

# DEFENCE TRANSITION (RESIDUAL PROVISIONS).

No. 104 of 1952.

An Act to give the Force of Law to certain Regulations and Orders, and for other purposes.

[Assented to 18th November, 1952.]

**B**E it enacted by the Queen'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 *Defence Transition (Residual Provisions) Act 1952*. Short title.
2. This Act shall come into operation on the first day of January, One thousand nine hundred and fifty-three. Commencement.
3. In this Act, "the Defence (Transitional Provisions) Act" means the *Defence (Transitional Provisions) Act 1946*, and includes that Act as amended from time to time. Definition.
4. Where a regulation or order in force by virtue of this Act contains provisions which specifically require its application in a Territory of the Commonwealth (not being part of the Commonwealth), that regulation or order has effect in that Territory accordingly and this Act extends to that Territory to the extent necessary to give effect to that regulation or order. Application of Act to Territories.

Certain regulations to be in force.

5.—(1.) The regulations specified in the First Schedule to this Act, being those regulations as they were in force by virtue of the Defence (Transitional Provisions) Act immediately before the commencement of this Act, shall, subject to this Act, be in force—

- (a) in the case of the regulations specified in Part I. of that Schedule—until midnight on the thirtieth day of June, One thousand nine hundred and fifty-three, and no longer; and
- (b) in the case of the regulations specified in Part II. of that Schedule—until otherwise provided by law.

(2.) The Governor-General may make regulations repealing or amending any regulations in force by virtue of the last preceding sub-section, but so that an amendment so made shall be in respect of a matter dealt with by those last-mentioned regulations.

Certain orders to be in force.

6.—(1.) The orders specified in the Second Schedule to this Act, being those orders as they were in force by virtue of the Defence (Transitional Provisions) Act immediately before 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-three, and no longer.

(2.) The Minister may, by order, amend or revoke an order in force by virtue of the last preceding sub-section, but so that an amendment so made shall be in respect of a matter dealt with by that last-mentioned order.

Savings.

7.—(1.) An order in force or subsisting immediately before the commencement of this Act under a regulation that was in force by virtue of the Defence (Transitional Provisions) Act shall, if the regulation is in force by virtue of this Act, be in force or subsisting as if made under the regulation as in force by virtue of this Act, and the regulation applies to that order accordingly.

(2.) An instrument or document in force or subsisting immediately before the commencement of this Act under a regulation or order that was in force by virtue of the Defence (Transitional Provisions) Act shall, if the regulation or order is in force by virtue of this Act, be in force or subsisting as if made, given or issued under that regulation or order as in force by virtue of this Act, and that regulation or order applies to it accordingly.

(3.) An authority constituted or holding office, or a person employed, immediately before the commencement of this Act under a regulation or order that was in force by virtue of the Defence (Transitional Provisions) Act shall, if the regulation or order is in force by virtue of this Act, be deemed to be constituted, to hold office or to be employed, as the case may be, under that regulation or order as in force by virtue of this Act.

## (4.) A contract or agreement—

- (a) to which the Commonwealth, a Minister or an authority of the Commonwealth is a party ;
- (b) which was subsisting immediately before the commencement of this Act ; and
- (c) which was entered into under regulations that were in force by virtue of the Defence (Transitional Provisions) Act,

shall, subject to the next succeeding sub-section, continue in full force and effect.

(5.) Where an authority of the Commonwealth is a party to such a contract or agreement and that authority has ceased or ceases to exist, the Commonwealth shall be deemed to be substituted for that authority as a party to the contract or agreement.

## (6.) Where—

- (a) immediately before the commencement of this Act, an authority of the Commonwealth constituted under a regulation that was in force by virtue of the Defence (Transitional Provisions) Act was a party to an action or other proceeding and that authority has ceased to exist ; or
- (b) an authority of the Commonwealth constituted under a regulation in force by virtue of this Act is a party to an action or other proceeding and that authority ceases to exist,

the Commonwealth shall be substituted for that authority as a party to that action or proceeding.

## (7.) Where—

- (a) immediately before the commencement of this Act, property or assets were, under a regulation that was in force by virtue of the Defence (Transitional Provisions) Act, vested in an authority of the Commonwealth and that authority has ceased to exist ; or
- (b) property or assets are, under a regulation in force by virtue of this Act, vested in an authority of the Commonwealth and that authority ceases to exist,

that property or those assets shall be deemed to be vested in the Commonwealth.

8. An order 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 with respect to the matter dealt with by that order.

Power to  
amend or  
revoke orders.

9. The provisions of sections fourteen, fifteen, sixteen, seventeen and eighteen of the Defence (Transitional Provisions) Act apply to and in relation to regulations and orders that are in force by virtue of this Act and, in the application of those provisions—

Application of  
certain sections  
of the Defence  
(Transitional  
Provisions)  
Act.

- (a) references to the Defence (Transitional Provisions) Act shall be read as references to this Act ; and

- (b) the reference in sub-section (4.) of section eighteen to the National Security Act shall be read as a reference to the Defence (Transitional Provisions) Act.

Preservation of  
rights,  
obligations,  
&c.

10. Section eight of the *Acts Interpretation Act* 1901-1950 applies—

- (a) after the commencement of this Act, in relation to regulations that were in force by virtue of the Defence (Transitional Provisions) Act immediately before the commencement of this Act but are not in force under this Act, and in relation to orders that were in force under those regulations immediately before the commencement of this Act, as if those regulations and orders were repealed on the date of commencement of this Act ;
- (b) after the thirtieth day of June, One thousand nine hundred and fifty-three, in relation to the regulations specified in Part I. of the First Schedule to this Act, and in relation to orders in force under those regulations on that day, as if those regulations and orders were repealed on the day following that day ; and
- (c) after the thirty-first day of December, One thousand nine hundred and fifty-three, in relation to the orders specified in the Second Schedule to this Act as if those orders were repealed on the day following that day,

and as if each of those regulations and orders were an Act.

Certain awards,  
orders, &c.,  
to be in force.

11.—(1.) An award, order, determination or decision that was in force or subsisting immediately before the commencement of this Act by virtue of the National Security (Industrial Peace) Regulations shall have the same force and effect from the commencement of this Act as it would have had if those Regulations, as in force immediately before the commencement of this Act, had continued in force.

(2.) An award, order, determination or decision having force by virtue of the last preceding sub-section or by virtue of sub-section (3.) of section eight of the Defence (Transitional Provisions) Act may, to the extent necessary for the purpose of permitting the full exercise of the powers of an industrial authority, whether of the Commonwealth or of a State, be revoked by such an authority, either expressly or by the making of inconsistent provisions.

(3.) Subject to the last preceding sub-section, the *Conciliation and Arbitration Act* 1904-1952 applies in relation to each award, order, determination and decision to which that sub-section applies in like manner as it applies in relation to other awards, orders, determinations and decisions having force by virtue of that Act.

1952.

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THE SCHEDULES.

FIRST SCHEDULE.

Section 5.

PART I.

National Security (Apple and Pear Acquisition) Regulations.  
National Security (War Deaths) Regulations.  
Regulation 66 of the National Security (General) Regulations.

PART II.

Regulations 1, 3, 54, 55AA, 55A, 60B to 60G (inclusive) and 60J to 60M (inclusive) of  
the National Security (General) Regulations.  
National Security (Industrial Property) Regulations.  
National Security (Shipping Co-ordination) Regulations.  
Regulations 1, 62 and 100 of the National Security (Supplementary) Regulations.  
Regulation 2 of Statutory Rules 1945, No. 203.

SECOND SCHEDULE.

Section 6.

Cordage and Fibre Order.  
Jute Goods Order.