

1923.
(SECOND SESSION)

THE PARLIAMENT OF THE COMMONWEALTH.

HOUSE OF REPRESENTATIVES.

Read 1° 27th June, 1923.

(Brought in by the Minister for Defence, the Honorable E. K. Bowden.)

A BILL
FOR
AN ACT

To amend the *Defence Act 1903-1918.*

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

- 5 1.—(1.) This Act may be cited as the *Defence Act 1923.* Short title and citation.
- (2.) The *Defence Act 1903-1918* 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 Act 1903-1923.*
- 10 2. The several sections of this Act shall commence on such days as are respectively fixed by Proclamation. Commencement .
- 3. The Principal Act is amended as set out in the Schedule to this Act. Amendment of Principal Act.
- 4. Section four of the Principal Act is amended— Definitions.
- 15 (a) by inserting therein, after the definition of "Active Service", the following definitions:—
- 20 " 'Air Force Act' means the Imperial Act called the Air Force Act and any Acts amending or in substitution for it and for the time being in force.
- 'Aircraft' includes aeroplanes, seaplanes, balloons, kite balloons, airships and other machines for flying.
- 'Airman' includes a non-commissioned officer and every person subject to the *Air Defence Act 1923* but does not include an officer.
- 25 'Ally of Great Britain' includes any Sovereign or Power assisting or associated with Great Britain in the war." ;

- (b) by omitting from the definition of "Member" the words "and soldier", and inserting in their stead the words "soldier and airman";
- (c) by omitting from the definition of "Military Decoration", the words "or Military" and inserting in their stead the words "Military or Air"; 5
- (d) by omitting from the definition of "Military Decoration" the word "present";
- (e) by inserting in the definition of "Officer", after the word "Military" (wherever occurring) the words "or Air"; 10
- (f) by inserting therein, after the definition of "Sub-District", the following definitions :—
- "Territory" means a Territory under the authority of the Commonwealth and includes a Territory governed by the Commonwealth under a mandate. 15
- "The war" means any war in which His Majesty the King is or has been engaged.;
- (g) by inserting therein after the definition of "War" the following definition :— 20
- "War Badge" means any prescribed badge conferred in connexion with the war or issued to a relative of any person who has served in the Naval, Military or Air Forces of any part of the King's Dominions or of any Ally of Great Britain in the war.;" 25
- (h) by omitting the definition of "War Service" and inserting in its stead the following definition :—
- "War service" means active service, any naval, military or air service in time of war, and any naval, military or air 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 or any part thereof specified in the proclamation should be temporarily subject to the Army Act as if on war service and the issue of a proclamation declaring that such necessity no longer exists : 30
- Provided that if a proclamation relates to part only of the Military Forces that part only shall be on war service." 40

Definition of
"District Base
Commandant".

5. Section four of the Principal Act is amended by omitting therefrom the definition of "District Commandant" and inserting in its stead the following definition :—

"District Base Commandant" means the Base Commandant of a Military District." 45

Powers of
Governor-
General as to
Military
Administration.

6. Section eight of the Principal Act is amended by omitting paragraph (v.) thereof.

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7. Section eleven A of the Principal Act is amended—

- (a) by inserting therein after the words "Veterinary Corps," the words "or any corps for appointment to which a civil professional qualification is prescribed,"; and Promotion from the ranks.
- 5 (b) by omitting the second proviso thereto and inserting in its stead the following proviso:—

10 " Provided further that, notwithstanding anything contained in this Act, any person possessing special scientific or professional qualifications of a civil character may be appointed an officer in the Citizen Military Forces and promoted as prescribed by the regulations."

8. Section sixteen of the Principal Act is amended by omitting the proviso thereto and inserting in its stead the following proviso:— Appointments held during pleasure.

15 " Provided that no such notification shall be necessary in the case of an officer—

- (a) absent from duty without leave for a period of three months or upwards; or
- (b) who is convicted by the civil power of an indictable offence or is sentenced by the civil power to imprisonment; or
- 20 (c) who refuses or fails to take and subscribe the oath set forth in the Fourth Schedule when required to do so in pursuance of section one hundred and twenty-three M of this Act."

9. Section sixteen A of the Principal Act is repealed. Repeal of s. 16A.

25 10. Section seventeen of the Principal Act is amended by omitting sub-section (1.) thereof and inserting in its stead the following sub-section:— Resignation of commission.

30 "(1.) An officer may at any time, by writing under his hand, tender the resignation of his commission, and a resignation so tendered, unless sooner withdrawn or accepted, shall take effect at the expiration of three months after the tender thereof unless a time of war exists at the date of such tender or expiration, in which case it shall take effect at the expiration of three months after the cessation of the time of war:

35 Provided that an officer who is a graduate of the Military College shall not, during the first eight years of his service as an officer, be entitled to resign his commission except on the approval of the Military Board and upon payment of the prescribed amount."

11. Section twenty A of the Principal Act is amended— Promotion of returned officers.

- (a) by inserting therein after the word "served" (first occurring), the words "as prescribed";
- 40 (b) by omitting therefrom the word "abroad" (wherever occurring); and
- (c) by inserting therein before the word "served" (second occurring) the word "so".

12. After

12. After section twenty-one A of the Principal Act the following sections are inserted :—

Conditions of promotion after service abroad.

“ 21AA. Notwithstanding anything contained in the last two preceding sections, an officer of the Military Forces, who has been engaged on active service, may be promoted on such conditions as are prescribed. 5

Rank and seniority in Citizen Forces of persons who have served abroad.

“ 21AB. Notwithstanding anything contained in this Act, persons who have been engaged on active service may be—

(a) appointed or promoted to be officers in the Citizen Military Forces and may be granted such commissioned rank and allotted such seniority as are from time to time approved by the Governor-General on the recommendation of the Military Board ; or 10

(b) appointed or promoted, as prescribed, to be warrant officers or non-commissioned officers in the Citizen Military Forces. 15

Appointment of officers, &c., in time of war.

21AC. 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.

Defence Force.

13. Section thirty of the Principal Act is amended by omitting the words “ and Military ” and inserting in their stead the words “, Military and Air ”. 20

Permanent Forces.

14. Section thirty-one of the Principal Act is amended by omitting from sub-section (2.) thereof all words from and including the word “ Staffs ” to and including the words “ Mining Engineers ” and inserting in their stead the words “ purposes including Staff Corps, Survey, Army Service, Medical, Remount, Veterinary, Pay, and Ordnance Corps, Artillery, Engineers, Light Horse and Infantry ”. 25

Constitution of Citizen Military Forces.

15. Section thirty-two A of the Principal Act is amended—

(a) by omitting from sub-section (2.) thereof the words “ of paragraph (c) ” and inserting in their stead the words “ of paragraph (c) or (d) ” ; and 30

(b) by inserting in sub-section (3.) thereof, after the words “ Military Reserve Forces,” (second occurring), the words “ members of the Australian Army Reserve,”. 35

Enlistment of persons serving under articles of apprenticeship.

16. Section forty A of the Principal Act is amended by inserting after the word “ apprenticeship ” the words “ or articles of service ”.

Resumption by apprentice of service under articles.

17. Section forty B of the Principal Act is amended—

(a) by inserting after the word “ apprenticeship ” (wherever occurring) the words “ or articles of service ” ; 40

(b) by inserting after the word “ employment ” (wherever occurring) the words “ or service ” ;

(c) by

(c) by inserting after the word "apprentice" the words "or person serving under articles";

(d) by inserting in sub-section (2.) after the word "him" the words "or to allow him to resume his service under the articles"; and

(e) by adding at the end thereof the following sub-section :—

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" (3.) Where any person employed under articles of apprenticeship or articles of service is required to attend a ship or camp of continuous training under Part XII. of this Act or is on war service with the Citizen Forces called out under section forty-six of this Act, his articles of apprenticeship or articles of service shall be deemed to be suspended during the period during which he is attending the ship or camp of continuous training or is on such war service, and if his master refuses to re-employ him or to allow him to resume his service under the articles at the conclusion of the continuous training or war service the master shall be guilty of an offence.

Penalty : Fifty pounds, or imprisonment for six months, or both."

18. Section forty-two A of the Principal Act is amended—

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(a) by omitting from sub-section (1.) thereof the words "or enlisted" and inserting in their stead the words "enlisted, registered or enrolled"; and

(b) by adding at the end thereof the following sub-section :—

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" (3.) No person liable to be trained under Part XII. of this Act shall, by reason only of any defect in registration or enrolment, be entitled to be discharged."

Irregular appointments or enlistments.

19. Section fifty of the Principal Act is amended by omitting therefrom the word "Military".

Citizen Forces to be returned to districts.

20. After section fifty-five of the Principal Act the following section is inserted :—

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" 56. The application of this Act shall extend to members of the Military Forces who are serving outside the limits of the Commonwealth."

Application of Act to Forces outside the Commonwealth

21. Section sixty-two of the Principal Act is amended—

Cadets.

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(a) by omitting from sub-section (2.) thereof the words "in elementary naval or military exercises and in musketry";

(b) by omitting sub-section (5.) thereof and inserting in its stead the following sub-section :—

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" (5.) All cadets shall be under the control of the Military Board, except such as are allotted to the Naval Forces, who shall be under the control of the Naval Board."

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(c) by adding at the end of sub-section (8.) thereof the words "and while so serving may, upon passing the prescribed examination, be appointed to commissioned rank as prescribed in the Citizen Military Reserve Forces"; and

(d) by