



# STATUTORY RULES.

1962. No. 23.

## REGULATION UNDER THE DEFENCE ACT 1903-1956.\*

**I**, THE GOVERNOR-GENERAL in and over the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Regulation under the *Defence Act* 1903-1956.

Dated this *Fifth*  
day of *March*, 1962.

DE L'ISLE

Governor-General.

By His Excellency's Command,

*Sgt J.O. CRAMER*

Minister of State for the Army.

## AMENDMENT OF THE AUSTRALIAN MILITARY REGULATIONS.†

After regulation 294 of the Australian Military Regulations the following regulation is inserted:—

"294A.—(1.) Subject to the succeeding provisions of this regulation, where loss of money, stores or other property of the Commonwealth, or damage to any property of the Commonwealth, has occurred and the Military Board, after due investigation, is satisfied that the loss or damage was caused, or contributed to, by the negligence or misconduct of a member, the Military Board may order that such sum, not exceeding Fifty pounds, as is specified in the order be recovered from him, as or towards reimbursement of the Commonwealth for the loss or damage, by means of such deductions as are specified in the order, from moneys that are or become due to him by the Commonwealth in respect of his service, and the sum so directed to be recovered, less the amount of any payment made by the member on account of that sum, may be recovered by deductions accordingly.

Deductions  
from pay in  
respect of loss  
or damage  
caused by  
negligence or  
misconduct.

\* Notified in the *Commonwealth Gazette* on *15th March*, 1962.

† Statutory Rules 1927, No. 149, as amended by Statutory Rules 1928, Nos. 23, 28 and 126; 1929, No. 123; 1930, Nos. 26, 67 and 92; 1931, No. 13; 1932, Nos. 80, 87 and 125; 1933, Nos. 49 and 77; 1934, Nos. 26 and 80; 1935, Nos. 99 and 109; 1936, Nos. 21, 44 and 100; 1937, No. 45; 1938, Nos. 75, 90 and 93; 1939, Nos. 31, 51, 58, 115, 123, 134, 160 and 173; 1940, Nos. 2, 16, 29, 59, 150, 183, 184, 185, 186, 199, 237, 252, 272 and 273; 1941, Nos. 3, 4, 14, 43, 135, 153, 155, 205, 245, 246, 260 and 311; 1942, Nos. 35, 59, 60, 85, 114, 166, 179, 211, 231, 289, 333, 334, 350, 417, 477, 506, 508, 521, 522, 555 and 556; 1943, Nos. 17, 68, 72, 126, 174, 199, 200, 219, 244, 245, 246, 249 and 258; 1944, Nos. 1, 39, 69, 71, 72, 114, 120, 122, 154 and 164; 1945, Nos. 6, 19, 38, 42, 68, 94, 111, 141 and 195; 1946, Nos. 72, 113, 114, 116 and 150; 1947, Nos. 25 and 59; 1948, Nos. 40, 59, 65 and 79; 1949, Nos. 55 and 68; 1950, Nos. 10, 21, 29, 64 and 65; 1951, Nos. 20, 56, 125, 149 and 152; 1952, Nos. 8, 60, 68 and 69; 1953, No. 87; 1954, Nos. 113, 117 and 118; 1955, Nos. 7, 31 and 55; 1956, Nos. 52, 102 and 115; 1957, No. 56; 1958, Nos. 31, 32 and 85; 1959, Nos. 22 and 30; 1960, No. 25; and 1961, No. 42.

9529/61.—PRICE 3D.

10/26.1.1962.

“(2.) In a case where the negligence or misconduct of the member was not the sole cause of the loss or damage, the sum specified in the order shall not exceed such amount as the Military Board considers just and equitable, having regard to the member’s share of responsibility for the loss or damage.

“(3.) The Military Board shall not under this regulation direct the deduction from the pay and allowances payable periodically to a member during his service of an amount that exceeds one-half of that pay.

“(4.) An order shall not be made under this regulation unless the member concerned has been notified that it is proposed to make such an order and of the reason for the proposal and has been given an opportunity to show any reason why the order should not be made.

“(5.) An order shall not be made under this regulation if, in proceedings before a military tribunal, the tribunal—

- (a) has acquitted the member in circumstances involving a finding that he was not guilty of the misconduct or negligence in question; or
- (b) has ordered him to pay any sum of money by way of compensation to the Commonwealth in respect of the loss or damage in question or for making good that loss or damage,

but, otherwise, the fact that any such proceedings have been brought in respect of that misconduct or negligence does not prevent the making of an order under this regulation.

“(6.) The powers and functions conferred on the Military Board by the preceding provisions of this regulation may be exercised and performed by an officer authorized by the Military Board to exercise and perform those powers and functions either generally or in the particular case.

“(7.) Where an order under this regulation is made by an authorized officer, the Military Board shall, upon an application by the member concerned made within twenty-one days after the making of the order or such further period as the Military Board allows, review the matter and may—

- (a) confirm the order;
- (b) cancel the order; or
- (c) vary the order so that a lesser sum is recoverable by the Commonwealth from the member.

“(8.) If a member is aggrieved by an order under this regulation, whether or not varied under the last preceding sub-regulation, he may, within three months after the making of the order or the decision of the Military Board on a review, appeal to the Governor-General, who shall, after such investigation as he considers appropriate—

- (a) confirm the order or the order as varied, as the case may be;
- (b) cancel the order; or
- (c) vary the order, or the order as previously varied, so that a lesser sum is recoverable by the Commonwealth from the member.

“ (9.) Where any sum is recovered from a person in accordance with this regulation in respect of any loss or damage, the liability of that person to the Commonwealth in respect of that loss or damage is reduced by that sum.

“ (10.) In this regulation—

- (a) a reference to loss of money of the Commonwealth does not include the making of a payment by the Commonwealth by way of damages or compensation;
- (b) a reference to pay, in relation to a member, does not include a reference to deferred pay or to any allowance payable to the member; and
- (c) ‘ military tribunal ’ means a court-martial or an officer exercising power to try summarily and punish an offence against military law.

“ (11.) Subject to sub-regulation (9.) of this regulation, nothing contained in, or done under, this regulation affects any right or remedy of the Commonwealth apart from this regulation.

“ (12.) The provisions of this regulation have full force and effect notwithstanding the provisions of any other regulation made under the Defence Act or of the Army Act.”.

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By Authority: A. J. ARTHUR, Commonwealth Government Printer, Canberra.