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# DEFENCE.

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No. 37 of 1910.

An Act to amend the *Defence Act 1903-1909*.

[ Assented to 1st December, 1910.]

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

Short title and citation.

1.—(1.) This Act may be cited as the *Defence Act 1910*.

(2.) The *Defence Act 1903-1909* is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Defence Act 1903-1910*.

Parts.

2. Section two of the Principal Act is amended by omitting, from the reference to Part II., the words “ Division 1.—Officers and Military Districts, ss. 8-28.” and the words “ Division 2.—Naval and Military College, s. 29.”

Resignation of commission.

3. Section seventeen of the Principal Act is amended by adding thereto the following sub-section :—

“(2.) Where an officer resigns his commission before completing twelve years' service as an officer, his service as an officer shall not, except under special circumstances as prescribed, be reckoned towards the service required under Part XII. of this Act.”

4. After section twenty-one of the Principal Act the following sections are inserted :—

“21A.—(1.) An officer of the Military Forces, other than an officer of the Cadets, shall not be promoted, except probationally, to any rank higher than that of Captain, until he has passed, as prescribed, a course of practical and theoretical instruction by the members of the General Staff to perfect him in the practice of his own arm of the Forces and to accustom him to the uses and possibilities of the other arms.

Promotion to rank above Captain.

“(2.) An officer of the Military Forces shall not be promoted to any rank higher than that of Major, until he has passed, as prescribed, a course of instruction by the members of the General Staff during which he shows himself fitted to command in the field a force of all arms.

Promotion to rank above Major.

“(3.) This section shall not apply to officers of the Medical, Veterinary, Ordnance, and other Departmental Services.

“21B. A Special School of Instruction shall be established for the training of an instructional staff of non-commissioned officers, and all future appointments of persons to act as instructors shall be made from amongst those who have, at the close of the prescribed course, satisfied the Chief of the General Staff or some person duly appointed by him that they are competent :

School of Instruction.

Provided that persons who have acted as instructors in the British Army, or who, having served in the British Army, satisfy the Chief of the General Staff that they have the necessary qualifications, may be appointed without passing through such course.”

5. Section twenty-nine, and the headings of Division 1 and Division 2 of Part II., of the Principal Act are repealed.

Naval and Military College.

6. Section thirty-one of the Principal Act is amended by inserting in sub-section (2.), after the word “including”, the words “Staff Corps”.

Permanent Staff Corps.

7. Section sixty-one of the Principal Act is repealed, and the following sections are substituted in its stead :—

“61. The following shall be exempt from service in time of war, so long as the employment, condition, or status on which the exemption is based continues:—

Persons exempt from service.

- (a) Persons reported by the prescribed medical authorities as unfit for any naval or military service whatever ; and
- (b) Members and officers of the Parliament of the Commonwealth or of a State ; and
- (c) Judges of Federal or State Courts, and police, stipendiary or special magistrates of the Commonwealth or of a State ; and
- (d) Ministers of Religion ; and
- (e) Persons employed in the police or prison services of the Commonwealth or of a State ; and
- (f) Persons employed in lighthouses ; and
- (g) Persons employed as medical practitioners or nurses in public hospitals ; and

- (h) Persons who are not substantially of European origin or descent, of which the medical authorities appointed under the Regulations shall be the judges; and
- (i) Persons who satisfy the prescribed authority that their conscientious beliefs do not allow them to bear arms; and
- (j) Persons engaged in any employment specified by the Regulations or by Proclamation.

Provided that, as regards the persons described in paragraphs (g), (h), and (i) of this section, the exemption shall not extend to duties of a non-combatant nature.

Burden of proving exemption.

“61A. Where any question arises as to whether a person is exempt from service in the Citizen Forces, the burden of proving the exemption shall rest on the person claiming the exemption, and applications for exemption shall be decided by the Courts authorized in that behalf by the Regulations.”

8. Section sixty-two of the Principal Act is amended by adding at the end thereof the following sub-section:—

Eligibility of Senior Cadet Officers.

“(7.) A person who has served as officer in the Senior Cadets shall be eligible, on an equality with persons who have served for three years in the ranks of the Defence Force, to be appointed second lieutenant in the Citizen Forces, if his appointment as officer in the Senior Cadets was promotion from the ranks in a manner similar to that prescribed under section eleven A of this Act.”

9. Section sixty-three of the Principal Act is amended—

Horse depôts, &c.

- (a) by inserting after paragraph (db) the following paragraph:—  
“(dc) Establish and maintain horse depôts, and farms and stations for the breeding of horses;” and
- (b) by omitting from sub-section (3.) the words “Central Staff” and inserting in their stead the words “clerical staff of the Central Administration, Pay, and Ordnance Branches”.

10. After section one hundred and eleven of the Principal Act the following section is inserted:—

Property of Rifle Club vested in Captain.

“111A. For the purposes of legal proceedings, all arms, ammunition, or other military articles, belonging to or used by any Rifle Club, shall be deemed to be the property of the captain of the Rifle Club.”

11. After section one hundred and twenty-three c of the Principal Act the following sections are inserted:—

Military bands.

“123d. After the expiration of three years from the commencement of Part XII. of this Act, the number of soldiers allotted to military bands shall not exceed two per cent. of the persons undergoing training

Supply of uniforms.

“123e. Military uniforms shall be supplied free of charge to all ranks of the Citizen Forces.”

12. Section one hundred and twenty-four of the Principal Act is amended by omitting paragraph (b), and inserting in its stead the following paragraph :—

Regulations.

“(b) The regulation and good government of the Military College ;”

13. Section one hundred and twenty-five of the Principal Act is amended—

Persons liable to be trained.

(a) by omitting from paragraphs (c) and (d) the word “twenty” and inserting in its stead the word “twenty-five” ; and

(b) by omitting from the proviso the words “in each year”.

14. Section one hundred and twenty-six of the Principal Act is amended by omitting from sub-section (3.) the word “two” and inserting in its stead the word “seven”.

Training years.

15. Section one hundred and twenty-seven of the Principal Act is amended—

Duration of training.

(a) by omitting from paragraph (a) the words “not exceeding” ; and

(b) by adding at the end of paragraph (c) the words “of which not less than eight shall be in camps of continuous training ;”

(c) by adding at the end of the first proviso the words “of which not less than seventeen shall be in camps of continuous training ;” and

(d) by adding to the section the following proviso—“Provided also that in the Senior Cadets the number and duration of half-day and night drills may be varied by the substitution of other drills as prescribed of a total duration of not less than seventy-two hours.”

16. Sections one hundred and twenty-eight and one hundred and twenty-nine of the Principal Act are repealed, and the following section substituted in their stead :—

Repeal.

“128. Persons who are pupils or students at educational establishments, as prescribed by the Regulations, and who are liable to be trained in the Citizen Forces under section one hundred and twenty-seven of this Act, may be trained as prescribed in the Senior Cadets or in special training units, so long as they remain pupils or students in such educational establishments :

Special provision in the case of pupils at educational establishments.

Provided that the training in those units shall be of the same character and of the same annual duration as in the Citizen Forces, and shall be in lieu of the training prescribed by paragraph (c) of section one hundred and twenty-seven.”

17. Section one hundred and thirty-eight of the Principal Act is amended by adding thereto the following sub-section :—

“(3.) Persons who are students at a Theological College as defined by the Regulations, or theological students as prescribed, may, while they remain such students, on application be exempted by

Exemption of theological students.

any prescribed authority from the prescribed training, but shall on ceasing to be such students undergo such equivalent training as prescribed, unless exempted by some provision of this Act."

Partial exemption.

18. Section one hundred and forty of the Principal Act is amended by adding after paragraph (c) the following word and paragraph :—“or

(d) limit any exemption under this section to any part of the training required by this Act.”

19. After section one hundred and forty of the Principal Act the following section is inserted :—

Temporary exemption.

“140A. The Governor-General may by Proclamation grant a temporary exemption for a period not exceeding one year to—

(a) persons who reside outside the areas in which training is carried out ; and

(b) persons who reside at so great a distance from the places appointed for training that compulsory attendance at the training would involve great hardships.”

20. Sections one hundred and forty-seven and one hundred and forty-eight of the Principal Act are repealed, and the following sections substituted in their stead :—

Military College.

“147.—(1.) There shall be established a Military College under a Commandant, assisted by a staff as prescribed, for the education of candidates for commissions in all arms of the Military Forces.

“(2.) The Commandant shall in each year furnish to the Minister, for presentation to Parliament, a report on the Military College.

College Corps.

“147A. Persons enrolled as cadets at the Military College shall be formed into a corps and shall form part of the Permanent Forces. Service in this corps shall be deemed to be service in the ranks of the Defence Force.

Students to be British subjects.

“147B. No person who is not a British subject shall be admitted to be a student at the Military College, but British subjects not permanently resident in Australia may be admitted to attend on such conditions as are prescribed, and while so attending shall be subject to this Act in the same way as other students.

Appointment of officers.

“148. No person who is not a graduate of the Military College as prescribed shall be appointed an officer of the Permanent Forces :

Provided that this provision shall not take effect until the expiration of five years after the establishment of the College :

Provided further that the Regulations shall provide for admission to the Military College of any member of the Forces over the age of nineteen years who passes the prescribed examination and is recommended by the Governor-General in Council.”

Repeal.

21. Sections one hundred and forty-nine, one hundred and fifty, and one hundred and fifty-two of the Principal Act are repealed.