if there is a deficiency in the quantity or strength as compared with the quantity or strength entered for removal the distiller shall forthwith pay the duty on the deficiency unless the deficiency is explained to the satisfaction of the Collector.

Customs
control.

45. All spirits distilled in a distillery shall until delivery for home consumption or until exportation to parts beyond the seas whichever shall first happen be subject to the control of the Customs, and shall not be moved, altered, or interfered with, except by authority and in accordance with this Act.

Penalty: One hundred pounds.

Strength of
spirits.

46. The strength of spirits may be ascertained for the purposes of duty by means of a hydrometer approved by the Comptroller.

Obscuration.

47. If in the opinion of the Collector the strength of any spirits cannot immediately be accurately ascertained by hydrometer the strength may be ascertained after distillation or in any prescribed manner.

48. The distiller shall pay the duty on spirits to the Collector Payment of duty. before the spirits are delivered for home consumption.

49. The duty on spirits is to be computed in respect of the wort Computing quantity of spirit on which duty to be paid. or wash the low wines and the feints and spirits made in the licensed premises and shall be payable according to such of these modes of computation as produces the greatest amount of duty.

- (a) In respect of every one hundred gallons of wort or wash the duty is to be computed for a quantity of spirits at the rate of one gallon of spirits at proof for every five degrees of difference between the highest specific gravity of the wort as declared by the distiller or found by the officer (whichever is the greater), without any allowance for waste bub yeast dregs or other matter, and the lowest specific gravity of the wash as found by the officer before distillation.
- (b) In respect of low wines the duty is to be computed on the quantity of spirits at proof contained therein less five per centum.
- (c) In respect of feints and spirits the duty is to be computed on the quantity of spirits at proof after deducting the feints (if any) remaining from a previous distillation and included in the account of feints and spirits last produced.

50. On the evening of the last day of every month, or as soon Computations to be made. as possible afterwards, an officer shall make a computation of the spirit which should have been produced in the distillery during the month according to the modes hereinbefore specified, and if the actual quantity of spirits and feints produced during the month is less in proof gallons than the quantity as computed by the officer then such officer shall serve at once upon the distiller an account showing the deficiency, and such distiller shall at once pay duty on such deficiency, unless such deficiency is accounted for to the satisfaction of the Collector, and no operations or removals shall be allowed until such duty has been paid.

51. If whilst any operation is being carried on any loss of vapour Loss during distillation. or spirits takes place by unavoidable accident before the spirit reaches the spirit receiver, and notice of such accident is immediately on its discovery given to the officer, he shall inquire into the circumstances of the accident and report to the Collector, who may remit the duty on the quantity of spirit lost, but in default of such immediate notice no allowance for loss shall be made.

52. No distiller shall, between the hours of six o'clock in the Provision to facilitate monthly accounts. evening of the last day of every month and six o'clock in the following morning, have or keep any spirits in any vessel in his distillery

except in the chargers and receivers and in vats in the spirit store, and casks in the spirit warehouse, nor have or keep in the distillery any wash of which the lowest specific gravity has been declared.

PART VI.—VIGNERONS.

Vignerons.

53. No vigneron's licence shall be granted to, or held by any person unless he is the occupier of at least five acres of vineyard in bearing, or is the proprietor of a winery.

Distilling from
and fortifying.

54. No vigneron's still shall be used for distilling spirits from any material other than wine, or lees of wine, and spirits made by vignerons shall be used only for the purpose of fortifying Australian wine or as may be prescribed.

Penalty: One hundred pounds.

Supervision of
officer.

Substituted by
No. 34, 1918,
s. 14.

55. All operations under this Act and fortifying of wine shall, unless exempted in writing by the Collector, be carried on in the presence of an officer.

Accommoda-
tion of officer.

56. Every person to whom a vigneron's licence has been granted shall, if required by the Collector, provide board and lodging for the officer.

Penalty: Twenty pounds.

Customs
control.

57. All spirits distilled by vignerons until used for fortifying wine or until delivered in manner prescribed shall be subject to the control of the Customs, and shall not be moved altered or interfered with except by authority and in accordance with this Act.

Penalty: One hundred pounds.

Strength of
spirits for
fortifying.

Amended by
No. 21, 1906,
s. 6.

58. Unless otherwise prescribed no spirits shall be used for fortifying wine unless they are approved by the officer.

Penalty: Twenty pounds.

Maximum
strength of
wine.

Substituted by
by No. 3, 1931,
s. 3.

59.—(1.) No Australian wine shall be fortified under this Act—

(a) so as to contain more than forty per centum of proof spirit; or

(b) with any other spirit than pure wine spirit of a strength of at least thirty degrees above proof:

Provided that Australian wine may be fortified with pure wine spirit of a strength less than thirty degrees, but not less than ten degrees, above proof if the Collector is satisfied that the wine is to remain under the control of the Customs for a period of not less than two years after the date of its last fortification with such spirit.

(2.) No Australian wine, fortified with spirit of a strength of less than thirty degrees above proof, shall be removed from the control of the Customs within a period of two years after the date of its last fortification with such spirit.

(3.) Notwithstanding anything contained in this section, Australian wine which is intended for export may be fortified so as to contain not more than forty-two per centum of proof spirit. Inserted by No. 8, 1934, s. 2.

(4.) Australian wine which has been fortified so as to contain more than forty per centum of proof spirit shall not be entered for home consumption. Inserted by No. 8, 1934, s. 2.

Penalty: Twenty pounds.

PART VII.—POWERS OF OFFICERS.

60. Officers shall at all times have complete access to every part of all distilleries or premises on which a still is kept, and may examine, gauge, re-test, take account of, and note any plant, materials, and spirits in the distillery or premises, and may examine and take copies of, or extracts from, all books and accounts required to be kept by the distiller for the information of the officers and of all books kept by the distiller in relation to the distillery or the making or sale of spirits. Access to distilleries and books.

61. Any officer after having declared his name and business and demanded admission to a distillery or any part thereof if not forthwith admitted pursuant to his demand may break open any door or window or through any wall in or on such distillery to obtain admission. Power to enter premises.

62. For the purpose of testing the quantity of spirits at proof in any wash by distillation the officer may require any charger or receiver to be emptied and cleaned and any quantity of the wash to be distilled and the produce to be conveyed into the charger or receiver. Vessels to be emptied and cleaned.

For this purpose the distiller shall on request and on reasonable notice provide the officer with assistance.

All low wines feints or spirits so distilled and conveyed into a charger or receiver shall be kept therein unmixed and unaltered until the officer has taken an account of the quantity and strength thereof.

Penalty: One hundred pounds.

63. Any officer may take a sample of wort wash low wines feints or spirits from any vessel and the strength of any sample so taken shall be deemed the strength of the whole of the contents of the vessel from which it is taken. Samples.

A distiller may before any such sample is taken stir up and mix together all the liquor contained in the vessel from which the sample is to be taken.

64. Any officer having reasonable cause of suspicion may either by day or night break up the ground in or adjoining or near a distillery, or any wall or partition thereof, and do any act which he may deem necessary for the purpose of detecting any contravention Powers of officer in detecting illegal dealing with spirits.

of this Act and may on finding any pipe or conveyance leading to or from the distillery break up or break any ground, house, wall or other place through or into which the pipe or conveyance leads, and may break up or cut away any such pipe or conveyance and turn any cock and examine whether any such pipe or conveyance conveys or conceals any spirits.

Power under writ of assistance.

65. Any officer having with him a writ of assistance or a Customs warrant under the *Customs Act 1901* may at any time in the day or night enter into any house, premises, or place, and may break open and search the same and any depository, chests, trunks, or packages in which illicit stills or illicit spirits may be or may be supposed to be.

Power to stop persons carrying goods.

66. Any officer having reasonable cause of suspicion may stop any person carrying goods and question such person as to whether he has in his possession any illicit still or illicit spirits, and may search any goods such person is carrying.

Power to search vehicles.

67. Any officer upon reasonable suspicion may stop and search any vehicle or boat for the purpose of ascertaining whether any illicit still or illicit spirits are thereon, and the driver of such vehicle or the person in charge of such boat shall stop and permit an officer to search his vehicle or boat when required by an officer so to do.

Penalty: Twenty pounds.

Power of seizure.

68. Any officer may seize and secure any forfeited goods or any goods which he has reasonable cause to believe are forfeited and may convey them to a King's warehouse police station or place of security or mark and impound them on the premises where they are found.

Power to lock.

69. Any officer may lock up seal mark fasten or otherwise secure any plant in or on any distillery or premises on which a still is kept and any seized goods; and no such lock, seal, mark, or fastening shall be opened, altered, broken, or erased except by authority.

Penalty: One hundred pounds.

Official stills.

70. Nothing in this Act shall prevent the use of stills by officers for official purposes, or with permission by any public department of a State, or for any official educational or testing purposes.

Power to purchase samples.

71. No person being the owner of or in possession of any wine or spirits or of any liquor which an officer has reasonable ground to suspect is wine or spirits shall refuse to deliver to an officer samples of such wine spirits or liquor on tender of a reasonable price for such samples.

Penalty: Twenty pounds.

Obstructing officers.

72. No person shall obstruct, molest, resist, or hinder any officer in the performance of his duty under this Act.

Penalty: Fifty pounds.

PART VIII.—PENAL PROVISIONS.

73. The following are forfeited to the King:—

Forfeiture.
Amended by
No. 86, 1947,
s. 4.

- (I.) All illicit stills.
- (II.) All illicit spirits, and the vessels in which they are contained.
- (III.) All material capable of being used in the course of or in connexion with the distillation of spirits found on any premises on which there is an illicit still.
- (IV.) All vehicles, boats and animals conveying or having on board, or having packed therein or thereon, any illicit still or illicit spirits, and all animals and harness used in drawing any such vehicle.
- (V.) All wort and all wash removed from a distillery except by authority.
- (VI.) All low wines, feints, or spirits in any receiver or charger with which or to which any substance has been mixed or added except by authority which increases their specific gravity or prevents their true strength from being ascertained.
- (VII.) All wort or wash in a distillery the gravity of which cannot be correctly ascertained by the prescribed saccharometer.
- (VIII.) All wort, wash, or fermented liquor unlawfully in a distillery.
- (IX.) All spirits found in any distillery elsewhere than in the proper charger, receiver, spirit store, or spirit warehouse.
- (X.) All spirits to which wine has been added for the purpose of breaking down or reducing the strength of the spirits.

74. No person shall—

Offences as to
illicit stills
and spirits.

- (1) Use or unlawfully have in his possession or custody or under his control or upon his premises any illicit still;^(a)
- (2) Make any illicit spirits;
- (3) Supply the means or materials for establishing, maintaining, or working any illicit still;
- (4) Receive, carry, convey, or conceal, or have upon his premises or in his custody or under his control any illicit spirit;^(b)
- (5) Be found without lawful excuse in any place where distillation is being illegally carried on;
- (6) Sell or dispose of any illicit spirits;

(a) See *Ex parte Healy*, (1903) 3 S.R. (N.S.W.) 14; 20 W.N. (N.S.W.) 12; but N.B. that s. 144 of the *Excise Act* 1901 was repealed and a new section substituted by Act No. 26 of 1918.

(b) Held by the High Court (Rich, Dixon, Evatt and McTiernan JJ.; Starke J. dissenting) that a person charged with an offence against this paragraph is entitled to be discharged if he proves that he neither believed nor had reason to believe that the spirit was illicit. *Maher v. Musson*, (1935) 52 C.L.R. 100; 41 A.L.R. 80.

- (7) Purchase any illicit spirits knowing them to be illicit spirits;
- (8) Make, sell, or have in his possession or custody or control any wash or wort intended for distillation by an illicit still.

Penalty: Five hundred pounds.

S. 75 repealed
by No. 3, 1931,
s. 4.

* * * * *

Sale of wine
or spirits
unlawfully
dealt with.

76. No^(a) person shall—

* * * * *

Paragraph (i.)
omitted by
No. 34, 1918,
s. 15.

Paragraph (ii.)
amended by
No. 21, 1906,
s. 6.

- (ii.) Sell any Australian wine containing more than forty per centum of proof spirit.
- (iii.) Add any wine to spirits for the purpose of breaking down or reducing the strength of the spirits.
- (iv.) Sell any spirits the strength of which has been broken down or reduced by the addition of wine.

Penalty: Fifty pounds.

Distance of
stores for sale
of spirits from
distillery.

77. No distiller shall keep or make use of any store for the sale or storage of any duty-paid spirits at any place within a distance of one hundred yards from the licensed premises of the distiller.

Penalty: One hundred pounds.

Penalty in
cases not
provided for.

78. Any person by act or omission guilty of any contravention of this Act for which no other penalty is provided, shall be liable to a penalty of not more than Fifty pounds.

Attempted
offences.

79. Any attempt to commit an offence against this Act shall be an offence against this Act punishable as if the offence had been committed.^(a)

Aiders and
abettors.

80. Whoever aids, abets, counsels, or procures, or by act or omission is directly or indirectly concerned in the commission of any offence against this Act, shall be deemed to have committed such offence and shall be punishable accordingly.

PART IX.—MISCELLANEOUS.

Board and
lodging to be
paid for.

81. Any person providing board and lodging for an officer pursuant to the request of the Collector shall be entitled to fair remuneration therefor at such rates as shall be agreed or prescribed.

Section 82
repealed by
No. 34, 1918,
s. 16.

* * * * *

(a) Question of validity of section discussed by the Full Court of the Supreme Court of South Australia. *Robinson v. Hall*, 1906 S.A.L.R. 16.

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

* * * * *

Section 84
repealed by
No. 34, 1918,
s. 17.

SCHEDULES.

SCHEDULE I.

TABLE OF FEES FOR LICENCES TO DISTIL.

For every spirit maker's general licence	£50
For every spirit maker's wine distilling licence	25
For every vigneron's licence	5

computing as from the first day of January to the thirty-first day of December and when by reason of the time of the granting of the licence it will not continue for a full year the amount of fee shall be reduced proportionately.

Schedule.
Substituted by
No. 34, 1918,
s. 18.

SCHEDULE II.

SCALE OF AMOUNTS IN WHICH LICENSEES ARE TO GIVE SECURITY.

Spirit Makers and Vignerons—

Where the amount of duty payable in any one year on spirits manufactured—

Does not exceed £5,000—security required	£250
Exceeds £5,000 but does not exceed £10,000—security required ..	£500
Exceeds £10,000 but does not exceed £25,000—security required ..	£1,000
Exceeds £25,000 but does not exceed £50,000—security required ..	£2,500
Exceeds £50,000—security required	£5,000.

* * * * *

Schedule II.
Substituted by
No. 34, 1918,
s. 18.

Schedule III.
repealed by
No. 34, 1918,
s. 19.

DRIED FRUITS EXPORT CHARGES ACT 1924-1929.^(a)

An Act to impose Charges upon the Export of Dried Fruits.

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

1. This Act may be cited as the *Dried Fruits Export Charges Act 1924-1929*^(a)

Definitions.

2. In this Act, unless the contrary intention appears—
“dried fruits” means dried currants, dried sultanas and dried
lexias.

Charge on
export of
dried fruits.

3.—(1.) A charge is imposed and shall be levied and paid on all
dried fruits exported from the Commonwealth after a date to be
fixed by Proclamation.^(b)

Substituted by
No. 6, 1927,
s. 3.

(2.) The rate of the charge shall be one-eighth of a penny for each
pound of dried fruits exported, or, in the case of any of the three
kinds of dried fruits to which this Act applies, such lower rate as
is prescribed by the regulations.

Substituted by
No. 12, 1929,
s. 2.

(3.) All moneys payable under this section in respect of any
dried fruits shall be paid on or before the entry of those dried fruits
for export to such officers in the respective States of the Common-
wealth as are prescribed.

Exemption
from charges.
Inserted by
No. 6, 1927,
s. 4.

3A.—(1.) The Governor-General may, from time to time, by
order published in the *Gazette*, after report to the Minister by the
Dried Fruits Control Board constituted under the *Dried Fruits Export
Control Act 1924*, exempt dried currants, dried sultanas or dried
lexias from the charges imposed by this Act.^(c)

(2.) Any such exemption may be unconditional, or subject to
such conditions as the Governor-General thinks fit, and shall apply
in respect of the period (if any) specified in the order of exemption,

(a) The *Dried Fruits Export Charges Act 1924-1929* comprises the Acts set out in the following
table:—

Act.	Year and Number.	Date of Assent.	Date of Commencement.
<i>Dried Fruits Export Charges Act 1924</i> ..	1924, No. 41 ..	20th October, 1924 ..	20th October, 1924
<i>Dried Fruits Export Charges Act 1927</i> ..	1927, No. 6 ..	8th April, 1927 ..	20th October, 1924
<i>Dried Fruits Export Charges Act 1929</i> ..	1929, No. 12 ..	22nd March, 1929 ..	22nd March, 1929

(b) The date fixed was 3rd March, 1925. See *Gazette*, 1925, p. 308.

(c) See *Gazette*, 1928, p. 2546 which exempts dried fruits exported to the Pacific Islands in
parcels not exceeding two hundred-weights and dried fruits exported elsewhere in parcels not
exceeding one hundred-weight.

or, in the absence of the specification of any such period, until such date as the Governor-General may fix by order published in the *Gazette*.

4. The Governor-General may, after report to the Minister by the Dried Fruits Control Board constituted under the *Dried Fruits Export Control Act 1924*, make regulations prescribing a lower rate of the charge imposed on dried currants, dried sultanias or dried lechias exported from the Commonwealth on or after such date as is specified in the regulations, not being earlier than the first day of March One thousand nine hundred and twenty-seven.

Regulations.
Amended by
No. 6, 1927,
s. 5.

5. This Act shall continue in force until a date which the Governor-General may fix by Proclamation.^(a)

Duration of
Act.

(a) No such date has yet been proclaimed (31st December, 1950).

DRIED FRUITS EXPORT CONTROL ACT 1924-1938. ^(a)

An Act Relating to the Export of Dried Fruits.

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

1. This Act may be cited as the *Dried Fruits Export Control Act* 1924-1938. ^(a)

Commence-
ment.

2. Sections one, two, five and twenty-nine of this Act shall commence on the day on which this Act receives the Royal assent and the remaining sections of this Act shall commence on a date to be fixed by Proclamation. ^(a)

Proviso omitted
by No. 45, 1934,
s. 2 (3) and
4th Schedule.

* * * * *

Definitions.

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

“dried fruits” means dried currants, dried sultanas and dried lexias;

“the Board” means the Dried Fruits Control Board constituted under this Act;

“the fund” means the Dried Fruits Export Fund established under this Act.

Dried Fruits
Control Board.
Amended by
No. 46, 1930,
s. 2** ; and by
No. 21, 1937,
s. 2.

4.—(1.) For the purposes of this Act there shall be a Dried Fruits Control Board.

(a) The *Dried Fruits Export Control Act* 1924-1938 comprises the *Dried Fruits Export Control Act* 1924, as amended. Particulars of the Principal Act and of the amending Acts are set out in the following table:—

Act.	Year and Number.	Date of Assent.	Date of Commencement.
<i>Dried Fruits Export Control Act</i> 1924 ..	1924, No. 40 ..	20th October, 1924 ..	6th February, 1925 (See <i>Gazette</i> 1925, p. 189)*
<i>Dried Fruits Export Control Act</i> 1930 ..	1930, No. 46 ..	18th August, 1930 ..	18th August, 1930
<i>Statute Law Revision Act</i> 1934 ..	1934, No. 45 ..	6th August, 1934 ..	6th August, 1934
<i>Dried Fruits Export Control Act</i> 1935 ..	1935, No. 3 ..	4th April, 1935 ..	4th April, 1935
<i>Dried Fruits Export Control Act</i> 1937 ..	1937, No. 21 ..	16th September, 1937	16th September, 1937
<i>Dried Fruits Export Control Act</i> 1938 ..	1938, No. 21 ..	5th July, 1938 ..	2nd August, 1938

*Sections 1, 2, 5, and 29 commenced on the date of assent.

** Section 2 (2.) of the *Dried Fruits Export Control Act* 1930 reads—

“(2.) The amendment effected by paragraph (b) of the preceding sub-section shall be deemed to have commenced on the date of the commencement of section four of the Principal Act.”

(2.) The Board shall consist of—

- (a) one member (in this Act referred to as Government representative) who shall be appointed by the Governor-General as representative of the Commonwealth Government;
- (b) two representatives elected by growers in the State of Victoria and one representative elected by growers in each of the States of New South Wales, South Australia and Western Australia;^(a) and
- (c) two members with commercial experience appointed by the Governor-General.

(3.) The Governor-General shall not appoint, as a Government representative, any person who has submitted himself for, and failed to secure, election by the growers as a member of the Board.

(4.) Every member appointed as a Government representative shall hold office during the pleasure of the Governor-General.

(5.) The election of representatives in pursuance of paragraph (b) of sub-section (2.) of this section shall be carried out in such manner as is prescribed.

(5A.) A person shall not be entitled to vote at any election held under the provisions of paragraph (b) of sub-section (2.) of this section unless he is enrolled as an elector in pursuance of Part VII. of the *Commonwealth Electoral Act* 1918-1934.

(6.) The members appointed in pursuance of paragraph (c) of sub-section (2.) of this section shall be appointed for a term of two years, but may be removed from office by the Governor-General upon the recommendation of the Board.

(7.) Elected members of the Board shall hold office for a period of two years and shall be eligible for re-election:

Provided that an elected member may be removed from office by the Governor-General on the recommendation of the Board.

(8.) On the death, resignation or removal from office of an elected member of the Board, the Governor-General may, on the recommendation of the Board, appoint a person to hold the vacant office for the residue of the term of the elected member.

(9.) The powers conferred on the Board by this Act shall not be affected by reason only of there being a vacancy in the membership thereof.

* * * * *

S. 5 repealed
by No. 45, 1934,
s. 2 (3) and
4th Schedule.

6. The Board shall be a body corporate with perpetual succession and a common seal and shall be capable of suing and being sued and of holding real and personal property.

Incorporation
of Board.

(a) Held by the High Court that the method of constituting the Board prescribed by this section is not a contravention of s. 99 of the Constitution as giving a preference to one State. *Crowe v. Commonwealth of Australia and Dried Fruits Control Board*, (1935) 54 C.L.R. 69; 41 A.L.R. 445; 9 A.L.J. 278.

Deputies of
members.

7.—(1.) In the event of the illness or absence of a member of the Board, the Governor-General may appoint a person to be the deputy of that member and a person so appointed shall have all the powers of the member of whom he is the deputy.

(2.) Where the member who is ill or absent is an elected member the person appointed to be the deputy of that member shall be a person named by the Board.

(3.) No such appointment of a deputy and no acts done by him as such shall in any proceedings be questioned on the ground that the occasion for his appointment had not arisen or had ceased.

Fees and
expenses.

8. The members of the Board, and the deputies of members of the Board while acting as such, shall receive such fees and expenses as are prescribed.

Chairman
of the Board.

9.—(1.) At the first meeting of the Board, which shall be held at a time and place notified in the *Gazette* by the Minister, the Board shall appoint one of its members to be the Chairman of the Board.

(2.) The Chairman of the Board shall hold office until the appointment in accordance with this section of a successor and shall be eligible for re-appointment.

(3.) At a meeting of the Board, which shall be held in the month of July of each year, the Board shall appoint a person to be Chairman for the ensuing period of twelve months.

(4.) At any meeting of the Board at which the Chairman is not present the members present shall appoint one of their number to act as chairman at that meeting.

Meetings of
the Board.

10.—(1.) Subject to this Act, meetings of the Board shall be held at such times and places within the Commonwealth as the Board from time to time determines.

(2.) The Chairman of the Board, or any three members thereof, may at any time call a special meeting of the Board.

(3.) At all meetings of the Board three members shall form a quorum.

(4.) At any meeting of the Board the Chairman shall have a deliberative vote and, in the case of an equality of votes, shall also have a casting vote.

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

(6.) The Board shall keep a record of its proceedings.

London Agency
of Board.

11.—(1.) The Board may constitute an agency of the Board in London (in this Act referred to as "the London Agency").

(2.) The London Agency shall consist of such number of persons as the Board from time to time determines, one of whom shall be appointed by the Governor-General and shall hold office during the pleasure of the Governor-General, and the others shall be appointed by the Board and shall hold office during the pleasure of the Board.

(3.) The London Agency shall keep the Board advised as to current prices of dried fruits and as to other matters relative to the disposal of Australian dried fruits in England or elsewhere, and generally act as the agent of the Board in accordance with the directions of the Board.

12.—(1.) The Board may appoint such officers as are necessary to assist the Board in carrying out its functions under this Act. Appointment of officers.

(2.) Officers appointed in pursuance of this section shall not be subject to the *Commonwealth Public Service Act 1922*^(a) and shall hold office during the pleasure of the Board.

(3.) The salaries and conditions of employment of officers appointed in pursuance of this section shall be as prescribed.

(4.) Where an officer appointed as Secretary to the Board in pursuance of this section was, immediately prior to his appointment, an officer of the Public Service of the Commonwealth, his service as an officer of the Board shall, for the purpose of determining his existing and accruing rights, be taken into account as if it were service in the Public Service of the Commonwealth, and the *Officers' Rights Declaration Act 1928-1933* shall apply as if this Act and section had been specified in the Schedule to that Act. Added by No. 3, 1935, s. 2.

13. For the purpose of enabling the Board effectively to control the export and the sale and distribution after export of Australian dried fruits, the Governor-General may by proclamation prohibit the export from the Commonwealth of any dried fruits except in accordance with a licence issued by the Minister subject to such conditions and restrictions as are prescribed after recommendation to the Minister by the Board.^(b) Dried fruits not to be exported save in accordance with determination of Board.

14.—(1.) Where the Governor-General issues a proclamation in pursuance of the last preceding section, the Minister may grant to any person desiring to export dried fruits from the Commonwealth a licence to do so. Licensing of traders in dried fruits.

(2.) A licence under this section shall, subject to this section, be for such period as is specified in the licence and shall be granted upon such terms and conditions as are prescribed.

(3.) Where the Minister is satisfied, on report by the Board, that any person, to whom a licence under this section has been granted, has contravened or failed to comply with any term or condition upon which the licence was granted, the Minister may cancel the licence.

15. Any person who—

(a) exports dried fruits from the Commonwealth in contravention of any proclamation under this Act; or Penalty for export in contravention of proclamation,

^(a) Now the *Public Service Act 1922-1950*, *infra*.

^(b) The exportation of any dried fruits, unless in accordance with a licence, was prohibited by a Proclamation dated 25th February, 1925. See *Gazette*, 1925, p. 287.

Held by the High Court that the restrictions imposed by the Act and Regulations, including those operating after the goods have reached their overseas market, are within the legislative power of the Commonwealth to make laws with respect to trade and commerce with other countries and that the delegation of power effected by the Act is *intra vires* the Parliament. *Crowe v. Commonwealth of Australia and Dried Fruits Control Board*, (1935) 54 C.L.R. 69; 41 A.L.R. 445; 9 A.L.J. 278.

(b) being the holder of a licence under the last preceding section, contravenes or fails to comply with any term or condition upon which the licence was granted, shall be guilty of an offence.

Penalty: One hundred pounds.

Board may accept control of dried fruits intended for export.

S. 17 repealed by No. 45, 1934, s. 2 (3) and 4th Schedule.

Contracts for shipment of dried fruits.

16. The Board may accept control of any dried fruits placed under its control for the purposes of this Act.

* * * * *

18.—(1.) After the constitution of the Board, or after such later date as the Minister, on the recommendation of the Board, by notice in the *Gazette*, appoints,^(a) no contract for the carriage by sea to any place beyond the Commonwealth of any dried fruits shall be made except by the Board acting as the agent of the owners of the dried fruits or of other persons having authority to export the dried fruits, or in conformity with conditions approved by the Board.

(2.) Every contract for the carriage of dried fruits by sea to any place beyond the Commonwealth made otherwise than in accordance with this section shall be void.

(3.) Any person who, after the constitution of the Board or after such later date as the Board appoints, exports any dried fruits from the Commonwealth shall, on making entry therefor under the *Customs Act* 1901-1923 and before the entry has been passed, satisfy the Collector or other officer of Customs that the contract for the shipment of the dried fruits has been approved by the Board.

Sub-sec. (4) omitted by No. 45, 1934, s. 2 (3) and 4th Schedule.

Particular powers of Board.

* * * * *

19.—(1.) The Board shall with respect to any dried fruits placed under its control have full authority to make such arrangements and give such directions as it thinks fit for the following matters:—

- (a) The handling, marketing and storage of the dried fruits;
- (b) The shipment of the dried fruits on such terms and in such quantities as it thinks fit;
- (c) The sale and disposal of dried fruits on such terms as it thinks fit;
- (d) The insurance against loss of any such dried fruits either in the Commonwealth or in transit from the Commonwealth and until disposed of; and
- (e) All such matters as are necessary for the due discharge of its functions in handling, distributing and disposing of the dried fruits.

(2.) For the purpose of securing any advances made to the Board, or, at the request of the Board, to the owners of any dried fruits placed under the control of the Board, the Board shall, by virtue of

^(a) By notice published in *Gazette*, 1926, p. 463, the Minister appointed 16th March, 1926, to be the later date.

this Act and without further authority, have full power, on behalf of the owners of the dried fruits, to give security over the dried fruits and to execute all mortgages and other instruments of assurance in the same manner in all respects as if the Board were the legal owners of the dried fruits.

20.—(1.) There shall be a Dried Fruits Export Fund into which shall be paid out of the Consolidated Revenue Fund, which is hereby appropriated accordingly, all moneys received by the Collector of Customs under the *Dried Fruits Export Charges Act 1924*. Dried Fruits Export Fund.

(2.) Where any account referred to in section twenty-two of this Act is opened, payment into that account of the moneys mentioned in the last preceding section shall be held to be payment into the fund.

(3.) Income derived from the investment of the fund shall form part thereof.

(4.) The income of the fund shall not be subject to taxation by the Commonwealth or a State.

21. The moneys paid into the fund shall be applied by the Board as follows:— Application of moneys paid into fund.

- (a) In payment of the expenses and other charges incurred by the Board or for which the Board may become liable in the course of its business;
- (b) In payment of the salaries and wages of officers and servants of the Board;
- (c) In payment of travelling allowances, fees or other remuneration to members of the Board or of the London Agency (not being persons permanently employed in the service of the Government); Amended by No. 46, 1930, s. 3.
- (d) In investment in any securities of, or guaranteed by, the Government of the Commonwealth or of a State; and
- (e) In doing or undertaking any experiment, act, matter or thing which, in the opinion of the Board, is likely to improve the quality or to promote the sale of Australian dried fruits, and in particular in carrying out any arrangement which the Board may enter into with any other Board or Authority constituted to control the sale of products of Australia. Added by No. 46, 1930, s. 3.

22. Moneys held in the fund uninvested by the Board may be lodged in an account at call or on fixed deposit, or partly at call and partly in an account on fixed deposit, with the Commonwealth Bank, or with any other prescribed bank, and while in such bank shall be held to be moneys of the Crown. Moneys in fund uninvested may be lodged in Bank.

23. Cheques drawn on any account referred to in the last preceding section shall be signed as prescribed. How cheques signed.

24. All moneys received by the Board in respect of the sale of dried fruits or otherwise howsoever (except moneys forming part of Moneys received by Board.

the fund) shall be paid by the Board into a separate account in the Commonwealth Bank or any other prescribed Bank.

Power to call
for returns.

25.—(1.) The Board may call upon any person to furnish, within such time as is specified by the Board, such returns in relation to the dried fruits industry as are necessary for the purposes of carrying out this Act.

(2.) Any person who, being called upon in pursuance of this section to furnish a return in relation to any matter within his knowledge or under his control, fails to furnish the return within the time specified shall be guilty of an offence.

Penalty: One hundred pounds.

Audit.

26. The accounts of the Board shall be subject to inspection and audit by the Auditor-General for the Commonwealth.

Liability
of Board
for its acts.

27.—(1.) The Board in its corporate capacity shall, in all its operations under this Act, be deemed to be the agent of the owners of all dried fruits of which the Board has accepted control, and the mutual rights, obligations and liabilities of the Board and the several owners shall accordingly be determined in accordance with the law governing the relations between principals and agents, save that nothing in this Act shall be construed to limit the power of the Board to exercise, without the authority of the owner of any dried fruits, any power with respect to such dried fruits which is expressly or by implication conferred on the Board by or under this Act.

(2.) The members of the Board shall not be personally liable for any act or default of the Board done or omitted to be done in good faith in the course of the operations of the Board.

Annual report.
Amended by
No. 21, 1938,
s. 2.

28.—(1.) The Board shall, not later than the thirtieth day of September in each year, report to the Minister generally as to the operation of the Act.

(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 regarding the operation of the Act.

Regulations.

29. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular for prescribing penalties not exceeding Fifty pounds for any breach of the regulations.^(a)

^(a) Held by the High Court that regulations conferring an uncontrolled discretion on the Board in the control of the trade contemplated by the Act do not exceed the authority conferred by this Act. *Crooke v. Commonwealth of Australia and Dried Fruits Control Board*, (1935) 54 C.L.R. 69; 41 A.L.R. 445; 9 A.L.J. 278.

EDUCATION ACT 1945.^{(a)(b)}

An Act to establish a Commonwealth Office of Education and a Universities Commission, to provide for the University Training of Discharged Members of the Forces, to provide for Financial Assistance to University Students, and for other purposes.

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.

1. This Act may be cited as the *Education Act 1945*.^{(a)(b)} Short title.
2. The Act is divided into Parts, as follows:— Parts.
 - Part I.—Preliminary.
 - Part II.—The Commonwealth Office of Education.
 - Part III.—The Universities Commission.
 - Part IV.—Miscellaneous.
3. In this Act, unless the contrary intention appears— Definitions.
 - “approved institution” means a research institution, teaching institution, or institution providing training, which the Minister, by notice published in the *Gazette*, declares to be an approved institution for the purposes of this Act;
 - “Australia” includes the Territories of the Commonwealth;
 - “Commissioner” means a member of the Commission;
 - “similar institution” means a research institution, teaching institution, or institution providing training, which, in the opinion of the Commission, is similar or related to a University or provides higher or professional teaching or training;
 - “student” means a student enrolled, or applying for enrolment, at a University, an approved institution or a similar institution;
 - “the Chairman” means the Chairman of the Commission;
 - “the Commission” means the Universities Commission constituted by this Act;
 - “the Director” means the Director of the Commonwealth Office of Education;
 - “University” means a University within Australia, and includes any University College which the Minister, by

(a) No. 55, 1945; assented to on 11th October, 1945; commenced on 8th November, 1945.

(b) See the *Social Services Legislation Declaratory Act 1947*, *infra*.

notice published in the *Gazette*, declares to be a University College for the purposes of this Act.

Extension to
Territories,

4. This Act shall extend to the Territories of the Commonwealth.

PART II.—THE COMMONWEALTH OFFICE OF EDUCATION.

Commonwealth
Office of
Education.

5.—(1.) There shall be a Commonwealth Office of Education.

(2.) The functions of the Commonwealth Office of Education shall be—

- (a) to advise the Minister on matters relating to education;
- (b) to establish and maintain a liaison, on matters relating to education, with other countries and the States ;
- (c) to arrange consultation between Commonwealth authorities concerned with matters relating to education;
- (d) to undertake research relating to education;
- (e) to provide statistics and information relating to education required by any Commonwealth authority; and
- (f) to advise the Minister concerning the grant of financial assistance to the States and to other authorities for educational purposes,

and shall include such other functions in relation to education as are assigned to it by the Minister.

Director of
Commonwealth
Office of
Education.

6.—(1.) There shall be a Director of the Commonwealth Office of Education, who shall, under the Minister, have the chief control of the Commonwealth Office of Education.

(2.) The Director shall be appointed by the Governor-General and shall, subject to this Act, hold office during good behaviour for a period not exceeding five years, but shall be eligible for re-appointment.

(3.) The Director shall be paid salary and allowances at such rates as the Governor-General determines.

(4.) The Director shall be deemed to have vacated his office—

- (a) if he engages in any paid employment outside the duties of his office;
- (b) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
- (c) if he becomes of unsound mind;
- (d) if he becomes permanently incapable of performing his duties;
- (e) if he resigns his office by writing under his hand to the Governor-General and the resignation is accepted by the Governor-General; or
- (f) if he absents himself (except on leave granted by the Governor-General) for a period of twenty-one consecutive days.

(5.) The Governor-General may grant leave of absence to the Director upon such terms and conditions as to remuneration or otherwise as the Governor-General determines.

7. The Director shall, once in every year, furnish to the Minister Annual Report. a report containing a summary of the work of the Commonwealth Office of Education during the preceding year.

PART III.—THE UNIVERSITIES COMMISSION.

8.—(1.) For the purposes of this Act there shall be a Commission, Establishment of Commission. to be known as the Universities Commission, which shall, subject to any direction of the Minister, be charged with the general administration of this Part.

(2.) The Commission shall be a body corporate with perpetual succession and a common seal, and shall be capable of suing and being sued.

(3.) All Courts, Judges and persons acting judicially shall take judicial notice of the seal of the Commission affixed to any document and shall presume that it was duly affixed.

9.—(1.) The Commission shall consist of a Chairman and three Constitution of Commission. other members.

(2.) The Chairman shall be the person for the time being holding office as Director of the Commonwealth Office of Education.

(3.) A member of the Commission (other than the Chairman) shall be appointed by the Governor-General for a period not exceeding three years, but shall be eligible for re-appointment.

(4.) A member of the Commission shall be paid salary and allowances at such rates as the Governor-General determines.

10. The Governor-General may terminate the appointment of a Dismissal of Commissioner. Commissioner (other than the Chairman) for inability, inefficiency or misbehaviour.

11. A Commissioner (other than the Chairman) shall be deemed Vacation of office. to have vacated his office—

- (a) if his appointment is terminated by the Governor-General in pursuance of this Act;
- (b) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
- (c) if he becomes of unsound mind;
- (d) if he resigns his office by writing under his hand addressed to the Governor-General and the resignation is accepted by the Governor-General; or

- (e) if he absents himself (except on leave granted by the Governor-General) from all meetings of the Commission held during three consecutive months.

Leave of absence.

12. The Governor-General may grant leave of absence to a Commissioner upon such terms and conditions as to remuneration or otherwise as the Governor-General determines.

Meetings of Commission.

13.—(1.) The Commission shall hold such meetings as, in the opinion of the Chairman, are necessary for the efficient conduct of its affairs.

(2.) The Chairman shall preside at all meetings at which he is present.

(3.) In the absence of the Chairman from any meeting of the Commission, the Commissioners present shall appoint one of their number to preside at that meeting.

(4.) At any meeting of the Commission, two Commissioners shall form a quorum.

(5.) The Commissioner presiding at any meeting of the Commission shall have a deliberative vote and, in the event of an equality of votes, shall also have a casting vote.

Functions of Commission.

14. The functions of the Commission shall, subject to the regulations and any directions of the Minister, be—

(a) to arrange, as prescribed, for the training in Universities or similar institutions, for the purpose of facilitating their re-establishment of persons who are discharged members of the Forces within the meaning of the *Re-establishment and Employment Act 1945*;

(b) in prescribed cases or classes of cases, to assist other persons to obtain training in Universities or similar institutions;

(c) to provide, as prescribed, financial assistance to students at Universities and approved institutions; and

(d) to advise the Minister with respect to such matters relating to University training and associated matters as are referred by the Minister to the Commission for advice.

Appointment of State Committees.

15.—(1.) The Governor-General may appoint a State Committee in each State consisting of such number of members as is prescribed.

(2.) The terms of the appointment of members and the method of appointment of the Chairman of each State Committee shall be as prescribed.

Functions of State Committees.

16. The functions of each State Committee shall be to advise the Commission on matters relating to that State with respect to—

(a) the general functions of the Commission; and

- (b) any particular matter relating to the Commission's functions.

17. All amounts of financial assistance provided under this Part shall be paid out of sums appropriated by the Parliament for the purpose.

Provision
of financial
assistance
out of sums
appropriated.

18. The Commission shall, once in every year, furnish to the Minister a report containing a summary of the work of the Commission during the preceding year.

Annual Report.

PART IV.—MISCELLANEOUS.

19. 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 the effect to this Act, and in particular for prescribing penalties not exceeding a fine of Fifty pounds, or imprisonment for a period not exceeding three months, for any contravention of the regulations.

Regulations.

EGG EXPORT CHARGES ACT 1947.^(a)

An Act to impose Charges upon the Export of Eggs.

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 *Egg Export Charges Act 1947*.^(a)
- Definitions. 2. In this Act "eggs" means hen eggs in shell and includes the following products of hen eggs, namely, liquid whole egg, liquid egg white, liquid egg yolk, dried whole egg, sugared dried egg and dried egg white.
- Charge on export of eggs. 3.—(1.) Charges are imposed and shall be levied and paid on all eggs exported from the Commonwealth after a date to be fixed by Proclamation.^(b)
 (2.) Subject to a lower rate being prescribed by the regulations, the rates of those charges shall be as specified in the Schedule to this Act.
 (3.) All moneys payable under this section in respect of any eggs shall be paid, on or before the entry of the eggs for export, to such officers in the respective States, or in the Northern Territory, as are prescribed.
- Exemption from charges. 4.—(1.) The Governor-General may, from time to time, by order published in the *Gazette*, after report to the Minister by the Australian Egg Board constituted in pursuance of the *Egg Export Control Act 1947*, exempt any eggs from the charges imposed by or under this Act.^(c)
 (2.) Any exemption under this section may be unconditional or subject to such conditions as are specified in the order of exemption, and shall apply in respect of such period (if any) as is so specified.
 (3.) The Governor-General may, by order published in the *Gazette*, cancel any exemption made under this section of any eggs from the charges imposed by or under this Act, and thereupon those charges shall, from the date fixed by the order, become payable in respect of those eggs.
- Regulations. 5. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which are by this Act required or permitted to be prescribed, or which are necessary or

(a) No. 77, 1947; assented to on 11th December, 1947; commenced on 8th January, 1948.

(b) The date proclaimed was 1st February, 1948. See *Gazette*, 1948, p. 1305.

(c) For an order under this section, see *Gazette*, 1948, p. 1305.

convenient to be prescribed, for carrying out or giving effect to this Act, and, in particular, after report to the Minister by the Australian Egg Board constituted in pursuance of the *Egg Export Control Act 1947*, for prescribing lower rates of the charges imposed on any eggs exported from the Commonwealth.

6. This Act shall continue in force until a date to be fixed by Proclamation as the date upon which the Act shall cease to be in force.^(a) Duration
of Act.

THE SCHEDULE.

Sec. 3.

Kind of Eggs.						Rate of Charge.	
						s.	d.
Eggs in shell	..	..	..	..	..	1	3 per 30 dozen eggs
Liquid whole egg	..	..	..	..	..		·6 per pound
Liquid egg white	..	..	..	..	..		·6 per pound
Liquid egg yolk	..	..	..	..	..		·6 per pound
Dried whole egg	..	..	..	..	..		1·8 per pound
Sugared dried egg	..	..	..	..	..		1·2 per pound
Dried egg white	..	..	..	..	..		3·5 per pound

(a) No such date has yet been proclaimed (31st December, 1950).

EGG EXPORT CONTROL ACT 1947-1948.^(a)

An Act relating to the Export of Eggs.

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

1. This Act may be cited as the *Egg Export Control Act 1947-1948*.^(a)

Commencement.

2. This Act shall come into operation on a date to be fixed by Proclamation.^(a)

Definitions.

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

“eggs” means hen eggs in shell and includes the following products of hen eggs, namely, liquid whole egg, liquid egg white, liquid egg yolk, dried whole egg, sugared dried egg and dried egg white;

“producer” means a person defined by any State Act as a producer of eggs;

“the Board” means the Australian Egg Board constituted by this Act;

“the Chairman” means the Chairman of the Board;

“the Fund” means the Egg Export Fund established under this Act.

Repeal.

4. The National Security (Egg Industry) Regulations are repealed.

Australian
Egg Board.

5.—(1.) For the purposes of this Act, there shall be an Australian Egg Board.

(2.) The Board shall consist of—

(a) one member from each of the States of New South Wales, Victoria, Queensland, South Australia, Western Australia

(a) *The Egg Export Control Act 1947-1948* comprises the Acts set out in the following table:—

Act.	Year and Number.	Date of Assent.	Date of Commencement.
<i>Egg Export Control Act</i> 1947	1947, No. 76 ..	11th December, 1947	1st January, 1948 (<i>See Gazette</i> , 1947, p. 3733)
<i>Egg Export Control Act</i> 1948	1948, No. 63 ..	6th December, 1948..	1st January, 1948*

* Section 2 of the *Egg Export Control Act 1948* provided that that Act should be deemed to have commenced on the date on which the *Egg Export Control Act 1947* commenced.

and Tasmania to represent the producers in each of those States;

- (b) two members with commercial experience;
- (c) one member to represent employees engaged in the handling, grading and processing of eggs; and
- (d) one member to represent the Commonwealth Government.

(3.) The members of the Board, other than the members elected by producers, shall be appointed by the Governor-General in accordance with the provisions of this section.

(4.) The members representing producers shall, wherever practicable, be elected by the producers in such manner as is prescribed.

(5.) Where, in respect of a State, it is not, in the opinion of the Minister, practicable to hold an election of producers, the member representing producers in that State shall, wherever practicable, be a person selected after consultation by the Minister with representatives of producer organizations in that State.

(6.) No person shall be eligible for election or appointment as a member of the Board to represent producers, or to continue as such a member, unless he is a producer.

(7.) The member representing employees engaged in the handling, grading and processing of eggs shall, wherever practicable, be a person selected after consultation by the Minister with representatives of the appropriate trade union or trade unions.

(8.) The member appointed to represent the Commonwealth Government shall be Chairman of the Board and shall hold office for such period as the Governor-General directs, but the Governor-General may, on the recommendation of the Minister, remove the Chairman from his office for incapacity, incompetence or misbehaviour.

(9.) Members of the Board, other than the Chairman, shall hold office for a period of three years and shall be eligible for re-appointment or re-election.^(a)

(10.) A member of the Board, not being the Chairman, may be removed from office by the Governor-General on the recommendation of the Board.

(11.) On the occurrence of a vacancy in the membership of the Board, the Governor-General may appoint a person to fill the vacancy and any person so appointed, other than the Chairman, shall hold office for the residue of the term of the member whose place became vacant.

(12.) Where a person whose place has become vacant represented the producers in a State, the person appointed to fill the vacancy shall be a person recommended by the Board.

(13.) The exercise of the powers and functions of the Board shall not be affected by reason only of there being a vacancy in the membership of the Board.

(a) See the *Egg Export Control Act 1950*, s. 3, *infra*.

Incorporation
of Board.

6.—(1.) The Board shall be a body corporate with perpetual succession and a common seal, and may acquire, hold and dispose of real and personal property and shall be capable of suing and being sued in its corporate name.

(2.) All courts, judges and persons acting judicially shall take judicial notice of the seal of the Board affixed to any document and shall presume that it was duly affixed.

Deputies of
Members of
the Board.

7.—(1.) In the event of the absence (through illness or otherwise) of a member of the Board, the Governor-General may appoint a person to be the deputy of that member, and, during the absence of the member, the person so appointed shall have and may exercise and perform all the powers and functions of a member of the Board, and, if the member is a member of any committee of the Board, the powers and functions of a member of that committee.

(2.) Where the member who is absent represents the producers in a State, the person appointed to be the deputy of that member shall be a person recommended by the Board.

(3.) An appointment of a deputy of a member, and any act done by him as such, shall not be questioned in any proceedings on the ground that the occasion for his appointment had not arisen or had ceased.

Fees, salaries
and expenses.

8.—(1.) Subject to the next succeeding sub-section, members of the Board and of any committee of the Board, and the deputies of any such members while acting as such, shall be entitled to receive fees, salaries and expenses at such rates as are prescribed in respect of attendance at meetings or whilst engaged on such business of the Board as the Board determines.

(2.) If a member or his deputy is also a member of the Parliament of the Commonwealth or of a State, he shall not be entitled to receive any fees or salary, but shall be entitled to be reimbursed such expenses as he actually incurs by reason of that attendance or whilst engaged on that business.

Officers of
Public Service
appointed as
members of
the Board.

Inserted by
No. 63, 1948,
s. 3.

8A. Where a member of the Board appointed in pursuance of section five of this Act was, immediately before his appointment, an officer of the Public Service of the Commonwealth, his service as a member of the Board shall, for the purpose of determining his existing and accruing rights, be taken into account as if it were service in the Public Service of the Commonwealth and the *Officers' Rights Declaration Act 1928-1940* shall apply as if this Act and section were specified in the Schedule to that Act.

Meetings of
the Board.

9.—(1.) Subject to this section, meetings of the Board shall be held at such times, and at such places within the Commonwealth, as the Board from time to time determines.

(2.) The Chairman may at any time call a special meeting of the Board.

(3.) At all meetings of the Board six members shall form a quorum.

(4.) The Chairman shall preside at all meetings of the Board at which he is present.

(5.) At any meeting of the Board at which the Chairman is not present, the members present shall appoint one of their number to preside at that meeting.

(6.) At any meeting of the Board the person presiding at that meeting shall have a deliberative vote and, in the event of an equality of votes, shall also have a casting vote.

(7.) All questions before the Board shall be decided by a majority of votes.

(8.) If the Chairman or other person presiding at any meeting of the Board dissents from any decision of the Board at that meeting and signifies at that meeting to the other members present in person his intention to bring his dissent to the notice of the Minister and, within twenty-four hours after the close of the meeting, transmits to the Minister notice of his dissent together with full particulars of the decision, the decision shall have no effect unless the Minister approves the decision (whether with or without variation) and, if the Minister approves the decision subject to a variation, the varied decision as so approved shall be deemed to be the decision of the Board.

(9.) The Board shall keep a record of its proceedings.

(10.) A person may, at the request of the Chairman of the Board, attend and take part in the proceedings of a meeting of the Board, but shall not be entitled to vote or be counted in any quorum.

(11.) A person to whom the last preceding sub-section applies shall be paid, in respect of his services, fees and allowances at such rates as the Minister determines.

10.—(1.) There shall be an Executive Committee of the Board consisting of the Chairman and four other members of the Board, who shall be elected by the Board at its first meeting and thereafter in the month of July in each year and shall, subject to this section, hold office for a period of twelve months from the date of their election.

Executive
Committee
of Board.

(2.) Not less than two members of the Executive Committee shall be representative of producers and one member shall be representative of employees engaged in the handling, grading and processing of eggs.

(3.) The Executive Committee shall have such powers and functions of the Board as the Minister, upon the recommendation of the Board, approves, but the Board may at any time exercise any of its powers and functions which the Executive Committee is empowered under this section to exercise.

(4.) At any meeting of the Executive Committee three members shall form a quorum.

(5.) The Chairman shall preside at all meetings of the Executive Committee at which he is present, and, in the event of the absence of the Chairman from any meeting, the members present at the meeting may elect one of their number to preside at that meeting.

(6.) At any meeting of the Executive Committee the person presiding at the meeting shall have a deliberative vote and, in the event of any equality of votes, shall also have a casting vote.

(7.) All questions before a meeting of the Executive Committee shall be decided by a majority of votes.

(8.) In the event of a vacancy occurring in the Executive Committee, the Board may elect one of its members to hold the vacant office for the residue of the term for which the member whose office is vacant was elected.

(9.) The Executive Committee may co-opt any member of the Board to attend such meetings of the Executive Committee as the Committee determines.

(10.) Any member who is co-opted in pursuance of the last preceding sub-section shall act in an advisory capacity only, but shall be entitled to receive such fees and expenses as are payable under this Act to a member of a committee.

Overseas
representation.

11.—(1.) The Board may appoint a person or persons approved by the Minister to represent the Board overseas.

(2.) The representative or representatives of the Board overseas shall hold office on such terms and conditions as the Board determines.

Appointment
of officers and
employees.

12.—(1.) The Board may appoint such officers and employees as are necessary to assist the Board in exercising its powers and functions under this Act.

(2.) Officers and employees appointed in pursuance of this section shall not be subject to the *Commonwealth Public Service Act 1922-1947*^(a) and shall hold office during the pleasure of the Board.

(3.) The salaries and conditions of employment of officers and employees appointed in pursuance of this section shall be as prescribed.

(4.) Where an officer or employee appointed in pursuance of this section was, immediately before his appointment, an officer of the Public Service of the Commonwealth, his service as an officer or employee of the Board shall, for the purpose of determining his existing and accruing rights, be taken into account as if it were service in the Public Service of the Commonwealth and the *Officers' Rights Declaration Act 1928-1940* shall apply as if this Act and section were specified in the Schedule to that Act.

Powers of
Board.

13. In addition to any other powers which are conferred by this Act, the Board shall have power—

(a) Now the *Public Service Act 1922-1950*, *infra*.

- (a) to make recommendations to the Minister in relation to the making of regulations for the purpose of regulating the export of eggs from Australia;
- (b) to make reports and suggestions to the Minister on such matters as the quality, standards and grading of eggs to be exported from Australia;
- (c) to advise or to make recommendations to the Minister regarding matters arising in connexion with any export programmes relating to eggs which the Board considers it necessary to observe from time to time;
- (d) with the concurrence of the Minister, to make arrangements, either on its own behalf or in collaboration with any other Board or authority, for any experiment, act or thing which, in the opinion of the Board, is likely to lead to the improvement of the quality of, or the prevention of deterioration before or during transport from Australia, of eggs produced in Australia or to promote the sale overseas of such eggs; and
- (e) on behalf of the Commonwealth and subject to any directions of the Minister—
 - (i) to purchase eggs which are intended for export and comply with the conditions and restrictions with which eggs intended for export are required to comply; and
 - (ii) to manage and control all matters connected with the handling, storage, protection, treatment, transfer and shipment of, and to sell, eggs purchased in accordance with the last preceding sub-paragraph.

14.—(1.) For the purpose of enabling the Board effectively to control the export and distribution after export of Australian eggs, the Governor-General may make regulations prohibiting the export from the Commonwealth of any eggs except by persons who hold licences issued by the Minister or by a person thereto authorized in writing by the Minister, and subject to such conditions and restrictions as are prescribed after recommendation to the Minister by the Board.

Control of
export of eggs.

(2.) A person who exports eggs from the Commonwealth in contravention of the regulations made in pursuance of this section (including the prescribed conditions and restrictions) shall be guilty of an offence.

Penalty: Five hundred pounds.

(3.) Where the Minister is satisfied, on report by the Board, that a person, to whom a licence under this section has been granted, has contravened or failed to comply with the prescribed conditions and restrictions, the Minister may cancel the licence.

Contracts relating to shipment and insurance of eggs.

15.—(1.) After such date as is notified in the *Gazette*^(a) by the Minister on the recommendation of the Board, a contract for—

- (a) the carriage of eggs by sea to any place overseas; or
- (b) the insurance of eggs to be so carried against loss or deterioration whilst awaiting transport or in transit or until disposed of,

shall not be made except by the Board acting as the agent of the owners of the eggs, or of other persons having authority to export the eggs, or in conformity with conditions approved by the Board.

(2.) Every contract of the kind specified in the last preceding sub-section which is made otherwise than in accordance with this section shall be void.

(3.) The Collector or other officer of Customs may require a person who, after the date notified by the Minister in pursuance of this section, exports any eggs from the Commonwealth, on making entry thereof under the *Customs Act* 1901-1936 and before the entry has been passed, to satisfy him that the contract for the carriage of the eggs has been approved by the Board, and the Collector or other officer of Customs may decline to pass the entry until the person has so satisfied him.

(4.) This section shall apply, with the necessary modifications, to contracts made before the date notified in the *Gazette*^(a) in pursuance of sub-section (1.) of this section (whether made before or after the commencement of this Act) in like manner as it applies to contracts made after that date, but the approval of the Board shall not be required for any such contract if the eggs to which it relates are exported from Australia not later than the first day of January, One thousand nine hundred and forty-eight.

Operation of Customs Act and Commerce (Trade Descriptions) Act not affected.

16. Nothing in this Act or the regulations shall affect the operation of the *Customs Act* 1901-1936, of the *Commerce (Trade Descriptions) Act* 1905-1933, or of any regulations made under either or both of those Acts.

Finance.

17.—(1.) The Board shall open and maintain with the Commonwealth Bank of Australia an account or accounts into which shall be paid—

- (a) all moneys received in the exercise of the powers and functions of the Board under this Act;
- (b) all moneys appropriated by the Parliament for use by the Board on behalf of the Commonwealth; and
- (c) all moneys advanced by the Treasurer to the Board for the purpose of the exercise of the powers and functions of the Board under this Act.

(2.) The Minister may arrange with the Commonwealth Bank of Australia for the making by that Bank of advances to the Common-

(a) No such date has yet been notified (31st December 1950).

wealth for use by the Board on behalf of the Commonwealth for the purposes of this Act and may guarantee to the Bank the repayment, out of moneys made available by the Parliament, of any advances made by the Bank in pursuance of the arrangement.

18.—(1.) There shall be an Egg Export Fund, into which shall be paid, out of the Consolidated Revenue Fund, which is hereby appropriated accordingly, all moneys received by the prescribed officers under the *Egg Export Charges Act 1947*. Egg Export Fund.

(2.) Where any account referred to in section seventeen of this Act is opened, payment into that account of the moneys mentioned in the last preceding sub-section shall be held to be payment into the Fund.

(3.) Income derived from the investment of the Fund shall form part thereof.

(4.) The income of the Fund shall not be subject to taxation by the Commonwealth or a State.

19. The moneys paid into any account or accounts opened by the Board in pursuance of section seventeen of this Act or into the Fund shall be applied by the Board in payment of the expenses and other charges incurred by the Board or for which the Board may become liable in the course of its business and, in particular— Application of moneys paid into accounts.

- (a) in payment for purchases of eggs;
- (b) in payment of the prescribed salaries and allowances of officers of the Board;
- (c) in payment of travelling allowances, fees, salaries or other remuneration to members of the Board or of the representative or representatives of the Board overseas;
- (d) in repayment to the Commonwealth of any moneys advanced to the Board;
- (e) in investment in any securities of, or guaranteed by, the Government of the Commonwealth or of a State; and
- (f) in payment of any costs or expenses incurred in connexion with any experiment, act or thing undertaken or done in pursuance of any arrangement made by the Board under the powers conferred by paragraph (d) of section thirteen of this Act.

20.—(1.) The Board may, by notice in writing served upon a person, require that person to furnish, within such time as is specified by the Board, such returns and information in relation to the egg industry or to eggs owned by him or under his control as are necessary for the purposes of carrying out this Act. Power to call for returns.

(2.) Any person who, being required in pursuance of this section to furnish any return or information in relation to any matter within his knowledge or under his control, fails to furnish the return or information within the time specified shall be guilty of an offence.

Penalty: One hundred pounds.

- Audit. **21.** The accounts of the Board shall be subject to inspection and audit by the Auditor-General for the Commonwealth.
- Indemnity. **22.** The members of the Board shall not be personally liable for any act or default of the Board done or omitted to be done in good faith in the course of the operations of the Board.
- Annual report. **23.**—(1.) The Board shall, not later than the thirtieth day of September in each year, report to the Minister generally as to the operation of the Act.
 (2.) A copy of the report of the Board shall be laid before each House of the Parliament within seven sitting days of that House after its receipt by the Minister.
 (3.) The report shall be accompanied by a statement by the Minister as to the operation of the Act.
- Regulations. **24.** The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Act, and in particular for prescribing penalties not exceeding Fifty pounds for any breach of the regulations other than a breach for which a penalty is prescribed by this Act.
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EGG EXPORT CONTROL ACT 1950.^(a)

An Act relating to Membership of the Australian Egg Board pending the holding of Elections of Members to represent Producers in each State.

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 *Egg Export Control Act 1950*.^(a) Short title.
2. This Act shall come into operation on the day on which it Commencement, receives the Royal Assent.
- 3.—(1.) Notwithstanding anything contained in section five of the *Egg Export Control Act 1947–1948*, the Governor-General may, Extension of terms of office of certain members of Australian Egg Board. not later than the thirty-first day of December, One thousand nine hundred and fifty, extend to a date not later than the thirty-first day of December, One thousand nine hundred and fifty-one, the terms of office of such of the members of the Australian Egg Board holding office at the time of the extension as represent producers.
(2.) The date to which the terms of office are extended shall be such date as the Governor-General considers will allow sufficient time for the holding, before that date, of an election by producers in each State of a member to represent those producers.

(a) No. 63, 1950; assented to, and commenced, on 14th December, 1950.

EMIGRATION ACT 1910.^(a)

An Act relating to the Emigration from Australia of Young Persons and Aboriginal Natives.

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 *Emigration Act* 1910.^(a)
- Definitions. 2. In this Act, unless the contrary intention appears—
- “Aboriginal native” means an aboriginal native of Australia and includes any native having one aboriginal parent;
 - “Child” means a child under the age of eighteen years in the case of a female child, and sixteen years in the case of a male child;
 - “Guardian” includes any person (not being a parent of the child or aboriginal native) who has or assumes the actual custody or care of any child or aboriginal native;
 - “Officer” means any officer appointed under this Act or any officer of Customs or any member of the police force of a State;
 - “Prohibited emigrant” means any person whose emigration from Australia is prohibited by this Act.
- Emigration of children and natives prohibited in certain cases. 3.—(1.) The emigration from, or taking out of, the Commonwealth, except in pursuance of a permit under this Act, of any of the following persons is prohibited—
- (a) any child who is under contract to perform theatrical, operatic, or other work outside the Commonwealth;
 - (b) any child of European race or extraction unless in the care or charge of some adult person of European race or extraction; and
 - (c) any aboriginal native.
- (2.) Any person who takes or attempts to take any child or aboriginal native out of the Commonwealth in contravention of this section shall be guilty of an offence against this section.
- (3.) Proceedings for an offence against this section may be instituted for the summary conviction of the accused or for his commitment for trial or indictment.
- (4.) A person convicted of an offence against this section shall be punishable as follows:—

(a) No. 26, 1910; assented to, and commenced, on 25th November, 1910.

- (a) if convicted on indictment, by imprisonment not exceeding two years, or by a penalty not exceeding Two hundred pounds;
- (b) if convicted by a court of summary jurisdiction, by imprisonment not exceeding six months, or by a penalty not exceeding One hundred pounds.

(5.) No permit shall be given under paragraphs (a) and (b) of sub-section (1.) of this section unless the Minister or authorized officer is satisfied that the child will not be subject to conditions liable to be detrimental to its welfare.

4. A child shall be deemed to be under contract to perform theatrical, operatic, or other work outside the Commonwealth if any agreement or arrangement exists between the child, or a parent or guardian of the child, and any other person, under which the child is to perform, or take part in the performance of, any theatrical, operatic, or other work outside the Commonwealth.

When child deemed to be under contract.

5. A person shall be deemed to take an aboriginal native out of the Commonwealth if—

When aboriginal native deemed taken out of the Commonwealth.

- (a) he enters into any agreement or arrangement with the aboriginal native, or with a parent or guardian of the aboriginal native, for the native to go or be placed on board any vessel or boat for any purpose whatsoever; and
- (b) the aboriginal native goes or is placed thereon and is taken therein to any place outside the territorial limits of the Commonwealth.

6.—(1.) Every contract with a child or aboriginal native, by the terms of which the child or aboriginal native is required to depart from Australia, shall be in writing; and unless—

Certain contract with child or aboriginal native to be filed.

- (a) a copy of the contract is forthwith filed with the Minister, and, if he so requires, is verified on oath, and
 - (b) the Minister in writing approves of the contract,
- the contract shall be absolutely void.

(2.) Every person who enters into any such contract with a child or aboriginal native, and does not forthwith file a copy of the contract with the Minister, and, if the Minister so requires, verify it on oath, shall be guilty of an offence.

Penalty: Twenty pounds.

7. The Minister may, by writing under his hand, appoint any persons to be officers under this Act.

Appointment of officers.

8.—(1.) Permits under this Act may be granted under and subject to the regulations by the Minister or, subject to the terms of the authority, by any person authorized by him.

Grant of permits.

(2.) The Minister may authorize any person to grant permits under this Act either generally or in any specified cases or class of cases.

Security by
applicants
for permits.

9. Before granting any permit the Minister or person authorized by him may require the applicant for the permit to give security by bond or otherwise, with one or more sureties, in such amount as the Minister or person authorized by him thinks fit, for the compliance by the applicant with such conditions as the Minister or person authorized by him thinks fit to impose.

Master, &c. of
vessel to give
notice of
suspected
prohibited
emigrants.

10. The master, owner, or agent of any vessel who has reason to suspect that any passenger or intending passenger by the vessel for any place outside the Commonwealth is a prohibited emigrant, shall, before the departure of the vessel, give notice in writing to the Collector or other principal officer of Customs at the port where the vessel is, stating the name of the passenger or intending passenger and his reason for suspecting that the passenger or intended passenger is a prohibited emigrant.

Penalty: Twenty pounds.

Powers of
officers.

11.—(1.) Any officer who is an officer of Customs or an officer appointed under this Act may at any time search any vessel or boat in any port or in any territorial waters of the Commonwealth to ascertain whether there are any prohibited emigrants on board the vessel or boat, and for that purpose may board the vessel or boat and enter into any part of the vessel.

(2.) At the request of the officer the master or person in charge of the vessel or boat shall—

- (a) facilitate the boarding of the vessel or boat by the officer;
- (b) facilitate the searching of the vessel or boat by the officer;
- (c) muster the passengers or crew or part of the passengers or crew of the vessel or boat for inspection by the officer; and
- (d) render to the officer all assistance in his power in the removal of any prohibited emigrants from the vessel or boat.

Penalty: Fifty pounds.

Power of officer
to ask
questions.

12. An officer may ask any person, having or believed to have the charge or care of any child or aboriginal native on board any vessel or boat in any port or in any territorial waters of the Commonwealth, any questions he thinks fit to ask concerning the child or aboriginal native, and the person shall to the best of his knowledge information and belief truly answer the questions asked him.

Penalty: Fifty pounds.

13.—(1.) Any officer may with any necessary assistance remove from any vessel or boat any child or aboriginal native who he has reasonable ground to believe is about to be taken out of the Commonwealth in contravention of this Act. Power of officer to remove child or aboriginal native from vessel.

(2.) Any child removed from a vessel or boat in pursuance of this section shall be restored to the parents or guardian of the child, or delivered to the custody of the proper Commonwealth or State authority.

(3.) Any aboriginal native removed from a vessel or boat in pursuance of this section shall be dealt with as directed by the Minister or as prescribed.

14. Any persons who aids, abets, counsels, or procures, or is in any way knowingly directly or indirectly concerned in or party to the commission of any offence against this Act, shall be deemed to have committed that offence and shall be punishable accordingly. Aiders and abettors.

15. Proceedings for offences against this Act may be instituted by any officer or by any person authorized by the Minister to institute such proceedings. Proceedings for offences.

16. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters and things which are necessary or convenient to be prescribed for carrying out or giving effect to this Act. Regulations.

ENTERTAINMENTS TAX ACT 1942-1949. ^(a)

An Act to impose Tax upon Payments for Admission to Entertainments.

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

Commence-
ment.

Incorporation.

Imposition of
tax.

Entertain-
ments tax.
Substituted by
No. 4, 1949,
s. 3.

1. This Act may be cited as the *Entertainments Tax Act 1942-1949*. ^(a)

2. This Act shall come into operation on a date to be fixed by Proclamation. ^(a)

3. The *Entertainments Tax Assessment Act 1942* shall be incorporated and read as one with this Act.

4. An entertainments tax is imposed on all payments for admission to any entertainment.

5. The rates of the entertainments tax shall be—

(a) where all the performers whose words or actions constitute the entertainment are present and performing and the entertainment consists solely of one or more of the following items:—

- (i) a stage play;
- (ii) a ballet;
- (iii) a performance of music (whether vocal or instrumental);
- (iv) a lecture;
- (v) a recitation;
- (vi) a music hall or other variety entertainment; or
- (vii) a circus or travelling show,

as set out in the second column of the Schedule to this Act;

(b) where the entertainment consists solely of a game or sport in which human beings are the sole participants (but not including dancing or skating unless conducted solely for competitive purposes) and the entertainment is conducted by a society, institution or committee not

(a) The *Entertainments Tax Act 1942-1949* comprises the Acts set out in the following table:—

Act.	Year and Number.	Date of Assent.	Date of Commencement.
<i>Entertainments Tax Act 1942</i>	1942, No. 42 ..	21st September, 1942	1st October, 1942 (See <i>Gazette</i> , 1942, p. 2351)
<i>Entertainments Tax Act 1944</i>	1944, No. 7 ..	3rd April, 1944 ..	1st May, 1944 (See <i>Gazette</i> , 1944, p. 914)
<i>Entertainments Tax Act 1946</i>	1946, No. 5 ..	13th April, 1946 ..	11th May, 1946
<i>Entertainments Tax Act 1949</i>	1949, No. 4 ..	12th March, 1949 ..	16th February, 1949*
<i>Entertainments Tax Act (No. 2) 1949</i>	1949, No. 64 ..	28th October, 1949 ..	1st October, 1949†

* Section 2 of the *Entertainments Tax Act 1949* provided that that Act should be deemed to have commenced on the date shown.

† Section 2 of the *Entertainments Tax Act (No. 2) 1949* provided that that Act should be deemed to have commenced on the date shown.

- established or carried on for profit—as set out in the second column of that Schedule; and
(c) in all other cases—as set out in the third column of that Schedule.

* * * * *

S. 6 repealed by
No. 5, 1946,
s. 2.

THE SCHEDULE.

Substituted by
No. 64, 1949,
s. 3.

First Column. Amount paid for admission (excluding the amount of the tax).	Second Column. Rates of Tax.	Third Column. Rates of Tax.
One shilling	Nil	Twopence
Exceeding One shilling but not exceeding One shilling and threepence	Nil	Fourpence
Exceeding One shilling and threepence but not exceed- ing One shilling and sixpence	Threepence.. ..	Fourpence
Exceeding One shilling and sixpence but not exceeding Two shillings	Fourpence	Fivepence
Exceeding Two shillings but not exceeding Two shillings and sixpence	Fivepence	Sevenpence
Exceeding Two shillings and sixpence but not exceeding Three shillings	Sixpence	Ninepence
Exceeding Three shillings but not exceeding Three shil- lings and sixpence	Eightpence.. ..	Tenpence
Exceeding Three shillings and sixpence but not exceeding Four shillings	Ninepence	One shilling
Exceeding Four shillings but not exceeding Four shillings and sixpence	Tenpence	One shilling and one penny
Exceeding Four shillings and sixpence but not exceeding Five shillings	Elevenpence	One shilling and three- pence
Exceeding Five shillings but not exceeding Five shillings and sixpence	One shilling and one penny	One shilling and five- pence
Exceeding Five shillings and sixpence but not exceeding Six shillings	One shilling and threepence	One shilling and eight- pence
Exceeding Six shillings .. .	One shilling and five- pence, plus One penny three farth- ings for each six- pence (or part thereof) by which the payment for admission exceeds Six shillings and sixpence, a frac- tion of a penny less than three farth- ings in the amount of the tax being disregarded and three farthings in that amount being regarded as a penny	One shilling and ten- pence, plus Two- pence half-penny for each sixpence (or part thereof) by which the payment for admission ex- ceeds Six shillings and sixpence, a half- penny in the amount of the tax being disregarded

ENTERTAINMENTS TAX ASSESSMENT ACT 1942-1949.^(a)

An Act to provide for the Imposition, Assessment and Collection of a Tax upon Payments for Admission to Entertainments.

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.

1. This Act may be cited as the *Entertainments Tax Assessment Act 1942-1949*.^(a)

Commencement.

2. This Act shall come into operation on a date to be fixed by Proclamation.^(a)

Parts.

3. This Act is divided into Parts, as follows:—

Part I.—Preliminary.

Part II.—Administration.

Part III.—Imposition of Tax.

Part IIIA.—Objections and Appeals.

Part IV.—Offences.

Part IVA.—Prosecutions.

Part V.—Miscellaneous.

Inserted by No. 6, 1944, s. 3.

Inserted by No. 6, 1944, s. 3.

Definitions.

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

Definitions of "admission" and "admission to an entertainment" omitted by No. 6, 1944, s. 4.

*	*	*	*	*	*	*	*
*	*	*	*	*	*	*	*

(a) The *Entertainments Tax Assessment Act 1942-1949* comprises the Acts set out in the following table:—

Act.	Year and Number.	Date of Assent.	Date of Commencement.
<i>Entertainments Tax Assessment Act 1942</i>	1942, No. 41 ..	21st September, 1942	1st October, 1942 (See <i>Gazette</i> , 1942, p. 2351)
<i>Entertainments Tax Assessment Act 1944</i>	1944, No. 6 ..	3rd April, 1944 ..	3rd April, 1944
<i>Entertainments Tax Assessment Act 1946</i>	1946, No. 4 ..	13th April, 1946 ..	11th May, 1946
<i>Entertainments Tax Assessment Act 1949</i>	1949, No. 5 ..	12th March, 1949 ..	16th February, 1949*

* Section 2 of the *Entertainments Tax Assessment Act 1949* provided that that Act should be deemed to have commenced on the date shown.

- “Board of Review” means a Board of Review constituted under the *Income Tax Assessment Act* 1936-1943; Definition of “Board of Review” inserted by No. 6, 1944, s. 4.
- “die” means a die made or used for the making of a stamp or stamped ticket and includes the whole or any part of any plate, type, tool or implement whatever made or used for that purpose;
- “Deputy Commissioner” means any person who is a Deputy Commissioner for the purposes of either the *Estate Duty Assessment Act* 1914-1942 or the *Income Tax Assessment Act* 1936-1942;
- “entertainment” includes any exhibition, performance, lecture, amusement, game, sport or exercise;
- “entertainments tax” or “tax” means entertainments tax imposed as such by any Act and payable in accordance with this Act; Substituted by No. 6, 1944, s. 4.
- “forge” and “forged” include counterfeit and counterfeited;

* * * * *

Definition of “payment for admission” omitted by No. 6, 1944, s. 4.

- “proprietor”, in relation to any entertainment, includes any person responsible for the management thereof;
- “stamp” or “stamped ticket” means any stamp or stamped ticket made or authorized by the Treasurer for the purpose of the payment of entertainments tax, and includes a stamp impressed by means of a die;
- “the Commissioner” means the person for the time being holding office as Commissioner of Taxation under the *Estate Duty Assessment Act* 1914-1942;
- “the Second Commissioner” means the person for the time being holding office as Second Commissioner of Taxation under the *Estate Duty Assessment Act* 1914-1942.

(2.) Any reference in this Act to admission to an entertainment shall be deemed to include a reference to— Added by No. 6, 1944, s. 4.

- (a) permission to view as a spectator, or to be a member of an audience at, any entertainment;
- (b) in relation to an entertainment being an amusement—
- (i) permission to participate in the amusement; and
 - (ii) permission to use equipment or facilities provided by the proprietor of the entertainment to enable persons to participate in the entertainment,
- other than permission which is obtained by inserting a coin in an automatic slot machine designed to provide entertainment;
- (c) provision of any meal or other refreshment which is deemed, under section sixteen of this Act, to be an entertainment or part of an entertainment; and

- (d) admission to any place in which an entertainment is held, or any part of any such place.

Added by
No. 6, 1944,
s. 4.

(3.) Any reference in this Act to payment for admission to an entertainment shall be deemed to include a reference to—

- (a) any payment made by a person as a booking fee for admission to an entertainment;
- (b) any payment, subscription or contribution which entitles the person making it, whether with or without any additional payment, to admission to an entertainment;
- (c) any payment made by a person, who has been admitted to one part of a place of entertainment, for admission to another part thereof for admission to which a payment involving tax or more tax is required; and
- (d) any payment which, under any of the provisions of this Act, is deemed to be payment for admission to an entertainment.

PART II.—ADMINISTRATION.

Administration
by the Com-
missioner.

5. The Commissioner shall have the general administration of this Act.

Powers of
Second Com-
missioner.

6.—(1.) Subject to this section, the Second Commissioner shall have and may exercise all the powers and functions of the Commissioner under this Act.

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

(3.) Nothing in this section shall be deemed to confer upon the Second Commissioner any power or function of the Commissioner under section five, seven or nine of this Act, or to prevent the exercise of any power or function by the Commissioner under this Act, and the Commissioner shall have, in relation to any act of the Second Commissioner, the same power as if that act were done by himself.

Delegation by
the Com-
missioner.

7.—(1.) The Commissioner may, in relation to any particular matters or class of matters, or to any particular State or part of the Commonwealth, by writing under his hand, delegate to a Deputy Commissioner or other person all or any of his powers or functions under this Act (except this power of delegation) so that the delegated powers or functions may be exercised by the Deputy Commissioner or person with respect to the matters or class of matters or the State or part of the Commonwealth specified in the instrument of delegation.

(2.) Every delegation under this section shall be revocable at will, but any delegation shall not prevent the exercise of any power or function by the Commissioner.

(3.) Any delegation under this section may be made subject to a power of review and alteration, within the period specified in the instrument of delegation, by the Commissioner of any act done in pursuance of the delegation, and the decision given upon any such review or alteration shall be deemed to be that of the Commissioner.

8. Any reference in this Act to the Commissioner shall be deemed to include—

Reference to Commissioner.

- (a) in respect of matters as to which the Second Commissioner has exercised any power or function conferred upon him by this Act—a reference to the Second Commissioner; and
- (b) in respect of matters as to which a Deputy Commissioner has exercised any power or function conferred upon him by delegation under this Act—a reference to that Deputy Commissioner.

9.—(1.) The Commissioner shall furnish to the Treasurer annually, for presentation to the Parliament, a report on the working of this Act.

Report by the Commissioner.

(2.) In the report the Commissioner shall draw attention to any breaches or evasions of this Act which have come under his notice.

PART III.—IMPOSITION OF TAX.

10. There shall be levied and paid, on all payments for admission to any entertainment, entertainments tax at such rates as are declared by the Parliament.

Tax on payments for admission to entertainments.

10A.—(1.) When a person is admitted to any part of a place of entertainment and is subsequently admitted to another part or other parts of the place of entertainment, such amount of tax shall be payable on any such subsequent admission as is equal to the difference between the total tax paid in respect of the previous admission or admissions and the total tax which would have been payable if all the payments for admission had been made as one payment for a single admission.

Transfer from part of place of entertainment to another part.
Inserted by No. 6, 1944, s. 5.

(2.) Notwithstanding anything contained in this Act, tax shall not be payable in respect of any amount ascertained by adding together two or more payments of less than One shilling made by any person for admission to an amusement or amusements of the kind conducted at amusement parks, whether the payments are made for two or more admissions to one amusement which is conducted either singly or as one of a group or are made for admission to two or more amusements conducted as a group.

Added by No. 5, 1949, s. 3.

Admission to
entertainments.
Substituted by
No. 6, 1944,
s. 6.

11.—(1.) In any case in which the payment for admission of any person to an entertainment is subject to entertainments tax, that person shall not be admitted to the entertainment except with a stamped ticket, or a ticket stamped with a stamp, not before used, denoting that the proper entertainments tax has been paid, unless the proprietor of the entertainment has made arrangements approved by the Commissioner for recording, and furnishing returns of, the payments for admission to the entertainment and has given security up to an amount and in a manner approved by the Commissioner for the payment of the tax.

(2.) In any case in which any amount is collected or received as or for entertainments tax by the proprietor of an entertainment or his agent, the amount so collected or received shall, until payment to the Commonwealth, be held by the proprietor or his agent as property of the Commonwealth, and the Commissioner may sue for and recover any such amount.

Entertainments
tax—how
charged and
paid.

12. Entertainments tax shall be charged in respect of each person in respect of whom payment for admission is made, and, in the case of admission by stamped ticket, shall be paid by means of the stamp on the ticket, and, in the case of admission otherwise than by stamped ticket, shall be calculated and paid on the number of admissions.

Penalty for
late payment.
Amended by
No. 6, 1944,
s. 7.

13.—(1.) If a proprietor who has, in pursuance of sub-section (1.) of section eleven, or of section sixteen c, of this Act, made arrangements approved by the Commissioner for furnishing returns of the payments for admission to an entertainment, fails to pay to the Commonwealth the entertainments tax payable in respect of the entertainment within seven days after the close of the week during which the entertainment was held, or within such further time as the Commissioner allows, additional tax (not exceeding Fifty pounds) shall be payable at the rate of ten per centum upon the amount of the tax payable:

Provided that the Commissioner may, in any case, for reasons which he thinks sufficient, remit the additional tax or any part thereof.

Sub-section (2.)
omitted by
No. 6, 1944,
s. 7.

* * * * *

Additional
tax where tax
short paid.
Inserted by
No. 6, 1944,
s. 8.

13A. Any proprietor who—

- (a) understates in any return furnished by him the amount of entertainments tax properly payable by him; or
- (b) contrary to this Act admits a person for payment to an entertainment without a stamped ticket, or a ticket stamped with a stamp, not before used, denoting that the proper entertainments tax has been paid,

shall be liable to pay as additional tax—

- (c) double the amount of the difference between the tax properly payable and the tax payable upon the basis of the return furnished; or
- (d) double the amount of the difference between the tax properly payable in respect of the admission of that person, and the tax paid in respect of that admission, as the case may be, or the sum of One pound, whichever is the greater:

Provided that the Commissioner may, in any particular case, for reasons which he thinks sufficient, remit any additional tax or part thereof.

14. Entertainments tax, in the case of admission otherwise than by stamped ticket, shall be recoverable from the proprietor, and may, if the amount of tax is less than Fifty pounds, without prejudice to any other means of recovery, be recovered by the Commissioner summarily as a civil debt.

Recovery of entertainments tax.

15.—(1.) Where the payment for admission to an entertainment is made by means of a lump sum paid as a subscription or contribution to any club, association, or society, or for a season ticket, or for the right of admission to a series of entertainments or to any entertainment during a certain period of time, entertainments tax shall be paid on the amount of the lump sum, but where the Commissioner is of opinion that the payment of a lump sum or any payment for a ticket represents payment for other privileges, rights or purposes in addition to the admission to an entertainment, or covers admission to an entertainment during any period for which the tax has not been in operation, the tax shall be payable on such an amount as appears to the Commissioner to represent the right of admission to entertainments in respect of which entertainments tax is payable.

Method of charging tax in certain cases.

(2.) Where the lump sum has been paid prior to the date on which this Act came into operation but entitles the person paying that sum to admission to an entertainment on or after that date, the lump sum shall be deemed to have been paid on that date and entertainments tax shall be payable upon that portion of the lump sum which appears to the Commissioner to represent the right of admission to an entertainment held or to be held on or after that date.

(3.) Where a lump sum referred to in the last preceding subsection was fixed without regard to entertainments tax, the treasurer of the club, association or society, where the lump sum was paid as a subscription or contribution thereto, may, on behalf of the club, association or society, or, in any other case, the person to whom the lump sum was paid may, recover summarily as a civil debt from the person who paid the lump sum an amount equivalent to the entertainments tax payable in accordance with that sub-section:

Provided that nothing in this section shall authorize the recovery of any such amount from any person in respect of any entertainment held or to be held after he ceases to be entitled to admission to the entertainment.

Meals and
refreshments
with
entertainments.
Substituted by
No. 6, 1944,
s. 9.

16.—(1.) Where any meal or other refreshment is provided for persons who have been or are to be admitted to an entertainment—

(a) if the Commissioner has, before the holding of the entertainment, given notice in writing in accordance with the next succeeding sub-section that he is of the opinion that the provision of the meal or other refreshment is subordinately related to the entertainment—

(i) where the payment for admission to the place of entertainment entitles the admitted person to the meal or other refreshment, or where the ordinary conditions of admission to the place of entertainment require that the admitted person shall pay for such a meal or other refreshment, the provision of the meal or other refreshment shall, for the purposes of this Act, be deemed to form part of the entertainment, whether it is provided by the proprietor of the entertainment or by some other person, and the amount charged for the meal or other refreshment (whether combined with any other charge for admission to the entertainment in one composite amount or charged separately) shall be deemed to be part of the payment for admission to the entertainment, or payment for admission to the entertainment, as the case may be; or

(ii) where sub-paragraph (i) of this paragraph does not apply to the meal or other refreshment, the provision of the meal, or of each item or group of items of refreshment for which a separate charge is provided, shall be deemed to be an entertainment, of which the person providing the meal or other refreshment, whether he is the proprietor of the principal entertainment or not, is, for the purposes of this Act, the proprietor; or

(b) in any case to which paragraph (a) of this sub-section does not apply, if the Commissioner has, before the holding of the entertainment, given notice in writing in accordance with the next succeeding sub-section—

(i) that he is of the opinion that the total amount to be charged for admission to the entertainment and for the meal or other refreshment should be apportioned as between the meal or other refreshment and the entertainment, or, if separate

charges are to be made for the meal or other refreshment and for admission to the entertainment, that the relative amounts of the charges are such that entertainments tax would be evaded; and

- (ii) specifying what portion of the payment for the meal or other refreshment and the entertainment combined, or for the meal or other refreshment, as the case may be, is, in his opinion, justly attributable to the meal or other refreshment,

the remainder of the payment or payments shall, for the purposes of this Act, be deemed to be payment for admission to the entertainment.

(2.) A notice under the last preceding sub-section shall be served—

- (a) in any case to which sub-paragraph (i) of paragraph (a), or paragraph (b), of that sub-section applies—on the proprietor of the entertainment; and
- (b) in any case to which sub-paragraph (ii) of paragraph (a) of that sub-section applies—on the person providing the meal or other refreshment.

(3.) In any case in which, upon the giving of a notice under paragraph (a) of sub-section (1.) of this section (including a notice which could, apart from this sub-section, be given by virtue of section sixteen B of this Act) the provisions of sub-paragraph (ii) of that paragraph would apply, the Commissioner shall not give such a notice if the proprietor of the entertainment or the person providing the meals or other refreshments has satisfied him that the average of the sum of the amounts which will be paid, or have been paid, by each patron of the entertainment as payment for admission to the entertainment and for meals or other refreshments will not be, or was not (as the case may be), in excess of Three shillings.

(4.) Any decision of the Commissioner for the purposes of the last preceding sub-section shall be final and conclusive, and shall not be subject to objection, review or appeal.

* * * * *

S. 16A repealed
by No. 5,
1949, s. 4.

16B. Where there is held any entertainment which has not been registered as required by section twenty-seven of this Act, or in respect of which the proprietor has not furnished complete and accurate information as required by or under this Act or the regulations, a notice under sub-section (1.) of section sixteen of this Act may be served at any time after the holding of the entertainment, and the person on whom the notice is served shall be liable

Notice under
section 16
where
entertainment
not registered.

Inserted by
No. 6, 1944,
s. 9.

Amended by
No. 5, 1949,
s. 5.

to pay so much of any tax which would have been payable had the notice been served before the holding of the entertainment as has not been paid.

Arrangements
for returns.

Inserted by
No. 6, 1944,
s. 9.

Amended by
No. 5, 1949,
s. 6.

16c. A proprietor of an entertainment who is liable to pay entertainments tax in respect of payments specified in section sixteen of this Act shall make arrangements, approved by the Commissioner, for furnishing returns of those payments and shall give security to an amount and in a manner approved by the Commissioner for payment of the tax.

Commissioner
may make
assessments.

Inserted by
No. 6, 1944,
s. 9.

16D.—(1.) Where—

- (a) any person makes default in furnishing any return; or
- (b) the Commissioner is not satisfied with the return made by any person; or
- (c) the Commissioner has reason to believe or suspect that any person (though he may not have furnished, or been liable to furnish, a return) is liable to pay tax which he has not paid,

the Commissioner may, at any time, cause an assessment to be made of the tax or further tax which, in his judgment, should be paid, and that person shall be liable to pay the tax or further tax so assessed, except in so far as he establishes on objection that the assessment is excessive.

(2.) Any person who becomes liable to pay tax by virtue of an assessment made under the last preceding sub-section shall also be liable to pay, by way of additional tax, double the amount of that tax or the amount of One pound, whichever is the greater:

Provided that the Commissioner may, in any case, for reasons which he thinks sufficient, remit the additional tax or any part thereof.

(3.) As soon as conveniently may be after an assessment is made, the Commissioner shall cause notice in writing of the assessment and of the additional tax payable to be given to the person liable to pay the tax or further tax.

(4.) The amount of tax or further tax, and additional tax, specified in the notice shall be payable on or before the date specified in the notice.

(5.) The omission to give any such notice shall not invalidate the assessment made by the Commissioner.

Entertainments
exempt from
tax.

17. Entertainments tax shall not be charged on payments for admission to any entertainment where the Commissioner is satisfied—

- (a) that the whole of the takings thereof are devoted to public, patriotic, philanthropic, religious or charitable purposes without any charge on the takings for any expenses of the entertainment;
- (b) that the entertainment is of a wholly educational

character (any question on that point to be determined, in case of difference, by the Commissioner);

(c) that the entertainment is of a partly educational or partly scientific character conducted by a society, institution or committee not established or carried on for profit; or

(d) that the whole of the net proceeds of the entertainment are, or will be, devoted to the purchase, erection, maintenance or furnishing of memorial halls for the use of soldiers, sailors or airmen who served in any war in which His Majesty has been engaged since the fourth day of August, One thousand nine hundred and fourteen and that the entertainment is not provided directly or indirectly for the financial benefit of any person connected with the promotion of the entertainment or of any person employed or engaged by that person for the purpose of the entertainment.

Amended by
No. 6, 1944,
s. 10.

18. Where the Commissioner is satisfied that the whole of the net proceeds of an entertainment are, or will be, devoted to—

Refund of tax
in certain
cases.

(a) public, patriotic, philanthropic, religious or charitable purposes;

(b) such funds of a society or association, not carried on for the profit or gain of the individual members thereof, as the society or association sets apart to provide sick, accident or funeral benefits for or on behalf of any of its members,

and that the whole of the expenses of the entertainment do not exceed fifty per centum of the receipts, he shall repay to the proprietor the amount of the entertainments tax in respect of the entertainment;

Provided that where the Commissioner is satisfied that, owing to adverse climatic conditions or unforeseen circumstances, the expenses of the entertainment exceed fifty per centum of the receipts, the Commissioner shall repay to the proprietor the entertainments tax in respect of the entertainment.

18A. Without* limiting the operation of section eighteen of this Act, where the Commissioner finds in any case that tax has been overpaid, and is satisfied that the tax has not been passed on by the proprietor of the entertainment to some other person, or, if passed on to some other person, has been refunded to that person by the proprietor, the Commissioner may refund the amount of tax found to be overpaid.

Refund of tax
overpaid.
Inserted by
No. 6, 1944,
s. 11.*

* Sub-section (2.) of section 11 of the *Entertainments Tax Assessment Act 1944* reads as follows:—

“(2.) Section eighteen A inserted in the Principal Act by this section shall be deemed to have come into operation on the first day of October, One thousand nine hundred and forty-two.”

Additional tax
not payable
where offence
prosecuted.

Inserted by
No. 6, 1944,
s. 11.

Heading
inserted by
No. 6, 1944,
s. 12.

18B. Where a prosecution has been instituted in respect of an offence against this Act or the regulations, additional tax arising out of the act or omission which is the subject of the prosecution shall not be payable unless and until the prosecution is withdrawn.

PART IIIA.—OBJECTIONS AND APPEALS.

Objections.

Inserted by
No. 6, 1944,
s. 12.

18C.—(1.) A proprietor who is dissatisfied with any assessment made by the Commissioner under this Act may, within forty-two days after service of notice of the assessment, post to or lodge with the Commissioner an objection in writing against the assessment stating fully and in detail the grounds on which he relies.

(2.) The Commissioner shall consider the objection, and may either disallow or allow it either wholly or in part.

(3.) The Commissioner shall give to the objector written notice of his decision on the objection.

(4.) A proprietor who is dissatisfied with the decision of the Commissioner, may, within thirty days after the service by post of notice of that decision, request the Commissioner in writing to refer the decision to a Board of Review for review.

Reference to
Board of
Review.

Inserted by
No. 6, 1944,
s. 12.

18D.—(1.) Where a proprietor has, in accordance with the last preceding section, requested the Commissioner to refer the decision to a Board of Review, the Commissioner shall, if the request is accompanied by a fee of One pound (which shall be refunded to the proprietor if the assessment is reduced either by amendment or as a result of the decision of the Board or of the High Court) refer the decision to a Board not later than thirty days after receipt of the request.

(2.) A proprietor shall be limited on the review to the grounds stated in his objection.

(3.) If the assessment has been reduced by the Commissioner after considering the objection, the reduced assessment shall be that to be dealt with by the Board under the next succeeding sub-section.

(4.) The Board, on review, shall give a decision and may either confirm the assessment or reduce, increase or vary the assessment.

Powers of
Board.

Inserted by
No. 6, 1944,
s. 12.

18E. A Board of Review shall have power to review such decisions of the Commissioner as are referred to it under this Act and, for that purpose, shall have all the powers and functions of the Commissioner when making assessments, determinations and decisions under this Act, and such assessments, determinations and decisions of the Board, and the decisions of the Board upon review, shall for all purposes (except for the purposes of sub-section (4.) of section eighteen c and of section eighteen f of this Act) be deemed to be assessments determinations or decisions of the Commissioner.

18f. The Commissioner or a proprietor may appeal to the High Court from any decision of a Board of Review under this Part which, in the opinion of the High Court, involves a question of law, and a Board shall, upon the request of the Commissioner or a proprietor, refer to the High Court any question of law arising before the Board, and the decision of the High Court thereon shall be final and conclusive.

Appeal to High Court.
Inserted by No. 6, 1944, s. 12.

18g.—(1.) The fact that an appeal or reference is pending shall not, in the meantime, interfere with or affect the assessment the subject of that appeal or reference, and tax and additional tax may be levied and recovered on the assessment as if no appeal or reference were pending.

Pending appeal not to delay payment of tax.
Inserted by No. 6, 1944, s. 12.

(2.) If the assessment is altered on appeal or reference, a due adjustment shall be made, for which purpose amounts paid in excess shall be dealt with in accordance with section eighteen A of this Act, and amounts short paid shall be recoverable as arrears.

PART IV.—OFFENCES.

19.—(1.) Any officer authorized by the Commissioner for the purpose may enter any place of entertainment while the entertainment is proceeding, and any place ordinarily used as a place of entertainment at any reasonable times, with a view to seeing whether the provisions of this Act or the regulations are being complied with.

Power to officer to enter place of entertainment.

* * * * *

Sub-section (2.) omitted by No. 6, 1944, s. 13.

20. Where the proprietor of an entertainment has made any arrangements referred to in section eleven or section sixteen C of this Act, he shall, within seven days after the close of the week during which the entertainment was held or within such further time as the Commissioner allows, pay to the Commonwealth the tax payable in respect of the entertainment.

Failure to pay tax in accordance with arrangements.
Amended by No. 6, 1944, s. 14.

Penalty: Fifty pounds.

21.—(1.) If any person is admitted for payment to any place of entertainment in contravention of this Act, the proprietor of the entertainment shall be guilty of an offence.

Admission to entertainment in contravention of Act.

Penalty: Fifty pounds.

(2.) In addition the proprietor shall be liable to pay any tax which should have been paid.

22. Every person who—

Forging, &c., die or stamp.

(a) forges a die or stamp;

(b) prints or makes an impression upon any material with a forged die;

- (c) fraudulently prints or makes an impression upon any material from a genuine die;
- (d) fraudulently cuts, tears, or in any way removes from any material any stamp, with the intent that any use should be made of the stamp or of any part thereof;
- (e) fraudulently mutilates any stamp, with the intent that any use should be made of any part of the stamp;
- (f) fraudulently fixes or places upon any material or upon any stamp, any stamp or part of a stamp which, whether fraudulently or not, has been cut, torn, or in any way removed from any other material, or out of or from any other stamp;
- (g) fraudulently erases or otherwise removes from, or obliterates on, any stamped material any name, sum, date, or other matter or thing whatsoever thereon written, with the intent that any use should be made of the stamp upon that material;
- (h) knowingly sells or exposes for sale or utters or uses any forged stamp or any stamp which has been fraudulently printed or impressed from a genuine die;
- (i) knowingly, and without lawful excuse (proof whereof shall lie upon him) has in his possession any forged die or stamp or any stamp which has been fraudulently printed or impressed from a genuine die or any stamp, or part of a stamp, which has been fraudulently cut, torn, or otherwise fraudulently mutilated, or any stamped material from or on which any name, sum, date, or other matter or thing has been fraudulently erased, removed or obliterated; or
- (j) fraudulently gums, sticks, or by any process whatever attaches to each other the pieces of a stamp or stamped ticket which has been divided or cut,

shall be guilty of an indictable offence.

Penalty: Imprisonment for ten years.

Making paper
in imitation of
stamp paper.

23. Every person who, without lawful authority or excuse (proof whereof shall lie upon him)—

- (a) makes or causes or procures to be made, or aids or assists in making, or knowingly has in his custody or possession, any paper in the substance of which appear any words, letters, figures, marks, lines, threads, or other devices peculiar to and appearing in the substance of any paper provided or used for stamps or stamped tickets under this Act, or any part of such words, letters, figures, marks, lines, threads, or other devices, and intended to imitate or pass for the same; or
- (b) causes or assists in causing any such words, letters, figures, marks, lines, threads, or devices, or any part

of such words, letters, figures, marks, lines, threads, or other devices and intended to imitate or pass for the same, to appear in the substance of any paper whatever,

shall be guilty of an indictable offence.

Penalty: Imprisonment for seven years.

24. Every person who, without lawful authority or excuse (proof whereof shall lie upon him) purchases or receives or knowingly has in his custody or possession—

Unlawful possession of stamp paper, &c.

(a) any paper manufactured and provided for use in the manufacture of stamps or stamped tickets before such paper has been duly stamped and issued for public use; or

(b) any plate, die, dandy-roller, mould, or other implement peculiarly used in the manufacture of any such paper, shall be guilty of an indictable offence.

Penalty: Imprisonment for three years.

25. Any person who practises or is concerned in any fraudulent act, contrivance, or device, not specially provided for by law, with intent to defraud the Commissioner of any entertainments tax, shall be guilty of an indictable offence.

Fraudulent acts, &c.

Penalty: Imprisonment for two years.

Heading inserted by No. 6, 1944, s. 15.

PART IVA.—PROSECUTIONS.

25A.—(1.) A prosecution for recovery of a pecuniary penalty in respect of any offence against this Act or the regulations may be instituted in the name of the Commissioner or a Deputy Commissioner and, where it relates to a particular entertainment or entertainments, may, at the option of the prosecutor, be instituted either—

Institution of prosecutions. Inserted by No. 6, 1944, s. 15.

(a) in a court of summary jurisdiction having jurisdiction at the place where, for the purposes of this Act, the entertainment or entertainments should be registered; or

(b) in a court of summary jurisdiction having jurisdiction at the place where the entertainment or entertainments is or are held or is or are intended to be held.

(2.) Where a prosecution has been instituted by an officer in the name of the Commissioner or a Deputy Commissioner, the prosecution shall, in the absence of evidence to the contrary, be deemed to have been instituted on the authority of the Commissioner or the Deputy Commissioner, as the case may be.

(3.) In any action, prosecution or other proceeding in any court by the Commissioner or a Deputy Commissioner, he may appear either personally or by a barrister or solicitor or by some officer in the Public Service of the Commonwealth.