

# DEFENCE PREPARATIONS.

No. 20 of 1951.

An Act relating to Defence Preparations  
necessary during the present International  
Emergency.

[Assented to 19th July, 1951.]

**W**HEREAS Australia, in common with the United Kingdom, the United States of America and other nations associated with Australia in the British Commonwealth of Nations and in the United Nations, is pledged to support collective action for resisting international aggression : Preamble.

AND WHEREAS, in the opinion of the Parliament and of the Government of the Commonwealth, there exists a state of international emergency in which it is essential that preparations for defence should be immediately made to an extent, and with a degree of urgency, not hitherto necessary except in time of war :

AND WHEREAS the defence preparations of Australia will include, in the first place, the raising, equipping and provisioning of the armed forces of Australia in increasing numbers and the equipping and provisioning of armed forces of other members of the British Commonwealth of Nations and of the United Nations :

AND WHEREAS the defence preparations of Australia will include also measures to secure the maintenance and sustenance of the people of Australia in the event of war and to contribute towards the maintenance and sustenance of the people of countries associated with Australia in defence preparations :

AND WHEREAS the defence preparations of Australia will include also the expansion of the capacity of Australia to produce and manufacture goods, and to provide services, for the purposes of the defence preparations mentioned in the last two preceding paragraphs and generally for the purpose of enabling the economy of Australia to meet the probable demands upon it in the event of war :

AND WHEREAS in present circumstances the defence preparations mentioned in the preceding paragraphs cannot be carried out without the diversion of certain of the resources of Australia (including money, materials and facilities) for use in, or in connexion with, defence preparations :

AND WHEREAS the defence preparations mentioned in the preceding paragraphs cannot be carried out to the necessary extent, and, in particular, the resources of Australia cannot be diverted to the extent necessary to fulfil the requirements of defence, unless at the same time measures are undertaken for adjusting the economy of Australia to meet the threat of war and for avoiding or reducing economic dislocation or instability caused by, or impeding, defence preparations :

AND WHEREAS, having regard to the foregoing, the military and economic strength necessary for the defence of Australia cannot, in the opinion of the Parliament and of the Government of the Commonwealth, be built up and maintained with sufficient expedition and effectiveness unless the Government has authority to take such measures as are from time to time required in relation to any or all of the matters mentioned in the preceding paragraphs :

BE it therefore enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

- Short title.            1. This Act may be cited as the *Defence Preparations Act 1951*.
- Commencement.        2. This Act shall come into operation on the day on which it receives the Royal Assent.
- Application to Territories.    3. This Act extends to the Territories of the Commonwealth not forming part of the Commonwealth and, in this Act, "Australia" includes those Territories.

4.—(1.) The Governor-General may make regulations for or in relation to defence preparations. Emergency regulations.

(2.) The regulations which may be made under the last preceding sub-section include, without limiting the generality of the power to make regulations conferred by that sub-section, regulations for or in relation to—

- (a) the expansion of the capacity of Australia to produce or manufacture goods, or to provide services, for the purposes of defence preparations or for the purpose of enabling the economy of Australia to meet the probable demands upon it in the event of war ;
- (b) the diversion and control of resources (including money, materials and facilities) for the purposes of defence preparations ;
- (c) the adjustment of the economy of Australia to meet the threat of war or the avoidance or reduction of economic dislocation or instability caused by, or impeding, defence preparations ; and
- (d) measures to secure the maintenance and sustenance of the people of Australia in the event of war or to contribute towards the maintenance and sustenance of the people of countries associated with Australia in defence preparations.

(3.) Nothing in this section authorizes the making of regulations—

- (a) imposing taxation ;
- (b) with respect to the borrowing of money on the public credit of the Commonwealth ;
- (c) for or in relation to the compulsory direction of labour ; or
- (d) imposing any form of, or extending any existing obligation to render, compulsory naval, military or air-force service.

5.—(1.) The regulations may empower a person to make orders providing for any matter which may be provided for by the regulations. Orders.

(2.) Orders made under the regulations shall not be deemed to be Statutory Rules within the meaning of the *Rules Publication Act 1903-1939*.

(3.) The provisions of section forty-eight (except paragraphs (a) and (b) of sub-section (1.) and sub-section (2.)) and of section forty-nine of the *Acts Interpretation Act 1901-1950* apply, by force of this section, to orders made under the regulations which are of a legislative character in like manner as those provisions apply to regulations.

(4.) The *Acts Interpretation Act 1901-1950* applies, by force of this section, to the interpretation of orders made under the regulations in like manner as it applies to the interpretation of regulations, and, for the purposes of section forty-six of that Act, orders so made shall be deemed to be regulations.

(5.) Where the regulations confer power to make orders, that power includes, unless the contrary intention appears, power, exercisable in the like manner and subject to the like conditions (if any), to repeal, revoke, amend or vary an order so made.

Date from  
which orders  
take effect.

6. An order made under the regulations shall take effect—

- (a) in the case of an order required by the regulations to be published in the *Gazette*—on the date of publication; and
- (b) in any other case—on the date on which the order is made, or on such later date as is specified in the order.

Proof of  
instruments.

7.—(1.) A document purporting to be an instrument made or issued by a Minister or by any other authority or person in pursuance of a provision contained in, or having effect under, the regulations, and to be signed by or on behalf of the Minister, authority or person, shall be received in evidence and shall, unless the contrary is proved, be deemed to be an instrument made or issued by the Minister, authority or person.

(2.) Evidence of such an instrument may, in any legal proceedings (including arbitrations), be given by the production of a document purporting to be certified to be a true copy of the instrument by, or on behalf of, the Minister, authority or person having power to make or issue the instrument.

Offences.

8.—(1.) A person who contravenes, or fails to comply with, a provision of the regulations or of an order made under the regulations is guilty of an offence against this Act.

(2.) An offence against this Act may be prosecuted either summarily or upon indictment but an offender is not liable to be punished more than once for the same offence.

(3.) The penalty for an offence against this Act is—

- (a) if the offence is prosecuted summarily—a fine not exceeding Two hundred and fifty pounds or imprisonment for a term not exceeding six months, or both; or
- (b) if the offence is prosecuted upon indictment—a fine not exceeding Five thousand pounds or imprisonment for a term not exceeding two years, or both.

(4.) An offence against this Act shall not be prosecuted summarily without the written consent of the Attorney-General or of a person authorized in writing by the Attorney-General to grant consent and an offence against this Act shall not be prosecuted upon indictment except in the name of the Attorney-General.

(5.) In addition to any other punishment the court may, if it thinks fit, order the forfeiture of any money or goods in respect of which an offence against this Act has been committed.

9. Where a person is obliged to answer questions orally by virtue of a regulation or order in force by virtue of this Act, or by virtue of a requirement made under such a regulation or order, he shall not refuse to answer a question on the ground that the answer may tend to incriminate him or to make him liable to a penalty but the answers given by him are not admissible in evidence in proceedings against him other than proceedings in respect of the falsity of the answers or in respect of a refusal or failure to answer a question.

Admissibility in evidence of answers given orally under compulsion.

10. A power given by or in pursuance of this Act or the regulations, or by or in pursuance of an order or other instrument made or issued in pursuance of this Act or the regulations, is in addition to, and does not derogate from, any other power.

Act not to derogate from other powers.

11.—(1.) A Minister may, in relation to a matter or class of matters, or in relation to a particular part of Australia, by writing under his hand, delegate all or any of his powers and functions under the regulations, so that the delegated powers or functions may be exercised by the delegate with respect to the matter or class of matters, or the part of Australia, specified in the instrument of delegation.

Delegation of powers under regulations.

(2.) A delegation under this section is revocable at will and no delegation prevents the exercise of a power or function by the Minister.

12. Regulations under section four of this Act may—

- (a) confer original jurisdiction on the High Court in any matter arising under the regulations ;
- (b) define the jurisdiction of any federal court, other than the High Court, with respect to any matter arising under the regulations ;
- (c) invest any court of a State with federal jurisdiction, or confer jurisdiction on a court of a Territory of the Commonwealth, with respect to any matter arising under the regulations ; and
- (d) prescribe the number of Judges by which the federal jurisdiction of any court with respect to any matter arising under the regulations may be exercised.

Provisions with respect to courts.

13.—(1.) This Act shall continue in operation until the thirty-first day of December, One thousand nine hundred and fifty-three, or until such earlier date as is fixed by Proclamation, and no longer.

Duration of Act.

(2.) When this Act ceases to be in operation it shall be deemed to have been repealed and the provisions of section eight of the *Acts Interpretation Act 1901-1950* shall have effect accordingly.