

New Zealand.



ANALYSIS.

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1915, No. 44.

AN ACT to make Provision for the Raising of Expeditionary Forces for Service abroad during the Present War.

Title.

[11th October, 1915.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Expeditionary Forces Act, 1915, and shall be read together with and deemed part of the Defence Act, 1909 (hereinafter referred to as the principal Act).

Short Title.

2. In this Act, unless a contrary intention appears,—

Interpretation.

“Commandant” means the Commandant of the Defence Forces or any person for the time being acting, with the consent of the Minister of Defence, as or in the place of the Commandant during his absence from New Zealand or during any vacancy in that office:

“Officer of the Defence Forces” includes any person who in fact holds any commission or appointment or acts as an officer of the Defence Forces or of any branch thereof, notwithstanding any defect or irregularity in his commission, appointment, or position.

Constitution of Expeditionary Forces.

3. (1.) At all times and from time to time during the present war with Germany it shall be lawful for the Governor to raise by voluntary enlistment, and to organize, administer, and maintain in such manner as he thinks fit, an Expeditionary Force for service out of New Zealand with or in aid of His Majesty's Forces.

Governor may raise, by voluntary enlistment, Expeditionary Forces for service outside New Zealand during the present war.

(2.) Every such Expeditionary Force shall consist of such numbers of officers, non-commissioned officers, and men as may from time to time be appointed or enlisted as members thereof in accordance with the provisions of this Act.

4. The Governor may at any time disband an Expeditionary Force or any part thereof.

Expeditionary Force may be disbanded.

5. Every Expeditionary Force, and all officers, non-commissioned officers, and men belonging thereto, shall form part of the Defence Forces within the meaning of the principal Act.

Expeditionary Force to be part of Defence Forces.

6. All officers, non-commissioned officers, and men of an Expeditionary Force shall at all times be under an obligation of military service, whether in or out of New Zealand.

Members of Force to be under obligation of military service.

7. All officers, non-commissioned officers, and men of an Expeditionary Force shall, so long as a state of war exists, be deemed to be on active service within the meaning and for the purposes of the Army Act—

Expeditionary Forces to be deemed on active service.

(a.) At all times while out of New Zealand:

(b.) At all times while in New Zealand in the interval between the publication of a military order warning them for embarkation and their actual departure from New Zealand.

8. (1.) All officers, non-commissioned officers, and men of an Expeditionary Force shall take the oath of allegiance to His Majesty in the form set forth in the Schedule hereto or to the like effect.

Members to take oath of allegiance.

(2.) Such oath shall be taken before any officer of the Defence Forces authorized in that behalf by the Commandant.

(3.) No such oath need be taken by any person who is already when he becomes an officer of the Expeditionary Force an officer of some other branch of the Defence Forces.

Period of enlistment.

9. The period of enlistment of non-commissioned officers and men of an Expeditionary Force shall be the duration of the present war with Germany and six months thereafter, or such shorter period as the Governor in any case thinks fit.

Date of commencement of membership.

10. (1.) Officers shall be members of an Expeditionary Force from the time of their first appointment thereto, and non-commissioned officers and men from the time of taking the oath of allegiance or from the time of leaving New Zealand as members of the Force, whichever first happens.

Validity of enlistment not to be disputed.

(2.) No person who has taken before a duly authorized officer the oath of allegiance as a member of an Expeditionary Force, or who has left New Zealand as a member of such a Force, shall be competent to dispute in any Court or in any proceedings the validity of his enlistment or engagement as a member of that Force.

Appointment, attachment, and promotion of officers.

11. (1.) The Governor may, by notice in the *Gazette*, appoint to an Expeditionary Force such officers as he thinks fit, and may by the like notice from time to time attach such officers to any part of that Force or appoint them to any position therein, and may by the like notice promote any such officers, and may by the like notice (notwithstanding anything to the contrary in the principal Act) reduce the rank of any such officer or discharge him from the said Force or from any position held by him therein.

(2.) Any such appointment, attachment, or promotion may, as the Governor thinks fit, be either on probation or final, and either temporary or permanent.

(3.) The Governor may, by warrant under his hand, delegate to the officer commanding an Expeditionary Force serving out of New Zealand any of the powers conferred upon the Governor by this section (other than this power of delegation); and such officer may thereupon exercise, by warrant under his hand, in respect of any of the officers, non-commissioned officers, and men under his command and serving out of New Zealand any of the powers which the Governor might, by notice in the *Gazette*, exercise under this section, subject, however, to any conditions or restrictions expressed in the Governor's warrant.

(4.) No such delegation shall in any manner restrict or take away the powers conferred on the Governor by this section.

Resignation of commissions.

12. An officer of an Expeditionary Force shall not be competent, without the consent of the Governor, to resign his commission or appointment in time of war or within six months thereafter, but may resign the same at any time after six months from the conclusion of peace.

Appointment, promotion, and discharge of non-commissioned officers.

13. (1.) Non-commissioned officers of an Expeditionary Force may in New Zealand be appointed, promoted, reduced, or discharged by the Commandant or by any officer or officers of the Defence Forces to whom the Commandant may have delegated his powers in that behalf; and may out of New Zealand be appointed, promoted,

reduced, or discharged by the officer commanding the Expeditionary Force abroad or by any other officer or officers of that Force to whom that commanding officer may have delegated his powers in that behalf.

(2.) Any such appointment or promotion may be either temporary or permanent, and either probationary or final.

14. Men of an Expeditionary Force may, in New Zealand, be enlisted or discharged by the Commandant or by any officer or officers of the Defence Forces to whom the Commandant may have delegated his powers in that behalf; and may, out of New Zealand, be discharged by the officer commanding that Force abroad or by any officer or officers of that Force to whom that commanding officer may have delegated his powers in that behalf.

Enlistment and discharge of men.

15. (1.) On the disbanding of an Expeditionary Force all officers thereof shall, unless they are also officers of some other branch of the Defence Forces, be deemed to be transferred to the Reserve of Officers established under the principal Act as of the permanent rank held by them on the disbanding of the Expeditionary Force.

On disbanding of Force certain officers to be transferred to Reserve of Officers.

(2.) Any officer so transferred to the Reserve shall be qualified, notwithstanding anything to the contrary in the principal Act, for appointment to the Territorial Force as of any rank not higher than the permanent rank held by him on the disbanding of the Expeditionary Force, and may be so appointed accordingly if the Governor thinks fit.

Appointment of such officers to Territorial Force.

(3.) On the disbanding of an Expeditionary Force every officer thereof who is also an officer of any other branch of the Defence Forces shall, notwithstanding anything to the contrary in the principal Act, be qualified for promotion in that other branch of the Defence Forces to a rank not higher than the permanent rank held by him in the Expeditionary Force at the date of the disbanding thereof, and may be so promoted accordingly if the Governor thinks fit.

Provisions as to other officers.

16. (1.) Every non-commissioned officer or man of an Expeditionary Force who on his discharge from that Force or on the disbanding thereof remains liable to training as a member of the Territorial Force or of the General Training Section under the principal Act may be granted such complete or partial exemption from such training as the Commandant thinks fit, or may be drafted into the Reserve.

On discharge from Expeditionary Force non-commissioned officers and men otherwise liable to training in Territorial Force may be granted exemption.

(2.) This section applies to non-commissioned officers or men who have been already discharged from an Expeditionary Force before the passing of this Act.

Discipline of Expeditionary Forces.

17. (1.) The Army Act, so far as it relates to offences and to the trial and punishment of persons subject to military law, shall apply to the officers, non-commissioned officers, and men of an Expeditionary Force at all times and in all places while out of New Zealand.

Expeditionary Force to be subject to the Army Act out of New Zealand.

(2.) For the purposes of this section all officers of an Expeditionary Force are hereby declared to be persons subject to military

law as officers, and all non-commissioned officers and men of an Expeditionary Force are hereby declared to be persons subject to military law as soldiers, within the meaning of the Army Act.

Summary jurisdiction of commanding officers in respect of offences committed in New Zealand.

18. (1.) Subject to any modifications which may be prescribed by regulations made by the Governor under this Act, the provisions of the Army Act as to the summary jurisdiction of commanding officers over offences punishable by that Act shall extend and apply to all offences committed in New Zealand by members of an Expeditionary Force.

(2.) Such summary jurisdiction shall be exercisable by such officer or officers of the Defence Forces as may be nominated for that purpose by the Commandant.

Trial by Courts-martial in New Zealand in respect of offences committed outside New Zealand.

19. (1.) All offences which are committed out of New Zealand by any member of an Expeditionary Force, and which might have been tried and punished by a Court-martial if committed in New Zealand, may, if the offender is found in New Zealand, be tried and punished by a Court-martial in New Zealand as if the offence had been therein committed.

(2.) The fact that the offender has since the date of his offence been discharged from the Expeditionary Force, or that the offence was committed before the passing of this Act, shall in no way exclude the jurisdiction of a Court-martial under this section.

(3.) For the purpose of trial and punishment under this section an offender may be brought to New Zealand in military custody.

(4.) Nothing in this section shall prevent the trial and punishment of an offender in any other manner which is lawful independently of this section.

Discipline of Expeditionary Force on board ship.

20. (1.) All offences which are committed by a member of an Expeditionary Force while being carried upon a ship, and which might have been tried and punished by Court-martial if committed in New Zealand, may, whether the offence was committed before or after the passing of this Act, be tried and punished in any of the ways following:—

(a.) By Court-martial in New Zealand in accordance with the last preceding section:

(b.) By Court-martial in accordance with the Army Act in any place abroad in which the offender is found:

(c.) By Court-martial on the ship in the same manner as if the offence had been committed in New Zealand.

(2.) Nothing in this section shall prevent the trial and punishment of any such offender in any other manner which is lawful independently of this section.

Imprisonment in New Zealand of persons sentenced abroad.

21. (1.) When any member of an Expeditionary Force has, whether before or after the passing of this Act, been sentenced by a Court-martial out of New Zealand to penal servitude or imprisonment, he may, by the direction or with the approval of the officer by whom the sentence has been confirmed or of the officer commanding the Expeditionary Force abroad, be sent to New Zealand in military custody.

(2.) Every offender so sent to New Zealand, and every other person who, after having been sentenced by a Court-martial out of New Zealand to penal servitude or imprisonment, is found in New

Zealand at any time thereafter before the expiry of the term of such penal servitude or imprisonment, shall be forthwith committed to prison in New Zealand by warrant under the hand of the Minister of Defence, there to be imprisoned in accordance with the terms of the sentence until the expiry of the said term, in the same manner as if he had been sentenced to imprisonment by a Court-martial in New Zealand.

(3.) The Governor may at any time discharge any person so committed to prison in New Zealand.

(4.) Nothing in this section shall prevent the execution abroad, in any manner which is lawful independently of this section, of any sentence so passed by a Court-martial out of New Zealand.

(5.) When any person is imprisoned in New Zealand under this section the period of the voyage of the offender to New Zealand in military custody shall be included in computing the date of the expiry of his sentence.

(6.) This section shall extend and apply to sentences of detention passed by Courts-martial out of New Zealand, in the same manner as to sentences of imprisonment, save that any person so sentenced to detention shall be committed in New Zealand to military custody in such manner and in such place, other than a prison, as the Minister of Defence determines.

22. For the purposes of the jurisdiction of a Court-martial in New Zealand in respect of any offence committed in New Zealand or elsewhere by a member of an Expeditionary Force, the term "penal servitude" as used in the Army Act shall be construed as meaning imprisonment with hard labour.

Imprisonment substituted for penal servitude.

23. In proof of the sentence of a Court-martial in any place out of New Zealand any Court in New Zealand may accept such evidence as it thinks fit, whether legally admissible in other proceedings or not.

Proof of sentence passed abroad.

24. On every trial by Court-martial in New Zealand of any offence committed out of New Zealand by a member of an Expeditionary Force the Court may, notwithstanding anything in the Army Act, receive and act on such evidence as it thinks fit, whether legally admissible in other proceedings or not:

Evidence.

Provided that the verdict of a Court-martial on such a trial shall have no force or effect until it is confirmed by the Governor in Council.

Forces already raised.

25. (1.) The Force heretofore raised in New Zealand by voluntary enlistment during the present war for service in Samoa, together with all reinforcements thereof, whether already raised or to be hereafter raised, shall be deemed to be an Expeditionary Force raised and maintained under the authority of this Act, and shall be known as the New Zealand (Samoa) Expeditionary Force, and this Act shall apply accordingly to that Force and to all officers, non-commissioned officers, and men belonging thereto.

Application of this Act to Forces already raised.

(2.) The Force heretofore raised in New Zealand by voluntary enlistment during the present war for service abroad elsewhere than in Samoa, together with all reinforcements thereof (whether already raised or to be hereafter raised), shall be deemed to be an Expedi-

tionary Force raised and maintained under the authority of this Act, and shall be known as the New Zealand Expeditionary Force; and this Act shall apply accordingly to that Force and to all officers, non-commissioned officers, and men belonging thereto.

(3.) All persons who before the passing of this Act have proceeded abroad as non-commissioned officers or men of any such Expeditionary Force, and all persons who, at the passing of this Act are serving as non-commissioned officers or men of any such Expeditionary Force in any camp of military training, and all persons who before the passing of this Act have been gazetted as officers of any such Expeditionary Force, shall be deemed to have been lawfully enlisted or appointed in or to that Expeditionary Force, and the validity and legality of such enlistment or appointment shall not be questioned in any Court or in any proceedings.

(4.) Nothing in this section shall so operate as to impose on any such person any obligation of military service in a different place or for a longer period than that to which he consented on his enlistment or appointment.

Validation of sentences heretofore passed on members of Force.

26. All sentences which before the passing of this Act (and whether in or out of New Zealand) have been passed by Courts-martial, or by officers purporting to exercise summary jurisdiction under the Army Act, upon any person as being a member of any such Expeditionary Force as is mentioned in the last preceding section are hereby validated and confirmed, and no such sentence shall be questioned in any Court or in any proceedings, whether on the ground of the improper constitution of the Court by which such sentence was passed or on any other ground.

Miscellaneous.

Minister of Defence may enter into necessary contracts for purposes of Force.

27. For the purpose of the raising, equipment, training, administration, maintenance, transport, and service of an Expeditionary Force the Minister of Defence may, on behalf of the Crown, enter into such contracts as he thinks fit, including the purchase, hire, or chartering of ships.

Section 19 of principal Act modified during continuance of present war.

28. (1.) The limitation imposed on the number of the Territorial Force by section nineteen of the principal Act as amended by section thirty-six of the Defence Amendment Act, 1912, is hereby suspended during the present war with Germany and for a period of six months thereafter, and shall for all purposes be deemed to have been suspended as from the commencement of that war; and all appointments made and all things done or omitted (whether before or after the passing of this Act) during such period of suspension shall for all purposes have the same effect and validity as if no such limitation had been in force.

(2.) After the termination of the said period of suspension no men shall be added to the Territorial Force until that Force has been reduced, by discharges, transfers to the Reserve, or otherwise, below the maximum number permitted by law.

Period of present war deemed to be a time of war in New Zealand.

29. The period of the present war with Germany shall be deemed to be and at all times to have been a time of war in New Zealand within the meaning of the principal Act, notwithstanding anything in that Act to the contrary.

30. (1.) The Governor may make such regulations as he thinks fit as to the pay and allowances of officers, non-commissioned officers, and men of an Expeditionary Force.

Pay of Expeditionary Force.

(2.) Subject to any such regulations, and so far as they do not extend, such pay and allowances shall be at the discretion of the Minister of Defence.

31. (1.) There may be deducted from the pay of any officer, non-commissioned officer, or man of an Expeditionary Force from time to time such reasonable sum or sums as the Minister of Defence thinks necessary for the support of any person who in the opinion of the Minister is wholly or partly dependent upon or has a claim for maintenance against the officer, non-commissioned officer, or man; and all sums so deducted may, as the Minister thinks fit, be paid to such person, or to any other person on his behalf and for his benefit.

Deductions from pay of members of Force for benefit of dependants.

(2.) This section shall extend and apply to officers, non-commissioned officers, or men who are already at the passing of this Act members of any such Expeditionary Force.

32. No assignment or charge of the pay of any officer, non-commissioned officer, or man of an Expeditionary Force shall have any force or effect, whether such pay is, at the time of such assignment or charge, already due or payable or not.

Pay of members not to be assigned or charged.

33. (1.) In proof of the death in any place out of New Zealand of any person who has left New Zealand (whether before or after the passing of this Act) as a member of an Expeditionary Force, and in proof of the date or approximate date of his death (whether before or after the passing of this Act), and in proof of the fact that he did so leave New Zealand, any Court may in any proceeding accept as sufficient evidence a certificate under the hand of the Minister of Defence expressed to be given in pursuance of this Act and on the faith of official intimation received by him. Judicial notice may be taken of the signature of the Minister of Defence to any such certificate.

Proof of death of soldiers abroad.

(2.) In proof of the fact that any person (other than one who has left New Zealand as a member of an Expeditionary Force) has, whether before or after the passing of this Act, died out of New Zealand while on active military or naval service during the present war, and in proof of the date or approximate date of his death, any Court may in any proceeding accept as sufficient the sworn testimony of any person, by affidavit or otherwise, that on the faith of official intimation received by him he believes that such death has so occurred.

34. (1.) No employer and no person on behalf of an employer shall penalize or threaten to penalize any servant, whether by dismissing him or reducing his pay or otherwise howsoever, by reason of the fact that the servant has undertaken or offered or proposes or intends to become a member of an Expeditionary Force, or with intent to dissuade the servant from becoming a member of such a Force.

Offences by employers with respect to servants joining or proposing to join an Expeditionary Force.

(2.) Any person committing an offence against this section shall be liable on summary conviction to a fine not less than ten pounds and not exceeding fifty pounds.

Penalty.

(3.) In any prosecution for an offence against this section the burden of proving that the act of the defendant was not done for the reason or with the intent aforesaid shall lie upon the defendant.

(4.) Nothing in this section shall apply to the relations between an employer and his servant after the servant has actually become a member of an Expeditionary Force.

(5.) No prosecution for an offence against this section shall be commenced without the leave of the Attorney-General.

(6.) The leave of the Attorney-General may be granted without notice to the defendant, and it shall not be necessary in any information to state that such leave has been granted, or the terms thereof.

Authority to pay on account of deceased member of Expeditionary Force sums not exceeding £100 without requiring probate or letters of administration.

35. (1.) On the death, whether in or beyond New Zealand, of any member of an Expeditionary Force to whom any sum of money, not exceeding one hundred pounds, may be payable by any person, such person may, without requiring probate or letters of administration, pay such sum to any person who is proved to his satisfaction to be entitled by law to receive the same.

(2.) In proof of the death in any place out of New Zealand of any member of an Expeditionary Force, any person by whom any money is payable as aforesaid may accept as sufficient evidence a certificate under the hand of the Minister of Defence.

(3.) All persons *bona fide* acting under the authority of this section shall be absolutely discharged from liability in respect of the moneys paid by them under such authority, but any person to whom the said moneys or any part thereof ought to have been paid shall have remedy for the recovery thereof against the person to whom such moneys have been paid.

(4.) Nothing in this section shall be so construed as to restrict the operation of any other enactment authorizing the payment of moneys, without probate or letters of administration, to the representatives of any deceased person.

Principal Act to be read subject to this Act.

36. The principal Act and all amendments thereof shall in their application to an Expeditionary Force be read subject to the provisions of this Act.

Schedule.

SCHEDULE.

OATH OF ALLEGIANCE.

I, A. B., do sincerely promise and swear that I will be faithful and bear true allegiance to our Sovereign Lord the King, and that I will faithfully serve in the New Zealand Expeditionary Forces against His Majesty's enemies, and that I will loyally observe and obey all orders of the generals and officers set over me until I shall be lawfully discharged. So help me God.