Defence (Re-establishment)

No. 54 of 1965

An Act to provide for the Re-establishment in Civil Life of certain members of the Forces, for facilitating their Employment, and for other purposes.

[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:—

PART I.—PRELIMINARY.

1. This Act may be cited as the Defence (Re-establishment) Act 1965.

2. This Act shall come into operation on a date to be fixed by Proclamation.

3. This Act is divided into Parts, as follows:—
   Part I.—Preliminary (Sections 1–5).
   Part II.—Protection in Relation to Civil Employment (Sections 6–16).
Part III.—National Service Moratorium.
Division 1.—Preliminary (Sections 17–18).
Division 2.—Mortgages and Agreements for the Purchase of Land (Sections 19–26).
Division 3.—Prohibition or Suspension of Proceedings (Sections 27–35).
Division 4.—General (Sections 36–43).
Part IV.—Vocational Training (Sections 44–46).
Part V.—Rehabilitation of Disabled Persons (Sections 47–49).
Part VI.—Re-establishment Loans (Sections 50–57).
Part VII.—Miscellaneous (Sections 58–60).

4.—(1.) In this Act, unless the contrary intention appears—
“Australia” includes the Territories of the Commonwealth;
“national service” means—
(a) service in the Regular Army Supplement rendered under the National Service Act 1951–1965; or
(b) service as an officer in that force in pursuance of an appointment referred to in sub-section (1.) or sub-section (2.) of section 28 of that Act, but does not include service (other than service under sub-section (10.) of section 27 of the National Service Act 1951–1965) rendered by a person by virtue of a voluntary undertaking by him to render service for a period for which he is not otherwise bound so to serve under the National Service Act 1951–1965 or the Defence Act 1903–1965;
“national serviceman” means a person who is rendering national service;
“service tribunal” means a court-martial and includes an officer of the Defence Force exercising jurisdiction summarily in respect of offences committed by members of the Defence Force.

(2.) For the purposes of this Act—
(a) a national serviceman who has been discharged from the Regular Army Supplement shall be deemed to have been discharged by a dishonourable discharge if—
(i) the discharge was in accordance with the sentence of a service tribunal; or
(ii) the Military Board or a person authorized by the Military Board has stated that the discharge was on disciplinary grounds; and
(b) a national serviceman whose appointment as an officer in the Regular Army Supplement has been terminated shall be deemed to have been discharged from the Regular Army Supplement and, if—

(i) the termination of the appointment was in accordance with the sentence of a service tribunal; or

(ii) the Military Board or a person authorized by the Military Board has stated that the termination of the appointment was on disciplinary grounds,

shall be deemed to have been so discharged by a dishonourable discharge.

5. This Act extends to all the Territories of the Commonwealth.

PART II.—PROTECTION IN RELATION TO CIVIL EMPLOYMENT.

6.—(1.) In this Part, unless the contrary intention appears—

“contract of employment” includes a contract of apprenticeship;

“Defence service” means—

(a) continuous full-time service in a part of the Reserve Forces or of the Citizen Forces;

(b) service in a part of those Forces for such periods as are fixed by or in accordance with the regulations under the Defence Act 1903-1965, the Naval Defence Act 1910-1965 or the Air Force Act 1923-1965; or

(c) national service,

but does not include service rendered by a member of a part of the Reserve Forces or of the Citizen Forces by virtue of a voluntary undertaking by him to render continuous full-time service for a period for which he is not otherwise bound so to serve under the Defence Act 1903-1965, the Naval Defence Act 1910-1965 or the Air Force Act 1923-1965;

“member” means—

(a) a person who is, or has been, a member of a part of the Reserve Forces or of the Citizen Forces; or

(b) a person upon whom a notice has been served under the National Service Act 1951-1965 calling him up for service with the Military Forces of the Commonwealth,
but does not include a person who has been called upon to serve in the Defence Force in pursuance of section 60 of the *Defence Act* 1903-1965;

“period of absence on Defence service”, in relation to a member, means a period of absence from work or employment for the purpose of performing Defence service and, where the member resumes work or is reinstated in employment in accordance with this Part, includes the period from the completion of his period of Defence service until he so resumes work or is so reinstated in employment, as the case may be;

“the Citizen Forces” has the same meaning as in the *Defence Act* 1903-1965;

“the Reserve Forces” has the same meaning as in the *Defence Act* 1903-1965.

(2.) Where a member is required to report at a place for Defence service, the member shall, for the purposes of this Part, other than paragraph (a) of sub-section (6.) of section 13 of this Act, be deemed to be performing Defence service during the time during which he is travelling from the place at which he resides to the place at which he is to report.

7.—(1.) This Part binds the Crown in right of the Commonwealth or of a State.

(2.) Nothing in this Part renders the Crown in right of the Commonwealth or of a State liable to be prosecuted for an offence.

(3.) For the purposes of this Part, employment of a member, or employment of a member as an apprentice, under a law of the Commonwealth or of a State or Territory of the Commonwealth shall be treated as if that employment were employment under a contract of employment or employment under a contract of apprenticeship, as the case may be.

8. An employer shall not hinder or prevent a person employed by him from volunteering for service in, or serving in, a part of the Reserve Forces or of the Citizen Forces.

Penalty: One hundred pounds.

9.—(1.) An employer shall not penalize a person employed by him, or prejudice such a person in his employment, whether by reducing his salary or wages, dismissing him or in any other way, for the reason that that person is rendering service or liable to render service in a part of the Reserve Forces or of the Citizen Forces.

Penalty: One hundred pounds.
(2.) In any proceedings for an offence against the last preceding sub-section, the burden is upon the employer to prove that the person proved to have been penalized or prejudiced in his employment was so penalized or prejudiced for some reason other than the reason alleged in the charge.

10. Where an employer of a member is required to allow annual or periodical holidays or leave to the member, the employer shall not, except at the request of the member, allow the holidays or leave at times comprised within any period of absence on Defence service of the member, but nothing in this section deprives a member of any right to any holidays or leave to which he would otherwise have been entitled.

Penalty: Fifty pounds.

11.—(1.) Subject to this section, where—
(a) a member is employed under a contract of employment immediately before commencing a period of Defence service or immediately before a notice is served on him under the National Service Act 1951-1965 or the Defence Act 1903-1965 calling him up for Defence service; and
(b) in the case of a member who is employed under a contract of employment other than a contract of apprenticeship—has been so employed for not less than thirty days,
the contract shall not be, or be deemed to be, terminated by reason of the member's absence from work during his period of absence on Defence service, but the contract—
(c) is suspended from the commencement of the period of absence on Defence service; and
(d) unless earlier terminated, ceases to be suspended at the expiration of the period of absence on Defence service.

(2.) Nothing in the last preceding sub-section renders the employer under the contract of employment liable to pay the member for any time during his period of absence on Defence service.

(3.) Sub-section (1.) of this section does not prevent the termination of a contract of apprenticeship if the Minister consents.

(4.) Sub-section (1.) of this section does not prevent the termination of a contract of employment if the member, having completed a period of Defence service, does not apply to resume work under the contract within a period of thirty days, or within such longer period (if any) as the Minister, having regard to the circumstances of the case, determines, after the completion of the period of Defence service.
(5.) A period during which a contract of apprenticeship is suspended under sub-section (1.) of this section shall, except as the Minister otherwise directs—

(a) in the case of Defence service rendered by a member in the Regular Army Supplement, being service under the National Service Act 1951-1965 or service as an officer in pursuance of an appointment referred to in sub-section (1.) or sub-section (2.) of section 28 of that Act—be deemed not to be a period of work under the contract for the purpose of determining the date on which the member is to be deemed to have completed the period of employment under the contract; and

(b) in any other case—be deemed to be such a period for that purpose.

(6.) Except as otherwise provided by this Part or, in the case of a contract of apprenticeship, as the Minister otherwise directs, a period during which a contract of employment is suspended under sub-section (1.) of this section shall be deemed not to be a period of employment under the contract.

12.—(1.) Where a member referred to in the last preceding section completes a period of Defence service, he may, as soon as is reasonably practicable after so doing, but not, in any event, after the expiration of a period of thirty days, or such longer period (if any) as the Minister, having regard to the circumstances of the case, determines, after the completion of the period of the Defence service—

(a) if his contract of employment has not been terminated, apply to the person (in this section called "the employer") who is the employer under that contract to resume work; or

(b) if his contract of employment has been terminated by reason of a change in the ownership of the business, undertaking or service in which the member was employed under the contract, apply to the person (in this section also called "the employer")—

(i) who is for the time being carrying on that business, undertaking or service; or

(ii) who is for the time being carrying on a business, undertaking or service with which has been amalgamated, or in which is comprised, that business, undertaking or service,

to be reinstated in employment.

(2.) The employer shall, upon the member so applying, or as soon thereafter as is reasonably practicable, permit the member to resume work, or reinstate the member in employment, in the
occupation in which the member was employed immediately before the commencement of the period of Defence service and under conditions not less favourable to the member than those that would have been applicable to the member in that occupation if he had not been absent, including any increase of remuneration to which the member would have become entitled if he had not been absent.

Penalty: One hundred pounds.

(3.) In any proceedings for an offence against the last preceding sub-section, it is a defence for the employer to prove—

(a) that he agreed to the member resuming work or being reinstated in employment, but the member failed, without reasonable excuse, to present himself at the time and place agreed upon;

(b) that, by reason of a change of circumstances since the member was last employed (other than the employment of some other person to replace the member), it was not within the power of the employer, or was not reasonable or practicable, to permit the member to resume work or to reinstate the member in employment; or

(c) that, by reason of a change of circumstances since the member was last employed (other than the employment of some other person to replace the member), it was not reasonable or practicable to permit the member to resume work, or to reinstate the member in employment, in accordance with the last preceding sub-section, but that the employer had offered to employ the member in an occupation, and under conditions, that were the most favourable that it was reasonable or practicable to offer him.

13.—(1.) For the purpose of determining the rights of a member who has resumed work, or been reinstated in employment, in accordance with this Part after a period of absence on Defence service, and, where applicable, of the dependants of the member, in respect of—

(a) annual leave for recreation;

(b) leave on the ground of illness;

(c) long service leave or pay in lieu of long service leave (including pay to dependants on the death of the member); and

(d) superannuation or pension (whether for the member or for his dependants),

the succeeding provisions of this section apply.
(2.) Where a member has resumed work in accordance with the last preceding section, the continuity of the employment shall be deemed not to have been broken by the period of absence on Defence service.

(3.) Where a member has been reinstated in employment in accordance with the last preceding section—

(a) the period of employment under the contract of employment that was terminated during his period of absence on Defence service shall be deemed to have been served under the contract of employment entered into on the member's reinstatement in employment; and

(b) the continuity of that period of employment with the period of employment that commenced on reinstatement in employment shall be deemed not to have been broken by the period of absence on Defence service.

(4.) Subject to this section, the period of absence on Defence service shall be deemed to be service in the employment.

(5.) Subject to this section, where rights in respect of a benefit referred to in paragraph (a), (b) or (c) of sub-section (1.) of this section are dependent upon a number of shifts worked or attendances for work or both, shifts lost or non-attendances for work during the period of absence on Defence service shall be deemed to be shifts worked or attendances for work, as the case may be.

(6.) The last two preceding sub-sections—

(a) do not apply, for the purpose of determining rights in respect of a benefit referred to in paragraph (a) or (b) of sub-section (1.) of this section, in relation to any part of the period of absence on Defence service during which the member was performing Defence service, other than service referred to in paragraph (b) of the definition of "Defence service" in sub-section (1.) of section 6 of this Act; and

(b) do not apply, in relation to the period of absence on Defence service, if, within a period after the member resumes work or is reinstated in employment equal to the period of absence on Defence service, the member resigns from or abandons the employment or is dismissed from the employment in circumstances justifying his dismissal without notice.

(7.) Where the member—

(a) is required to make periodic contributions in respect of a benefit referred to in paragraph (d) of sub-section (1.) of this section; and
(b) does not, during or within one month after the expiration of the period of absence on Defence service, make the contributions that he would have been required to make if he had not been absent during that period, sub-sections (4.) and (5.) of this section do not apply, for the purpose of determining rights in respect of that benefit, in relation to that period.

(8.) Where the member is, during the period of absence on Defence service—

(a) absent on leave for a period exceeding such number of days as is prescribed;

(b) absent without leave or a deserter;

(c) serving a sentence, imposed by a court or a service tribunal, of imprisonment, detention or field punishment; or

(d) in custody by reason of a charge of an offence, being an offence of which he was convicted or is to be deemed to have been convicted by a court or a service tribunal and in respect of which he served a sentence of imprisonment, detention or field punishment,

sub-sections (4.) and (5.) of this section do not apply, for the purpose of determining rights in respect of a benefit referred to in paragraph (a), (b) or (c) of sub-section (1.) of this section, in relation to the period of absence, with or without leave, of desertion, of service of a sentence, or of custody.

14.—(1.) Where an employer has, in accordance with this Part, permitted a member to resume work or reinstated a member in employment after a period of absence on Defence service, the employer shall not, within a period after the member resumes work or is reinstated in employment equal to the period of absence, without reasonable cause, terminate the employment of the member or vary it by employing the member in an occupation, or under conditions, less favourable to the member than the occupation in which, or the conditions under which, the member was employed when he resumed work or was reinstated in employment.

Penalty: One hundred pounds.

(2.) In any proceedings for an offence against the last preceding sub-section, the burden is upon the employer to prove that he had reasonable cause for terminating or varying the employment.

(3.) This section does not apply in relation to a member employed under a contract of apprenticeship.
15. Where an employer is convicted of an offence against sub-section (1) of section 9, section 10, sub-section (2) of section 12, or sub-section (1) of section 14, of this Act with respect to a member—

(a) the court may order that the whole or a part of the fine imposed on the employer shall be paid to the member; and

(b) whether or not an order is made under the last preceding paragraph, the court may order that the employer shall pay to the member such compensation as the court thinks reasonable.

16.—(1.) Where a member considers that the Crown (whether in right of the Commonwealth or of a State) has failed to comply with a provision of this Part requiring the member to be permitted to resume work, or to be reinstated in employment, under the conditions prescribed by this Part or prohibiting the termination or variation of the member's employment, the member may apply to a court of summary jurisdiction, constituted by a Police, Stipendiary or Special Magistrate, for compensation.

(2.) The court shall hear the application and, if it finds that there has been a failure to comply with any provision referred to in the last preceding sub-section, the court may order that the Crown shall pay to the member such amount by way of compensation as the court thinks reasonable.

(3.) Proceedings may be taken upon an order under this section as if the order were a judgment or order of the court in favour of the member.

(4.) The regulations may make provision with respect to the practice and procedure of a court referred to in sub-section (1.) of this section in relation to applications under this section.

PART III.—NATIONAL SERVICE MORATORIUM.

Division 1.—Preliminary.

17.—(1.) In this Part, unless the contrary intention appears—

"constable" means a Commonwealth Police Officer or a member of the police force of a State or Territory of the Commonwealth;

"female dependant of a national serviceman" means a female who is wholly or partly dependent for her support upon
the pay of, or upon a pension payable in consequence of the incapacity or death of, a person who is or has been a national serviceman and includes—

(a) the wife of a person who has been a national serviceman and, although not receiving a pension, is receiving from the Commonwealth medical treatment of such a nature as to prevent him either wholly or partly from engaging in his occupation; and

(b) the widow of a person who died while rendering national service;

“land” includes messuages, tenements and hereditaments, and houses and buildings, and also includes any estate or interest in land (legal or equitable), and any easement, right, power or privilege over, in, or in connexion with, land;

“mortgage” means a mortgage (legal or equitable) of land;

“pension” means a pension (including a service pension) under the Repatriation Act 1920–1964;

“the moratorium date”, in relation to a national serviceman or a female dependant of a national serviceman, means—

(a) if neither of the next two succeeding paragraphs applies in relation to the national serviceman—the last day of the period within which the national serviceman was required to register under the National Service Act 1951–1965;

(b) if the national serviceman applied in accordance with sub-section (1.) or sub-section (1A.) of section 16 of that Act to be registered under that Act, the application was granted and the next succeeding paragraph does not apply in relation to him—the day on which the prescribed form of registration under that Act was received from the national serviceman by a Registrar at a National Service Registration Office established in accordance with that Act; or

(c) if the national serviceman has at any time been granted under section 31 of that Act a deferment of his liability to render service under that Act—the day on which there was served upon the national serviceman a notice under section 26 of that Act calling him up for
service with the Military Forces of the Commonwealth, being a notice that has not been revoked.

(2.) Where any female was wholly or partly dependent for her support upon the pay of a national serviceman, but is no longer so dependent merely by reason of an allotment of pay made to that female having been suspended, that female shall be deemed to be a female dependant of a national serviceman within the meaning of this section.

(3.) For the purposes of this Part, the Supreme Court of the Territory of Papua and New Guinea shall be deemed to be the Supreme Court of the Territory of Papua and the Supreme Court of the Territory of New Guinea.

18.—(1.) This Part binds the Crown in right of the Commonwealth or of a State.

(2.) Nothing in this Part renders the Crown in right of the Commonwealth or of a State liable to be prosecuted for an offence.

Division 2.—Mortgages and Agreements for the Purchase of Land.

19. In this Division, “the appropriate court” means—

(a) in relation to a mortgage or agreement where the amount of principal or purchase money outstanding under the mortgage or agreement does not exceed Five hundred pounds—a court of limited civil jurisdiction constituted by a Police, Stipendiary or Special Magistrate or by a barrister, solicitor, attorney or proctor in the State or Territory of the Commonwealth in which the land is situated, or, if there is no such court, the Supreme Court of that State or Territory;

(b) in relation to a mortgage or agreement where the amount of principal or purchase money outstanding under the mortgage or agreement exceeds Five hundred pounds but does not exceed Two thousand pounds—a District Court, County Court or Local Court of Full Jurisdiction in the State or Territory of the Commonwealth (other than the Territory of Papua or the Territory of New Guinea) in which the land is situated, or, if there is no such court, or the land is situated in the Territory of Papua or the Territory of New Guinea, the Supreme Court of the State or Territory of the Commonwealth in which the land is situated; and

(c) in any other case—the Supreme Court of the State or Territory of the Commonwealth in which the land is situated.
20.—(1.) Subject to this Division, where a national serviceman, or a female dependant of a national serviceman, is liable to pay the principal money secured by a mortgage, or the purchase money under an agreement for the purchase of land, and that liability arose before the date that is the moratorium date in relation to the national serviceman or female dependant, the time (including any time past) for payment of the principal money or purchase money is, by force of this section, postponed in accordance with this section.

(2.) The time for payment is postponed so that the payment falls due upon the expiration of—

(a) the period immediately following the date on which the national serviceman completes his national service equal to the period of that service; or

(b) the period of twelve months immediately following that date,

whichever is the shorter.

(3.) If the person liable to pay the principal or purchase money is a national serviceman or a female dependant of a national serviceman and the national serviceman dies before he completes his national service, the time for payment is postponed so that the payment falls due upon the expiration of the period of twelve months immediately following the date of his death.

(4.) If the person liable to pay the principal or purchase money is a female dependant of a national serviceman, and she dies before the national serviceman completes his national service, the postponement ceases at the expiration of twelve months after her death, unless, in the meantime, the national serviceman becomes liable to pay the principal or purchase money, in which case the time for payment is postponed in accordance with sub-section (2.) or sub-section (3.) of this section, as the case may be.

(5.) Where, under any mortgage or agreement to which this section applies, the principal or purchase money is to be repaid or paid by instalments, the time for payment of the earliest unpaid instalment is postponed in accordance with this section and the time for payment of each subsequent instalment is postponed for a period equal to the period of postponement of the first mentioned instalment.

(6.) Where a national serviceman or a female dependant of a national serviceman is liable to pay the principal money secured by a mortgage but is not the owner of the land subject to the mortgage, the postponement effected by this section applies only in relation to the liability of that national serviceman or female dependant, and where a national serviceman or female dependant of a national serviceman is liable to pay the principal money
secured by a mortgage and is the owner of the land subject to the mortgage but ceases to be the owner before the postponement effected by this section ceases, the postponement thereupon applies only in relation to the liability of that national serviceman or female dependant.

(7.) Where a payment includes interest as well as principal, and the rate of interest is not ascertainable from the mortgage or agreement, or the mortgage or agreement does not indicate what parts of the payment are principal and interest respectively, then, for the purposes of this section, the rate of interest shall be deemed to be the rate ascertained in accordance with the regulations.

(8.) Where a mortgagee—

(a) was or is in possession of land under a mortgage to which this section applies at the date on which the national serviceman affected commenced to render national service; or

(b) has appointed or appoints a receiver who was or is in possession of the mortgaged property, or in receipt of the rents and profits of the mortgaged property, at that date,

nothing in this section affects any power of sale, right to foreclose, power to appoint a receiver, power to go into, or remain in, possession of the mortgaged property, or power to receive or continue to receive the rents and profits of the mortgaged property.

(9.) Nothing in this section applies in respect of any mortgage or agreement for the sale of land—

(a) where a court has, before the date on which the national serviceman affected commenced to render national service, ordered that the mortgagee or vendor may exercise all or any of the remedies he may have for the enforcement of the security under the mortgage or for re-entry on the land;

(b) where the national serviceman or female dependant of a national serviceman, whether before or after the commencement of this Division, while liable to pay the principal or purchase money, became or becomes a bankrupt or an insolvent or has assigned or assigns his estate for the benefit of his creditors under any law relating to bankruptcy or insolvency or where the national serviceman or female dependant is deceased and his or her estate is being administered in bankruptcy or insolvency; or

(c) where the mortgagee or vendor obtains a declaration from the appropriate court that the national serviceman or female dependant of a national serviceman has abandoned the land.
(10.) Nothing in this section prevents a person from paying any principal money or purchase money before the time to which payment of that money is postponed under this section.

(11.) For the purposes of this section—

(a) the owner (including an equitable owner) of land subject to a mortgage shall be deemed to be liable to pay the principal money secured by the mortgage; and

(b) a person shall be deemed to be liable to pay any principal money or purchase money if he is under an obligation to pay that money notwithstanding that the time for payment of that money has not arrived.

(12.) Where a national serviceman or a female dependant of a national serviceman became, or becomes, liable to pay the purchase money under an agreement for the purchase of land after the date that is the moratorium date in relation to the national serviceman or female dependant and that agreement was, or is, entered into by the national serviceman or female dependant in pursuance of an option to purchase that land granted to the national serviceman or female dependant before that date, the national serviceman or female dependant shall, for the purposes of this section, be deemed to have become liable to pay the purchase money under the agreement on the date on which the option was granted.

21.—(1.) Subject to the next succeeding sub-section, where any payment of principal money or purchase money is postponed under this Division, interest is payable on that money until payment of the money is made, at the rate agreed upon by the parties before the interest falls due, or at the rate ascertained in accordance with the regulations, whichever is the lower rate.

(2.) If the rate of interest payable under any mortgage or agreement is thereby fixed by reference to rates current in the case of some specified class of transactions at the times when the sums of interest respectively fall due or are paid (as the case may be), the rate payable by virtue of this section is, at the option of the mortgagee or vendor, the rate as so fixed or the rate as fixed by this section, but so that the rate does not in any case exceed the rate ascertained in accordance with the regulations.

(3.) Interest payable by virtue of this section is payable at the close of the same intervals of time as are provided by the mortgage or agreement with respect to the interest payable under the mortgage or agreement, or, if no provision is so made, then quarterly.
22. Where in any mortgage to which this Division applies provision is made for the payment or acceptance of interest at a reduced rate in the case of punctual payment, interest is payable at the reduced rate notwithstanding that it is not paid punctually in accordance with that provision.

23.—(1.) Except as otherwise provided by this Division, this Division operates, so long as a postponement under this Division continues in respect of any principal money or purchase money, as a stay of all proceedings, whether by action or any other means and whether in any court or otherwise, against a national serviceman or a female dependant of a national serviceman, commenced before the commencement of this Division to enforce the payment, or in respect or in consequence of the non-payment of, the principal or purchase money, and of all remedies against the national serviceman or female dependant for the recovery of the principal or purchase money but does not otherwise prejudice or affect any such proceeding or remedy, or alter or affect the rights or obligations of any person, except so far as is necessary to give effect to this Division.

(2.) Upon the termination of the postponement effected by this Division, all proceedings so stayed may be continued, and all such remedies may be pursued, as if the period of postponement had not intervened.

24.—(1.) The appropriate court may order that this Division shall not apply in relation to the enforcement of a mortgage or agreement against a person if it is satisfied—

(a) that the whereabouts of that person are not known to the mortgagee or vendor;

(b) that the mortgagee or vendor has made reasonable efforts to ascertain those whereabouts; and

(c) that the mortgagee or vendor is not aware that that person is a national serviceman or a female dependant of a national serviceman,

or, if it is of opinion that, in the special circumstances of the case, the postponement effected by this Division is not necessary in the interests of the national serviceman or female dependant of a national serviceman concerned, or would cause hardship or loss to the mortgagee or vendor, as the case may be, or to any person towards whom, with respect to that mortgage or agreement, the mortgagee or vendor stands in the position of a trustee.

(2.) An application for an order under this section shall be made with notice to such persons as the court considers entitled to notice, or ex parte in any case in which by reason of special circumstances the court considers that procedure to be just and equitable.
(3.) The court may make all such interlocutory and final orders in the matter of any such application, including orders as to costs, as, having regard to the objects of this Division and the circumstances of the case, the court considers to be just and equitable.

(4.) The costs of any such application are in the discretion of the court.

(5.) The order of the court determining any application under this section is final, and no order, whether interlocutory or final, in the matter of any such application, and no other proceeding under this section, shall be appealed against, questioned or reviewed in any manner whatsoever or be restrained or removed by prohibition, injunction, certiorari or otherwise howsoever.

25. This Division shall not be taken to prevent, or to alter the effect of—

(a) any contract made after the date on which the national serviceman affected commenced to render national service, being a contract concerning a mortgage or agreement to which section 20 of this Act applies; or

(b) any instrument made or thing done in pursuance of any such contract.

26. This Division applies in any case where a national serviceman or a female dependant of a national serviceman is liable jointly with another person to pay the principal money under a mortgage or the purchase money under an agreement for the purchase of land in like manner as it applies where a national serviceman or a female dependant of a national serviceman is solely so liable.

Division 3.—Prohibition or Suspension of Proceedings.

27.—(1.) In this Division—

“hire-purchase agreement” includes a letting of goods with an option to purchase, an agreement for the payment for goods by instalments (whether the agreement describes the instalments as rent or hire or otherwise) and any other agreement for the purchase of goods, whether or not the property in the goods passes, on delivery, to the purchaser;

“the appropriate court” means—

(a) where the matter at issue does not exceed in value the sum of Five hundred pounds—a court of limited civil jurisdiction in the State or Territory of the Commonwealth in which the transaction was entered into constituted by a Police,
Stipendiary or Special Magistrate or by a barrister, solicitor, attorney or proctor, or, if there is no such court, the Supreme Court of that State or Territory;

(b) where the matter at issue exceeds in value the sum of Five hundred pounds but does not exceed in value the sum of Two thousand pounds—a District Court, County Court or Local Court of Full Jurisdiction in the State or Territory of the Commonwealth (other than the Territory of Papua or the Territory of New Guinea) in which the transaction was entered into, or, if there is no such court, or the transaction was entered into in the Territory of Papua or the Territory of New Guinea, the Supreme Court of the State or Territory of the Commonwealth in which the transaction was entered into; and

(c) in any other case—the Supreme Court of the State or Territory of the Commonwealth in which the transaction was entered into.

(2.) For the purposes of this Division, goods the subject of a hire-purchase agreement shall be deemed to belong to the purchaser.

28.—(1.) This section has effect subject to the next succeeding section.

(2.) A person shall not—

(a) except with the leave of the court by which the judgment was given, commence, proceed with or put in force any execution, or any other process or proceeding, to enforce any judgment against a national serviceman or a female dependant of a national serviceman where the judgment is in respect of the liability of the national serviceman or female dependant under a contract or agreement made before the date that is the moratorium date in relation to the national serviceman or female dependant or under any contract or agreement modifying, superseding, or in substitution for, any such contract or agreement; or

(b) except with the leave of the appropriate court, exercise any legal remedy in consequence of any default in the payment of a debt or the performance of an obligation by a national serviceman or a female dependant of a national serviceman, where the debt or obligation arose or arises under any such contract or agreement.
(3.) Where, before the date on which a national serviceman commenced to render national service, a person has commenced, proceeded with or put into force any execution, or any other process or proceeding, to enforce a judgment against that national serviceman or a female dependant of that national serviceman in respect of a liability of the kind referred to in paragraph (a) of the last preceding sub-section, and the execution, process or proceeding to enforce the judgment has not been completed at that date, the execution, process or proceeding is, by force of this sub-section, suspended, unless and until the court by which the judgment was given gives leave to proceed with the execution, process or proceeding.

(4.) Where a person has given a guarantee in relation to a contract or agreement to which sub-section (2.) of this section applies, a person shall not, except with the leave of the appropriate court, take any action for the enforcement of the guarantee.

(5.) An application for the leave of a court under this section shall be made with notice to such persons as the court considers entitled to the notice, or ex parte in any case in which by reason of special circumstances the court considers that procedure to be just and equitable, and may be disposed of in chambers.

(6.) In determining whether leave is to be granted under this section, the court shall consider—

(a) whether the failure to satisfy the judgment, pay the debt or perform the obligation was due to circumstances directly or indirectly attributable to the national service rendered by the national serviceman;

(b) the conduct of the national serviceman or female dependant in respect of any breach of the terms of the contract or agreement;

(c) whether the grant of leave would cause hardship to the national serviceman or female dependant; and

(d) whether refusal to grant leave would cause hardship to the applicant, or to some person towards whom, with respect to the judgment, contract or agreement, the applicant stands in the position of a trustee.

(7.) If, having regard to the considerations mentioned in the last preceding sub-section, and to all other relevant considerations, the court is of opinion that it is equitable so to do, it may—

(a) grant leave, either unconditionally or subject to such restrictions and conditions as the court thinks fit;

(b) refuse to grant leave;

(c) readjust the amounts of any instalments payable under the contract or agreement;

(d) postpone the time for payment of all or any such instalments in such manner and for such time as the court thinks just in the circumstances of the case; or
(e) modify the terms of any guarantee given in relation to the contract or agreement in such manner as the court thinks just in the circumstances of the case.

(8.) If the court orders that the time for payment of any instalments be postponed—

(a) the court may direct that interest on the instalments be paid at such rate as it considers reasonable in the circumstances of the case; and

(b) the court shall order that the time for payment of all subsequent instalments be postponed in such manner as the court thinks fit.

(9.) The court may exercise any of the powers conferred by paragraphs (c), (d) and (e) of sub-section (7.) of this section upon application made by or on behalf of the national serviceman or female dependant in the manner prescribed by sub-section (5.) of this section.

(10.) The costs of an application under this section are in the discretion of the court.

(11.) A settlement or agreement entered into by the parties after the making of an application for leave under this section is not valid unless approved by the court.

(12.) In this section—

"guarantee" includes any agreement or security included in or collateral to a contract or agreement referred to in sub-section (2.) of this section under which a third person undertakes to be answerable for the due performance of that contract or agreement or for the making of any payment falling due under that contract or agreement;

"judgment" means any judgment or order of a court (whether given or made before or after the commencement of this Division) for the payment or recovery of a sum of money;

"legal remedy" means any remedy by way of—

(a) the levying of distress on, or the taking of possession of, any property, other than goods the seizure or taking possession of which is prohibited by section 30 of this Act;

(b) re-entry upon any land;

(c) the realization of any security or the forfeiture of any deposit; or

(d) the rescission of any agreement for the sale and purchase of land.
(13.) Subject to the next succeeding sub-section, nothing in the preceding provisions of this section affects—

(a) any power or remedy of a mortgagee or vendor of land—
   (i) that arose or arises from any default in the payment of interest under or by virtue of a mortgage or agreement to which section 20 of this Act applies; or
   (ii) that is not affected by that section;

(b) any power to enforce a charge for rates on land;

(c) any power of sale of a mortgagee in possession of property, other than land or some interest in land, belonging to a national serviceman or a female dependant of a national serviceman, where the power of sale arose before the date on which the national serviceman commenced to render national service;

(d) any right or power of a pawnbroker to deal with pledges; or

(e) any proceedings relating to goods being purchased by a national serviceman or a female dependant of a national serviceman under a hire-purchase agreement where the national serviceman or female dependant has purported to sell or otherwise dispose of the goods or has parted with the possession of the goods.

(14.) Notwithstanding paragraph (b) of the last preceding sub-section, an action, suit or other proceeding shall not be brought or taken to enforce a charge for rates on land while the land is subject to a mortgage or agreement to which Division 2 of this Part applies.

29.—(1.) The last preceding section does not apply in relation to a judgment in respect of liability under, or in relation to a debt that arose under, a hire-purchase agreement unless—

   (a) the amount owing under the judgment or in respect of the debt exceeds—
      (i) if one amount is prescribed for the purposes of this paragraph—that amount;
      (ii) if different amounts are prescribed in relation to different classes of contracts or agreements to which judgments referred to in this paragraph relate or under which debts so referred to arose—the amount prescribed in relation to the class of contracts or agreements in which is included the contract or agreement to which the judgment relates or under which the debt arose; or
      (iii) in any other case—Forty pounds; or
(b) an order has been made by a court under this section declaring that the last preceding section applies in relation to that judgment or debt and a copy of the order has been registered in the Register of Orders in accordance with this section.

(2.) Where the total of the amounts owing by a national serviceman or a female dependant of a national serviceman under judgments or in respect of debts referred to in sub-section (2.) of the last preceding section exceeds such amount as is prescribed or, if no amount is prescribed, Two hundred pounds, the national serviceman or female dependant may, within three months after the national serviceman commenced to render national service, apply to a prescribed court for an order declaring that the last preceding section applies in relation to those judgments or debts.

(3.) The provisions of the last preceding section relating to procedure and costs apply to applications under this section.

(4.) Where the court is satisfied—
(a) that the national serviceman or female dependant would suffer hardship if an order were not made under this section; and
(b) that, having regard to all the circumstances of the case, it is just and equitable that the national serviceman or female dependant should have the benefit of an order under this section,

the court shall make the order.

(5.) Where an order is made by the court under this section, the national serviceman, or female dependant of a national serviceman, on whose application the order was made shall furnish a copy of the order to the prescribed authority as soon as practicable after the order is made.

(6.) Upon receipt of a copy of an order made under this section, the prescribed authority shall forthwith cause it to be registered in a Register of Orders to be kept in the prescribed manner by the authority for the purposes of this section by entering in the Register such matters in relation to the order as are prescribed.

(7.) Upon application by any person, the prescribed authority shall, without requiring payment of any fee—
(a) permit the person to inspect the Register of Orders at the place where that Register is kept; and
(b) give to the person a certificate in writing under the hand of the authority certifying whether a copy of an order made by a court under this section in respect of a judgment or debt referred to in the application has been registered in the Register of Orders.
(8.) A certificate given under the last preceding sub-section is evidence—

(a) of the facts certified in the certificate; and

(b) if the certificate certifies that a copy of an order made by a court under this section in respect of a judgment or debt has been registered in the Register of Orders—of the due making of that order by that court.

(9.) A document purporting to be a certificate given by the prescribed authority under sub-section (7.) of this section shall, unless the contrary is proved, be deemed to be such a certificate and to have been duly given.

(10.) In this section, expressions defined by the last preceding section have the same respective meanings as they have in that section.

30.—(1.) A person shall not, except with the leave of the appropriate court, under a writ of execution or other process issued by a court, by way of distress, or under the provisions of a bill of sale or hire-purchase agreement made before the date that is the moratorium date in relation to the national serviceman or female dependant of a national serviceman affected or under any agreement modifying, superseding or in substitution for any such agreement, seize or take possession of any goods that are used by, or belong to, a national serviceman or a female dependant of a national serviceman.

(2.) A person shall not, except with the leave of the appropriate court, proceed with the execution of any writ of fieri facias or writ of execution, whenever issued, against land on which a dwelling-house is erected and which is owned by a national serviceman or female dependant of a national serviceman, whether the judgment or order in respect of which the writ was issued was given or made before or after the date that is the moratorium date in relation to the national serviceman or female dependant.

(3.) Where the goods concerned are being purchased under a hire-purchase agreement or are the subject of a bill of sale and the court, on application for leave by the vendor under the hire-purchase agreement or by the grantee of the bill of sale, is satisfied—

(a) that the national serviceman or female dependant of a national serviceman concerned would not suffer any hardship if the agreement or bill of sale were enforced; or

(b) that, having regard to all the circumstances of the case, it would be inequitable to the vendor or grantee that the national serviceman or female dependant of a national serviceman should have the benefit of this section, the court shall grant leave.
(4.) Leave shall not be granted under sub-section (1.) of this section—

(a) in any case where the national serviceman or female dependant of the national serviceman is occupying the dwelling-house concerned; or

(b) if the national serviceman or female dependant of the national serviceman is not occupying the dwelling-house concerned but the national serviceman or female dependant desires in good faith to occupy the dwelling-house and has taken steps to obtain possession of the dwelling-house.

(5.) The leave of the appropriate court under this section may be granted upon an application under section 28 of this Act or upon an application under this section made in the manner prescribed by section 28 of this Act.

(6.) The provisions of section 28 of this Act relating to procedure and costs apply to applications under this section.

(7.) This section does not apply in relation to any goods being purchased under a hire-purchase agreement where the national serviceman or female dependant of a national serviceman has purported to sell or otherwise dispose of, or has parted with the possession of, the goods before payment for the goods has been completed.

(8.) In any prosecution for an offence arising under this section, an order may be made for the return of any goods seized or taken possession of in contravention of this section, or for payment of their value.

(9.) Any such order providing for the payment of the value of any goods may be enforced in the same manner as an order or judgment for the payment or recovery of money made by the court in the exercise of its civil jurisdiction.

(10.) Where any such order provides for the return of any goods, any constable may take possession of the goods and return them to the person to whom the court directed them to be returned, and for that purpose may, and if need be by force and with such assistance as is necessary, break open, enter and search any premises in which he has reason to believe or suspects the goods to be.

(11.) A person shall not hinder or obstruct a constable in the exercise of his powers under the last preceding sub-section.

(12.) In this section, “the appropriate court”, in relation to the granting of leave to seize or take possession of any goods, or proceed with the execution of any writ of fieri facias or writ of execution against land, for the purpose of satisfying a judgment, includes the court by which the judgment was given.
31.—(1.) The protection afforded by section 28 of this Act (including that section as affected by section 29 of this Act) and the last preceding section continues until the expiration of—

(a) the period immediately following the date on which the national serviceman completes his national service equal to the period of that service; or

(b) the period of twelve months immediately following that date,

whichever is the shorter.

(2.) Where the person protected is a national serviceman or a female dependant of a national serviceman and the national serviceman dies before he completes his national service, the protection continues until the expiration of the period of twelve months immediately following the date of his death.

(3.) Where the person protected is a female dependant of a national serviceman, and she dies before the national serviceman completes his national service, the protection ceases at the expiration of twelve months after her death, unless, in the meantime, the national serviceman becomes protected in respect of the matter with respect to which the female dependant received protection, in which case the protection continues in accordance with sub-section (1.) or sub-section (2.) of this section, as the case may be.

(4.) During any period in which the protection is continued in relation to a person who has been a national serviceman or a female dependant of a national serviceman, the last three preceding sections have effect as if that person were still a national serviceman or female dependant, as the case may be.

32.—(1.) The appropriate court may, upon application by or on behalf of a national serviceman or a female dependant of a national serviceman, made in the manner prescribed by section 28 of this Act, order the postponement of the time for payment—

(a) of any interest payable under a mortgage or agreement to which section 20 of this Act applies; or

(b) of any rates on land payable by the national serviceman or female dependant.

(2.) In determining an application under paragraph (a) of the last preceding sub-section, the court shall consider whether the making of the order applied for would cause hardship to the mortgagee or vendor, or to some person towards whom, with respect to the mortgage or agreement, the mortgagee or vendor stands in the position of a trustee, and in determining an
application under paragraph (a) or paragraph (b) of that sub-
section the court shall consider whether the refusal of the application would cause hardship to the national serviceman or female dependant.

(3.) If, having regard to the considerations mentioned in the last preceding sub-section, and to all other relevant considerations, the court is of opinion that it is equitable so to do, it may—

(a) postpone the time for payment of all or any such interest or rates in such manner and for such time as the court thinks just in the circumstances of the case; or

(b) refuse to grant the application.

(4.) The provisions of section 28 of this Act relating to procedure apply to applications under this section.

(5.) The costs of an application under this section shall be borne by the applicant unless the court orders otherwise.

33.—(1.) Where it appears to any court of a State or Territory of the Commonwealth, on application made by or on behalf of any national serviceman or female dependant of a national serviceman, that any writ or other legal process has been issued or is proposed to be issued out of the court in respect of any liability of any national serviceman or female dependant of a national serviceman under any contract or agreement, and that the contract or agreement is, so far as the national serviceman or female dependant is concerned, unduly onerous, the court may make such order upon such terms and conditions as it thinks fit prohibiting or suspending the issue of the process, or, if the process has already been issued, prohibiting or suspending further proceedings in pursuance of the process.

(2.) If in relation to any transaction it appears to the appropriate court, on application made by or on behalf of a national serviceman or female dependant of a national serviceman, that the transaction is, so far as the national serviceman or female dependant is concerned, unduly onerous, or is such that a court of equity would give relief, the court may re-open the transaction and take an account between the national serviceman or female dependant and the other party to the transaction, and make such order as it thinks just as regards the transaction, and as regards any property affected by the transaction, and any such order has effect according to its tenor and shall be complied with by the parties to the transaction.

(3.) The provisions of section 28 of this Act relating to procedure and costs apply to applications under this section.

34.—(1.) A person shall not, without leave of a court having jurisdiction in bankruptcy or insolvency, issue a bankruptcy notice (or, in the Territory of Papua or the Territory of New Guinea,
a debtor’s summons) or present a bankruptcy petition or petition for adjudication in insolvency, against a national serviceman or a female dependant of a national serviceman, where the judgment or final order in respect of which the bankruptcy notice would be issued is, or the debtor’s summons would be issued or the petition presented, in respect of a debt or obligation that arose before the date that is the moratorium date in relation to the national serviceman or female dependant.

(2.) The court shall not grant leave unless the court is satisfied that, having regard to all the circumstances of the case (including the conduct and financial position of the national serviceman or female dependant of a national serviceman and of the applicant), it would be inequitable to refuse to grant leave.

(3.) Where a bankruptcy petition or petition for adjudication in insolvency has been presented by a creditor against a national serviceman or a female dependant of a national serviceman, and the national serviceman or female dependant satisfies the court to which the petition was presented that his or her inability to pay his or her debts is due to circumstances directly or indirectly attributable to the rendering by the national serviceman of national service, the court may, after considering all the circumstances of the case and the position of all the parties, at any time stay the proceedings under the petition for such time and subject to such conditions as the court thinks fit.

(4.) Where a court is satisfied that—

(a) a person against whom the court has, on the petition of a creditor, made a sequestration order or an adjudication of insolvency is a national serviceman or a female dependant of a national serviceman; and

(b) if the sequestration order or adjudication of insolvency is annulled—

(i) the business (if any) of that person will continue to be carried on by or on behalf of that person; and

(ii) there will be a reasonable prospect of that business being carried on successfully,

the court may make an order annulling the sequestration order or adjudication of insolvency.

(5.) An order made in pursuance of the last preceding sub-section—

(a) in the case of an order annulling a sequestration order—has the same effect as an annulment of the sequestration order effected under the Bankruptcy Act 1924-1960; or

(b) in the case of an order annulling an adjudication of insolvency—has the same effect as an annulment of
the adjudication of insolvency effected under the Insolvency Ordinance 1951 in force under the Papua and New Guinea Act 1949–1964.

(6.) An order made in pursuance of sub-section (4.) of this section may be made on such conditions (including the reimbursement of the costs incurred by the petitioning creditor in the bankruptcy or insolvency proceedings) as the court thinks just.

35.—(1.) A person shall not take or continue against a partner who is a national serviceman any proceedings or other action, whether in pursuance of a partnership agreement or otherwise, for the dissolution of any partnership or for the expulsion of that partner, or for the forfeiture of his share in the partnership, unless and until the Attorney-General or all the partners consent to the taking or continuance of the proceedings or other action.

(2.) This section applies in relation to a person who has been a national serviceman, in the same manner as it applies in relation to a national serviceman, for—

(a) the period immediately following the date on which he completed his national service equal to the period of that service; or

(b) the period of twelve months immediately following that date,

whichever is the shorter.

Division 4.—General.

36. A person who, under the law of a State or Territory of the Commonwealth, performs functions in relation to the registration of titles to land may, upon submission to him of evidence of re-entry by a lessor, require such evidence as he deems necessary that the re-entry does not contravene any provision of this Part and may refuse to note the re-entry until evidence accordingly is submitted to him.

37.—(1.) Any person (in this section referred to as “the claimant”) who desires to do, or to continue or complete the doing of, any act against any person (in this section referred to as “the respondent”) may, if the respondent is resident in Australia and is not, to the knowledge of the claimant, a national serviceman or a female dependant of a national serviceman, serve on the respondent in the manner provided by this section, a notice (in accordance with the prescribed form) requiring the respondent to inform the claimant, within fourteen days after the receipt of the notice, whether or not the respondent is a national serviceman or a female dependant of a national serviceman within the meaning of this Act.
(2.) A notice under the last preceding sub-section shall be served—

(a) personally on the respondent; or

(b) by properly addressing, registering and posting (under prepaid postage) the notice as a letter to the last address of the respondent known to the claimant,

and a notice served in accordance with paragraph (b) of this sub-section shall, unless the contrary is proved, be deemed to have been served at the time at which the letter would be delivered in the ordinary course of post.

(3.) If, within the period specified in sub-section (1.) of this section, a statutory declaration by the respondent or by some person having knowledge of the facts stating that the respondent is a national serviceman or a female dependant of a national serviceman within the meaning of this Act, is not furnished to the claimant, then, notwithstanding that the respondent is, or at any subsequent time becomes, a national serviceman or a female dependant of a national serviceman, this Part does not apply in respect of the doing, or in respect of the continuance or completion of the doing, of an act of the kind referred to in sub-section (1.) of this section, provided the claimant commences to do, or to continue or complete the doing of, the act within twenty-one days after the expiration of the period specified in that sub-section.

(4.) For the purposes of the last preceding sub-section, where the doing of any act is dependent on the completion of any preliminary act, the commencement of the doing, or the continuance or completion of the doing, of the preliminary act shall be deemed to be the commencement of the doing of the first-mentioned act.

(5.) If the claimant produces evidence (supported by statutory declaration) to the satisfaction of a prescribed officer that—

(a) the respondent has abandoned the property in respect of which the claimant desires to do, or to continue or complete the doing of, any act; or

(b) the respondent cannot be found, the claimant has made reasonable efforts to ascertain his whereabouts and the claimant is not aware that the respondent is a national serviceman or a female dependant of a national serviceman,

the officer may give to the claimant a certificate to that effect and thereupon this Part does not apply in respect of the doing, or in respect of the continuance or completion of the doing, of the act by the claimant.

(6.) A document purporting to be a certificate given in pursuance of the last preceding sub-section shall, unless the contrary is proved, be deemed to be such a certificate and to have been duly given.
38.—(1.) Subject to this section, a transaction or proceeding is not invalidated by reason only that it has been entered into or taken in contravention of this Part, but nothing in this section affects the liability of any person to a penalty in respect of any such contravention.

(2.) The appropriate court may, on the application of the Attorney-General or of any person interested, make an order invalidating a transaction or proceeding entered into or taken in contravention of this Part, but the court shall not make such an order if the court is satisfied that the effect of the order (if made) would be to prejudice the rights of a person in respect of, or arising out of, the transaction or proceeding, being rights that are acquired in good faith and without notice of the contravention.

(3.) In this section, “the appropriate court” means the Supreme Court of the State or Territory of the Commonwealth in which the transaction or proceeding was entered into or taken.

39. In calculating the time fixed by any Statute of Limitations or other Act, State Act or law of a Territory of the Commonwealth within which any action may be commenced or other remedy may be pursued, account shall not be taken of any period during which the time for payment of any money is postponed, or during which any proceedings, or proposed proceedings, are stayed, prohibited or suspended, under this Part.

40.—(1.) A right to commence any action, suit or other proceeding, or to enforce, exercise or pursue any right, power or remedy, which, whether before or after the commencement of this Division, was or is possessed by a national serviceman or by a person who, after he became or becomes possessed of the right, became or becomes a national serviceman, is not barred by the expiration, during the prescribed period, of any period of limitation fixed by any law (whether of the Commonwealth, a State or a Territory of the Commonwealth) in force in Australia or any part of Australia, or by any agreement, mortgage or instrument with respect to any such right, and the action, suit or other proceeding may be commenced, or the right, power or remedy may be enforced, exercised or pursued, at any time before the expiration of the prescribed period.

(2.) In this section, “the prescribed period” means the period during which the national serviceman is or was rendering national service, together with—

(a) the period immediately following the date on which he completed or completes that service equal to the period of that service; or

(b) the period of twelve months immediately following that date,

whichever is the shorter.
Provisions relating to courts.

41.—(1.) If, on any application to a court under this Part, any objection (based on the amount of principal or purchase money outstanding, or on the value of the matter at issue) is taken to the jurisdiction of the court, the court shall determine the objection summarily, but the decision of the court does not operate as an estoppel between the parties or their privies in any subsequent proceeding.

(2.) An order made by a court under this Part shall not be appealed against, questioned or reviewed in any manner whatsoever, or be restrained or removed by prohibition, injunction, certiorari or otherwise howsoever, by reason of any want of jurisdiction arising out of the amount of principal or purchase money outstanding, or the value of the matter at issue, as the case may be.

(3.) The regulations may make provision for or in relation to the taking by a court to which an application is made under this Part of evidence from a person who is not readily available to appear before, and give evidence orally to, the court and, in particular, may restrict the powers of the court to require such a person so to appear and give evidence.

Part not to apply to trustees.

42. This Part does not apply to, or in relation to, any obligation of a national serviceman or of a female dependant of a national serviceman under or by virtue of a mortgage, contract, agreement or bill of sale that he or she has given or entered into as a trustee or in any representative capacity, or in respect of any liability that he or she has incurred as a trustee or in any such capacity.

Offences.

43. A person who contravenes, or fails to comply with, a provision of this Part is guilty of an offence punishable, on conviction, by a fine not exceeding One hundred pounds or imprisonment for a period not exceeding six months, or both.

PART IV.—VOCATIONAL TRAINING.

44.—(1.) The Minister may, on behalf of the Commonwealth, establish a scheme, to be known as the National Service Vocational Training Scheme, for the vocational training of such persons or classes of persons, being persons who have been discharged, otherwise than by a dishonourable discharge, from the Regular Army Supplement immediately after having rendered national service, as the Minister determines.

(2.) The Minister may, on behalf of the Commonwealth, make arrangements with any State for the use, for the purposes of this Part, of any services and facilities of the State in relation to vocational training.

(3.) Any such arrangement may provide for the extension of any such services and facilities of the State and for the use of those services and facilities as extended in pursuance of the arrangement.
(4.) The Minister may, on behalf of the Commonwealth, provide, or arrange for the provision of, facilities in connexion with any such scheme.

(5.) Subject to such conditions as the Minister determines, the Commonwealth shall pay to persons undergoing training under this Part such allowances and expenses as the Minister determines.

(6.) The Commonwealth may, subject to such conditions as the Minister determines, pay tuition and other like fees on behalf of persons undergoing training under this Part.

(7.) The Commonwealth may, subject to such conditions as the Minister determines, provide or supply to persons undergoing training under this Part, or arrange for the provision or supply to such persons, of such books, equipment, appliances and tools of trade as are necessary in connexion with the training.

45. Nothing done under this Part deprives any employer or employee of any rights under any industrial award, order, determination or agreement, or in accordance with any custom or usage in any profession, occupation, business, trade or industry.

46. The regulations may prescribe matters providing for or in relation to—

(a) the selection of persons for training, or for any particular kind of training;

(b) the method and time of application for training; and

(c) such other matters as are necessary or convenient for carrying out or giving effect to this Part.

PART V.—REHABILITATION OF DISABLED PERSONS.

47.—(1.) Subject to this section, the operation of Part VIII. of the Social Services Act 1947–1964 extends to, and in relation to, disabled persons as defined by sub-section (3.) of this section in the same way as it applies to pensioners, claimants for pensions, beneficiaries and claimants for benefits as defined by that Part.

(2.) For the purposes of Part VIII. of the Social Services Act 1947–1964, in its operation as extended by the last preceding sub-section, a reference in that Part to a pensioner, claimant for a pension, beneficiary or claimant for a benefit shall be read as a reference to a disabled person as defined by the next succeeding sub-section.

(3.) For the purposes of this Part, a disabled person is a person who has been discharged, otherwise than by a dishonourable discharge, from the Regular Army Supplement immediately after having rendered national service and, by reason of injury, disease
or deformity, is hindered in obtaining, or maintaining himself in, employment, or in undertaking work on his own account, of a kind which, but for that injury, disease or deformity, would, in the opinion of the Director-General of Social Services, be suitable to his age, experience and qualifications.

48. While a disabled person is receiving treatment under Part VIII. of the *Social Services Act 1947–1964* in its operation as extended by this Part, he shall be paid—

(a) a rehabilitation allowance at the same rate as the rate of the invalid pension that would for the time being be payable to him under Part III. of that Act if he were in receipt of that pension; and

(b) an amount equal to the rate of any wife's allowance and child's allowance that would, if he were in receipt of that pension, be payable to his wife under that Part.

49. A disabled person is not entitled to receive any assistance or benefit under this Part—

(a) if he is entitled to receive the like assistance or benefit from the Repatriation Commission; or

(b) unless he applied to the Director-General of Social Services for assistance or benefit under this Part within such period after the completion of his national service as is prescribed.

**PART VI.—RE-ESTABLISHMENT LOANS.**

50. In this Part—

"agricultural occupation" includes an occupation by way of farming, horticultural, viticultural, apicultural, dairy farming, poultry farming, pastoral or grazing operations or any other prescribed form of primary production;

"eligible person" means a person who—

(a) has been discharged, otherwise than by a dishonourable discharge, from the Regular Army Supplement immediately after having rendered national service; and

(b) was, immediately before the service on him of a notice under section 26 of the *National Service Act 1951–1965*, engaged in an occupation, business or practice on his own account, as an active member of a partnership, as a share-farmer or as a contract worker or was, in the opinion of a prescribed authority, prevented from so engaging by reason of his having commenced to render national service.
Defence (Re-establishment)

51.—(1.) Subject to this Part, a prescribed authority may, if, in the opinion of the prescribed authority, an eligible person is in need of financial assistance to enable him to establish or re-establish himself satisfactorily in civil life, make a loan to that person so that that person may—

(a) purchase or take on lease any land or premises, purchase or take on lease any business, effect improvements on land, or purchase, take on hire or otherwise acquire tools of trade, stock, live-stock, plant or equipment, to enable him—

(i) to engage in or resume any occupation, business or practice, whether on his own account, as an active member of a partnership, as a share-farmer or as a contract worker;

(ii) to expand or develop his business or practice;

(iii) to establish a co-operative business with other persons; or

(iv) to carry on an occupation, business or practice more efficiently;

(b) reduce or discharge any mortgage, charge, bill of sale or other encumbrance on property owned by him and used in his occupation, business or practice;

(c) fulfil his obligations under a hire purchase agreement in respect of property so used;

(d) pay any subscription, fee or other sum of money to enable or qualify him to engage in or resume any occupation, business or practice; or

(e) otherwise establish or re-establish himself in civil life by engaging in or resuming an occupation, business or practice, whether on his own account, as an active member of a partnership, as a share-farmer or as a contract worker.

(2.) Subject to this Part, a prescribed authority may guarantee the repayment of any loan (including interest on the loan) made or to be made for any of the purposes specified in paragraphs (a), (b), (c), (d) and (e) of the last preceding sub-section.

(3.) A prescribed authority may, instead of making a loan of money under sub-section (1.) of this section, make available property to an eligible person referred to in that sub-section, and the amount of the value of the property so made available shall be deemed to be a loan of that amount made to that person.

52.—(1.) The amount of any loan made, or in respect of which a guarantee is given, under this Part to any eligible person (or, if there is more than one such loan, the aggregate of those loans) shall not exceed—

(a) such amount as is prescribed; and
(b) where the loan is for the purpose of enabling the eligible person to engage in or resume a prescribed occupation, business or practice—such amount as is prescribed in respect of that occupation, business or practice.

(2.) The aggregate amount of any loans made, or in respect of which guarantees are given, under this Part to more than one eligible person in respect of the same business or practice shall not exceed the amount of the loan that could have been made, or in respect of which a guarantee could have been given, to one eligible person in respect of that business or practice.

(3.) Where two or more eligible persons have agreed to carry on a business or practice jointly, the last preceding sub-section does not apply in relation to any loans made, or in respect of which guarantees are given, under this Part to each of those persons who, in the opinion of a prescribed authority, devotes or intends to devote the whole of his time to active participation in that business or practice.

53.—(1.) Subject to this Part, a loan made or guarantee given under this Part by a prescribed authority shall be made or given on such security and on such terms and conditions as the prescribed authority determines.

(2.) The regulations may make provision for or in relation to the form, registration and effect of securities (other than securities over land) given in pursuance of the last preceding sub-section.

(3.) An infant may give a security, and the security has the same effect, and may be enforced to the same extent, as if he were not an infant.

54. Loans made under this Part bear interest at such rate as is prescribed.

55.—(1.) Subject to this section, a loan shall not be made or guarantee given under this Part by a prescribed authority unless—

(a) an application for the loan or guarantee is made within the prescribed period;

(b) the applicant satisfies the prescribed authority that he has the ability and qualifications to engage in, with a reasonable prospect of success, the occupation, business or practice in respect of which the loan or guarantee is sought;

(c) the applicant satisfies the prescribed authority that the applicant's engaging in the occupation, business or practice is a suitable means of establishing or re-establishing himself in civil life; and
(d) the applicant satisfies the prescribed authority that he is likely to be able to repay the amount of the loan made or guaranteed within a reasonable period.

(2.) In determining whether a loan should be made or a guarantee given to an applicant, the prescribed authority shall take into account—

(a) the effect of the applicant's national service on his capacity and opportunities to establish or re-establish himself in civil life; and

(b) where there are limited opportunities for the establishment of a business or practice of a particular type or in a particular locality—the applications of other eligible persons and the effect of the establishment of the business or practice on other persons conducting businesses or practices of the same or a similar type, or on persons who have ceased to conduct such businesses or practices by reason of circumstances attributable to the rendering by them of national service.

56.—(1.) Where a prescribed authority is satisfied—

(a) that any money lent under this Part by that prescribed authority has not been applied for the purpose for which it was lent or has not been carefully and economically expended; or

(b) owing to the misconduct, idleness or inefficiency of the person to whom the loan was made, the purpose for which the loan was made is not likely to be achieved, the balance of the loan then remaining unpaid shall, at the option of the prescribed authority, become due and payable on demand and be recoverable with interest on that balance and, after the exercise of the option, interest accrues from day to day.

(2.) Where the prescribed authority by which a loan has been made under this Part is satisfied as to any of the matters specified in paragraphs (a) and (b) of the last preceding sub-section, the prescribed authority may vary all or any of the terms and conditions on which the loan was made.

(3.) Where the prescribed authority by which a loan has been made under this Part is satisfied that, in view of the efficiency or industry of the person to whom the loan was made, it is desirable to do so, the prescribed authority may vary, in favour of that person, all or any of the terms and conditions on which the loan was made.

57.—(1.) A prescribed authority may, with the consent of the Treasurer, enter into an agreement with the Commonwealth Trading Bank of Australia, the Commonwealth Development...
Bank of Australia, a State, an authority of a State or a savings bank for the performance by the Commonwealth Trading Bank of Australia, the Commonwealth Development Bank of Australia, the State, the authority or the savings bank of such of the functions of the prescribed authority under this Part as are specified in the agreement.

(2.) Where a bank, State or authority that has entered into any agreement under the last preceding sub-section makes any loan to, or gives any guarantee with respect to a loan made to, an eligible person, in accordance with that agreement, the bank, State or authority, as the case may be, may take any security in respect of the loan or guarantee in its own name.

(3.) A prescribed authority may, with the consent of the Treasurer, make loans to, and may, on behalf of the Commonwealth, give financial guarantees to an authority of a State or a savings bank making loans to, or giving guarantees with respect to loans made to, eligible persons, in accordance with the agreement.

PART VII.—MISCELLANEOUS.

58. Where this Act provides for the determination of a matter by a court—

(a) if the court is a court of a State—the court is invested with federal jurisdiction to hear and determine the matter; and

(b) if the court is a court of a Territory of the Commonwealth—jurisdiction is conferred on the court to hear and determine the matter.

59.—(1.) The Minister or a prescribed authority may, either generally or otherwise as provided in the instrument of delegation, by writing under his hand, delegate all or any of his powers and functions under this Act, except this power of delegation.

(2.) A power or function so delegated may be exercised or performed by the delegate in accordance with the instrument of delegation.

(3.) A delegation under this section is revocable at will and does not prevent the exercise of a power or the performance of a function by the Minister or the prescribed authority.

60. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act, and, in particular, prescribing penalties not exceeding a fine of Fifty pounds for offences against the regulations.