

NAVAL DEFENCE.

No. 30 of 1910.

An Act relating to Naval Defence.

[Assented to 25th November, 1910.]

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 *Naval Defence Act* 1910.

Short title.

2. This Act is divided into Parts as follows:—

Parts.

Part I.—Introductory.

Part II.—Administration.

Part III.—The Naval Forces.

Part IV.—The Service of the Naval Forces.

Part V.—Obligations in respect of Naval Training.

Part VI.—Special Powers in relation to the Naval Forces.

Part VII.—Miscellaneous.

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

Definitions

“Active service” means service in or with a force which is engaged in operations against the enemy, and includes any naval or military service in time of war;

“The Defence Act” means the *Defence Act* 1903–1910 as amended from time to time and includes any Act for the time being in force in substitution for that 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;

“The Naval Discipline Act” means the Imperial Act called The Naval Discipline Act as amended from time to time and includes any Act for the time being in force in substitution for that Act.

“Naval establishment” includes any Naval College, instructional establishment, ship, vessel, or boat used for services auxiliary to Naval Defence, and any dock, shipyard, foundry, machine shop, work, or establishment in connexion with Naval Defence;

“Officer” means a commissioned officer, subordinate officer, or warrant officer, but does not include a petty officer;

“Prescribed” means prescribed by this Act or the Regulations;

“Regulations” means the regulations relating to the Naval Forces whether made in pursuance of this Act, the Defence Act, or any other power;

“Seaman” means a member of the Naval Forces not being an officer, and includes any person serving in any capacity on board a vessel of the Naval Forces when engaged in any naval service;

“This Act” includes all regulations 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;

“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, and includes actual war in which the Naval Forces take part.

Amendment of
Defence Act.

4. The Defence Act is amended as set out in the First Schedule, and that Act as so amended may continue to be cited as the *Defence Act* 1903-1910.

Application of
Defence Act.

5. Part I., sections thirty, forty-three, forty-six, forty-seven, fifty-one, fifty-three and fifty-eight of Part III. and Parts IV. to XIV. both inclusive of the Defence Act shall, subject to this Act, continue to apply in relation to the Naval Forces.

Act does not
appropriate
money.

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

PART II.—ADMINISTRATION.

Naval Board.

7.—(1.) The Governor-General may appoint a Board of Administration for the Naval Forces, to be called the Naval Board.

(2.) The Naval Board shall have such powers and functions as are prescribed.

Power to
appoint officers.

8. The Governor-General may—

(a) appoint and promote officers of the Naval Forces, and issue commissions to them; and

(b) appoint an officer to command the whole or any portion of the Naval Forces.

Continuance
of existing
officers.

9. Officers of the Naval Forces holding office at the commencement of this Act shall continue to hold office as if appointed under this Act.

10. The appointment or promotion of an officer under this Act shall not create a civil contract between the King or the Commonwealth and the officer.

Appointment does not create a civil contract.

11.—(1.) Subject to sub-section (2.), a person shall not be appointed to be an officer in the Naval Forces or promoted to any higher rank therein unless he has passed the prescribed examination for the rank to which he is appointed or promoted.

Officers not to be appointed or promoted except provisionally until they have passed prescribed examination.

(2.) A person who has not passed the prescribed examination for any particular rank may be appointed provisionally to be an officer of that rank.

(3.) A person provisionally appointed to be an officer of any particular rank shall cease to hold office as an officer of that rank if he fails to pass the prescribed examination for the rank to which he has been provisionally appointed within the prescribed time, not exceeding eighteen months, after his appointment.

(4.) 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 Naval Forces.

12. Every officer shall hold his appointment during the pleasure of the Governor-General, but the commission of an officer shall not be cancelled except for cause and after he has had notice, in manner prescribed, of the cause, and has been called upon to answer in his defence.

Appointments to be held during pleasure.

13.—(1.) Except in time of war, an officer may by writing under his hand resign his commission at the expiration of any time not being less than three months from the date of the receipt of the resignation.

Resignation by officer of his commission.

(2.) The resignation shall not have effect until it has been accepted by the Governor-General.

(3.) For special reasons the Governor-General may accept any resignation at any time after the receipt thereof.

14. Warrant officers, non-commissioned officers, and petty officers shall be appointed and shall hold their offices as prescribed.

Appointment of Warrant, &c., Officers.

15. The seniority of officers in their respective ranks shall be as prescribed.

Seniority.

16. The Governor-General may appoint any person to be an officer, or promote any officer to a higher rank for distinguished service or for marked ability and gallantry on active service, without that person having passed the prescribed examination for the rank to which he is appointed or promoted.

Appointment or promotion for distinguished service.

17. The ages for the compulsory retirement of officers and members of the Naval Forces 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.

Retiring age.

Naval College.

18.—(1.) The Governor-General may establish Naval Colleges and Instructional Establishments for the purpose of imparting education in the various branches of naval science and in the subjects connected with the naval profession, and for the purpose of qualifying persons for the naval service.

(2.) Persons receiving instruction or training at any Naval College or Instructional Establishment shall be subject to this Act and the regulations.

PART III.—THE NAVAL FORCES.

Naval Forces.

19. The Naval Forces shall be divided into two branches called the Permanent Naval Forces and the Citizen Naval Forces.

Permanent Naval Forces.

20. The Permanent Naval Forces shall consist of officers who are appointed officers of those Forces, and seamen who have enlisted or engaged as members of those Forces and who are bound to continuous naval service for the term of their enlistment or engagement.

Citizen Naval Forces.

21.—(1.) The Citizen Naval Forces shall be divided into the Naval Reserve Forces and the Naval Volunteer Reserve Forces.

(2.) The Naval Reserve Forces shall consist of officers and seamen who are not bound in time of peace to continuous naval service and who are paid for their services as prescribed.

(3.) The Naval Volunteer Reserve Forces shall consist of officers and seamen who are not bound in time of peace to continuous naval service and who are not ordinarily paid for their services in time of peace.

Power to raise Naval Forces.

22. The Governor-General may raise, maintain, and organize such Permanent and Citizen Naval Forces as he deems necessary for the defence and protection of the Commonwealth and of the several States.

Existing Naval Forces to be subject to Act.

23.—(1.) The Naval Forces existing at the commencement of this Act shall be subject to this Act as if raised thereunder.

(2.) Members of the Naval Militia Forces under the Defence Act are by this section transferred to the Naval Reserve Forces.

(3.) Members of the Naval Volunteer Forces and members of the Naval Reserve Forces under the Defence Act are by this section transferred to the Naval Volunteer Reserve Forces.

Naval Forces to be raised by voluntary enlistment.

24. Except as provided in the Defence Act, the Naval Forces shall be raised and kept by voluntary enlistment only.

Period of enlistment.

25. Enlistment in the Naval Forces shall be for such period as is prescribed, but no prescribed period shall be less than two years.

Oath of enlistment.

26.—(1.) Every person enlisting in the Naval Forces shall take and subscribe an oath or affirmation of enlistment in accordance with the form in the Second Schedule.

(2.) The oath or affirmation of enlistment shall be taken before an officer, a Justice of the Peace, or a prescribed person.

(3.) The oath or affirmation of enlistment shall bind the person subscribing it to serve in the Naval Forces in accordance with the tenor of the oath until he is discharged, dismissed, or removed therefrom, or until his resignation is accepted.

27. Persons in any part of the King's Dominions may, subject to the law in force in that part, voluntarily enlist as members of the Naval Forces of the Commonwealth, and this Act shall apply to persons who enlist as members of the Naval Forces in parts beyond the limits of the Commonwealth to the same extent as if they had enlisted within the limits of the Commonwealth.

Enlistment in any part of the King's Dominions.

28. A member of the Naval Forces shall be entitled to be discharged therefrom at the expiration of the period of service for which he enlisted, unless such expiration occurs in time of war, in which case he shall not be entitled to his discharge until the war has terminated.

Discharge on expiration of period of service.

29.—(1.) A seaman of the Citizen Naval Forces may, except in time of war, claim his discharge before the expiration of the period of service for which he enlisted subject to the following conditions:—

Discharge prior to expiration of period of service.

- (a) He shall give three months' notice in writing to his commanding officer of his intention to claim his discharge; and
- (b) He shall, if a member of the Naval Reserve Forces, pay such sum not exceeding two pounds as is prescribed; or
- (c) He shall, if a member of the Naval Volunteer Reserve Forces, pay such sum not exceeding one pound as is prescribed.

(2.) Any payment under this section may for special reasons be waived by any authorized officer.

(3.) This section shall not apply to persons undergoing training or liable to be trained in pursuance of the Defence Act.

30. The Governor-General may at any time by order published in the *Gazette*—

Disbanding, &c. of Corps.

- (a) disband any corps or portion of a corps; or
- (b) dispense with the services of any officer or seaman.

PART IV.—THE SERVICE OF THE NAVAL FORCES.

31. The Permanent Naval Forces are liable to continuous naval service, and shall at all times be liable to be employed on any naval service, including active service, and the defence and protection of the Commonwealth and of the several States.

Service of Permanent Naval Forces.

32.—(1.) The Citizen Naval Forces are not liable in time of peace to continuous naval service, but are liable to such naval service as the regulations prescribe.

Service of Citizen Forces.

(2.) The Citizen Forces shall only be liable to be employed on active service when called out for active service by proclamation.

(3.) Nothing in this section shall prevent the employment on active service or any naval service of any members of the Citizen Forces who volunteer for such service.

Limits of service.

33. Members of the Naval Forces may be required to serve for training or any naval service either within or beyond the limits of the Commonwealth.

Drill and training.

34. The Naval Forces shall be subject to such drill training and inspection as are prescribed by the regulations.

Service or training with King's Naval Forces.

35.—(1.) The Governor-General may, for the purpose of naval service or training, place any part of the Naval Forces on board any ship of the King's Navy or in any naval training establishment or school in connexion with the King's Navy.

(2.) The members of the Naval Forces while so placed shall—

(a) be under the command of the officer commanding the ship, training establishment, or school; and

(b) be subject to the laws and regulations to which the members of the King's Naval Forces on the ship or attending the training establishment or school are subject.

Application of Naval Discipline Act and King's Regulations.

36. The Naval Discipline Act and the King's Regulations and Admiralty Instructions for the time being in force in relation to the King's Naval Forces shall, subject to this Act and to any modifications and adaptations prescribed by the regulations, apply to the Naval Forces.

Command where Commonwealth Naval Forces are acting with King's Naval Forces.

37. Whenever the Commonwealth Naval Forces are acting with the King's Naval Forces for the purpose of training or for any naval service—

(a) the command of the forces shall, subject to any Imperial Act or Regulation, devolve upon the senior naval officer present and acting in a position of command; and

(b) any part of the Commonwealth Naval Forces may be placed under the command of any officer of the King's Naval Forces.

PART V.—OBLIGATIONS IN RESPECT OF NAVAL TRAINING.

Cadets to be subject to regulations.

38. Persons who are liable under the Defence Act to be trained in the Junior or Senior Cadets and who are allotted to the Naval Forces shall be subject to this Act and the regulations.

Commissioned rank in Cadets.

39. Commissioned rank in the Junior and Senior Naval Cadets shall be deemed honorary rank in the Naval Forces, but shall not confer any right to command in those Forces.

Persons liable to compulsory naval training to be subject to Act and regulations.

40. Persons who are liable under the Defence Act to be trained in the Citizen Forces and who are allotted to the Naval Forces shall be subject to training as prescribed, and shall be subject to this Act and the regulations, and shall while undergoing training be deemed to be members of the Citizen Naval Forces.

PART VI.—SPECIAL POWERS IN RELATION TO THE NAVAL FORCES.

41.—(1.) In addition to any powers contained in section sixty-three of the Defence Act, the Governor-General may—

- (a) acquire or build and maintain ships, vessels, or boats, for Naval Defence, or for services auxiliary to Naval Defence;
- (b) acquire or construct and maintain docks, shipyards, foundries, machine shops, and other works or establishments in connexion with Naval Defence; and
- (c) authorize the employment of any persons in a civil capacity in connexion with any services auxiliary to Naval Defence or any works or establishments under this section.

Power to build ships and construct docks, shipyards, foundries, &c., for naval purposes.

(2.) The provisions of section sixty-three of the Defence Act shall apply in relation to the above-mentioned powers as if they were included in that section.

42.—(1.) The Governor-General may—

- (a) accept the transfer to the Commonwealth Naval Forces of any vessel of the King's Naval Forces or of the Naval Forces of any part of the King's Dominions;
- (b) accept the transfer to the Commonwealth Naval Forces of any officers and seamen of the King's Naval Forces or of the Naval Forces of any part of the King's Dominions;
- (c) transfer to the King's Naval Forces or to the Naval Forces of any part of the King's Dominions any vessel of the Commonwealth Naval Forces; and
- (d) transfer to the King's Naval Forces or to the Naval Forces of any part of the King's Dominions any officers or seamen of the Commonwealth Naval Forces.

Transfers between King's Naval Forces and Commonwealth Naval Forces.

(2.) Any transfer in pursuance of this section may be for such period and subject to such conditions as the Governor-General thinks desirable.

(3.) Subject to the conditions of transfer, all officers and seamen of the King's Naval Forces or of the Naval Forces of any part of the King's Dominions transferred in pursuance of this section to the Commonwealth Naval Forces shall, while so transferred, be deemed to be members of the Commonwealth Naval Forces, and shall be subject to this Act and the regulations so far as they are applicable.

(4.) Subject to the conditions of transfer, all officers and seamen of the Commonwealth Naval Forces transferred in pursuance of this section to the King's Naval Forces or to the Naval Forces of any part of the King's Dominions shall, while so transferred, be subject to the laws and Regulations governing the King's Naval Forces or the Naval Forces of the part of the King's Dominions to which they are transferred so far as those laws and regulations are applicable.

PART VII.—MISCELLANEOUS.

Provision in case of death or incapacity on active service or on duty.

43. When any member of the Naval Forces—

- (a) is killed on active service or on duty, or
 (b) dies, or becomes incapacitated from earning his living from wounds or disease contracted on active service,

provision shall be made for his widow and family or for himself, as the case requires, out of the Consolidated Revenue Fund at the prescribed rates.

Funds for annuities or gratuities in case of injury or retirement.

44. 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 Naval Forces permanently injured in the performance of their duties, and for the payment of annuities or gratuities to members of the Permanent Naval Forces who are retired on account of age or infirmity.

Regulations.

45.—(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 good government of the Naval Forces, or for carrying out or giving effect to this Act, and in particular prescribing matters for or in relation to—

- (a) the good government of Naval establishments;
 (b) the discipline of persons receiving instruction or training in or employed in or in connexion with Naval establishments; and
 (c) the regulation and control of shipping in time of war or for the purposes of any naval operation or practice.

(2.) The regulations may provide penalties for breaches thereof, not exceeding imprisonment with hard labour for three months, in the case of imprisonment, or Twenty pounds, in the case of pecuniary penalties.

(3.) The power to make regulations contained in this section is in addition to any power to make regulations contained in the Defence Act.

THE FIRST SCHEDULE.

Consequential amendments in the *Defence Act 1903-1910*.

Section.	Extent of Amendment.
4	Omit "sailor" from definition of "member" and insert in its stead "seaman". Omit definition "Naval Discipline Act". Omit definition "Naval Commandant".
8	Omit "Sailor" and insert in its stead "Seaman". Omit paragraph II.

THE FIRST SCHEDULE—continued.

Section.	Extent of Amendment.
9	Omit "and the Director of the Naval Forces". Omit "or no Director of the Naval Forces, or if these officers or either of them" and insert in their stead "or if he". Omit "their" wherever it occurs and insert in its stead "his".
11A	After "Citizen" wherever it occurs insert "Military".
14	After "Active" insert "Military". Omit "Naval or".
18	After "Warrant Officers" insert "and". Omit "and petty officers".
19	After "Active" insert "Military".
20	After "Reserve" wherever it occurs insert "Military". After "Active" insert "Military".
21	Omit "or below the rank of commander in the Naval Forces".
23	After "Permanent" insert "Military".
28	Omit "and a Board of Administration for the Naval Forces, to be called the Naval Board". Omit "and the Naval Board". Omit "respectively".
31	After "Permanent" insert "Military". Omit "petty officers and sailors". Omit "naval or".
32	Omit the section.
36	After "Permanent" insert "Military Forces", after "Volunteer" insert "Military", and before "Reserves" insert "Military".
37	After "Active" insert "Military". Omit "or sailor".
40	Omit "or sailor".
41	Omit "or sailor".
42	After "Active" insert "Military".
44	After "officer" insert "or". Omit "or sailor".
48	Omit the section.
54	Omit the section.
56	Omit the section.
57	Omit "Defence Force" and insert in its stead "Military Forces".
63	Omit paragraph (a).
73	Omit "sailor" insert "seaman".
112	Omit "sailor" wherever it occurs and insert in its stead "seaman".

THE SECOND SCHEDULE.

OATH.

I swear that I will well and truly serve our Sovereign Lord the King in the
 Naval 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 _____ Naval 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.