

DAYLIGHT SAVING REPEAL.

No. 35 of 1917.

An Act to repeal the *Daylight Saving Act* 1916.

[Assented to 25th September, 1917.]

BE it enacted by the King'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 *Daylight Saving Repeal Act* 1917. Short title.

2. The *Daylight Saving Act* 1916 is hereby repealed.

Repeal of
Daylight
Saving Act.

DEFENCE.

No. 36 of 1917.

An Act to amend the *Defence Act* 1903-1915.

[Assented to 25th September, 1917.]

BE 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* 1917. Short title and citation.

(2.) The *Defence Act* 1903-1915 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* 1903-1917.^(a)

2. Section four of the Principal Act is amended—

(a) by omitting the definition of "Active service" and inserting in its stead the following definition:—

"'Active service' has a meaning corresponding to that of the same words as used in sub-section (1.) of section one hundred and eighty-nine of the Army Act defining the expression 'on active service.'";

Amendment of
s. 4.

(a) For copy of *Defence Act* 1903-1917, see p. 127 *infra*.

(b) by omitting from the definition of "District Commandant" the words "officer appointed to be".

(c) by inserting after the definition of "member" the following definition:—

" 'Military decoration' means any medal, clasp, good conduct badge, or decoration conferred for service in the Naval or Military Forces of any part of the King's Dominions, or of any Ally of Great Britain in the present war";

(d) by omitting the definition of "Officer" and inserting in its stead the following definition:—

" 'Officer', as regards the Military Forces, means an officer commissioned or in pay as an officer of the Military Forces, and includes an officer appointed or promoted to provisional, probational, or acting rank, and warrant and other officers holding honorary commissions, and as regards the Naval Forces, means any commissioned officer, and includes subordinate and warrant officers, but does not include petty officers."; and

(e) by adding at the end thereof the following definition:—

" 'War service' means active service, any naval or military service in time of war, and any naval or military service between the issue of a proclamation declaring that by reason of the recent existence of a time of war it is necessary in the public interest that the military forces should be temporarily subject to the Army Act, and the issue of a proclamation declaring that such necessity no longer exists."

3. After section eight of the Principal Act the following section is inserted:—

Delegation of
power to make
appointments.

"8A.—(1.) The Governor-General may delegate to the officer in command of any part of the Military Forces when beyond the limits of the Commonwealth power to appoint or promote officers to acting rank in the Military Forces.

"(2.) A delegation under this section may be made to an officer personally or by designation of his appointment and may be limited to the officer named or be extended to the person for the time being performing the duties of the appointment or to the successors in command of the officer.

"(3.) A delegation shall be revocable at will by the Governor-General and shall not prevent the exercise of any power by the Governor-General.

"(4.) The revocation of a delegation shall not affect anything done under the delegation prior to the revocation.

"(5.) An officer appointed or promoted to acting rank under the powers conferred by this section shall cease to hold that office if the Governor-General refuses to confirm the appointment or promotion.

NSW SUPREME COURT LIBRARY

1917.

Defence.

No. 36.

101

“(6.) An officer, whose appointment or promotion under this section is confirmed by the Governor-General, shall be deemed to have been appointed or promoted (as the case may be) from the date of his appointment or promotion under the powers conferred by this section.

“(7.) Every act, matter, thing, right and liability which by virtue or in consequence of an appointment or promotion to acting rank under this section is done, suffered, acquired or incurred between the time an officer is so appointed or promoted and the time when that officer receives notice of the refusal of the confirmation shall be as valid and effectual as if it were done, suffered, acquired or incurred by an officer appointed or promoted by the Governor-General to that office.

“(8.) Every appointment and promotion of an officer to acting rank made before the commencement of this section by the officer in command of any part of the Military Forces when beyond the limits of the Commonwealth shall be as valid and effectual as if made under this section.

“(9.) Any delegation made within three months after the passing of this section may be expressed to take effect from any day before the making of the delegation and, if so expressed, shall take effect accordingly.”.

4. Section fifteen of the Principal Act is amended by omitting the words “cease to hold” and inserting in their stead the words “be removed from”.

Amendment of
s. 15.

5. Section twenty-two of the Principal Act is repealed and the following section inserted in its stead :—

Appointment or
promotion for
distinguished
service.

“22.—(1.) The Governor-General may, for distinguished service in time of war or for exceptional gallantry on active service, appoint any person to be an officer or non-commissioned officer or promote an officer or non-commissioned officer in the Citizen Military Forces without his passing the prescribed examination.

“(2.) The Governor-General may delegate to any person the power to appoint or promote non-commissioned officers under this section.

“(3.) A delegation under this section shall be revocable at will and shall not prevent the exercise of any power by the Governor-General.”.

6.—(1.) Section thirty-one of the Principal Act is amended—

Amendment of
s. 31.

(a) by omitting from sub-section (1.) thereof the words “for a term” and inserting in their stead the words “during the continuance of their engagements” ;

(b) by inserting in sub-section (2.) thereof before the words “No Permanent Military Forces” the words “Except in time of war,” ; and

(c) by omitting from sub-section (2.) thereof the words “or except Expeditionary Forces in time of war”.

(2.) This section shall be deemed to have commenced on the first day of August One thousand nine hundred and fourteen.

Amendment of
s. 36.

7. Section thirty-six of the Principal Act is amended by omitting therefrom all words from and including "Persons voluntarily enlisting" to and inclusive of "less than two years" and inserting in their stead the words "Persons voluntarily enlisting as members of the Military Forces may be required to engage to serve for a prescribed period".

8. After section forty-two of the Principal Act the following section is inserted :—

Irregular
appointments
and enlistments.

"42A.—(1.) Every person serving, or in pay, as an officer or soldier in the Military Forces, although not duly appointed or enlisted, shall, while so serving or in pay, be deemed for all purposes of this Act to be an officer or soldier in the branch and of the rank or grade in which he is serving or of the pay of which he is in receipt :

Provided that a person so serving or in pay as an officer, warrant officer, or non-commissioned officer may at any time be ordered to revert to his true rank or grade (if any).

"(2.) Except in time of war, a person serving or in pay as a soldier within the Commonwealth, but not duly appointed or enlisted, may claim to be discharged, and the claim shall with all reasonable speed be allowed :

Provided that until the claim is allowed he shall for all purposes of this Act be deemed to be a soldier in the Military Forces."

9. Section forty-four of the Principal Act is repealed and the following section inserted in its stead :—

Power to
disband.

"44.—(1.) The Governor-General may at any time, by order published in the *Gazette*, disband any corps or portion of a corps.

"(2.) A soldier may at any time be discharged or dismissed by the Governor-General or as prescribed."

Amendment of
s. 45.

10. Section forty-five of the Principal Act is amended by omitting the word "active" and inserting in its stead the word "war".

Amendment of
s. 46.

11. Section forty-six of the Principal Act is amended by omitting the word "active" and inserting in its stead the word "war".

Amendment of
s. 47.

12. Section forty-seven of the Principal Act is amended by omitting the word "active" (wherever occurring) and inserting in its stead the word "war".

Amendment of
s. 50.

13. Section fifty of the Principal Act is amended by omitting the word "active" and inserting in its stead the word "war".

14. Section fifty-four A of the Principal Act is repealed and the following section inserted in its stead :—

Application of
Army Act.

"54A.—(1.) Members of the Military Forces whether on war service or not—

(a) serving with Imperial Forces outside Australia ; or

(b) on their way from Australia for the purpose of so serving ; or

(c) on their way back to Australia after so serving or after war service,

shall be deemed to be on war service and shall be subject to the Army Act as if they were part of His Majesty's Regular Land Forces, with such modifications and adaptations as are prescribed.

"(2.) Subject to any Imperial Act, members of the Imperial Forces serving in Australia with the Defence Force shall be subject to this Act.

"(3.) This section shall be construed as amplifying and not as restricting any of the other provisions of this Act."

15. Section fifty-five of the Principal Act is repealed and the following section inserted in its stead :—

"55. The Military Forces shall at all times, whilst on war service, whether within or without the limits of the Commonwealth, be subject to the Army Act save so far as it is inconsistent with this Act and subject to such modifications and adaptations as are prescribed, including the imposition of a fine not exceeding Twenty pounds for an offence either in addition to or in substitution for the punishment provided by the Army Act, and the increase or reduction of the amount of a fine provided by the Army Act :

Military Forces
on war service
subject to
Army Act.

Provided that the regulations shall not increase the fine for any offence so that it exceeds Twenty pounds."

16. Section fifty-seven of the Principal Act is amended by omitting the word "active" (wherever occurring) and inserting in its stead the word "war".

Amendment of
s. 57.

17. Section sixty-three of the Principal Act is amended by inserting in sub-section (3.) thereof—

Amendment of
s. 63.

(a) after the words "other than" the words "appointments of persons in a civil capacity in pursuance of this section and" ; and

(b) after the words "five years therein" the words "or have served on active service as prescribed".

18. Section seventy-three of the Principal Act is repealed and the following sections are inserted in its stead :—

"73.—(1.) Any member of the Defence Force who—

Falsifying pay
rolls.

(a) except as prescribed, knowingly claims pay on account of any drill with his corps for any man belonging to any corps ; or

(b) knowingly claims pay for any member of the Defence Force not present ; or

(c) knowingly includes in any parade state, or other return, the name of any person who is not a member of the Defence Force,

shall be guilty of an offence.

"(2.) Any member of the Defence Force who—

Claiming or
receiving pay
improperly.

(a) except as prescribed, knowingly claims or receives pay on account of any drill performed in any corps, other than his own proper corps ; or

(b) knowingly claims or receives pay on account of any drill or duty not performed,

shall be guilty of an offence.

Fraudulently
obtaining or
retaining pay.

“(3.) Any member of the Defence Force who—

- (a) knowingly obtains by means of any false pretence any pay or money belonging or payable to any other member of the Defence Force; or
- (b) knowingly retains or keeps in his possession with intent to apply it to his own use any pay or money belonging or payable to any other member of the Defence Force,

shall be guilty of an offence.

Unlawfully
giving or
obtaining
information as
to defences.

“73A.—(1.) Any member of the Defence Force or officer in the Public Service of the Commonwealth who communicates to any person otherwise than in the course of his official duty any plan, document, or information relating to any fort, battery, field work, fortification, or defence work, or to any defences of the Commonwealth, or to any factory, or any other naval or military information, shall be guilty of an offence.

“(2.) Any person who unlawfully obtains any plan, document, or information relating to any fort, battery, field work, fortification, or defence work, or to any of the defences of the Commonwealth or any other naval or military information, shall be guilty of an offence.

Falsifying and
forging parade
states, orders,
&c.

“73B. Any person who—

- (a) knowingly signs a false parade state roll or pay list or return; or
- (b) forges or utters, knowing it to be forged, any warrant or order under this Act; or
- (c) falsely personates any other person at any parade or on any occasion when the latter is required by this Act to do any act or to attend at any place,

shall be guilty of an offence.

Supplying
inferior
provisions,
material
or equipment.

“73C.—(1.) Any contractor, purveyor or other person, and any employee of a contractor, purveyor or other person, who fraudulently supplies to the Commonwealth or any officer of the Commonwealth for use by the Defence Force—

- (a) any article of food which is inferior in quality to or less in quantity than that specified in the contract, agreement or order under which it is to be supplied; or
- (b) any material, equipment, or beast of draught or burden which is inferior to that specified in the contract, agreement or order under which it is to be supplied,

shall be guilty of an offence.

“(2.) Any officer of the Commonwealth who fraudulently receives for use by the Defence Force any article of food, or any material, equipment, or beast of draught or burden supplied in contravention of this section, shall be guilty of an offence.

Penalty.

“73D. The punishment for an offence against any of the four last preceding sections shall be as follows:—

- (a) if the offence is prosecuted summarily—a fine not exceeding Twenty pounds or imprisonment for a term not exceeding six months;

(b) if the offence is prosecuted upon indictment—imprisonment with or without hard labour for any term not exceeding three years.”.

19. Section seventy-four of the Principal Act is amended—

Amendment of s. 74.

(a) by omitting the words “liable to a penalty not exceeding Five pounds for each item of information demanded and refused or neglected to be given or falsely given” and inserting in their stead the words “guilty of an offence.

Penalty : Imprisonment for twelve months or Twenty pounds for each item of information demanded and refused or neglected to be given or falsely given, or both”; and

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

“(3.) Where an offence against this section is tried by court-martial the court may, in lieu of sentencing the offender to imprisonment sentence him to detention for the same period as that for which he might have been sentenced to imprisonment or for any less period.”.

20. Section seventy-eight of the Principal Act is repealed and the following section inserted in its stead :—

“78. Any member of the Citizen Military Forces who, having been required to serve pursuant to a proclamation made under Part III. of this Act, and any person who, having been required to serve pursuant to Part IV. of this Act, absents himself without leave for a longer period than seven days from his corps or from the place at which he should be present, shall be deemed to be a deserter and shall be liable to the punishment provided for desertion, by the Army Act.”.

Absence for more than seven days deemed to be desertion.

21. After section eighty of the Principal Act the following sections are inserted :—

“80A.—(1.) Any person who falsely represents himself to be a returned soldier or sailor shall be guilty of an offence.

Falsely representing to be returned soldier or sailor.

Penalty : One hundred pounds or imprisonment for six months, or both.

“(2.) For the purposes of this section—

(a) ‘returned soldier’ means a person who has served abroad during any war as a member of any Military Force raised in Australia or in any other part of the British Empire, or, during the present war, as a member of the Military Forces of any Ally of Great Britain; and

(b) ‘returned sailor’ means a person who has served abroad during any war as a member of any Naval Force raised in Australia or in any other part of the British Empire, or, during the present war, as a member of the Naval Forces of any Ally of Great Britain.

“(3.) In any proceedings for an offence against this section the averment of the prosecutor that the defendant is not a returned soldier or sailor shall be deemed to be proved in the absence of proof to the contrary.

Disposal of decorations prohibited.

“80B.—(1.) A person shall not, except as allowed by this Act, sell, exchange, pledge or otherwise dispose of in any manner whatsoever (whether for valuable consideration or not) any military decoration conferred on him.

Penalty : Twenty pounds.

“(2.) Nothing in this section shall prevent the disposal of decorations to the Commonwealth Government.

Receiving of decorations prohibited.

“80C. Any person (other than a member of the family or the banker of the person on whom any military decoration was conferred) who has in his possession, during the lifetime of the person on whom the military decoration was conferred, a military decoration conferred on that person, shall be guilty of an offence.

Penalty : Twenty pounds.

Buying or receiving in exchange decorations.

“80D. A person shall not, during the lifetime of the person on whom it was conferred, buy, or receive in exchange, or receive by way of pledge or otherwise, any military decoration conferred on that person.

Penalty : Twenty pounds.

Unlawfully wearing decorations.

“80E.—(1.) A person shall not, unless lawfully entitled thereto (proof whereof shall lie upon him), wear or make use of any military decoration.

Penalty : Twenty pounds.

“(2.) Nothing in this section shall prevent a female relative of the person upon whom a military decoration has been conferred from wearing the decoration after the decease of that person.

Forfeiture.

“80F. Every military decoration, which is proved on the trial of any person in possession thereof for an offence against this Act to have been sold, exchanged, pledged, or otherwise disposed of in contravention of this Act, shall be forfeited to the King, and may, without warrant, be seized by any member of the police force of the Commonwealth, or of a State or Territory, for delivery to the Department of Defence.

Minister may grant permits.

“80G.—(1.) The Minister may grant permits, in writing, subject to such conditions and restrictions as he thinks fit to impose, to public institutions or *bonâ fide* collectors to acquire and retain military decorations, or to persons licensed under any State law relating to pawnbroking to dispose of decorations in their possession at the time of the passing of this section.

“(2.) Subject to the conditions and restrictions contained in the permit being complied with, the provisions of this Act relating to military decorations shall not apply to the disposition or acquisition of any decorations under this section.

Disposition by will or devolution.

“80H. Nothing in this Act shall prevent the disposition by will or the acquisition by devolution of law in the case of intestacy of any military decoration.

Defacing or melting decorations.

“80I. A person shall not deface or destroy, by melting or otherwise, any military decoration.

Penalty : Twenty pounds.”

22. Section eighty-two of the Principal Act is amended by inserting in sub-section (3.) thereof after the words "or not," the words "or any building or land reserved or set apart for or used in connexion with the administration, accommodation, or training of any part of the Defence Force,".

Amendment of
s. 82.

23. Section eighty-six of the Principal Act is amended—

Amendment of
s. 86.

(a) by omitting paragraph (c) and inserting in its stead the following paragraphs:—

"(c) confirm the finding, or finding and sentence of any court-martial, or in the case of a military court-martial send back the finding and sentence or either of them for revision ;

(d) mitigate or remit the punishment or any part of the punishment awarded by any sentence, or commute the punishment for any less punishment to which the offender might have been sentenced by the court-martial ; and

(e) suspend the execution or currency of any sentence on such terms and conditions (if any) as he thinks fit ; and

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

"(2.) Nothing in this section shall affect the powers conferred by the Army Act in regard to the Military Forces or the Naval Discipline Act in regard to the Naval Forces of convening courts-martial and confirming the findings and sentences of those courts."

24. Section eighty-eight of the Principal Act is repealed and the following section inserted in its stead:—

"88. Except so far as is inconsistent with this Act, the laws and regulations for the time being in force in relation to the composition, procedure (including the reception of evidence) and powers of courts-martial in the King's Regular Land Forces, the revision, confirmation, effect and consequences of the findings and sentences of such courts-martial, and the mitigation, remission and commutation of the sentences thereby imposed, shall apply to courts-martial in the Military Forces and their findings and sentences, and the like laws and regulations in relation to the King's Regular Naval Forces shall similarly apply in the case of the Naval Forces."

Laws applicable
to courts-
martial.

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

"90.—(1.) No person, other than a member of the Defence Force, or a person liable to trial by court-martial, shall be proceeded against before a court-martial for contempt of court.

Court-martial
not to punish
civilians for
contempt.

"(2.) If a person, not being a member of the Defence Force, commits any act amounting to contempt of court within the view or hearing of a court-martial he may forthwith be arrested pursuant to the order of the President of the court-martial, and taken before a civil court having jurisdiction to try him for the offence to be dealt with according to law.

“(3.) Nothing in this section or in sections ninety-one, ninety-two or ninety-five shall prevent the application to a member of the Defence Force on war service of any provision of the Army Act or of the Naval Discipline Act (as the case may be).”.

Amendment of
s. 91.

26. Section ninety-one of the Principal Act is amended by inserting in paragraphs (a) and (b) after the word “imprisonment” the words “or detention”.

27. Section ninety-two of the Principal Act is repealed and the following section is inserted in its stead :—

Contempt by
members of
Defence Force.

“92. A court-martial may, by writing under the hand of the President, order any member of the Defence Force or a person liable to trial by court-martial, guilty of contempt of court within the hearing or view of the court, to be imprisoned with or without hard labour or to undergo detention for a period not exceeding twenty-one days.”.

Amendment of
s. 96.

28. Section ninety-six of the Principal Act is amended—

(a) by inserting after the word “counsel” (secondly occurring) the words “assigned by and”; and

(b) by adding at the end thereof the words “unless on war service the authority convening the court or the President thereof, by writing under his hand (which shall be conclusive) declares that military exigencies or the necessities of discipline (the nature of which exigencies or necessities shall be specified in the declaration) render it impossible or inexpedient to procure the attendance of counsel.”.

Amendment of
s. 97.

29. Section ninety-seven of the Principal Act is amended by adding at the end thereof the words “and any expenses occasioned by the offence”.

Amendment of
s. 102.

30. Section one hundred and two of the Principal Act is amended by inserting after the words “against this Act” the words “(whether committed before or after he became a member)”.

31. Sections one hundred and three and one hundred and four of the Principal Act are repealed and the following section inserted in their stead :—

Time for
commencing
prosecutions
before courts-
martial.

“103.—(1.) A person shall not be tried by court-martial for any offence against the Army Act or the Naval Discipline Act, except mutiny, desertion, or fraudulent enlistment, unless the trial begins within three years after the commission of the offence.

“(2.) A person shall not be tried by court-martial for an offence against this Act, except mutiny, desertion or fraudulent enlistment or an indictable offence, unless the trial begins within three years after the commission of the offence.

“(3.) A person charged with any naval or military offence, except mutiny, desertion or fraudulent enlistment, committed while a member of the Defence Force, may, subject to this section, if committed when not on war service, be tried and punished by court-martial if the trial begins while he remains a member or within six months

after he ceases to be a member, or, if committed when on war service, if the trial begins while he remains on war service or within six months after he ceases to be on war service.”.

32. Section one hundred and eight of the Principal Act is amended— Amendment of
s. 108.

(a) by inserting after the word “committed” the words “when not on war service”;

(b) by adding after the word “imprisonment” the words “or detention”; and

(c) by adding at the end thereof the following sub-sections:—

“(2.) Except when on war service, a member of the Defence Force, before being dismissed or reduced, may, if he so requests, be tried by court-martial.

“(3.) When on war service commanding officers shall have all the powers conferred by the Army Act and the Naval Discipline Act respectively subject to such modifications and adaptations as are prescribed.”.

33. Section one hundred and nine of the Principal Act is amended by inserting before the word “prosecution” the word “civil”. Amendment of
s. 109.

34. Section one hundred and ten of the Principal Act is amended— Amendment of
s. 110.

(a) by inserting in sub-sections (1.), (2.), (3.), and (5.) thereof before the word “prosecution” the word “civil”; and

(b) by omitting from sub-sections (3.) and (4.) thereof the words “Naval Commandant” and inserting in their stead the words “Commanding Officer of one of His Majesty’s ships or the District Naval Officer”.

35. Section one hundred and eleven of the Principal Act is amended by omitting the words “Naval Commandant” (wherever occurring) and inserting in their stead the words “District Naval Officer”. Amendment of
s. 111.

36. Section one hundred and twelve of the Principal Act is amended— Amendment of
s. 112.

(a) by inserting at the beginning thereof the words “When not on war service”; and

(b) by inserting after the words “Citizen Forces” the words “(not serving under Part XII. of this Act)”.

37. Section one hundred and thirteen of the Principal Act is amended— Amendment of
s. 113.

(a) by inserting after the words “Defence Force” (first occurring) the words “when not on war service”;

(b) by omitting the word “officer” and inserting in its stead the word “person”; and

(c) by omitting the words “naval or military” before the word “custody”.

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

Arrest of
deserters and
persons charged
with offences.

“114. Any member of the Defence Force who absconds or deserts and any person liable to be tried by Court Martial for any offence committed by him may be arrested within or beyond the Commonwealth by a member of the Defence Force or by a member of the Police Force of the Commonwealth or of a State or of a Territory under the control of the Commonwealth, or of the country in which the member is found, pursuant to any warrant under the hand of any officer authorized by the regulations to issue the warrant, and shall be dealt with in the manner prescribed or as directed by the warrant.”

Amendment of
s. 115.

39. Section one hundred and fifteen of the Principal Act is amended by omitting sub-sections (1.) and (2.) thereof and inserting in their stead the following sub-sections :—

“(1.) Warrants for the temporary detention in any prison or other authorized place of any person charged with an offence triable by court-martial, and warrants for the commitment to any prison or other authorized place of any person sentenced to penal servitude, imprisonment or detention, may be issued by any prescribed officer.

“(2.) The District Commandant, the President of a court-martial, or any officer authorized by the regulations, shall be authorized to issue warrants for temporary detention, and the President of a court-martial or any officer authorized by the regulations shall be authorized to issue warrants for the commitment of persons sentenced by a court-martial to penal servitude, imprisonment or detention.”

Amendment of
s. 116.

40. Section one hundred and sixteen of the Principal Act is amended—

(a) by omitting the words “be imprisoned” (first occurring) and inserting in their stead the words “penal servitude, imprisonment or detention”; and

(b) by inserting after the words “be imprisoned” (secondly occurring) the words “or undergo penal servitude or detention”.

41. After section one hundred and seventeen of the Principal Act the following section is inserted :—

Civilians
accompanying
Forces subject
to Act

“117A. A person, not being a member of the Military Forces, who accompanies any part of the Military Forces on active service within the limits of the Commonwealth or those of any Territory under the control of the Commonwealth shall be subject to this Act as if he were a member of the Military Forces in the following manner :—

(a) if he accompanies the Military Forces by order of the Governor-General or the Minister in an official capacity equivalent to that of an officer or if he holds a pass from the officer commanding the part of the Military Forces to which he is attached, entitling him to be treated on the footing of an officer—as an officer ;

(b) in all other cases—as a soldier.”

42. After section one hundred and eighteen of the Principal Act the following section is inserted:—

“118A.—(1.) An employer shall not prevent any employee and a parent or guardian shall not prevent any son or ward from rendering the personal service required of him under Parts III. and IV. of this Act.

Employer not to prevent employee from serving.

Penalty : One hundred pounds.

“(2.) An employer shall not in any way penalize or prejudice in his employment any employee for rendering the personal service required of him under Parts III. and IV. of this Act or for voluntarily enlisting or attempting to enlist in any force raised for active service either within or without the limits of the Commonwealth, either by reducing his wages or dismissing him from his employment or in any other way.

Penalty : One hundred pounds.

“(3.) The rendering of the personal service or the enlistment referred to in this section shall not terminate a contract of employment, but the contract shall be suspended during the absence of the employee for the purposes referred to in this section; but nothing in this section shall render the employer liable to pay an employee for any time when he is absent from employment for the purposes referred to in this section.

“(4.) In any proceedings for an offence against this section it shall lie upon the employer to show that any employee proved to have been dismissed or to have been prejudiced or penalized in his employment or to have suffered a reduction of wages, was so dismissed, penalized or prejudiced in his employment or reduced for some reason other than that of having rendered the personal service required of him under Parts III. and IV. of this Act or of having voluntarily enlisted or attempted to enlist in a force raised for active service, either within or without the limits of the Commonwealth.

“(5.) The Court may direct that the whole or any part of the penalty recovered from an employer for an offence against this section shall be paid to the employee.”

43. Section one hundred and nineteen of the Principal Act is repealed and the following section inserted in its stead:—

“119. No member of the Defence Force shall, without the authority of the Minister, be entitled to receive any pay or allowances while under any charge of which he is afterwards convicted by any Court or by his Commanding Officer, or while under sentence of penal servitude, imprisonment, detention or field punishment by any Court or by his Commanding Officer, or during absence from duty without leave.”

Stoppage of pay in certain cases.

44. After section one hundred and twenty of the Principal Act the following section is inserted:—

“120A. A delegation by the Governor-General in accordance with the provisions of this Act shall not be deemed to be revoked or to have lapsed by the fact that the Governor-General has ceased to hold office.”

Delegation not to lapse on Governor-General ceasing to hold office.

Amendment of
s. 122.

45. Section one hundred and twenty-two of the Principal Act is amended—

- (a) by omitting the words “within the Commonwealth or a Territory under the control of the Commonwealth” and inserting in their stead the words “within or beyond the Commonwealth”; and
- (b) by adding at the end thereof the words “or of the country in which the member is found”.

Amendment of
s. 124.

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

- (a) by inserting in sub-section (1.) thereof after the words “providing for or in relation to” the following paragraph :—
“(a) the enlistment, appointment, discharge, and dismissal of members of the Defence Force;”;
- (b) by inserting at the end of paragraph (g) of sub-section (1.) thereof the words “and the revision and confirmation of the findings and sentences of courts-martial, and the mitigation, remission and commutation of the punishments”; and
- (c) by inserting in sub-section (1.) thereof after paragraph (g) the following paragraph :—
“(ga) the execution of sentences of courts-martial and the suspension of the execution or currency thereof;”.

47. After section one hundred and twenty-eight of the Principal Act the following section is inserted :—

“129. Persons who become liable to be trained in the Citizen Forces, but who are certified by the prescribed medical authorities to be temporarily unfit, may be trained as prescribed in the Senior Cadets, and such training shall be in lieu of the corresponding training in the Citizen Forces.”

Persons temporarily unfit to be trained in Senior Cadets.

48. After section one hundred and thirty-two of the Principal Act the following section is inserted :—

“132A.—(1.) Persons who are not liable to be trained under this Part of this Act and who have served on war service may be voluntarily enlisted in the Citizen Forces.

Persons may serve voluntarily in Citizen Forces.

“(2.) Persons voluntarily enlisting in the Citizen Forces under this section shall serve and be discharged in accordance with the provisions of Part III. of this Act, and shall receive pay as prescribed.”

Amendment of
s. 134.

49. Section one hundred and thirty-four of the Principal Act is amended—

- (a) by omitting the proviso to sub-section (1.) thereof; and
- (b) by inserting after sub-section (1.) thereof the following sub-section :—

“(1A.) A senior cadet shall be paid by his employer for any time he is absent from employment for the purposes of training, except the training required of the

cadet for failure to become efficient or while undergoing confinement for an offence, but nothing in this section shall render an employer liable to pay an employee for any time when he is absent from employment for the purpose of training in the Citizen Forces.”.

50. Section one hundred and thirty-eight of the Principal Act is amended :— Amendment of s. 138.

(a) by omitting from sub-section (1.) thereof the words “ in time of peace ”; and

(b) by inserting after sub-section (3.) thereof the following sub-section :—

“(3A.) Persons who have served on war service may be exempted from the prescribed training for such period and under such conditions as are prescribed.”.

51. After section one hundred and thirty-nine of the Principal Act the following section is inserted :—

“ 140. The Governor-General may, in time of war, by order published in the *Gazette*, suspend in any year the whole or any portion of the training prescribed by Part XII. of this Act, and all persons liable to be trained under that Part in that year shall not be required at any subsequent time to undergo the training so suspended.”.

Suspension of training.

52. Section one hundred and forty-eight of the Principal Act is amended by adding at the end thereof the following provisos :— Amendment of s. 148.

“ Provided also that members of the Permanent and Citizen Forces, or persons who have served with satisfactory record in any Expeditionary Force raised for service outside the Commonwealth, who are not graduates of the Military College, may, subject to such conditions as are prescribed, be appointed or promoted to be officers in the non-combatant branches of the Permanent Forces, including the Medical, Veterinary, Ordnance, Survey, and Clerical branches :

Provided also that warrant and non-commissioned officers of the Permanent Forces may be appointed to the commissioned rank for the position of Quartermaster to units of the Australian Military Forces.”.