

DEFENCE (TRANSITIONAL PROVISIONS).

No. 78 of 1947.

An Act to amend the *Defence (Transitional Provisions) Act 1946* and for other purposes.

[Assented to 11th December, 1947.]

Preamble.

WHEREAS the state of war referred to in the preamble to the *Defence (Transitional Provisions) Act 1946* still exists :

AND WHEREAS the gradual and orderly return to conditions of peace so referred to is not yet completed :

AND WHEREAS the continued operation of certain of the Regulations declared by that Act to be in force until midnight on the thirty-first day of December, One thousand nine hundred and forty-seven will not, after that date, be necessary for the purposes specified in the preamble to that Act :

AND WHEREAS it is necessary, for the peace, order and good government of the Commonwealth, to provide that certain of those Regulations shall continue to operate during the time of transition referred to in that preamble or shall remain in force for the carrying on or completion, during that time of transition, of certain of the arrangements, activities, actions and proceedings so referred to :

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:—

1.—(1.) This Act may be cited as the *Defence (Transitional Provisions) Act 1947*. Short title and citation.

(2.) The *Defence (Transitional Provisions) Act 1946** 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 (Transitional Provisions) Act 1946-1947*.

2.—(1.) Sections one, two and three of this Act shall come into operation on the day on which this Act receives the Royal Assent. Commencement.

(2.) The remaining sections of this Act shall come into operation on the first day of January, One thousand nine hundred and forty-eight.

3. Section six of the Principal Act is amended by omitting from sub-section (1.) the word "forty-seven" and inserting in its stead the word "forty-eight". Operation of certain Regulations.

4.—(1.) The First Schedule to the Principal Act is amended— Discontinuance of certain Regulations.

(a) by omitting from the first column the titles of the Regulations the titles of which are specified in the First Schedule to this Act; and

(b) by omitting from the second and third columns the provisions relating to those Regulations.

(2.) Any contract or agreement—

(a) to which the Commonwealth, a Minister or an authority of the Commonwealth is a party;

(b) which was subsisting immediately prior to the first day of January, One thousand nine hundred and forty-eight; and

(c) which was entered into under any Regulations the title of which is specified in the First Schedule to this Act,

shall, subject to the next succeeding sub-section, continue in full force and effect.

(3.) Where an authority of the Commonwealth is a party to any such contract or agreement and that authority has ceased to exist, the Commonwealth shall be deemed to be substituted for that authority as a party to the contract or agreement.

(4.) Where, immediately prior to the first day of January, One thousand nine hundred and forty-eight—

(a) an authority of the Commonwealth constituted under any Regulations the title of which is specified in the First Schedule to this Act was a party to an action or other

* Act No. 77 1946.

proceeding and that authority has ceased to exist, the Commonwealth shall be substituted for that authority as a party to that action or proceeding; and

(b) property or assets were, under any such Regulations, vested in an authority of the Commonwealth and that authority has ceased to exist, that property or those assets shall, by force of this Act, be vested in the Commonwealth.

(5.) The provisions of section eight of the *Acts Interpretation Act 1901-1947* shall apply in relation to—

(a) the Regulations the titles of which are specified in the First Schedule to this Act;

(b) the orders, rules and by-laws which were in force or subsisting immediately prior to the first day of January, One thousand nine hundred and forty-eight and were, by virtue of sub-section (1.) of section eight of the Principal Act, so in force or subsisting as if made under any of those Regulations; and

(c) the orders, rules and by-laws which were in force or subsisting immediately prior to the commencement of this section and were made under any of those Regulations as in force by virtue of the Principal Act,

as if those Regulations, orders, rules and by-laws were repealed on the first day of January, One thousand nine hundred and forty-eight and as if each of those Regulations, orders, rules and by-laws were an Act.

**Amendment of
continued
Regulations.**

5. The Regulations the titles of which are specified in the first column of the Second Schedule to this Act, being the Regulations having those respective titles as in force under the Principal Act immediately prior to the commencement of this section, are amended as respectively specified in the third column of that Schedule.

**Amendments of
Land Tax
Assessment Act.**

6.—(1.) Section twenty of the *Land Tax Assessment Act 1910-1946*, as amended by the *Salaries (Statutory Offices) Adjustment Act 1947*, is amended by omitting from sub-section (6.) the word “ forty-seven ” and inserting in its stead the word “ forty-eight ”.

(2.) Section forty-four K of the *Land Tax Assessment Act 1910-1946*, as amended by the *Salaries (Statutory Offices) Adjustment Act 1947*, is amended by omitting from sub-section (5.) the word “ forty-seven ” and inserting in its stead the word “ forty-eight ”.

(3.) Section twelve of the Principal Act is amended by omitting sub-section (6.).

(4.) The Second Schedule to the *Salaries (Statutory Offices) Adjustment Act 1947* is amended by omitting the words—

“ <i>Land Tax Assessment Act</i> 1910-1946	<i>Land Tax Assessment Act</i> 1910-1947 ”.
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(5.) The *Land Tax Assessment Act 1910-1946*, as amended by the *Salaries (Statutory Offices) Adjustment Act 1947* and by this section, may be cited as the *Land Tax Assessment Act 1910-1947*.

7.—(1.) After section nineteen B of the *Acts Interpretation Act 1901-1941* the following section is inserted :—

“ 19c. Where an agreement is or has been entered into, either before or after the commencement of this section, by or on behalf of the Commonwealth and, after the date of the agreement, the functions of a Department of State of the Commonwealth in relation to the administration of matters to which the agreement relates (in this section referred to as ‘the former Department’) are or have been allotted to another Department (in this section referred to as ‘the new Department’)—

References in agreements to a Department, Minister, officer or body.

- (a) any reference in the agreement to the Minister administering the former Department shall be read as a reference to the Minister administering the new Department or to a member of the Executive Council acting for the time being for him and on his behalf ;
- (b) any reference in the agreement to the former Department shall be read as a reference to the new Department ; and
- (c) any reference in the agreement to an officer or body of persons shall be read as a reference to—
 - (i) any other officer or body for the time being exercising the powers or performing the functions of the first-mentioned officer or body ;
 - (ii) such other officer or body as the last-mentioned Minister, by order, specifies.”.

(2.) After section thirty-four of the *Acts Interpretation Act 1901-1941* the following section is inserted :—

“ 34A. Where, under any Act, the exercise of a power or function by a person is dependent upon the opinion, belief or state of mind of that person in relation to a matter and that power or function has been delegated in pursuance of that Act, that power or function may be exercised by the delegate upon the opinion, belief or state of mind of the delegate in relation to that matter.”.

Exercise of certain powers and functions by a delegate.

(3.) The *Acts Interpretation Act 1901-1941*, as amended by this section, may be cited as the *Acts Interpretation Act 1901-1947*.

8.—(1.) Section forty-three of the *Defence Act 1903-1945* is amended by adding at the end thereof the following sub-section :—

“ (2.) Members of the Citizen Forces who have been called up for and are engaged on war service with the Naval, Military or Air Forces shall be exempt from serving as jurors.”.

Exemption from jury service.

(2.) The *Defence Act 1903-1945*, as amended by this section, may be cited as the *Defence Act 1903-1947*.

9. The *National Registration Act 1939* is repealed.

Repeal of National Registration Act.

THE SCHEDULES.

FIRST SCHEDULE.

Section 4.

REGULATIONS DISCONTINUED.

National Security (Agricultural Production) Regulations.
 National Security (Aliens Control) Regulations.
 National Security (Board of Business Administration) Regulations.
 National Security (Change of Name) Regulations.
 National Security (Claims against the Commonwealth in relation to Visiting Forces) Regulations.
 National Security (Enemy Property) Regulations.
 National Security (Patriotic Funds) Regulations.
 National Security (Superphosphate Industry) Regulations.
 National Security (Wine Industry) Regulations.

SECOND SCHEDULE.

Section 5.

First Column. Regulations.	Second Column. Department by which administered.	Third Column. Amendments.
National Security (Agricultural Aids) Regulations	Commerce and Agriculture	Omit regulation 4, insert— “ 4. In these Regulations, ‘ agricultural aid ’ means nicotine sulphate.” Omit regulation 8 Regulation 10— Omit from sub-regulation (1.) “ agricultural aids ”, insert “ any agricultural aid ”
National Security (Australian Barley Board) Regulations	Commerce and Agriculture	After regulation 28 add— “ 29. These Regulations Limitation shall not apply to barley, of operation. oats or grain sorghum harvested after the thirtieth day of September, 1948.” Omit regulations 69A, 87 and 88
National Security (General) Regulations	Administered by Departments appropriate to subject-matter of individual regulations	
National Security (Potatoes) Regulations	Commerce and Agriculture	After regulation 20 add— “ 21. These Regulations Limitation shall not apply to potatoes of operation. harvested after the thirtieth day of November, 1948.”
National Security (Supplementary) Regulations	Administered by Departments appropriate to subject-matter of individual regulations	Omit regulations 4, 11, 14, 16, 38, 47, 49, 57, 65, 90, 96, 105, 120 and 134
National Security (Wheat Acquisition) Regulations	Commerce and Agriculture	After regulation 30 add— “ 31. These Regulations Limitation shall not apply to wheat of operation. harvested after the thirtieth day of September, 1948.”
National Security (Wheat Industry Stabilization) Regulations	Commerce and Agriculture	Regulation 11— Omit sub-regulation (4.) After regulation 13 add— “ 14. These Regulations Limitation shall not apply to wheat of operation. sown after the thirty-first day of August, 1948.”