

NATIONAL SERVICE.

No. 126 of 1964.

An Act to amend the *National Service Act* 1951-1957.

[Assented to 24th November, 1964.]

BE it enacted by the Queen'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 *National Service Act* 1964.

(2.) The *National Service Act* 1951-1957* 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* 1951-1964.

Commence-
ment.

2. This Act shall come into operation on the day on which it receives the Royal Assent.

Parts.

3. Section three of the Principal Act is amended by omitting the words—

“ Part V.—Protection in relation to Civil Employment (Sections 36-47).”.

Interpretation.

4. Section four of the Principal Act is amended—

(a) by inserting after the definition of “ medical examination ” the following definition:—

“ “ person authorized by the Military Board ’ means a person authorized in writing by the Military Board for the purposes of the provision in which the expression occurs; ”;

(b) by inserting after the definition of “ the Department ” the following definition:—

“ “ the Permanent Forces ’ means the Permanent Naval Forces, the Permanent Military Forces or the Permanent Air Force; ”; and

* Act No. 2, 1951, as amended by No. 63, 1951; No. 30, 1953; and Nos. 16 and 40, 1957.

(c) by adding at the end thereof the following sub-sections:—

“ (2.) A reference in this Act to service under this Act, service as required by or under this Act or service which a person is liable to render under this Act shall be read as a reference to service in the Military Forces of the Commonwealth by virtue of a notice under section twenty-six of this Act.

“ (3.) Unless the contrary intention appears, words and expressions used in this Act have the same respective meanings as in the *Defence Act 1903–1964*.”.

5. Section ten of the Principal Act is amended by omitting from paragraph (b) of sub-section (1.) the words “seventeen” and “eighteen” and inserting in their stead the words “nineteen” and “twenty”, respectively. Registration.

6. Section eleven of the Principal Act is amended by omitting sub-section (2B.) and inserting in its stead the following sub-section:— Time for registration.

“ (2B.) The last preceding sub-section does not apply to a person who has served in the Permanent Forces for more than two years.”.

7. Section sixteen of the Principal Act is amended— Voluntary registration.

(a) by omitting paragraph (a) of sub-section (1.) and inserting in its stead the following paragraph:—

“ (a) has attained such age as is prescribed;”;

(b) by inserting after sub-section (1.) the following sub-section:—

“ (1A.) A male person who—

(a) is not a British subject and is not included in a class of persons prescribed for the purposes of sub-paragraph (ii) of paragraph (a) of sub-section (1.) of section ten of this Act; and

(b) if he were a British subject, would be required to register under this Act or could apply under the last preceding sub-section to be registered under this Act,

may apply, in the prescribed manner, to be registered under this Act.”; and

(c) by omitting from sub-section (2.) the words “the application” and inserting in their stead the words “an application under this section”.

Changes of
address to be
notified.

8. Section seventeen of the Principal Act is amended—

(a) by omitting paragraph (a) of sub-section (1.) and inserting in its stead the following paragraph:—

“(a) who has commenced to render service under this Act; or”;

(b) by omitting sub-section (4.); and

(c) by omitting from sub-section (5.) the words “any of the provisions of”.

Exemption from
registration.

9. Section eighteen of the Principal Act is amended by omitting paragraphs (e) and (f) and inserting in their stead the following paragraphs:—

“(e) aboriginal natives of Australia, as defined by the regulations, other than a class of aboriginal natives as so defined that is specified in the regulations; and

(f) members of the Permanent Forces.”.

Liability for
service.

10. Section twenty-five of the Principal Act is amended—

(a) by omitting from paragraph (b) of sub-section (1.) the word “eighteen” and inserting in its stead the word “twenty”; and

(b) by omitting from that paragraph the words “seventeen years and six months” and inserting in their stead the words “nineteen years”.

Call up for
service.

11. Section twenty-six of the Principal Act is amended—

(a) by omitting from sub-section (1.) the words “Citizen Military Forces” and inserting in their stead the words “Military Forces of the Commonwealth”; and

(b) by adding at the end thereof the following sub-section:—

“(3.) The Secretary may, before the time specified in the notice, serve on the person a further notice that revokes the first-mentioned notice or varies the first-mentioned notice in such manner as is specified in the further notice.”.

12. Sections twenty-seven and twenty-eight of the Principal Act are repealed and the following sections inserted in their stead:—

Enlistment.

“27.—(1.) A person on whom a notice has been served under the last preceding section shall, upon presenting himself for service, be deemed to have been enlisted for service in the Regular Army Supplement and to have been engaged to serve in that force for a period of two years.

“(2.) Upon completion of the period for which he is deemed to have been engaged to serve in the Regular Army Supplement, he shall, unless he has been earlier discharged, dismissed or removed from that force, be discharged from that force and, upon being so discharged, he shall, subject to the next

succeeding sub-section, be deemed to have been enlisted for service in the Regular Army Reserve and to have been engaged to serve in that force for a period of three years.

“(3.) If, upon the completion of the period for which he is deemed to have been engaged to serve in the Regular Army Supplement, the person volunteers for service in the Regular Army Emergency Reserve and—

- (a) is engaged to serve in that force for a period of not less than four years; or
- (b) is appointed to be an officer and the appointment is for a period of service of not less than four years in that force,

the person is not liable to render further service under this Act.

“28.—(1.) Where, after the service of a notice on a person under sub-section (1.) of section twenty-six of this Act and at or before the time at which he is required to present himself for service, the person is appointed to be an officer and the appointment—

Appointment
of officers.

- (a) is for a period of service of not less than two years in the Regular Army Supplement; and
- (b) is to be followed by a period of service of not less than three years in the Regular Army Reserve or not less than four years in the Regular Army Emergency Reserve,

the person is not liable to render service under this Act.

“(2.) Where—

- (a) during the period for which, under this Act, a person is deemed to have been engaged to serve in the Regular Army Supplement, he is appointed to be an officer and the appointment—
 - (i) is for a period of service in the Regular Army Supplement that is not less than the unexpired portion of the period for which he is so deemed to have been engaged to serve; and
 - (ii) is to be followed by a period of service of not less than three years in the Regular Army Reserve or not less than four years in the Regular Army Emergency Reserve; or
- (b) at the commencement of or during the period for which, under this Act, a person is deemed to have been engaged to serve in the Regular Army Reserve, he is appointed to be an officer and the appointment is for a period of service in the Regular Army Reserve that is not less than three years or is not less than the unexpired portion of the period for which he is so deemed to have been engaged to serve, as the case may be,

he is not liable to render further service under this Act.

“(3.) Where a person is appointed to be an officer and, by reason of the appointment, he is not liable to render service, or to render further service, under this Act and—

- (a) after the appointment, he is convicted of an offence by a service tribunal and sentenced to be reduced in rank to a rank other than that of an officer; or
- (b) his appointment as an officer is terminated and the Military Board or a person authorized by the Military Board certifies in writing that the appointment was terminated on disciplinary grounds or by reason of his being unsuitable to serve as an officer,

he again becomes liable to render service under this Act, but any service rendered by him as an officer may, in addition to any service by him under this Act before his appointment as an officer, be taken into account as service under this Act.

“(4.) Where a person who, under this Act, is deemed to have been enlisted for service in the Regular Army Supplement or the Regular Army Reserve is appointed to be an officer before the expiration of the period for which he is deemed to have been engaged to serve in that force, he shall, upon appointment as an officer, be deemed to have been discharged from that force as a member other than an officer.”

13. Sections thirty-three and thirty-four of the Principal Act are repealed and the following section is inserted in their stead:—

Calculation
of service.

“34. Where a person who is, under this Act, deemed to have been engaged to serve in the Regular Army Supplement is absent from service and the absence is of a kind specified in regulations made for the purposes of this section, the period for which he is deemed to have been so engaged to serve shall be deemed to be increased by a period equal to the period of the absence.”

14. Sections thirty-five A and thirty-five B of the Principal Act are repealed and the following sections inserted in their stead:—

Extent of
liability for
service by
persons who
have served
in the
Permanent
Forces.

“35A.—(1.) In the application of sub-section (1.) of section twenty-seven of this Act to a person who has served in the Permanent Forces before that sub-section has effect in relation to him, the reference in that sub-section to the period of two years shall be read as a reference to that period less the period of his service in the Permanent Forces.

“(2.) In the last preceding sub-section, ‘the Permanent Forces’ does not include the Regular Army Reserve or the Regular Army Emergency Reserve.

Discharge
of persons.

“35B.—(1.) A person who, under this Act, is deemed to have been enlisted for service in the Regular Army Supplement or in the Regular Army Reserve shall not, except in accordance with

this Act or a sentence of a service tribunal, be discharged, dismissed or removed from that force before the expiration of the period for which he is deemed to have been engaged to serve in that force.

“(2.) A person who, under this Act, is deemed to have been enlisted for service in the Regular Army Supplement or in the Regular Army Reserve and—

(a) in accordance with conditions determined by the Military Board, is found to be medically unfit for further service in that force; or

(b) in the opinion of the Military Board or a person authorized by the Military Board, is not suitable for further service,

may be discharged from that force.

“(3.) Where the Military Board or a person authorized by the Military Board is satisfied that a person who, under this Act, is deemed to have been enlisted for service in the Regular Army Supplement or the Regular Army Reserve—

(a) will, if he is discharged under this sub-section, be enlisted in the Permanent Forces, the naval, military or air forces of any part of the Queen’s dominions other than Australia, or the naval, military or air forces of a prescribed country; and

(b) will, upon being so enlisted, be liable to serve in the forces in which he enlists for a period that is not less than the unexpired portion of the period for which he is deemed to have been engaged to serve in the Regular Army Supplement or the Regular Army Reserve, as the case may be,

that person may be discharged from the Regular Army Supplement or the Regular Army Reserve, as the case may be, as from the day immediately preceding the date on which he is so enlisted in the forces referred to in paragraph (a) of this sub-section.

“(4.) A person discharged in pursuance of this section is not liable to render further service under this Act.”

15. Part V. of the Principal Act is repealed.

Repeal of
Part V.

16. Section fifty-one of the Principal Act is amended—

(a) by omitting sub-sections (6.), (7.), (8.) and (9.) and inserting in their stead the following sub-sections:—

Failure to
render
service.

“(6.) A person who fails to comply with the requirements of a notice under section twenty-six of this Act and is committed to the custody of a prescribed authority shall, upon being taken into custody by a member of the Permanent Forces under sub-section (4.) of this section, be deemed, for the purposes of this Act, to have presented himself for service in accordance with a notice served on him under section twenty-six of this Act.

“(7.) A person to whom the last preceding sub-section applies shall render service under this Act in accordance with regulations made under the *Defence Act 1903–1964* that are expressed to apply to the service of persons to whom this sub-section or the next succeeding sub-section applies.

“(8.) Where a person who is convicted of an offence against paragraph (b) of sub-section (1.) of this section is committed to the custody of a prescribed authority, he shall render his service, or the unexpired portion of his service, under this Act in accordance with regulations made under the *Defence Act 1903–1964* that are expressed to apply to the service of persons to whom this sub-section or the last preceding sub-section applies.”; and

(b) by adding at the end thereof the following sub-section:—

“(13.) A prosecution for an offence against this section may be commenced at any time.”.

17. After section fifty-four of the Principal Act the following sections are inserted:—

Employer not to prevent employee from serving.

“54A. An employer shall not prevent an employee from registering, or from rendering service, under this Act, or from complying with any requirement of this Act.

Penalty: One hundred pounds.

Employer not to penalize employee by reason of service.

“54B.—(1.) An employer shall not penalize or prejudice in his employment an employee for the reason that the employee is, or may become, liable to render service under, or to comply with any requirement of, this Act, whether by reducing his salary or wages, dismissing him from his employment or in any other way.

“(2.) In any proceedings for an offence against this section, the burden shall be upon the employer to prove that an employee proved to have been penalized or prejudiced in his employment was so penalized or prejudiced for a reason other than the reason alleged in the charge.

Penalty: One hundred pounds.”.

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

Application of Commonwealth Employees' Compensation Act.

“59. Where a person is, in pursuance of a notice served on him under section nineteen, section twenty-two, section twenty-six or section fifty-two of this Act, required to attend at a place specified in the notice, the *Commonwealth Employees' Compensation Act 1930–1964* applies in relation to him as if—

(a) he were an employee for the purposes of that Act; and

(b) the attending by him at that place in accordance with the notice constituted, for the purposes of that Act, his employment by the Commonwealth.”.