

DEFENCE (NO. 2).

No. 59 of 1951.

An Act to amend the *Defence Act* 1903-1950,
as amended by the *Defence Act* 1951.

[Assented to 11th December, 1951.]

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 Act* (No. 2) 1951.

(2.) The *Defence Act* 1903-1950*, as amended by the *Defence Act* 1951†, is in this Act referred to as the Principal Act.

(3.) Section one of the *Defence Act* 1951 is amended by omitting sub-section (3.).

(4.) The Principal Act, as amended by this Act, may be cited as the *Defence Act* 1903-1951.

* Act No. 20, 1903, as amended by No. 12, 1904; No. 15, 1909; Nos. 30 and 37, 1910; No. 15, 1911; No. 5, 1912; No. 36, 1914; No. 3, 1915; No. 36, 1917; Nos. 16 and 47, 1918; No. 1, 1927; No. 50, 1932; No. 45, 1934; Nos. 13, 38, 70 and 74, 1939; No. 4, 1941; No. 11, 1945; No. 78, 1947; No. 35, 1948; No. 71, 1949; and No. 80, 1950.

† Act No. 19, 1951.

2. Section six of this Act shall be deemed to have come into operation on the first day of January, One thousand nine hundred and fifty, and the remaining sections of this Act shall come into operation on the day on which this Act receives the Royal Assent. Commencement.

3. Section four of the Principal Act is amended by inserting after the definition of " Naval, Military or Air-Force Offence " the following definition :— Interpretation.

" Native Force "—Means a force consisting, or consisting mainly, of aboriginal inhabitants of a Territory of the Commonwealth."

4. Section five A of the Principal Act is amended by omitting sub-section (2.) and inserting in its stead the following sub-section :— Extension of Act to Territories.

" (2.) Part IV. of this Act does not extend to, or in relation to, the aboriginal inhabitants of a Territory of the Commonwealth governed by the Commonwealth under a Trusteeship Agreement."

5. Section eleven A of the Principal Act is amended by omitting the first proviso and inserting in its stead the following proviso :— Promotion from the ranks.

" Provided that the limitation in this section shall not apply to the appointment of officers of such corps as are prescribed : "

6. Section thirty-one of the Principal Act is amended by omitting from sub-section (3.) the words " for service as prescribed in " and inserting in their stead the words " in or transferred to ". Permanent Military Forces.

7. Section thirty-two A of the Principal Act is amended by omitting paragraphs (b) and (c) of sub-section (2.) and inserting in their stead the following paragraphs :— Constitution of Citizen Military Forces.

" (b) persons who, having been called up under the *National Service Act* 1951 for service with the Citizen Military Forces, are deemed to have been enlisted in those Forces ;

" (c) persons who, having been called upon, under section sixty of this Act, to enlist and serve in time of war, have enlisted in the Citizen Military Forces ; and "

8. After section thirty-five of the Principal Act the following section is inserted :—

" 35A.—(1.) A native force raised in a Territory of the Commonwealth governed by the Commonwealth under a Trusteeship Agreement shall not be required to render service other than such service as is permitted under Article eighty-four of the Charter of the United Nations. Native Forces.

" (2.) The regulations may make provision for, and in relation to, the control, regulation and discipline of a native force, and may provide that the provisions of this Act shall apply to, and in relation to, the native force subject to such modifications, adaptations and exceptions as are prescribed."

Time of
discharge.

9. Section thirty-nine of the Principal Act is amended by omitting from paragraph (c) of sub-section (1.) the words " called up for service " and inserting in their stead the words " rendering service ".

Protection of
States from
domestic
violence.

10. Section fifty-one of the Principal Act is amended by omitting the words " Militia and Volunteer " and inserting in their stead the word " Citizen ".

11. After section sixty-one A of the Principal Act the following section is inserted in Part IV. :—

Part not to
apply to
certain persons.

" 61B. Nothing in this Part applies to—

- (a) a person whose presence in Australia is occasioned solely by his employment in the service of a Government outside Australia ;
- (b) an official of the United Nations in a category specified by the Secretary-General of the United Nations under section seventeen of the General Convention on the Privileges and Immunities of the United Nations which was adopted by the General Assembly of the United Nations on the thirteenth day of February, One thousand nine hundred and forty-six ;
- (c) an official of a specialized agency as defined by section one of the International Convention on the Privileges and Immunities of the Specialized Agencies of the United Nations which was adopted by the General Assembly of the United Nations on the twenty-first day of November, One thousand nine hundred and forty-seven, in a category specified by the specialized agency under section eighteen of that Convention, except such an official who is an Australian citizen, unless his name has been placed on the list compiled and approved under section twenty of the Convention ;
- (d) a prescribed official, or an official included in a prescribed class of officials, of any other international organization ; or
- (e) a member of the Permanent Naval Forces, the Permanent Military Forces or the Permanent Air Force."

12. Sections sixty-two and sixty-two A of the Principal Act are repealed and the following section is inserted in their stead :—

Cadets.

" 62.—(1.) There shall be an Australian Cadet Corps, which shall consist of persons under the age of eighteen years who are voluntarily enrolled in that Corps.

" (2.) Subject to the regulations, the training and conditions of service of members of the Australian Cadet Corps shall be as the Military Board determines."

13. Section one hundred and eight of the Principal Act is amended by omitting sub-section (1.) and inserting in its stead the following sub-section:—

Certain officers
may punish.

“(1.) The regulations may authorize the officer commanding a corps, ship, unit or air force station to punish an offence against this Act or the regulations committed by a member of the Defence Force when not on war service—

- (a) by a fine not exceeding Five pounds ;
- (b) in the case of loss of, or damage or destruction to, any arms, ammunition, equipment, clothing, instruments or regimental necessaries caused by the offence—
 - (i) where the articles are on issue to the member—by a deduction from pay not exceeding Twenty pounds ; or
 - (ii) where the articles are not on issue to the member—by a deduction from pay not exceeding Five pounds ;
- (c) where the member is a member of the Permanent Forces—
 - (i) by forfeiture of not more than fourteen days’ pay ; or
 - (ii) by confinement to barracks or on board ship, as the case requires, for a period not exceeding twenty-one days, seven days of which may be imprisonment or detention ; and
- (d) where the member is a member of the Citizen Forces—by reduction in rank or dismissal.”.

14. Section one hundred and ten of the Principal Act is amended by omitting sub-section (5.) and inserting in its stead the following sub-section:—

On whose
complaint
prosecutions
may be
brought.

“(5.) A civil prosecution against a soldier, seaman or airman may be brought by—

- (a) the commanding officer or adjutant of the unit to which the soldier belongs ;
- (b) the commanding officer of the vessel to which the seaman belongs ; or
- (c) the commanding officer or adjutant of the unit to which the airman belongs,

or by a prescribed officer.”.

15. Section one hundred and twelve of the Principal Act is amended by omitting the words “ called up for service ” and inserting in their stead the words “ rendering service ”.

Power to
discharge
or disrate
members of
Citizen Forces.

16. Sections one hundred and twenty-three A and one hundred and twenty-three AA of the Principal Act are repealed and the following sections inserted in their stead :—

Intoxicating
liquor.

“ 123A.—(1.) Subject to the next succeeding section, a person shall not, in or at a military canteen, camp, depot, fort or post, sell or supply intoxicating liquor—

(a) to a person who is under the age of twenty-one years and is rendering service required by the *National Service Act 1951*, except by direction of a duly qualified medical practitioner ; or

(b) to any other person, except in accordance with such conditions as, subject to the approval of the Minister, the Military Board determines.

“(2.) A person who is under the age of twenty-one years and is rendering service required by the *National Service Act 1951* shall not have intoxicating liquor in his possession in or at a military canteen, camp, depot, fort or post, except by direction of a duly qualified medical practitioner.

“(3.) A person other than a person to whom the last preceding sub-section applies shall not have intoxicating liquor in his possession in or at a military canteen, camp, depot, fort or post, except in accordance with such conditions as, subject to the approval of the Minister, the Military Board determines.

“(4.) It is lawful for a person, in or at a military canteen, camp, depot, fort or post, to sell, supply, or be in possession of, intoxicating liquor in accordance with conditions determined under this section, notwithstanding any provision of the law of a State or Territory of the Commonwealth.

Penalty : Twenty pounds.

Intoxicating
liquor not to
be supplied to
cadets.

“ 123AA. A person shall not sell or supply intoxicating liquor to a member of the Australian Cadet Corps while he is in uniform, except by direction of a duly qualified medical practitioner.

Penalty : Twenty pounds.”

Military bands.

17. Section one hundred and twenty-three D of the Principal Act is repealed.

18. After section one hundred and twenty-three E of the Principal Act the following section is inserted in Part X. :—

Certain
persons not
permitted to
serve.

“ 123F.—(1.) A person shall not be permitted to serve in the Defence Force if—

(a) that person has been convicted of a crime which, in the opinion of the Naval Board, the Military Board or the Air Board, is such as to render that person unsuitable for service in the Defence Force ; or

- (b) the service of that person in the Defence Force might, in the opinion of the Naval Board, the Military Board or the Air Board, be prejudicial to the security of the Commonwealth.

“(2.) The last preceding sub-section has effect notwithstanding the *National Service Act 1951*.”.

19. Section one hundred and twenty-four of the Principal Act Regulations.
is amended—

- (a) by inserting after paragraph (na) of sub-section (1.) the following paragraphs :—

“(nb) The declaration as a prohibited area of a place (including a place owned by, or held in right of, the Commonwealth or a State) used or intended to be used for a purpose of defence, the prohibition of a person entering, being in or remaining in the prohibited area without permission and the removal of any such person from the area ;

“(nc) The prohibition of the use, except as prescribed, of a word, group of letters, object or device which is descriptive or indicative of—

- (i) a part of the Naval Forces, Military Forces or Air Forces of a part of the King's dominions ; or
- (ii) a service or body of persons associated with the defence of the Commonwealth ;” ;

- (b) by omitting paragraph (qe) of that sub-section and inserting in its stead the following paragraph :—

“(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 while on service outside Australia ;” ; and

- (c) by omitting sub-sections (2.), (3.) and (4.) and inserting in their stead the following sub-section —

“(2.) For the purposes of paragraphs (qa), (qb), (qe) and (qf) of the last preceding sub-section—

- (a) a member of the Defence Force shall be deemed to be on service outside Australia while he is a prisoner of war or interned in a place outside Australia ; and
- (b) a person, not being a member of the Defence Force, who accompanies a part of the Defence Force shall be deemed to be a member of, and on service with, that part of the Defence Force.”.