

## WAR PRECAUTIONS.

### No. 2 of 1915.

An Act to amend the *War Precautions Act* 1914.

[Assented to 30th April, 1915.]

**BE** 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 *War Precautions Act* 1915.

(2.) The *War Precautions Act* 1914 is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *War Precautions Act* 1914–1915.<sup>(a)</sup>

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 Section four of the Principal Act is repealed and the following section inserted in its stead :—

Regulations.

“ 4.—(1.) The Governor-General may make regulations for securing the public safety and the defence of the Commonwealth, and in particular with a view—

- (a) to prevent persons communicating with the enemy or obtaining information for that purpose or for any purpose calculated to jeopardize the success of the operations of any of His Majesty's forces in Australia or elsewhere, or the forces of His Majesty's allies, or to assist the enemy ; or
- (b) to prevent the transmission abroad, except through the post, of any letter, post-card, letter-card, written communication, or newspaper ; or
- (c) to secure the safety of His Majesty's forces and ships and the safety of any means of communication or of any railways, ports, harbors, or public works ; or
- (d) to prevent the spread of false reports or reports likely to cause disaffection to His Majesty or public alarm, or to interfere with the success of His Majesty's forces by land or sea, or to prejudice His Majesty's relations with foreign powers ; or

<sup>(a)</sup> The *War Precautions Act* 1914–1915 has since been amended by Act No. 39, 1915 (*infra*, p. 189). For copy of the Act as so amended see *infra*, p. 332.

- (e) to secure the navigation of vessels in accordance with directions given by or under the authority of the Naval Board ; or
- (f) otherwise to prevent assistance being given to the enemy or the successful prosecution of the war being endangered,

and for conferring such powers and imposing such duties as he thinks fit, with reference thereto, upon the Naval Board and the Military Board, and the members of the naval and military forces of the Commonwealth, and other persons.

“(2.) Any such regulations or any orders made thereunder affecting the pilotage of vessels may supersede any enactment (whether of the Commonwealth or a State), order, by-law, regulation, or provision as to pilotage.

“(3.) The Minister may—

- (a) require that there shall be placed at his disposal the whole or any part of the output of any factory or workshop in which arms, ammunition, or warlike stores or equipment, or any articles required for the production thereof are manufactured ; and
- (b) take possession of and use for the purpose of His Majesty's naval or military service any such factory or workshop or any plant thereof ;

and the power to make regulations under this Act shall extend to the making of regulations in relation to the matters specified in this sub-section.”

3. Section five of the Principal Act is amended—

Amendment of  
s. 5.

- (a) by inserting in paragraph (i), after the words “the Minister,” the words “and on the Naval Board and the Military Board” ;
- (b) by inserting in paragraph (j) after the words “with respect to ” the words “the administration of oaths,” ; and
- (c) by adding at the end of that section the following sub-section :—

“(2.) Any provision of any order made under this section with respect to aliens may relate either to aliens in general or to any class or description of aliens.”

4. Section six of the Principal Act is repealed, and the following section inserted in its stead :—

“6.—(1.) Any person who contravenes, or fails to comply with, any provision of any regulation or order made in pursuance of this Act shall be guilty of an offence against this Act. Trial of offences.

“(2.) An offence against this Act may be prosecuted either summarily or upon indictment, or if the regulations so provide by court-martial, but an offender shall not be liable to be punished more than once in respect of the same offence.

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“(3.) The punishment for an offence against this Act shall be as follows :—

(a) If the offence is prosecuted summarily—a fine not exceeding One hundred pounds or imprisonment for a term not exceeding six months, or both ;

(b) If the offence is prosecuted upon indictment—a fine of any amount or imprisonment for any term, or both :

Provided that where it is proved that the offence is committed with the intention of assisting the enemy the person convicted of such an offence shall be liable to suffer death ;

(c) If the offence is prosecuted by court-martial—the same punishment as if the offender had been a person subject to military law and had on active service committed an offence under section five of the Army Act :

Provided that where it is proved that the offence is committed with the intention of assisting the enemy the person convicted of such an offence by a court-martial shall be liable to suffer death.

“(4.) For the purpose of the trial of a person summarily or upon indictment for an offence against this Act the offence shall be deemed to have been committed either at the place in which it actually was committed or (subject to the Constitution) at any place in which the person may be.

“(5.) For the purpose of the trial by court-martial of a person for an offence under the regulations the person may be proceeded against and dealt with as if he were a person subject to military law and had on active service committed an offence under section five of the Army Act.

“(6.) Notwithstanding the preceding provisions of this section, no person other than an alien enemy or a person subject to the Naval Discipline Act or to Military Law shall be tried by court-martial for an offence against this Act :

“ Provided that before the trial of any person to whom this sub-section applies and as soon as practicable after arrest the general nature of the charge shall be communicated to him in writing and notice in writing shall at the same time be given in the prescribed form of his rights under this sub-section.

“(7.) In the event of any special military emergency arising out of the present war the Governor-General may by proclamation forthwith suspend the operation of sub-section (6.) of this section, either generally or as respects any area specified in the proclamation, without prejudice, however, to any proceedings under this section which may be then pending in any civil court :

Provided that while such proclamation is in force, any sentence passed by a court-martial against a person to whom sub-section (6.) of this section applies shall be referred to the Governor-General for confirmation, mitigation, or remission.

“(8.) The regulations may authorize a civil court or court-martial, in addition to any other punishment, to order the forfeiture of any goods in respect of which an offence against this Act has been committed.”

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

“9. If any question arises on any proceedings under any order made in pursuance of this Act, or with reference to anything done or proposed to be done under any such order, whether any person is an alien or not, or is an alien of a particular class or not, the onus of proving that that person is not an alien or, as the case may be, is not an alien of that class, shall lie upon that person.” Onus of proof.

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