

NATIONAL SERVICE.

No. 30 of 1953.

An Act to amend the *National Service Acts 1951*, and for other purposes.

[Assented to 15th April, 1953.]

[Date of commencement, 13th May, 1953.]

BE it enacted by the Queen'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 *National Service Act 1953*. Short title
and citation.
- (2.) The *National Service Acts 1951** is in this Act referred to as the Principal Act.
- (3.) The Principal Act, as amended by this Act, may be cited as the *National Service Act 1951–1953*.
2. Section twenty-nine of the Principal Act is amended— Exemptions on
grounds other
than
conscientious
beliefs.
- (a) by omitting paragraph (b) of sub-section (1.) ; and
- (b) by omitting sub-sections (3.) and (4.).
3. After section twenty-nine of the Principal Act the following sections are inserted :—
- “ 29A.—(1.) A person whose conscientious beliefs do not allow him to engage in any form of naval, military or air force service is, so long as he holds those beliefs, exempt from liability to render service under this Act. Exemptions on
grounds of
conscientious
beliefs.
- “ (2.) A person whose conscientious beliefs do not allow him to engage in naval, military or air force duties of a combatant nature but allow him to engage in naval, military or air force duties of a non-combatant nature, shall not, so long as he holds those beliefs, be required to engage in duties of a combatant nature.
- “ (3.) Sub-section (1.) of this section applies to a person who has commenced to render service under this Act only if that person formed the conscientious beliefs referred to in that sub-section after he commenced to render that service.
- “ (4.) Sub-section (2.) of this section applies to a person who has commenced to render service under this Act only if—
- (a) that person formed the conscientious beliefs referred to in that sub-section after he commenced to render that service ;
or
- (b) before that person commenced to render that service, it had been decided that that person was a person to whom that sub-section applied.

* Act No. 2, 1951, as amended by No. 63, 1951.

“(5.) For the purpose of this section, a conscientious belief is a conscientious belief whether the ground of the belief is or is not of a religious character and whether the belief is or is not part of the doctrines of a religion.

Exemption to be decided by a court of summary jurisdiction.

“29B.—(1.) Where a question arises whether—

- (a) a person is, by virtue of sub-section (1.) of the last preceding section, exempt from liability to render service under this Act ; or
- (b) a person is a person to whom sub-section (2.) of that section applies,

the question shall be heard and decided by a court of summary jurisdiction of a State or Territory of the Commonwealth constituted by a Police, Stipendiary or Special Magistrate.

“(2.) Where a question arises whether a person is, by virtue of sub-section (1.) of the last preceding section, exempt from liability to render service under this Act, the court by which the question is heard may, if it is satisfied that the person is not so exempt but that the person is a person to whom sub-section (2.) of that section applies, decide accordingly.

Appeals from decisions of courts of summary jurisdiction.

“29c.—(1.) In this section, ‘court of review’ means a District Court, or County Court in the State or Territory of the Commonwealth in which the person in relation to whom the question arises resides or, if there is no such court, the Supreme Court of the State or Territory in which that person resides.

“(2.) Where a court of summary jurisdiction has decided a question under the last preceding section, the Minister or the person in relation to whom the question arose may appeal to a court of review against the decision.

“(3.) An appeal under this section shall be instituted—

- (a) within fourteen days after the date of the decision ; or
- (b) if the person seeking to appeal satisfies a court of review that special circumstances beyond his control have prevented him from instituting the appeal within the time specified in the last preceding paragraph—within such time as the court of review allows.

“(4.) The court of review in which an appeal under this section is instituted—

- (a) shall hear and determine the appeal ; and
- (b) may affirm, vary or reverse the decision of the court of summary jurisdiction.

“(5.) The jurisdiction of a court of review under this section shall be exercised by a single judge.

“(6.) Unless a court of review before which an appeal is heard otherwise orders, the appeal shall be by way of rehearing.

“(7.) The decision of a court of review under this section is final and conclusive.

“ 29D. Where a person claims to be exempt, by virtue of sub-section (1.) of section twenty-nine A of this Act, from liability to render service under this Act or to be a person to whom sub-section (2.) of that section applies, the burden of proving the claim rests on that person.”

Burden of proof.

4. After section fifty-seven of the Principal Act the following sections are inserted :—

“ 57A.—(1.) The several courts of the States by which questions may be decided or to which applications or appeals may be brought under this Act are hereby invested with federal jurisdiction to hear and determine those questions, applications or appeals.

Jurisdiction of courts.

“ (2.) Jurisdiction is hereby conferred on the several courts of the Territories of the Commonwealth by which questions may be decided or to which applications and appeals may be brought under this Act to hear and determine those questions, applications or appeals.

“ 57B.—(1.) Where—

(a) a court of a State is invested with federal jurisdiction in respect of prosecutions for offences against this Act by virtue of sub-section (2.) of section thirty-nine of the *Judiciary Act 1903–1950* ; and

Venue in prosecutions.

(b) the jurisdiction of that court under the law of that State in respect of prosecutions is limited to prosecutions for offences committed within a particular locality, that court is invested with federal jurisdiction, subject to the conditions and restrictions specified in paragraphs (a), (b), (c) and (d) of sub-section (2.) of section thirty-nine of the *Judiciary Act 1903–1950*, in respect of a prosecution for an offence against this Act committed by a person who resides in that locality, whether that offence was committed in that locality or elsewhere.

“ (2.) Where a court of a Territory of the Commonwealth to which this Act applies has, apart from this section, jurisdiction in respect of prosecutions for offences against this Act committed in that Territory, jurisdiction is conferred on that court in respect of a prosecution for an offence against this Act committed by a person who resides in that Territory, whether that offence was committed within that Territory or elsewhere.

“ 57c. The regulations may make provisions in relation to the practice and procedure of the courts which are invested with federal jurisdiction, or upon which jurisdiction is conferred, by section fifty-seven A of this Act in relation to matters arising under this Act.”

Practice and procedure.

5. Where—

(a) before the commencement of this Act, a court of summary jurisdiction has, in pursuance of the Principal Act —

(i) decided that a person who claimed to be exempt, by reason of his conscientious beliefs, from liability to render service under that Act was not exempt from that liability ; or

Appeals from certain decisions given before commencement of Act.

(ii) found that a person who claimed to hold conscientious beliefs which did not allow him to undertake naval, military or air force duties of a combatant nature but allowed him to undertake naval, military or air force duties of a non-combatant nature was liable to undertake duties of a combatant nature ; and

(b) that person has not, since the decision was given, rendered any service under the Principal Act or under that Act as amended by this Act, other than service after committal, before the commencement of this Act, to the custody of a prescribed authority under section fifty-one of the Principal Act,

the decision of the court of summary jurisdiction shall be deemed, for the purposes of section twenty-nine c of the Principal Act, as amended by this Act, to be a decision referred to in sub-section (2.) of that section, and to have been given on the date of commencement of this Act.
