

National Service

No. 80 of 1971

An Act to amend the *National Service Act 1951-1968* and to provide for matters connected therewith.

[Assented to 8 October 1971]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

PART I.—PRELIMINARY.

- 1.—(1.) This Act may be cited as the *National Service Act 1971*. Short title and citation.
- (2.) The *National Service Act 1951-1968** 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 1951-1971*.
2. This Act shall come into operation on the day on which it receives the Royal Assent. Commencement.
3. This Act is divided into Parts, as follows:— Parts.
- Part I.—Preliminary (Sections 1-3).
- Part II.—Amendments of the Principal Act (Sections 4-8).
- Part III.—Transitional Provisions (Sections 9-18).

PART II.—AMENDMENTS OF THE PRINCIPAL ACT.

4. Section 18 of the Principal Act is amended by omitting from paragraph (g) the words “two years” and inserting in their stead the words “eighteen months”. Exemption from registration.
5. Section 27 of the Principal Act is amended— Enlistment and service in the Military Forces.
- (a) by omitting from sub-section (1.) the words “two years” and inserting in their stead the words “eighteen months”;
- (b) by omitting from paragraph (b) of sub-section (2.) the words “three years” and inserting in their stead the words “three and one-half years”; and
- (c) by omitting from paragraph (b) of sub-section (8.) the words “three years” and inserting in their stead the words “three and one-half years”.

* Act No. 2, 1951, as amended by No. 63, 1951; No. 30, 1953; Nos. 16 and 40, 1957; No. 126, 1964; No. 52, 1965; No. 93, 1966; and No. 51, 1968.

Persons
appointed
to be
Officers.

6. Section 28 of the Principal Act is amended—

- (a) by omitting from paragraph (a) of sub-section (1.) the words “two years” and inserting in their stead the words “eighteen months”;
- (b) by omitting from paragraph (b) of sub-section (1.) the words “three years” and inserting in their stead the words “three and one-half years”;
- (c) by omitting from paragraph (b) of sub-section (2.) the words “three years” and inserting in their stead the words “three and one-half years”;
- (d) by omitting from sub-section (3.) the words “three years” and inserting in their stead the words “three and one-half years”.

Extent of
liability
for service
of persons
who have
served in the
Permanent
Forces or in
the armed
forces of
another
country.

7. Section 35A of the Principal Act is amended by omitting the words “two years” and inserting in their stead the words “eighteen months”.

Calculation
of service
for purpose
of sentence.

8. Section 51B of the Principal Act is amended by omitting from sub-section (1.) the words “two years” and inserting in their stead the words “eighteen months”.

PART III.—TRANSITIONAL PROVISIONS.

Interpretation.

9.—(1.) In this Part, “prescribed authority” means the Military Board, and includes an officer of the Military Forces of the Commonwealth appointed by the Military Board to be a prescribed authority for the purposes of this Part.

(2.) Unless the contrary intention appears, words and expressions used in this Part have the same respective meanings as they have in the *National Service Act 1951-1971*.

Application of
amendments
in relation
to persons
commencing to
serve in the
Regular Army
Supplement
after
commencement
of Act.

10. The amendments made by Part II. apply in relation to a national serviceman or national service officer who commences a period of service in the Regular Army Supplement on or after the date of commencement of this Act.

Amendments
not to apply
in relation
to persons
serving in a
Force other
than the
Regular Army
Supplement at
commencement
of Act.

11. The amendments made by Part II. do not apply in relation to a national serviceman or national service officer who is serving in the Regular Army Reserve, the Active Citizen Military Forces or the Regular Army Emergency Reserve on the date of commencement of this Act.

12.—(1.) Subject to this Part, the amendments made by Part II., in so far as they apply in relation to service in the Regular Army Supplement, apply in relation to a national serviceman who is serving in that Force on the date of commencement of this Act as if those amendments had been in force on the date of commencement of his period of service in that Force.

Application to serving personnel of amendments in so far as they apply in relation to service in the Regular Army Supplement.

(2.) Subject to this Part, the appointment of a national service officer who is, on the date of commencement of this Act, serving in the Regular Army Supplement shall, in so far as the appointment relates to service in that Force, be deemed to be an appointment for a period of service in that Force that ends on the date on which the period of his appointment for service in that Force would end if the amendments made by Part II. had been in force when his appointment as an officer was made and the appointment had been made having regard to those amendments.

13.—(1.) Where a national serviceman or a national service officer is a person in relation to whom the next succeeding sub-section applies, the period that the national serviceman is to be deemed to have been engaged to serve in the Regular Army Supplement or the period of appointment for service in the Regular Army Supplement of the national service officer, as the case may be, shall be deemed to extend up to and including—

Entitlement to discharge, or termination of appointment, on or before 31 December, 1971.

- (a) the thirty-first day of December, One thousand nine hundred and seventy-one; or
- (b) if, before that date, the national serviceman is discharged from that Force or the appointment of the national service officer in that Force is terminated, as the case may be—that date of discharge or termination of appointment.

(2.) Subject to the next succeeding sub-section and to the next succeeding section, where the period that a national serviceman is to be deemed to have been engaged to serve in the Regular Army Supplement or the period of appointment for service in the Regular Army Supplement of a national service officer would, but for this Act, end on a date before the thirtieth day of June, One thousand nine hundred and seventy-two, the national serviceman or the national service officer is entitled to be discharged from the Regular Army Supplement or to have his appointment in the Regular Army Supplement terminated, as the case may be, on the earliest date that a prescribed authority considers practicable and, in any event, not later than the thirty-first day of December, One thousand nine hundred and seventy-one.

(3.) The last preceding sub-section does not authorize the fixing of a date of discharge of a national serviceman or a date of termination of appointment of a national service officer that is not within the period of six months ending on the date on which the period that the national serviceman is to be deemed to have been engaged to serve in the Regular

Army Supplement or the period of appointment for service in the Regular Army Supplement of the national service officer, as the case may be, would, but for this Act, end.

(4.) In fixing dates of discharge or of termination of appointment under this section, a prescribed authority shall have regard to the respective lengths of service in the Regular Army Supplement of the persons concerned.

(5.) In this section, "national serviceman" means a national serviceman who is serving in the Regular Army Supplement on the date of commencement of this Act, and "national service officer" has a corresponding meaning.

Serving personnel may continue to serve as if amendments did not apply.

14.—(1.) A national serviceman or national service officer who is, on the date of commencement of this Act, serving in the Regular Army Supplement may give notice, in writing, to a prescribed authority that he wishes to continue to serve in the Regular Army Supplement as if the amendments made by Part II. and the last preceding section did not apply, and had never applied, in relation to him.

(2.) On and after the receipt by a prescribed authority of a notice given by a national serviceman or national service officer under the last preceding sub-section, the period that the national serviceman is to be deemed to have been engaged to serve in the Regular Army Supplement or the period of appointment for service in the Regular Army Supplement of the national service officer, as the case may be, shall be deemed to extend up to and including—

- (a) the date on which the period that the national serviceman is to be deemed to have been engaged to serve in that Force or the period of appointment for service in that Force of the national service officer, as the case may be, would, but for this Act, end; or
- (b) if, before that date, the national serviceman is discharged from that Force or the appointment of the national service officer in that Force is terminated, as the case may be—that date of discharge or termination of appointment.

(3.) A national serviceman or national service officer who has given notice under sub-section (1.) of this section may be discharged from the Regular Army Supplement or may have his appointment in the Regular Army Supplement terminated, as the case may be, at any time after the date on which the period that he is to be deemed to have been engaged to serve in the Regular Army Supplement or his period of appointment for service in the Regular Army Supplement, as the case may be, would have ended if he had not given the notice and, in any event, is

entitled to be discharged from that Force or to have his appointment in that Force terminated, as the case may be, on the date on which the period that he is to be deemed to have been engaged to serve in that Force or his period of appointment for service in that Force, as the case may be, would, but for this Act, end.

15.—(1.) Subject to the next succeeding sub-section, the amendments made by Part II., in so far as they apply in relation to service in a Force other than the Regular Army Supplement, apply in relation to a national serviceman who is serving in the Regular Army Supplement on the date of commencement of this Act as if those amendments had been in force on the date of commencement of his period of service in the Regular Army Supplement.

Application to serving personnel of amendments in so far as they apply in relation to service in a Force other than the Regular Army Supplement.

(2.) Where, by virtue of either of the last two preceding sections, the period that a national serviceman is to be deemed to have been engaged to serve in the Regular Army Supplement is to be deemed to extend for a period, a reference to three and one-half years in the amendments made by Part II. shall, in their application in relation to the national serviceman by virtue of the last preceding sub-section, be read as a reference to three and one-half years less that period of extension.

(3.) Subject to the next succeeding sub-section, the appointment of a national service officer who is, on the date of commencement of this Act, serving in the Regular Army Supplement shall, in so far as the appointment relates to service in the Regular Army Reserve or the Active Citizen Military Forces, be deemed to be an appointment for a period of service in that Force that ends on the date on which the period of his appointment for service in that Force would end if the amendments made by Part II. had been in force when his appointment as an officer was made and that appointment had been made having regard to those amendments.

(4.) Where, by virtue of either of the last two preceding sections, the period of appointment for service in the Regular Army Supplement of a national service officer is to be deemed to extend for a period, the period of appointment for service in the Regular Army Reserve or the Active Citizen Military Forces of the national service officer by virtue of the last preceding sub-section shall be deemed to be reduced by that period of extension.

16. Nothing in the preceding provisions of this Part prevents the exercise of a power to discharge a national serviceman conferred by or under the *National Service Act 1951–1971* or a power to terminate the appointment of a national service officer conferred by or under the *Defence Act 1903–1970*.

Other powers of discharge, &c., not affected.

17. Service rendered by a person by virtue of this Part shall be deemed to be national service for the purposes of the *Defence (Re-establishment) Act 1965–1968* and the *Public Service Act 1922–1968*.

Service under this part to be national service under certain Acts.

Reduction
in certain
terms of
imprisonment.

18. Where a person is, on the date of commencement of this Act, serving a term of imprisonment imposed following a conviction for an offence against section 51 or section 51A of the *National Service Act* 1951, or that Act as amended, the term of imprisonment so imposed shall be deemed to be such term as the court would have been required to impose if the amendments made by Part II. had been in force when the person was so convicted, but nothing in this section entitles a person to be released from custody before the commencement of this Act.
