

## DEFENCE.

### No. 36 of 1914.

An Act to amend the *Defence Act* 1903-1912.

[Assented to 21st December, 1914.]

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

- 1.—(1.) This Act may be cited as the *Defence Act* 1914. Short title and citation.  
 (2.) The *Defence Act* 1903-1912 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* 1903-1914.<sup>(a)</sup>
2. Section eleven A of the Principal Act is amended—
- (a) by omitting the two provisos thereto and inserting in their stead the following proviso:—
- “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:” ; and
- (b) by adding at the end thereof the following further proviso:—
- “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.”
3. Section fifteen of the Principal Act is amended by adding at the end thereof the following proviso:— Amendment of s. 11A.
- “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.”
4. After section sixteen of the Principal Act the following section is inserted:— Amendment of s. 15.
- “16A. Notwithstanding anything contained in this Act, members of the Citizen Forces who have been employed on active service abroad may, upon their return to duty with the Citizen
- Commissions to members of Citizen Forces who have served abroad.

(a) The *Defence Act* 1903-1914 has since been amended by Act No. 3, 1915 (*infra*, p. 95). For a copy of the Act as so amended see *infra*, p. 234.

Forces, be given such rank and allotted such regimental seniority as are approved by the Governor-General on the recommendation of the Military Board."

Amendment of  
s. 21A.

5. Section twenty-one A of the Principal Act is amended by adding at the end thereof the following sub-section :—

"(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."

Amendment of  
s. 21B.

6. Section twenty-one B of the Principal Act is amended by omitting the words "the British Army", wherever those words occur, and inserting in their stead the words "the Imperial or Commonwealth Military Forces".

Permanent  
Forces.

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

- (a) by inserting in sub-section (2.) thereof, after the words "Staff Corps," the word "Aviation,"; and
- (b) by adding at the end thereof the words "or except Expeditionary Forces in time of war".

Amendment of  
s. 51.

8. Section fifty-one of the Principal Act is amended by inserting at the end of the section the following words :—

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

Amendment of  
s. 79.

9. Section seventy-nine of the Principal Act is amended by omitting from paragraph (b) of sub-section (1.) thereof the word "refuses", and inserting in its stead the word "fails".

Amendment of  
s. 108.

10. Section one hundred and eight of the Principal Act is amended by inserting after the word "punish" the words "offences against this Act or the regulations committed by".

Time for  
commencement  
of prosecutions.

11. Section one hundred and nine of the Principal Act is repealed, and the following section is inserted in its stead :—

"109.—(1.) A prosecution for any offence, other than an indictable offence, may be commenced at any time within one year after the commission of the offence.

"(2.) Nothing in this section shall limit the right to take proceedings by way of civil action in relation to any property of the Commonwealth or of any corps."

Amendment of  
s. 135.

12. Section one hundred and thirty-five of the Principal Act is amended—

- (a) by inserting in sub-section (5.), after the words "this section", the words "or either of the next two succeeding sections";

- (b) by inserting in sub-section (6.), after the words "and that", the words ", in the case of a person committed to custody for an offence against sub-section (1.) of this section," ;
- (c) by inserting in sub-section (7.), after the words "this section", the words "or either of the next two succeeding sections" ; and
- (d) by omitting sub-sections (8.) to (10.) inclusive.

13. After section one hundred and thirty-five of the Principal Act the following sections are inserted :—

"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.

Trainees not to be imprisoned for offences against universal training provisions.

"135B. Notwithstanding anything contained in the next two preceding sections, the total duration of the confinement of a person in respect of offences committed in any one year against sub-section (1.) of section one hundred and thirty-five or paragraph (a) of sub-section (1A.) of that section, or of costs awarded in proceedings for such offences, shall not exceed thirty days.

Total duration of confinements of trainees in any one year.

"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.

14. Section one hundred and thirty-eight of the Principal Act is amended—

Exemptions from training in time of peace.

- (a) by adding at the end of paragraph (d) of sub-section (1.) the following paragraphs:—

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

"(f) Persons whose *bonâ fide* residence is not within a distance of five miles, reckoned by the nearest practicable route, from the nearest place appointed for training :

"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." ; and

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

“(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.

“(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 or not), or in any factory established in pursuance of this Act.”

Repeal of ss.  
140 and 140A.

15. Sections one hundred and forty and one hundred and forty A of the Principal Act are repealed.

Registration.

16. Section one hundred and forty-two of the Principal Act is amended—

(a) by inserting in sub-section (1.) after the words “six months” the words “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”; and

(b) by inserting in paragraph (b) of that sub-section, after the word “Australia” the words “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”.