

National Service

No. 52 of 1965

An Act to amend the *National Service Act 1951–1964*.

[Assented to 7 June, 1965]

BE it enacted by the Queen'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 *National Service Act 1965*.

(2.) The *National Service Act 1951–1964** is in this Act referred to as the Principal Act.

Short title
and citation.

* Act No. 2, 1951, as amended by No. 63, 1951; No. 30, 1953; Nos. 16 and 40, 1957; and No. 126, 1964.

(3.) The Principal Act, as amended by this Act, may be cited as the *National Service Act 1951-1965*.

2. This Act shall come into operation on the day on which it receives the Royal Assent. Commencement.

3. Section 4 of the Principal Act is amended by adding at the end thereof the following sub-sections:— Interpretation.

“(4.) Unless the contrary intention appears, a reference in this Act to a national serviceman shall be read as a reference to a person who, under section twenty-seven of this Act, is to be deemed to have been engaged or re-engaged to serve in the Regular Army Supplement or in the Regular Army Reserve, as the case requires, and any reference to the period of his engagement to serve in the Regular Army Supplement or in the Regular Army Reserve shall be read as including a reference to any period for which he is to be deemed to have been re-engaged to serve in that force.

“(5.) Unless the contrary intention appears, a reference in this Act to a national service officer shall be read as a reference to a national serviceman or to a person referred to in sub-section (1.) of section twenty-eight of this Act, as the case requires, who is appointed to be an officer and by reason of that appointment is not liable to render service, or to render further service, as the case may be, under this Act.”.

4. Section 21 of the Principal Act is amended by omitting the words “and in accordance with such standards as are prescribed.”. Medical examinations.

5. Sections 27 and 28 of the Principal Act are repealed and the following sections inserted in their stead:—

“27.—(1.) A person on whom a notice has been served under the last preceding section shall, upon presenting himself for service, be deemed to have been enlisted for service in the Regular Army Supplement and to have been engaged to serve in that force for a period of two years. Enlistment and service in the Military Forces.

“(2.) Upon his completion of the period of service in the Regular Army Supplement for which, under the last preceding sub-section, a person is to be deemed to have been engaged, he shall, subject to the succeeding provisions of this section and the next succeeding section—

(a) be discharged from that force; and

(b) upon being so discharged, be deemed to have been enlisted for service in the Regular Army Reserve and to have been engaged to serve in that force for a period of three years.

“(3.) If the period of service for which—

(a) a person is to be deemed to have been engaged or re-engaged to serve in the Regular Army Supplement;
or

(b) a person is to be deemed to have been engaged to serve in the Regular Army Reserve,

expires during a time of war, he shall, upon his completion of that period, be deemed to have been re-engaged to serve in that force for the duration of the time of war.

“(4.) If the period of service in the Regular Army Supplement for which, under this section, a person is to be deemed to have been engaged or re-engaged expires during a time of defence emergency, he shall, upon his completion of that period of service, be deemed to have been re-engaged to serve in that force for the duration of the time of defence emergency or until the expiration of the period of five years after the date on which he presented himself for service under this Act, whichever is the shorter period.

“(5.) If, upon or before the expiration of the period of his engagement to serve in the Regular Army Supplement, a national serviceman volunteers and is accepted for an additional period of service in that force, he shall be deemed to have been re-engaged to serve in that force for the additional period.

“(6.) Where, as provided by the preceding provisions of this section, a national serviceman has served in the Regular Army Supplement for a period of not less than five years, he is not liable to render further service under this Act.

“(7.) Where, as provided by the preceding provisions of this section, a national serviceman has served in the Regular Army Supplement for a period of less than five years, he shall, subject to the succeeding provisions of this section and the next succeeding section—

(a) upon his completion of that period of service be discharged from that force; and

(b) upon being so discharged, be deemed to have been enlisted for service in the Regular Army Reserve and to have been engaged to serve in that force for the period by which the period of five years exceeds the period for which he served in the Regular Army Supplement.

“(8.) If, upon or before the expiration of the period of his engagement to serve in the Regular Army Supplement, a national serviceman volunteers and is accepted for service, after his discharge from that force in—

(a) the Regular Army Emergency Reserve for a period of not less than four years; or

- (b) the Active Citizen Military Forces for a period of not less than three years,

he is not liable to render further service under this Act except as provided by the next succeeding sub-section.

“(9.) Where a person referred to in the last preceding sub-section, having enlisted in the Active Citizen Military Forces, fails to render efficient service in that force as provided by regulations in force under the *Defence Act 1903–1965*, he shall be discharged from that force and, upon being so discharged, shall be deemed to have been enlisted in the Regular Army Reserve and to have been engaged to serve in that force for the period by which the period of five years exceeds the total period of his service in the Regular Army Supplement and in the Active Citizen Military Forces.

“(10.) If, at the date of the expiration of the period of his engagement to serve in the Regular Army Supplement, a national serviceman is absent from duty on account of an illness or injury in circumstances in which, under regulations in force under the *Defence Act 1903–1965*, he would be eligible, if he were retained in that force, to be paid for service, he may, with his consent, be retained in that force for the period for which he is so absent from duty and, if he is so retained, shall be deemed to have been re-engaged to serve in that force for that period.

“28.—(1.) Where, after the service of a notice on a person under section twenty-six of this Act and at or before the time at which he is required to present himself for service, he is appointed to be an officer and the appointment—

Persons appointed to be officers.

- (a) is for a period of service of not less than two years in the Regular Army Supplement; and
- (b) is to be followed by a period of service of not less than three years in the Regular Army Reserve or the Active Citizen Military Forces or not less than four years in the Regular Army Emergency Reserve,

he is not liable to render service under this Act.

“(2.) Where, during the period of his engagement to serve in the Regular Army Supplement, a national serviceman is appointed to be an officer and the appointment—

- (a) is for a period of service in the Regular Army Supplement, or for a period of service in that force to be followed by a period of service in the Regular Army Reserve, that is not less than the total period of service for which he was to be deemed to have been engaged to serve in the first-mentioned force or successively in those forces, as the case may be; or

- (b) is for a period of service in the Regular Army Supplement that is not less than the period of his engagement to serve in that force and is to be followed by a period of service of not less than three years in the Active Citizen Military Forces or four years in the Regular Army Emergency Reserve,

he is not liable to render further service under this Act.

“(3.) Where, at the commencement or during the period of his engagement to serve in the Regular Army Reserve, a national serviceman is appointed to be an officer and the appointment is for a period of service in that force that is not less than three years or not less than the unexpired portion of the period for which he was to be deemed to have been engaged to serve in that force, as the case may be, he is not liable to render further service under this Act.

“(4.) Where—

- (a) a national service officer is convicted of an offence by a service tribunal and is sentenced to be reduced in rank to a rank other than that of an officer; or
- (b) the appointment as an officer of a national service officer is terminated, and the Military Board or a person authorized by the Military Board certifies in writing that the appointment was terminated on disciplinary grounds or by reason of his being unsuitable to serve as an officer,

he again becomes liable to render service under this Act, but any service rendered by him as a national service officer may, in addition to any service rendered by him as a national serviceman, be taken into account as service under this Act.

“(5.) If the appointment of a national service officer—

- (a) is terminated so that he may be appointed as an officer of the Permanent Forces, the naval, military or air forces of any part of the Queen’s dominions other than Australia, or the naval, military or air forces of a prescribed country; and
- (b) he is appointed to be an officer of any one of those forces for a period of service that is not less than the period of service that he would have been required to render under the preceding provisions of this section,

he is not liable to render further service under this Act.

“(6.) Where, during the period of his engagement to serve in the Regular Army Supplement or in the Regular Army Reserve, a national serviceman is appointed to be an officer before the expiration of the period of his engagement to serve in that force, he shall, upon his appointment as an officer, be deemed to have been discharged from that force as a soldier.”.

6. Section 34 of the Principal Act is repealed and the following section inserted in its stead:—

“ 34.—(1.) In calculating the period for which a national serviceman is to be deemed to have been engaged to serve in the Regular Army Supplement, account shall not be taken of any period during which he—

Calculation of service in the Regular Army Supplement.

- (a) was absent from duty without leave for a period in excess of twenty-one days;
- (b) served a sentence, imposed by a court or by a service tribunal, of imprisonment, detention or field punishment for a period in excess of twenty-one days;
- (c) was in custody by reason of a charge of an offence, being an offence of which he was convicted by a court or by a service tribunal and in respect of which he served a sentence of imprisonment, detention or field punishment for a period in excess of twenty-one days; or
- (d) was granted leave without pay.

“ (2.) Where a national serviceman is taken into custody on a charge of an offence and is convicted of another offence, that conviction shall be deemed to be a conviction of an offence to which paragraph (c) of the last preceding sub-section applies.

“ (3.) The period for which a national serviceman is to be deemed to be engaged to serve in the Regular Army Supplement shall be deemed to be increased by a period equal to any period that is not to be taken into account under the preceding provisions of this section.”

7. Section 35B of the Principal Act is repealed and the following section inserted in its stead:—

“ 35B.—(1.) A national serviceman shall not be discharged, dismissed or removed from the force in which he is serving before the expiration of the period of his engagement to serve in that force, except in accordance with a sentence of a service tribunal or as provided by this section or by section twenty-seven or section twenty-eight of this Act.

Discharge of a national serviceman.

“ (2.) Where, in accordance with conditions determined by the Military Board, a national serviceman is found to be medically unfit for further service in the force in which he is serving, he may be discharged from the Military Forces.

“(3.) Where, in the opinion of the Military Board or a person authorized by the Military Board, a national serviceman is unsuitable for further service in the Military Forces and should, for that reason, be discharged, he may be discharged from the Military Forces.

“(4.) Whenever a national serviceman is discharged under the last preceding sub-section on disciplinary grounds, the Military Board or authorized person shall so state in writing.

“(5.) Whenever it is found that a national serviceman has become exempt from liability to render service under this Act, he shall be discharged from the Military Forces.

“(6.) Where the Military Board or a person authorized by the Military Board is satisfied that a national serviceman—

(a) will, if he is discharged under this sub-section, be enlisted in the Permanent Forces, the naval, military or air forces of any part of the Queen’s dominions other than Australia, or the naval, military or air forces of a prescribed country; and

(b) will, upon being so enlisted, be liable to serve in the force in which he enlists for a period that is not less than the unexpired portion of the period of his engagement to serve in the Regular Army Supplement or the Regular Army Reserve, as the case may be,

he may be discharged from the force in which he is serving as from the day immediately preceding the day on which he is so enlisted in a force referred to in paragraph (a) of this sub-section.

“(7.) A national serviceman discharged in accordance with a sentence of a service tribunal or as provided by this section is not liable to render further service under this Act.”.

8. After section 59 of the Principal Act the following section is inserted:—

Payment for
certain
absences from
employment.

“59A. Where a person who is registered under this Act is necessarily absent from his employment for the purposes of complying with a notice requiring him to present himself for medical or other examination or to attend at a place as required by a notice under section fifty-two of this Act, the period of his absence shall be deemed, for the purposes of his contract of employment, to be a period of absence permitted by the employer and shall be without deduction or loss of pay.”.