

STATUTORY RULES

1917. No. 62.

REGULATIONS UNDER THE DEFENCE ACT 1903-1916.

AUSTRALIAN MILITARY REGULATIONS 1916.

I. THE GOVERNOR-GENERAL in and over the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Regulations under the *Defence Act 1903-1916* to come into operation forthwith.

Dated this seventh day of March, 1917.

R. M. FERGUSON,
Governor-General.

By His Excellency's Command,
G. F. PEARCE,
Minister of State for Defence.

AUSTRALIAN MILITARY REGULATIONS 1916.

Additions.

Regulation 643.—After Regulation 643 add the following new Regulations:—

" 643A. (1) When a soldier of the Military Forces, whether on Active Service or not, is, within the limits of the Commonwealth, sentenced by Court Martial to penal servitude, imprisonment, or detention, the authority to whom the sentence is submitted for confirmation may, when confirming the sentence, suspend it.

(2) A Court Martial may recommend that a sentence be suspended under this regulation. Such recommendation and the reasons of the Court for making the same shall be entered in and form part of the proceedings.

(3) When any such sentence has been confirmed, any authority having for the time being power to confirm a like sentence of a Court of the same class as that of the Court by which the sentence was passed may suspend the sentence:

Provided that the power conferred by this paragraph shall not within the limits of the Commonwealth be exercised by an authority inferior to the authority by whom the sentence was confirmed, except with the approval of that authority.

(4) The authority suspending a sentence shall state in the document evidencing the suspension that it is made under this regulation.

(5) A sentence may be suspended notwithstanding that it has been previously suspended and that the suspension has been revoked.

(6) When a sentence is suspended under this regulation the soldier shall be released and the currency of the sentence shall be suspended until the suspension is revoked.

(7) Where a sentence has been suspended under this regulation the case may at any time and shall at intervals of not more than

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three months be reconsidered by an authority for the time being having power to confirm a like sentence of a Court of the same class as that of the Court by which the sentence was passed, and such authority may on any such reconsideration revoke the suspension or remit the sentence or any part thereof:

Provided that the power conferred by this paragraph shall not within the limits of the Commonwealth be exercised by an authority inferior to the authority by whom the sentence was confirmed, except with the approval of that authority.

(8) Whenever the suspension of a sentence is revoked the suspension of the currency thereof shall cease and the soldier shall be committed to prison or into detention accordingly.

(9) The Commanding Officer of a soldier whose sentence is suspended may at any time and from time to time commit the soldier into Military custody pending the reconsideration of the suspension. When a soldier is committed into military custody under this paragraph the like procedure shall be followed to that prescribed when a soldier is committed into Military custody for an offence save that the account in writing of the offence for which the soldier is committed shall state that the soldier is committed under a suspended sentence. Whenever a soldier is committed into Military custody under this sub-regulation by a Commanding Officer he shall forthwith report the fact and the reasons for the commitment to an authority having power to revoke the suspension. If the suspension is revoked the revocation shall take effect from the day on which the soldier was committed into Military custody. If the suspension is not revoked the soldier shall be released and the time during which he was in Military custody shall be counted towards service of the sentence.

(10) When a soldier whose sentence is suspended under this regulation is sentenced by a Court Martial for another offence the confirmation of the latter sentence shall operate as a revocation of suspension.

(11) This regulation shall apply as well to sentences confirmed before as to those confirmed after the making of this Regulation.

(12) The powers conferred by this Regulation shall be in addition to and not in derogation of any powers as to mitigation, remission, commutation or suspension of sentences conferred by the Army Act or by any other of these regulations.

643u. (1) With reference to any soldier of the Australian Imperial Force under a sentence of the nature and imposed under the circumstances mentioned in Sub-Section (1) of Section 1 of the *Army (Suspension of Sentences) Act 1916*, the Military Board may, in respect of any such sentence, when the soldier is within the limits of the Commonwealth, exercise the like power to that which is by Sub-Section (2) (b) of Section 1 of that Act conferred upon a "Superior Military Authority," and may, in respect of any such sentence, when the soldier is within the said limits, and whether the sentence has been suspended by a "Superior Military Authority" under that Act or the *Army (Suspension of Sentences) Act 1916*, or by the Military Board under this regulation, exercise the like powers to those which are, by Sub-Sections (5) and (6) and (7) of Section 1 of the *Army (Suspension of Sentences) Act 1916*, conferred upon a Superior Military Authority and a Competent Military Authority respectively.

(2) Every exercise by the Military Board of a power conferred by this Regulation shall have the same effect as if the like power had been duly exercised under the *Army (Suspension of Sentences) Act 1915* by a Superior Military Authority or a Competent Military Authority.

(3) Every sentence on a soldier of the Australian Imperial Force suspended under either of the said Acts or under this Regulation may, at any time when the soldier is within the said limits, and shall at intervals of not more than three months while the soldier is within the said limits, be reconsidered by the Military Board, and if on any such reconsideration it appears to the Board that the conduct of the soldier since his conviction has been such as to justify a remission of the sentence the Military Board shall remit it.

(4) The powers conferred by this Regulation shall be in addition to, and not in derogation of, any other power relating to mitigation, remission, commutation or suspension of sentences conferred by these regulations.

(5) Every provision in the Army Act which is inconsistent with this Regulation shall, to the extent only to which it is so inconsistent, not apply to the Military Forces. Every other of these Regulations which is inconsistent with this Regulation shall be read as subject to this Regulation."