

STATUTORY RULES.

1916. No. 283.

REGULATIONS UNDER THE WAR PRECAUTIONS ACT 1914-1916.

I SIR ARTHUR STANLEY, Governor of the State of Victoria and its Dependencies, in the Commonwealth of Australia, acting as the Deputy of the Governor-General in accordance with the provisions of the Constitution, acting with the advice of the Federal Executive Council, hereby make the following Regulations under the *War Precautions Act 1914-1916* to come into operation forthwith.

Dated this tenth day of November, 1916.

A. L. STANLEY,
Deputy of the Governor-General.

By His Excellency's Command,

G. F. PEARCE,
Minister of State for Defence.

WAR PRECAUTIONS (ACTIVE SERVICE MORATORIUM) REGULATIONS.

1. Regulation 1 of Statutory Rules 1916 No. 163, and the heading immediately preceding that Regulation, are amended by omitting the words "War Precautions (Postponement of Payments) Regulations 1916" and inserting in their stead the words "War Precautions (Active Service Moratorium) Regulations 1916."

2. Regulation 2 of Statutory Rules 1916 No. 163 is amended---

- (a) by inserting in the definition of "Female Dependant" after the word "wholly" the words "or partly";
- (b) by inserting in that definition after the word "pay" the words "or upon a pension payable in consequence of the incapacity or death"; and
- (c) by omitting the definition of "Member of the Forces" and inserting, in its stead, the following definition:—

"Member of the Forces" means a member of the Commonwealth Naval or Military Forces enlisted or appointed for or employed on active service outside Australia or employed on a ship of war, or enlisted or appointed for service in connexion with naval or military preparations or operations, and includes a member of the Army Medical Corps Nursing Service who is accepted or appointed by the Director-General of Medical Services for service outside Australia, but does not include any person serving in the Citizen Forces in pursuance of a proclamation under section sixty of the *Defence Act 1903-1915*."

3. Regulation 3 of Statutory Rules 1916 No. 163 is amended—

- (a) by omitting the words “ before the date of the enlistment or appointment of the member in the Expeditionary Forces, or, in the case of a member of the Forces employed on a ship of war, or the female dependant of any such member, before the date of the member’s appointment or enlistment for such employment ” and inserting in their stead the words “ before the date on which he became a member of the Forces ”; and
- (b) by omitting the words “ upon the thirty-first day of December, One thousand nine hundred and sixteen, and not earlier, or upon the expiration of any such further period or periods of postponement as the Governor-General specifies by proclamation and not earlier ” and inserting in their stead the words “ upon the expiration of six months after the cessation of the present state of war, and not earlier.”.

4. Regulation 4 of Statutory Rules 1916 No. 163 is amended.—

- (a) by omitting the words “ before the date of the enlistment or appointment of the member in the Expeditionary Forces, or, in the case of a member of the Forces employed on a ship of war, or the female dependant of any such member, before the date of the member’s appointment or enlistment for such employment ” and inserting in their stead the words “ before the date on which he became a member of the Forces ”; and
- (b) by omitting the words “ upon the expiration of any such further period or periods of postponement as the Governor-General specifies by proclamation and not earlier ” and inserting in their stead the words “ upon the expiration of six months after the cessation of the present state of war, and not earlier.”.

5. Regulation 5 of Statutory Rules 1916 No. 163 is repealed

6. Regulation 6 of Statutory Rules 1916 No. 163 is amended by omitting sub-regulations (2) to (4) inclusive and inserting in their stead the following sub-regulations:—

“(2) The rate of the interest payable at any time by virtue of this Regulation shall, unless the rate thereof is hereafter agreed upon by the parties before the interest falls due, be—

(a) six per centum per annum,

(b) the rate payable on the date when such sum would have been payable if these Regulations had not been made

whichever is the lower rate: Provided that, 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 rates payable by virtue of this Regulation shall, at the option of the mortgagee or vendor, be as so fixed or as fixed by this Regulation, but so that the rate shall not in any case exceed six per centum per annum:

“(3) Interest payable by virtue of this Regulation shall be payable at the close of the same intervals of time as are provided by the mortgage or agreement with respect to the interest thereby secured, or, if no provision is so made, then quarterly.”

7. Regulation 9 of Statutory Rules 1916 No. 163 is amended—

(a) by omitting sub-regulation (2) thereof and inserting in its stead the following sub-regulation:—

“(2) The application for an order under this Regulation shall be made by motion, with notice to such persons as the Court considers entitled thereto, or *ex parte* in any case in which by reason of special circumstances the Court considers such procedure to be just and equitable.”;

(b) by omitting sub-regulation (3); and

(c) by omitting from sub-regulations (4) and (5) thereof (wherever occurring) the word “summons” and inserting in its stead the word “motion”.

8. After Regulation 10 of Statutory Rules 1916 No. 163 the following Regulations are inserted:—

“11. The provisions of the preceding Regulations shall apply to any mortgage or agreement contracted or entered into by a member of the Forces or the female dependant of a member of the Forces jointly with a person who is not a member of the Forces or a female dependant of a member of the Forces in like manner as they apply to a mortgage or agreement contracted or entered into by a member of the Forces only or a female dependant only, as the case may be.

Mortgages and agreements to which member of Forces or female dependant is a party jointly with other person.

“12. (1) No person shall, under a bill of sale, or writ of execution or other process issued by a Court, or by way of distress, or under the provisions of a hire-purchase agreement made prior to the first day of June, 1916, or to the enlistment of a member of the Forces, whichever last happens, seize or take possession of—

Protection from distress, &c., of means of livelihood, &c. of female dependants of soldiers.

(a) any chattels which are used by any female dependant of that member of the Forces to support or assist in supporting herself or any of the family of the member; or

(b) any furniture or wearing apparel belonging to any such member or female dependant:

Provided that if the furniture and wearing apparel belonging to the member and his female dependants exceed in value £50, any articles may be seized and taken possession of under due authority of law if the articles remaining are not less in value than £50.

“(2) In any prosecution for an offence against this Regulation an order may be made for the return of any articles seized or taken possession of in contravention of this Regulation, or for payment of their value.

“13. (1) No writ of action or other legal process shall without leave of the High Court or the Supreme Court be issued out of any Court in respect of any liability of any member of the Forces or a female dependant under any contract or agreement (not being a contract or agreement to which the provisions of any of the preceding Regulations apply), where the contract or agreement was entered into on or before the twentieth day of September, One thousand nine hundred and sixteen:

Writs and process against soldiers and female dependants.

Provided that if the Court is satisfied that having regard to all the circumstances of the case it would be inequitable to the other party to the contract or agreement to give to the member or female dependant, as the case may be, the benefit or protection of this Regulation, and that it would not inflict hardship on the member or female dependant, as the case may be, the Court shall grant leave to the party making the application.

“(2) Application for the leave of the Court under this Regulation may be made by motion, with notice to such persons as the Court considers entitled thereto, or *ex parte* in any case in which by reason of special circumstances the Court considers such procedure to be just and equitable.

“(3) Any such application may be made to and disposed of by a Justice or Judge in Chambers.

“(4) The leave may be granted on such terms and conditions (if any) as the Court thinks fit.”

9. War Precautions Regulations 47A made by Statutory Rules 1916 No. 47, as amended by Statutory Rules 1916 Nos. 151, 198, and 234 is hereby repealed.