



## ANALYSIS

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1949, No. 23

AN ACT to Make Provision for Compulsory Military Training, and for Matters Incidental thereto.

[20th October, 1949

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 Military Training Act, 1949. Short Title.

Interpretation.

**2. (1)** In this Act, unless the context otherwise requires,—

1937, No. 6

“ Air Force Act ” means the Air Force Act, 1937, and, where not inconsistent therewith, includes the Air Force Act of the United Kingdom Parliament; and also includes any Act passed in amendment of or in substitution for those Acts or either of them:

“ Armed Force ” means any of the following Forces—namely, the New Zealand Naval Forces, the Regular Force and the Territorial Force of the Army, the Army Reserve, the Regular Air Force, the Territorial Air Force, and the Air Force Reserve; and includes any part of any such Force:

“ Army ” means the New Zealand Army:

“ Authorized officer ” means an officer nominated by a Service Board as an authorized officer for the purposes of this Act:

“ Calling-up notice ” means a notice under section eighteen of this Act calling up a person for whole-time service:

“ Certificate of registration ” means a certificate of registration in the military service register issued under this Act; and includes a certificate of registration or provisional registration in the register of conscientious objectors:

1945, No. 9

“ Director ” means the Director of Employment appointed under the Employment Act, 1945; and includes any person for the time being authorized to exercise or perform any of the Director’s powers or functions:

“ Enlistment notice ” means a notice under section sixteen of this Act of the enlistment of a person in an Armed Force:

“ Medical Board ” means a Medical Board appointed under this Act:

“ Minister ” means the Minister of Employment:

“ Naval Discipline Act ” means the Naval Discipline Act of the United Kingdom Parliament; and includes the Naval Discipline (Dominion Forces) Act, 1911; and also includes any Act passed in amendment of or in substitution for those Acts or either of them:

“ Objection Committee ” means the Conscientious Objection Committee appointed under this Act:

“ Postponement Committee ” means a Military Service Postponement Committee appointed under this Act:

“ Registered conscientious objector ” means a person who is for the time being registered in the register of conscientious objectors, whether provisionally or unconditionally or otherwise:

“ Service Board ” means the Naval Board of New Zealand, or the Army Board, or the Air Board, as the case may require:

“ Training notice ” means a notice under section twenty of this Act summoning a person for training during his term of part-time service.

(2) For the purposes of this Act a person shall be deemed to have attained a given age at the commencement of the relevant anniversary of the day of his birth.

(3) For the purposes of this Act a person shall be deemed to be ordinarily resident in New Zealand if his home is in New Zealand.

(4) Every person who has arrived in New Zealand (whether before or after the commencement of this Act) with the intention of establishing his home in New Zealand or with the intention of remaining in New Zealand for an indefinite period shall be deemed for the purposes of this Act to be ordinarily resident in New Zealand from the date of his arrival.

(5) Without limiting the provisions of subsections three and four of this section, it is hereby declared that every person who (having arrived in New Zealand before or after the commencement of this Act) has remained or remains in New Zealand for a continuous period of not less than twelve months shall, unless and until he satisfies the Director to the contrary, be deemed for the purposes of this Act to be ordinarily resident in New Zealand. For the purposes of this subsection the continuous presence of any person in New Zealand shall not be deemed to have been interrupted by his absence from New Zealand for any period or periods if none of those periods exceeds four months.

(6) Every person for the time being engaged under New Zealand articles in any ship shall be deemed for the purposes of this Act to be ordinarily resident in New Zealand unless he satisfies the Director that he is not ordinarily resident in New Zealand and is ordinarily resident in some other country.

## PART I

### COMPULSORY MILITARY TRAINING

#### *Liability for Service*

Liability for  
service.

3. (1) Subject to the provisions of this Part of this Act, every male British subject ordinarily resident in New Zealand who attains the age of eighteen years on or after the first day of November, nineteen hundred and forty-nine, and is not a person specified in section five of this Act, shall be liable to be called upon to serve in the Armed Forces for three terms of service, that is to say—

(a) A term of whole-time service:

(b) A term of part-time service:

(c) A term of service in the Reserve.

(2) Subject to the provisions of this Part of this Act, the term of whole-time service for which a person shall be liable to be called up under this Part of this Act shall be a period of fourteen weeks beginning with the day on which he is required by a calling-up notice to present himself for service:

Provided that the end of that term shall be determined in accordance with the provisions of section six of this Act.

(3) Subject to the provisions of this Part of this Act, the term of part-time service for which a person shall be liable under this Part of this Act shall be a period of three years beginning with the first day of such month after the completion of his whole-time service as may be prescribed by the Service Board:

Provided that the end of that term shall be determined in accordance with the provisions of section seven of this Act.

(4) Subject to the provisions of this Part of this Act, the whole-time and part-time service of any person under this Part of this Act shall be in the Territorial Force of the Army or in the Royal New Zealand Naval Volunteer Reserve or in the Territorial Air Force.

(5) On the day next after that on which the term of a person's part-time service is completed he shall, subject to the provisions of section four of this Act, be deemed—

(a) If his last service during that term was in the Army, to be transferred to the Army Reserve; or

(b) If his last service during that term was in the Naval Forces, to be transferred to the appropriate Reserve of the New Zealand Naval Forces; or

(c) If his last service during that term was in the Royal New Zealand Air Force, to be transferred to the Air Force Reserve,—

for a term of six years.

4. (1) If during the term of his whole-time service or while he is subject to registration any person performs whole-time service as a volunteer in any Armed Force for any period, that voluntary service shall be deemed to be equivalent to whole-time service for the same period under this Part of this Act. Voluntary  
service.

(2) If during any year of his part-time service any person performs whole-time service as a volunteer in any Armed Force for any period, that voluntary service shall be deemed to be equivalent to training under this Part of this Act for the same period or for twenty days, whichever is the less.

(3) If during the term for which he is liable to serve in the Reserve any person performs whole-time or part-time service as a volunteer in any Armed Force for any period, that voluntary service shall be deemed to be equivalent to service in the Reserve for the same period under this Part of this Act.

(4) If during the term for which he is liable to serve in the Reserve any person completes any such voluntary service as aforesaid, he shall on the next day be deemed to be transferred to the appropriate Reserve

in accordance with subsection five of section three of this Act for the unexpired portion of the term for which he is liable to serve in the Reserve, or (as the case may be) for any longer term for which he is liable under his engagement.

Persons not liable to be called up for service.

5. The following persons shall not be liable for service under this Part of this Act:—

- (a) A person employed in the service of the Government of any part of the British Commonwealth other than New Zealand, being a person whose presence in New Zealand is occasioned solely by his employment in that service:
- (b) A regular minister of any religious denomination or a regular member of any religious order:
- (c) A person in respect of whom a reception-order is in force under the Mental Defectives Act, 1911 (whether or not he is detained in an institution under that Act), or who is for the time being detained in an institution under that Act, whether as a voluntary boarder or otherwise:
- (d) A person who is totally blind:
- (e) A person who is in receipt of an invalid's benefit under the Social Security Act, 1938 (whether in respect of blindness or otherwise).

See Reprint of Statutes, Vol. V, p. 743

1938, No. 7

#### *Whole-time Service*

Length of whole-time service.

6. (1) In determining the end of the term of any person's whole-time service no account shall be taken—

- (a) Of any day before the day on which he presented himself in pursuance of the calling-up notice:
- (b) Of any continuous period exceeding seven days during which he was absent, whether with or without leave or as a deserter:
- (c) Of any continuous period exceeding seven days during which he was absent from duty by reason of a sentence of a Court or of his commanding officer.

(2) If at the time when the term of any person's whole-time service would otherwise be completed he has become liable to be proceeded against for an offence against the Naval Discipline Act, military law, or the

Air Force Act, that term shall not be completed until he has been tried or otherwise dealt with for that offence and has undergone any punishment awarded therefor, or (if at that time punishment for such an offence has already been awarded) until he has undergone that punishment.

(3) If leave of absence is granted to any person for a period comprising or immediately following the date on which his term of whole-time service would otherwise be completed under this section, the Service Board may postpone the completion of that term until a date not later than the expiry of his leave.

(4) The Service Board may direct that a person's whole-time service shall be treated as completed at any time earlier than it would otherwise be completed under this section.

#### *Part-time Service*

7. (1) During his term of part-time service a person may be required to undergo training for any periods not exceeding in the aggregate—

Length of training and of part-time service.

(a) Sixty days during the whole of his term of part-time service:

(b) Thirty days in any year of that service.

(2) If any question arises as to what constitutes a day's training for the purposes of this Part of this Act, it shall be determined by reference to the regulations applicable to the Armed Force concerned, or, in default of any such regulations, by the Service Board.

(3) If any person has not completed sixty days' training at the end of the third year of his part-time service, the term of his part-time service shall not be completed until the end of the month in which he completes his sixty days' training.

(4) The Service Board may direct that a person's part-time service shall be treated as completed at any time earlier than it would otherwise be completed under this Act.

#### *Registration for Service*

8. (1) Every person to whom section three of this Act applies shall become subject to registration on the day on which he attains the age of eighteen years or (if he is then out of New Zealand) on the date of his return to New Zealand.

Persons subject to registration.

(2) References in this Part of this Act to persons subject to registration shall be construed as references to all persons who become subject to registration by virtue of this section, including persons who have been registered in the military service register or in the register of conscientious objectors, and shall also be deemed to include persons who have been registered under section nineteen of this Act:

Provided that a person shall be deemed to cease to be subject to registration when he is served with a calling-up notice, unless the notice is revoked before he presents himself for whole-time service.

Registration in  
military service  
register.

9. (1) Every person who becomes subject to registration shall, within fourteen days thereafter, apply in accordance with this section for registration for service in the Armed Forces:

Provided that every person who becomes subject to registration before the ninth day of January, nineteen hundred and fifty, shall apply for registration within fourteen days after that date.

(2) Every application under this section shall be made in a form to be provided by the Minister and shall state the applicant's name, residential address, and occupation, and such other particulars as are specified in the form or required by the Director.

(3) Every such application shall be made by delivering it at or posting it by registered letter addressed to the district office of the Department of Labour and Employment nearest to the applicant's place of residence:

Provided that the Director may, in any case where the application is posted, require the applicant to attend at the district office to complete the application in person.

(4) The Director shall ensure—

(a) That upon application being duly made for registration under this section, the name and address of the applicant (together with particulars of the matters with respect to which information was given by the applicant) are entered in a military service register to be kept for the purposes of this Part of this Act; and

(b) That upon the applicant being registered, a certificate of registration is issued to him in a form to be provided by the Minister.

(5) If any person registered in the military service register has notified the Director that he has a preference for naval or air force service, that fact shall be recorded in the register.

(6) If at any time while a person registered in the military service register remains subject to registration any change occurs in his name or address he shall forthwith send by post to the address specified thereon the certificate of registration issued to him, having first written on the back thereof his correct name and address for the time being.

(7) Upon the receipt of such a notification the Director shall cause the necessary corrections to be made in the register and shall either cause the certificate to be corrected and returned to the person registered or cause a fresh certificate to be issued to him.

#### *Medical Examination*

10. The Director may from time to time cause to be served on any person subject to registration a written notice requiring that person to submit himself to medical examination before a Medical Board at such place and time as may be specified in the notice.

Notice for  
medical  
examination.

11. (1) For the purposes of this Part of this Act the Minister shall appoint an advisory Committee to be called the Medical Committee.

Medical  
Committee.

(2) The Medical Committee shall consist of—

(a) The Directors of the Medical Services of the Naval Forces, the Army, and the Royal New Zealand Air Force:

(b) A registered medical practitioner appointed by the Minister on the nomination of the Council of the New Zealand Branch of the British Medical Association:

(c) The Director-General of Health or a registered medical practitioner appointed by the Minister on the recommendation of the Minister of Health:

(d) The Director of Employment.

(3) The appointed members of the Medical Committee shall hold office during the pleasure of the Minister, and one of the members of the Committee shall be appointed by the Minister to be the Chairman thereof.

(4) The functions of the Medical Committee shall be to advise the Minister in the exercise of his functions under this Act in relation to medical examination and in particular in relation to the grades or categories to be prescribed, the appointment of Regional Medical Officers, and the approval of registered medical practitioners for appointment to Medical Boards.

(5) In the exercise of his functions under this Act in relation to medical examination the Minister shall have regard to the recommendations of the Medical Committee.

Regional  
Medical  
Officers.

**12.** (1) For the purposes of this Part of this Act the Minister may appoint such number of Regional Medical Officers as he from time to time thinks necessary.

(2) Each Regional Medical Officer shall be a registered medical practitioner and shall hold office during the pleasure of the Minister.

(3) Each Regional Medical Officer shall exercise his functions in such region as may from time to time be specified in that behalf by the Minister.

Medical  
Boards.

**13.** (1) For the purposes of this Part of this Act each Regional Medical Officer may from time to time appoint such number of Medical Boards as he thinks fit.

(2) Each Medical Board shall consist of such number of persons, being two or more, as the Regional Medical Officer thinks necessary, all of whom shall be registered medical practitioners for the time being approved by the Minister for the purposes of this Part of this Act.

(3) The members of each Medical Board shall be appointed by the Regional Medical Officer to hold office during his pleasure. The same person may be appointed as a member of two or more Medical Boards.

(4) One member of each Medical Board shall be appointed as the Chairman thereof by the Regional Medical Officer.

(5) Every Medical Board shall exercise its functions in such localities, or in respect of such persons or classes of persons, as the Regional Medical Officer from time to time directs.

14. (1) Where a Medical Board is unable to complete a medical examination on one occasion it may direct the person examined to submit himself to a further medical examination by a Medical Board at a specified place and time. Medical examination.

(2) The Regional Medical Officer may direct a person examined to submit himself to examination by a consultant examiner.

(3) There shall be paid to persons submitting themselves to medical examination under this Act such travelling and other allowances, which may include compensation for loss of remunerative time, as may from time to time be directed or approved by the Minister of Finance or prescribed by regulations made under this Part of this Act.

15. (1) Every person examined by a Medical Board shall be placed by the Board in one or other of such grades or categories as are for the time being prescribed by the Minister. Report of Medical Board.

(2) The Medical Board may give the person examined such information as in its discretion it thinks fit as to the result of his examination and the nature of the report. The Regional Medical Officer shall give full particulars of the report to any registered medical practitioner upon application made with the consent of the person examined or of his parent or guardian.

(3) Every report by a Medical Board shall be signed by the members of the Board, and every alteration, erasure, or interlineation shall be initialled by at least one of the members.

(4) If the members of any Medical Board are in doubt or unable to agree as to any question arising in relation to the examination of any person or as to their report thereon, the question shall be referred to the Regional Medical Officer, and his decision shall be final.

(5) The report of the Medical Board, after confirmation by the Regional Medical Officer, shall be forthwith transmitted to the district office of the Department of Labour and Employment nearest to the place of the medical examination.

*Enlistment in the Armed Forces*

Enlistment  
notice.

16. The Director shall cause to be served on every person subject to registration who has been medically examined under this Part of this Act and graded fit for service, and is not provisionally registered in the register of conscientious objectors or unconditionally registered therein, an enlistment notice which shall state that he has been enlisted in the Armed Force specified in the notice and is liable to be called up for service under this Part of this Act.

Enlistment in  
Armed Forces  
and transfer to  
other Armed  
Forces.

17. (1) On the day on which an enlistment notice is served on any person as aforesaid he shall be deemed to be enlisted in the Armed Force specified in the notice.

(2) Any person who under this section is deemed to be enlisted in any Armed Force may at any time be transferred to any other Armed Force, and may from time to time thereafter be transferred from any Armed Force to any other Armed Force:

Provided that no transfer under this section shall render any person liable for any period of whole-time, part-time, or other service unless he is liable for it under this Part of this Act or has volunteered for it:

Provided also that nothing in this section shall authorize the transfer of any person from any Regular Force in which he has voluntarily enlisted.

(3) The power of transferring persons from any Armed Force under this section may be exercised by the Service Board, or by any authorized officer, or by any officer acting under the authority, express or implied, of an authorized officer.

(4) Every person who under this section is deemed to be enlisted in or is transferred to any Armed Force shall, until he is lawfully discharged or transferred therefrom, belong to that Force in the same manner to all intents and purposes, subject, however, to the provisions of this Part of this Act, as if he had voluntarily enlisted therein:

Provided that every such person who did not enlist voluntarily shall be entitled to be discharged when he has completed all service for which he is liable under this Part of this Act, or has ceased to be liable for any such service.

(5) If at any time while a person belongs to any Armed Force by virtue of this Part of this Act any change occurs in his name or address, he shall forthwith notify the change to such person and in such manner as may be notified to him by orders issued by or under the authority of the Service Board.

*Calling Up for Whole-time Service*

18. (1) The Service Board may cause to be served on any person who for the time being is liable under this Part of this Act to be called up for service and belongs to any Armed Force a calling-up notice which shall state that he is called up for whole-time service for fourteen weeks with that Force, and shall require him to present himself at such place and time, and to such authority, as may be specified in the notice:

Provided that a calling-up notice shall not require the person upon whom it is served to present himself on a day earlier than the fourteenth day after the date of service of the notice or before such earlier day as may be determined at his request.

(2) A calling-up notice shall not be served on any person while—

(a) An application duly made under this Part of this Act for the postponement of his liability to be called up for service is pending; or

(b) A period of postponement granted on any such application has not expired.

*Early Registration and Call Up*

19. (1) Any person who has attained the age of seventeen years and six months and would, but for his age, be subject to registration, and who desires to be registered in the military service register notwithstanding that he is not subject to registration, may at any time apply for registration under section nine of this Act in a form to be provided by the Minister for the purpose.

(2) If the Director is satisfied that there is sufficient cause for the application and that the application has been duly made he shall cause the applicant to be registered in like manner as if he were a person subject to registration.

(3) Any person registered in the military service register by virtue of this section may be called up for service, notwithstanding that he may not have attained the age of eighteen years.

*Summoning for Training During Part-time Service*

Training notices.

**20.** (1) The Service Board may cause to be served on any person before or during his term of part-time service a training notice which shall state that he is summoned for training and the period for which he is summoned, and shall require him to present himself at such place and time on such day during his term of part-time service, and to such authority, as may be specified in the notice.

(2) A training notice shall not require the person on whom it is served to present himself on a day earlier than the fourteenth day after the date of service of the notice.

*Postponement of Liability for Service*

Right of person enlisted to apply for postponement of liability for service.

**21.** (1) Every person on whom an enlistment notice has been served may apply in accordance with this Part of this Act for postponement of his liability to be called up for service on the ground that his calling up for service will be a cause of undue hardship to himself or others.

(2) If the Director is satisfied that by reason of special circumstances it is desirable to do so, he may permit any person subject to registration to make an application under this section before an enlistment notice has been served on him.

Applications by other persons.

**22.** (1) Any such application may be made by any other person in respect of any person on whom an enlistment notice has been served (who shall for the purposes of this Part of this Act be deemed to be the applicant) on the ground that the calling up of the applicant will be a cause of undue hardship to that other person.

(2) With respect to the hearing of any such application the provisions of this Part of this Act as to notices to the applicant and as to the right of the applicant to be heard and represented shall apply to the person making the application as well as to the applicant.

**23.** (1) Where any application is for postponement for a period not exceeding twelve months, the Director may in his discretion grant the application.

Applications to be determined by Postponement Committees unless Director grants short postponement.

(2) Every application that is not granted by the Director as aforesaid shall be referred to a Military Service Postponement Committee as hereinafter provided.

**24.** (1) For the purposes of this Part of this Act there shall be appointed such number of Military Service Postponement Committees as the Minister from time to time thinks necessary.

Military Service Postponement Committees.

(2) Each Postponement Committee shall be distinguished by such distinctive name as the Minister thinks fit.

(3) Every Postponement Committee shall consist of three persons to be appointed by the Minister and to hold office during his pleasure.

(4) One member of each Postponement Committee shall be appointed by the Minister as the Chairman thereof.

(5) Each Postponement Committee shall, within the scope of its jurisdiction, be deemed to be a Commission of Inquiry under the Commissions of Inquiry Act, 1908, and, subject to this Part of this Act and to any regulations made for the purposes thereof, the provisions of that Act shall apply accordingly.

See Reprint of Statutes, Vol. I, p. 1036

**25.** (1) Every application for postponement shall be made in a form to be provided by the Minister for the purpose, and shall state the applicant's name, residential address, and occupation, the grounds of the application, and such other particulars as are specified in the form or required by the Director. Every such application may, if the applicant or other person making the application thinks fit, be accompanied by any documentary evidence or statement of facts in support of the application.

Applications for postponement.

(2) Every such application shall be made by delivering it at or posting it by registered letter addressed to the district office of the Department of Labour and Employment from which the applicant's enlistment notice was issued.

(3) Every such application shall be so posted or delivered within fourteen days after the date of service of the enlistment notice on the applicant.

(4) Any such application may be amended by the Postponement Committee or by the Director on the application of the applicant or of any other person making the application at any time before the application is finally determined, and upon or subject to such conditions as the Committee or Director thinks fit.

Hearing of applications.

**26.** (1) If in any case the Postponement Committee thinks fit after considering any documentary evidence or statement of facts supplied to the Committee, or any information otherwise obtained by the Committee, the Committee, without calling on the applicant or hearing evidence, may—

- (a) Grant the application, if the period of postponement applied for does not exceed twelve months; or
- (b) Adjourn the application under section forty-one of this Act.

(2) Where an application is not granted or adjourned as aforesaid the Chairman of the Postponement Committee shall, as soon as may be after the receipt by him of the application, appoint a time and place for the hearing of the application, and shall by post, telegraph, or otherwise give reasonable notice thereof to the applicant by notice addressed to him at the postal address specified in his application; and the Committee shall thereafter proceed to determine the application accordingly, whether the applicant appears or not:

Provided that, if the application has not been posted or delivered within the time limited under subsection three of section twenty-five of this Act, the Committee shall dismiss the application without a hearing unless it is satisfied that the delay was occasioned by mistake or by any other reasonable cause.

Determination of Postponement Committee.

**27.** (1) When the hearing of an application has been completed the Postponement Committee may reserve its determination, and may thereafter determine the application at any time and place, and either with or without previous notice to the applicant or the Crown representative.

(2) The Postponement Committee may either determine an application on its merits or, as the case may require, dismiss it for want of jurisdiction or for want of prosecution, strike it out, or permit it to be withdrawn.

(3) In determining an application on its merits the Postponement Committee may—

- (a) Dismiss the application; or
- (b) Grant a postponement for a period not exceeding twelve months, ending on a specified date; or
- (c) Deal with the application by adjournment under section forty-one of this Act.

### *Conscientious Objectors*

28. (1) If any person subject to registration claims that he conscientiously objects—

- (a) To serving with the Armed Forces; or
- (b) To performing combatant duties—

he may, instead of applying for registration for service in the Armed Forces, apply to be registered as a conscientious objector.

(2) Every application under this section shall be made in a form to be provided by the Minister for the purpose, and may if the applicant thinks fit be accompanied by any documentary evidence or statement of facts in support of the application.

(3) Every application under this section shall be made within the time and in the manner prescribed by this Part of this Act for applications for registration for service in the Armed Forces.

(4) A person who makes an application under this section shall not be required to apply for registration for service in the Armed Forces.

(5) Any person who is liable for any service under this Part of this Act may at any time apply under this section to be registered as a conscientious objector, notwithstanding that he may have been registered in the military service register, and every such application shall be accepted unless in the opinion of the Director there are no reasonable grounds for supposing that the applicant is a conscientious objector. Upon the acceptance of any

Application  
for registration  
as conscientious  
objector.

such application the Director, besides complying with the next succeeding section, shall cause the registration of the applicant in the military service register to be cancelled.

Provisional registration in register of conscientious objectors.

**29.** (1) Where an application is made under the last preceding section for registration as a conscientious objector, the Director shall ensure—

- (a) That the applicant is provisionally registered in a register of conscientious objectors to be kept for the purposes of this Part of this Act, and that his name and address and such other particulars as may be necessary are entered in that register accordingly; and
- (b) That, upon the applicant being so registered, a certificate of provisional registration is issued to him in a form to be provided by the Minister; and
- (c) That the application for registration is referred to the Conscientious Objection Committee for determination as hereinafter provided.

(2) The Director may provisionally register in the register of conscientious objectors any person subject to registration, notwithstanding that he has refused or failed to make any application in that behalf, if in the Director's opinion there are reasonable grounds for thinking that he is a conscientious objector, and the Director may refer the case to the Conscientious Objection Committee; and thereupon the provisions of this Part of this Act shall apply in relation to that person as if he had duly applied for registration as a conscientious objector, and he shall accordingly for the purposes of this Part of this Act be deemed to be the applicant.

Conscientious Objection Committee.

**30.** (1) For the purposes of this Part of this Act there shall be appointed a Committee to be called the Conscientious Objection Committee.

(2) The Objection Committee shall consist of three persons to be appointed by the Minister and to hold office during his pleasure.

(3) One member of the Objection Committee shall be appointed by the Minister as the Chairman thereof.

(4) The Objection Committee shall, within the scope of its jurisdiction, be deemed to be a Commission under the Commissions of Inquiry Act, 1908, and, subject to this Part of this Act and to any regulations made for the purposes thereof, the provisions of that Act shall apply accordingly.

See Reprint  
of Statutes,  
Vol. I. p. 1036

31. The Chairman of the Objection Committee shall, as soon as may be after the receipt by him of an application for registration as a conscientious objector, appoint a time and place for the hearing of the application, and shall by post, telegraph, or otherwise give reasonable notice thereof to the applicant by notice addressed to him at the postal address specified in his application; and the Committee shall thereafter proceed to determine the application accordingly, whether the applicant appears or not:

Hearing of  
application.

Provided that, if the application has not been posted or delivered within the time limited under subsection three of section twenty-eight of this Act, and is not made under subsection five of that section, the Committee shall dismiss the application unless it is satisfied, having regard to the grounds on which the application is made, that the delay was occasioned by mistake or by any other reasonable cause.

32. (1) When the hearing of an application has been completed the Objection Committee may reserve its determination, and may thereafter determine the application at any time and place, and either with or without previous notice to the applicant or the Crown representative.

Determination  
of Objection  
Committee.

(2) The Objection Committee may either determine an application on its merits or, as the case may require, dismiss it for want of jurisdiction or for want of prosecution, strike it out, or permit it to be withdrawn.

(3) In determining an application on its merits the Objection Committee, if it is not satisfied that the ground upon which the application is made is established, shall dismiss the application, and if it is so satisfied it shall by order direct—

(a) That the applicant shall be unconditionally registered in the register of conscientious objectors; or

(b) That he shall be registered in that register as a person liable to be called up for service but to be employed only in non-combatant duties.

Dismissal of application.

**33.** Where the application of any person to be registered as a conscientious objector is dismissed, the Director shall cause the applicant to be registered in the military service register and shall cause his provisional registration in the register of conscientious objectors to be cancelled.

Effect of registration in register of conscientious objectors.

**34.** (1) Any person provisionally registered in the register of conscientious objectors, or unconditionally registered therein shall not, so long as he is so registered, be liable for any service under this Part of this Act, or be required without his consent to submit himself to medical examination.

(2) The Service Boards shall make arrangements for securing that, where a person registered in the register of conscientious objectors as a person liable to be called up for service but to be employed only in non-combatant duties is called up for service under this Part of this Act, he shall, during the period for which he serves by virtue of being so called up, be employed only in such duties.

(3) If, while a person is registered in the register of conscientious objectors, whether provisionally or unconditionally or otherwise, any change occurs in the particulars about him registered in that register, he shall forthwith send by post to the address specified therein the certificate of registration issued to him, having first written on the back thereof the correct particulars for the time being.

(4) Upon the receipt of such a notification the Director shall cause the necessary corrections to be made in the register and shall either cause the certificate to be corrected and returned to the person registered or cause a fresh certificate to be issued to him.

Changes in register of conscientious objectors.

**35.** (1) A registered conscientious objector may at any time apply to the Director in writing—

(a) For the removal of his name from the register of conscientious objectors and for his registration in the military service register; or

(b) For his registration in the register of conscientious objectors as a person liable to be called up for service but to be employed only in non-combatant duties.

(2) A person registered in the register of conscientious objectors as a person liable to be called up for service but to be employed only in non-combatant duties may, at any time before the day specified in a calling-up notice served on him as the day on which he is thereby required to present himself, apply to the Director in writing for the removal of his name from that register and for his registration in the military service register.

(3) A person registered in the register of conscientious objectors as a person liable to be called up for service but to be employed only in non-combatant duties may, at any time on or after the day mentioned in subsection two of this section, apply to the Service Board to be employed in combatant duties; and, where such an application is granted, the applicant may be employed in combatant duties.

(4) Where an application made under this section is granted the Director shall cause the register or registers to be amended accordingly.

**36.** (1) Where any person—

(a) Is unconditionally registered in the register of conscientious objectors; or

(b) Is registered in that register as a person liable to be called up for service but to be employed only in non-combatant duties, and has not been called up for service,—

Financial  
position of  
conscientious  
objectors.

the Objection Committee may from time to time make such orders against or give such directions to that conscientious objector or any other person or class of persons as may appear to the Committee to be necessary for the purpose of ensuring that for the period of one hundred and fifty-eight days the financial position of the conscientious objector shall be no better than it would be if he were serving as a private in the Army.

(2) Without limiting the generality of the foregoing provisions, it is hereby declared that any orders or directions made or given under this section may require the payment of any moneys into the Public Account to

the credit of the Social Security Fund, at such times and in such manner as may be specified in the orders or directions. All moneys so ordered or directed to be paid shall be deemed to be a debt due to the Crown by the conscientious objector and by any other person who may be ordered or directed to pay them.

(3) Where the Objection Committee proposes to consider whether it should make any order against any person or give any directions to any person under this section the following provisions shall apply:—

(a) The Committee may summon that person to attend before it, and to produce to it any books, papers, writings, or documents:

(b) That person commits an offence against this Part of this Act if he refuses or fails to comply in any respect with any such summons, or if he attends before the Committee (whether pursuant to a summons or otherwise) and refuses or fails to be sworn or give evidence, or to make answer to such questions as may be put to him by the Committee:

(c) Sections five, seven, eight, and nine of the Commissions of Inquiry Act, 1908, shall not apply with respect to that person.

(4) Any summons, order, or direction issued, made, or given by the Objection Committee may be at any time revoked or from time to time varied or added to by the Committee.

(5) All summonses, orders, and directions issued, made, or given by the Objection Committee shall be in writing signed by the Chairman. In all Courts and in all proceedings—

(a) The production of a document that purports to be a copy of any such summons, order, or direction and to include a copy of the signature thereto of the Chairman of the Committee shall, in the absence of proof to the contrary, be sufficient evidence of that summons, order, or direction:

(b) Judicial notice shall be taken of the appointment and signature of the Chairman and every member of the Objection Committee.

*Procedure of Committees*

**37.** (1) The Minister may from time to time appoint a Deputy Chairman of any Postponement Committee or of the Objection Committee, and such deputy members thereof as he thinks fit, to hold office during his pleasure.

Deputy members of Postponement Committees and Objection Committee.

(2) On the occurrence from any cause of a vacancy in the office of Chairman or member of any such Committee, and in the case of the absence of the Chairman or any member (from whatever cause arising) and as long as the vacancy continues, the powers and functions of the Chairman or member may be exercised and performed by the Deputy Chairman or by a deputy member, as the case may be.

(3) No act done by any such Committee sitting with a Deputy Chairman or a deputy member, or done by any such Deputy Chairman or deputy member, shall be questioned on the ground that the occasion for the deputy's acting had not arisen or had ceased.

**38.** (1) Except as otherwise provided in this Part of this Act, every application for postponement shall be transmitted by the Director to the Postponement Committee sitting in the district in which the applicant resides.

Transmission of applications.

(2) Any Postponement Committee may at any time transmit any application to another Postponement Committee.

(3) Any Committee to which any application is transmitted may hear or rehear the application or continue or adjourn the hearing thereof or otherwise exercise jurisdiction in respect of the application notwithstanding that the application may have been previously heard, adjourned, or otherwise dealt with by any other Committee.

**39.** (1) The procedure of every Postponement Committee or of the Objection Committee shall, subject to this Part of this Act and to any regulations made for the purposes thereof, be such as the Committee thinks fit.

Procedure of Committees.

(2) Any such Committee may admit and accept such evidence as it thinks fit, whether admissible in a Court of law or not.

(3) Every such Committee shall sit at such times and places as may be determined by the Chairman.

(4) No sitting of any such Committee shall take place unless all the members are present, but the decision of the majority of the members shall be the decision of the Committee.

Hearing of applications.

**40.** (1) On the hearing of any application by a Postponement Committee or by the Objection Committee, the applicant may be represented by a barrister or solicitor or, with the leave of the Committee, by any other person.

(2) On the hearing of applications the Crown may be represented by any person appointed by the Minister in that behalf either generally or with respect to any class of applications or with respect to any particular application.

(3) The Crown representative at the hearing of an application shall have a right to be heard in opposition thereto or in support thereof, to produce evidence, and to cross-examine witnesses.

(4) All applications shall be heard in public, unless the Committee in any particular case, due regard being had to the interests of the applicant and of all other persons concerned and to the public interest, considers that the hearing or any part thereof should take place in private.

Adjournments

**41.** The hearing of an application may from time to time be adjourned by a Postponement Committee or by the Objection Committee to any time or place or *sine die*; but if it is adjourned *sine die* reasonable notice of the time and place of the continuance thereof shall be given by post, telegraph, or otherwise to the applicant or his representative and to the Crown representative.

Determination of Committee.

**42.** (1) The determination of any Postponement Committee or of the Objection Committee on any application shall be in writing signed by the Chairman and at least one other member of the Committee.

(2) The determination so signed shall be transmitted by the Chairman to the Director or to such District Officer of the Department of Labour and Employment as the Director directs. The Chairman shall also notify the applicant of the result of the application.

(3) Every such determination shall, for the purposes of this Part of this Act, be final and conclusive:

Provided that on the application of the Director any Postponement Committee or the Objection Committee, as the case may be, may, if it has reason to suppose that the determination may have been procured by fraud, or that new and material evidence is available, rehear the application, and cancel, vary, or confirm the previous determination.

*Miscellaneous*

**43.** No person shall be deemed to be employed in the service of His Majesty for the purposes of the Public Service Act, 1912, or the Superannuation Act, 1947, by reason of his being a member of the Medical Committee or Objection Committee or of a Medical Board or Postponement Committee, or a Regional Medical Officer.

Members of Boards and Committees not to be deemed to be public servants.

See Reprint of Statutes, Vol. VII, p. 522 1947, No. 57

**44.** (1) There shall be paid to the members of the Medical Committee and Objection Committee and of every Medical Board and Postponement Committee, and to every Regional Medical Officer such remuneration by way of salary, fees, or allowances and such travelling expenses and allowances as may from time to time be directed or approved by the Minister of Finance or prescribed by regulations made under this Part of this Act, either generally or in respect of any particular person or class of persons.

Remuneration and travelling-expenses.

(2) All payments under this section shall be made out of moneys to be appropriated by Parliament for the purpose.

**45.** (1) Proceedings before any Medical Board or Postponement Committee or the Objection Committee shall not be held bad for want of form.

Proceedings not to be questioned for want of form, or appealed against.

(2) No appeal shall lie from any order or direction or requirement or decision given or issued in any such proceedings or by the Minister or the Director or any Regional Medical Officer; and, except on the ground of lack of jurisdiction, no proceedings, order, direction, requirement, or decision as aforesaid shall be liable to be challenged, reviewed, quashed, or called in question in any Court.

**46.** (1) In the exercise of his administrative functions under this Act the Director shall be subject to the control of the Minister.

Exercise of Director's functions.

(2) On the occurrence from any cause of a vacancy in the office of Director, and in case of the absence from duty of the Director (from whatever cause arising), and so long as the vacancy or absence continues, the powers and functions of the Director may be exercised and performed by any person authorized in that behalf by the Minister.

(3) The fact that any person exercises or performs any power or function of the Director with the concurrence of the Minister shall be conclusive evidence of his authority to do so.

Delegation of powers by Director.

**47.** (1) The Director may from time to time, either generally or in respect of any particular area or in respect of any particular class of activity, delegate to any person any of his powers and functions under this Act, including the power of delegation conferred by this section.

(2) Subject to any general or special directions given or conditions attached by the Director, the person to whom any powers are delegated under this section may exercise those powers in the same manner and with the same effect as if they had been conferred on him directly by this section and not by delegation.

(3) Every person purporting to act pursuant to any delegation under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.

(4) Any delegation under this section may be made to a specified person or to persons of a specified class, or may be made to the holder or holders for the time being of a specified office or class of offices.

(5) Every delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Director or by any other person making the delegation.

(6) Every delegation made under this section by the Director or by any other person holding any office shall, until it is revoked, continue in force according to its tenor, notwithstanding the fact that the Director or other officer by whom it was made may have ceased to hold office, and shall continue to have effect as if made by his successor in office.

Service of notices.

**48.** (1) Where the Director or any other person gives any direction or issues any requirement under this Part of this Act he may cause notice of the direction or

requirement to be served on any person, and every person on whom the notice is served shall be bound thereby.

(2) Except where otherwise specially provided, any notice required to be served on any person for the purposes of this Part of this Act may be served by causing it to be delivered to that person, or to be left at his usual or last known place of abode or business or at the address specified by him in any application, notice, or other document received from him, or to be posted in a letter addressed to him at that place of abode or business or at that address.

(3) If any such notice is sent to any person by registered letter it shall be deemed to have been delivered to him when it would have been delivered in the ordinary course of post, and in proving the delivery it shall be sufficient to prove that the letter was properly addressed and posted.

(4) Any notice served under this Part of this Act may be at any time varied or revoked by a subsequent notice.

49. If, while any person remains subject to registration, a certificate of registration issued to that person is lost, destroyed, or defaced, that person shall forthwith report the fact to a district office of the Department of Labour and Employment, and in a case where the certificate is defaced shall at the same time lodge the certificate at or send it to the district office; and the Director, on being satisfied that the facts reported are correct, shall, where the certificate has been lost or destroyed or so far defaced as to make it desirable to do so, issue a fresh certificate of registration; and the certificate so issued may be marked in any manner that the Director may consider suitable for the purpose of indicating that it has been issued under this section.

Lost certificates  
of registration.

50. (1) Any constable may question any person who may reasonably be supposed to be subject to registration or liable for any service under this Part of this Act as to all or any of the following matters—namely, his name, occupation, and residential address, the date and place of

Power of police  
to question  
persons liable  
for service.

his birth, his registration in the military service register or in the register of conscientious objectors, or his membership of any Armed Force.

(2) Every person who fails or refuses to answer forthwith any question so put to him, or who answers any such question in a false or wilfully misleading manner, commits an offence against this Part of this Act.

Failure to  
render service.

**51.** (1) Every person who belongs to any Armed Force by virtue of this Part of this Act shall be deemed to have failed to render the service required of him under this Part of this Act if and as often as he fails to be present at any camp, course of instruction, parade, or drill, or on any other lawful occasion of service or training, with his prescribed arms, uniform, and equipment, at the place prescribed, and at and during the time prescribed, and there and then to perform and undergo with due diligence and subordination all service and training lawfully required of him.

(2) For the purposes of this section the expression "prescribed" means prescribed by any orders lawfully given in that behalf.

(3) Nothing in this section shall be so construed or shall so operate as to take away or restrict the liability of any person for any offence, whether under military law or otherwise, but no person shall be punished twice for the same offence.

Employers not  
to employ  
persons who  
fail to  
register.

**52.** Every person who at any time employs or retains in his service for more than seven days any person subject to registration who has not applied for registration under this Part of this Act commits an offence against this Act, unless he proves that he believed on reasonable grounds that the person so employed or retained in his service was not subject to registration or that he had duly applied for registration.

Employers not  
to employ  
deserters.

**53.** Every person who employs or retains in his service any person who has deserted or is absent without leave from any Armed Force commits an offence against this Act, unless he proves that he did not know and had no reason to suspect that the person so employed or retained in his service was a deserter or absent without leave.

**54.** Every person commits an offence against this Part of this Act, who, being a person subject to registration or a person who has been served with a calling-up notice, leaves or attempts to leave New Zealand at any time before the term of his part-time service is completed, without having first obtained permission from the Director to leave New Zealand.

Persons liable for service to obtain permission before leaving New Zealand.

**55.** (1) No person shall—

(a) Supply or cause or permit to be supplied any intoxicating liquor to any trainee in any training camp, or to any trainee in any other naval, military, or air force camp, station, or establishment:

Prohibiting supply of liquor in training camps.

(b) Set up or cause or permit to be set up or conducted any wet canteen in any training camp.

(2) For the purposes of this section,—

“ Trainee ” means a person who is performing or undergoing any service or training for which he has been called up or summoned under this Part of this Act:

“ Training camp ” means any place where any trainees are quartered or stationed:

“ Wet canteen ” means any establishment (including a service mess) in which intoxicating liquor is supplied to any persons.

(3) The boundaries of every training camp shall be defined by Naval, Army, or Air Force Orders, and shall be clearly marked.

**56.** (1) Every person commits an offence against this Part of this Act who—

Offences.

(a) Without lawful excuse acts in contravention of or fails to comply in any respect with any provision of this Part of this Act or any direction, requirement, order, summons, restriction, or condition given, issued, or imposed under this Part of this Act:

(b) Resists, obstructs, or deceives, or attempts to resist, obstruct, or deceive any Medical Board or Postponement Committee, or the Objection Committee, or the Director, or any person who is exercising or attempting to exercise any power or function under this Part of this Act:

- (c) With intent to deceive, makes any false or misleading statement in or any material omission from any communication with or application to the Minister, the Director, or any other person (whether in writing or otherwise) for the purposes of this Part of this Act:
- (d) With intent to deceive, forges or uses, or lends to or allows to be used by any other person, any certificate issued under this Part of this Act; or, with intent to deceive, makes, or has in his possession, any document so closely resembling any certificate so issued as to be calculated to deceive:
- (e) Offers any bribe or other unlawful or improper inducement to any person with intent to influence him in the exercise of any powers, duties, or functions under or for the purposes of this Part of this Act.
- (2) Every person who commits an offence against this Part of this Act shall be liable on summary conviction—
- (a) In the case of an individual to a fine not exceeding fifty pounds :
- (b) In the case of a company or other corporation, to a fine not exceeding two hundred pounds.
- (3) Where any person who is subject to registration or liable for any service under this Part of this Act is convicted before a Magistrate of any offence against this Part of this Act, the Magistrate, if in the circumstances of the case he thinks fit to do so, may, in addition to or instead of imposing any other lawful penalty, direct that the offender be released on probation in terms of the Offenders Probation Act, 1920, for any period not exceeding one year, and in every such case the provisions of that Act shall, as far as they are applicable and with the necessary modifications, apply accordingly. The conditions of the release of any person on probation under this section shall include the following conditions:—
- (a) That he shall, for any specified part of the period of probation, undertake such work of a civil nature and under civil control as may from time to time be required by the Director of Employment; and

(b) That he shall pay into the Public Account to the credit of the Social Security Fund such sums, at such times and in such manner as may be required by the Director of Employment for the purpose of ensuring that for the period referred to in paragraph (a) of this subsection the financial position of the offender shall be no better than it would be if he were serving as a private in the Army.

(4) Where any person commits an offence by being guilty of any contravention or non-compliance referred to in paragraph (a) of subsection one of this section, he shall be deemed to commit a further offence on every day after the first during which the contravention or non-compliance continues, whether or not (in the case of a non-compliance) a specified date has been fixed for compliance.

57. (1) Where in any prosecution for an offence against this Part of this Act any question arises as to whether the defendant has received any discharge, exemption, or permission, or has made any application or fulfilled any obligation required from or imposed on him by this Part of this Act, the negative shall be presumed until the contrary is proved:

Evidence and  
procedure.

Provided that, if it appears to the Court that there are special circumstances giving rise to doubt as to any of the matters aforesaid, the Court may require the matter to be proved by the prosecution.

(2) Any certificate of registration purporting to be issued under this Part of this Act shall, in the absence of proof to the contrary, be sufficient evidence of the registration in the military service register or in the register of conscientious objectors, as the case may be, of the person to whom the certificate relates.

(3) A copy purporting to be certified by or on behalf of the Director of any entry in the military service register or in the register of conscientious objectors shall, in the absence of proof to the contrary, be sufficient evidence of the entry.

(4) A certificate purporting to be signed by or on behalf of the Director of the absence of an entry in the military service register or in the register of

conscientious objectors shall, in the absence of proof to the contrary, be sufficient evidence of the facts stated in the certificate.

(5) The absence of an entry in the military service register and in the register of conscientious objectors relating to any person shall, in the absence of proof to the contrary, be sufficient evidence that no application for registration under this Part of this Act has been made by that person.

(6) For the purposes of any prosecution for an offence against this Part of this Act a certificate purporting to be signed by the Chairman of a Medical Board, and stating that a person bearing the name in which the defendant is charged was examined by that Board on a date specified in the certificate, shall be evidence that the defendant was so examined on that date:

Provided that, if it appears to the Court that there are special circumstances giving rise to doubt as to any matter stated in any such certificate, or as to the relation of any such certificate to the defendant, the Court may require the prosecution to prove that matter, or that the certificate relates to the defendant, as the case may be.

(7) Section fifty of the Justices of the Peace Act, 1927, shall not apply with respect to any prosecution for an offence against this Part of this Act.

See Reprint  
of Statutes,  
Vol. II, p. 365

Regulations.

**58.** (1) The Governor-General may from time to time, by Order in Council, make all such regulations as may in his opinion be necessary or expedient for giving full effect to the provisions of this Part of this Act, and for the due administration thereof.

(2) All regulations made under this section shall be laid before Parliament within twenty-eight days after the date of their making if Parliament is then in session, and, if not, shall be laid before Parliament within twenty-eight days after the commencement of the next ensuing session.

## PART II

## SAFEGUARDING OF EMPLOYMENT

**59.** (1) In this Part of this Act, unless the context Interpretation. otherwise requires,—

“Apprentice” has the same meaning as in the Apprentices Act, 1948: 1948, No. 22

“Inspector of Factories” means an Inspector of Factories appointed under the Factories Act, 1946: 1946, No. 43

“Undertaking” includes any business, whether carried on by way of trade or not, and the activities of any body of persons, whether incorporated or not.

(2) Where any worker employed in any undertaking has been called up or summoned for any service or training under Part I of this Act, and any change takes place in the person carrying on that undertaking or that undertaking becomes comprised in any other undertaking, references in this Part of this Act to the employer of that worker shall be construed as references to the person for the time being carrying on that undertaking or that other undertaking, as the case may be:

Provided that where the worker was employed in a branch or part of an undertaking which becomes, or becomes part of, some other undertaking, and either—

(a) He has as a consequence become employed in that other undertaking; or

(b) It is reasonable to suppose that he would as a consequence have been employed in that other undertaking if his employment had not been interrupted by his service or training—

this subsection shall have effect as if that branch or part were itself an undertaking.

*Leave of Absence For Period of Service or Training*

**60.** (1) Where any person who is employed by any employer is called up or summoned for any service or training for any period under Part I of this Act, his employer shall be deemed to have granted him leave of absence for that period: Worker deemed to have leave of absence from employment.

Provided that, in the case of the worker's whole-time service, the leave of absence shall be deemed to extend for such further period from the end of that service, not exceeding seven days, as the worker may require:

Provided also that, where in any case the worker is prevented by his sickness or by any other reasonable cause from resuming his employment at the end of the period or extended period of leave of absence herein-before provided for, the leave of absence shall be deemed to have been extended for such further period as may be reasonable.

(2) Subject to the provisions of this Part of this Act as to holidays, the employer of any such worker shall not be obliged to pay him any remuneration for the period of leave of absence provided for by this section.

Resumption of  
employment  
after leave  
of absence.

**61.** Where any worker presents himself to his employer at or before the end of any period of leave of absence to which he is entitled under the last preceding section the employer shall forthwith resume the employment of the worker in the occupation in which he was last employed before the leave of absence and on terms and conditions not less favourable to him than those that would have been applicable to him if he had not been called up or summoned for service or training:

Provided that in the case of employment of a temporary, seasonal, or casual nature this section shall not apply if, having regard to the general conditions applicable to the industry concerned, the employment of the worker would not normally have continued until the end of the period of leave of absence.

#### *Prohibition of Dismissal of Workers*

Workers not  
to be dismissed  
by reason of  
liability for  
service.

**62.** (1) The employer of any worker commits an offence against this section—

- (a) If the worker is liable to be called up for whole-time service under Part I of this Act, and the employer terminates the worker's employment without his consent before the beginning of that whole-time service, and does so solely or mainly by reason of any duties or liabilities which the worker is or may become liable to perform or discharge by reason of his being, or being liable to be, called up as aforesaid:

- (b) If the employment of the worker is terminated by the employer without the worker's consent solely or mainly by reason of any duties or liabilities which he is or may become liable to perform or discharge during and by reason of his term of part-time service under Part I of this Act:
- (c) If the employment of the worker is terminated by the employer without the worker's consent during any period of leave of absence to which the worker is entitled under section sixty of this Act, or within thirteen weeks after the end of the period of leave of absence for his whole-time service, solely or mainly by reason of any duties or liabilities which the worker is or may have become liable to perform or discharge under Part I of this Act.

(2) If any employer commits an offence against this section he shall be liable on summary conviction to a fine not exceeding one hundred pounds; and the Court by which he is convicted may order him to pay to the worker whose employment has been terminated, as compensation for any loss suffered or likely to be suffered by him by reason of the termination, a sum not exceeding an amount equal to thirteen weeks' remuneration at the rate at which his remuneration was last payable to him by the employer.

(3) Where the employment of any worker is terminated in contravention of subsection one of this section, he shall be entitled to recover from the employer, as compensation for any loss suffered or likely to be suffered by him by reason of the termination of his employment, a sum not exceeding an amount equal to thirteen weeks' remuneration at the rate at which his remuneration was last payable to him by the employer.

(4) The awarding of compensation under subsection three of this section shall not affect the liability of the employer to proceedings for an offence under subsection two of this section, and except to the extent to which compensation has been paid, shall not affect the power of the Court to order the payment of compensation under the said subsection two.

(5) If in any proceedings under this section the Court is of opinion that there is reasonable cause to believe that the duties or liabilities aforesaid caused or contributed to the termination of the employment, the employment shall be deemed to have been terminated solely or mainly by reason of those duties or liabilities unless the employer proves that the termination was for a reason unconnected therewith.

### *Rates of Remuneration*

Workers' rates of remuneration to be computed as if period of service were time served.

**63.** Where the rate of the remuneration of any worker is computed by reference to the length of the time served by him in any occupation, and the time so served by him is interrupted by any service or training for which he is called up or summoned under Part I of this Act, the period of leave of absence to which he is entitled under section sixty of this Act shall for the purpose of computing the rate of his remuneration be deemed to be time served by him in that occupation.

### *Holidays*

Annual holidays.

1944, No. 5

**64.** (1) For the purpose of ascertaining the rights of any worker to annual or periodical holidays or leave with pay, and the obligations of his employer in relation thereto, whether under the Annual Holidays Act, 1944, or otherwise, where the time served by the worker in the employment of that employer is interrupted by the worker's whole-time service under Part I of this Act, the period of the leave of absence to which he is entitled under section sixty of this Act in respect of that whole-time service shall not, unless the employer otherwise agrees, be deemed to be time served in that employment.

(2) Where an employer is required to allow annual or periodical holidays or leave to any worker the holidays or leave shall not, except at the request of the worker, be allowed at times comprised within any period of service or training for which he is called up or summoned under Part I of this Act.

Other holidays.

**65.** Where any worker who is employed by any employer performs or undergoes any service or training for which he is called up or summoned under Part I of this Act, the rights of the worker to be allowed

any day as a holiday on full pay during the period of that service or training, and the obligations of his employer in relation thereto, shall be ascertained as if the worker had ceased to be employed by the employer at the beginning of that service or training.

### *Apprentices*

**66.** (1) Where the time served by any apprentice under his contract of apprenticeship is interrupted by any service or training for which he is called up or summoned under Part I of this Act, his contract of apprenticeship shall be deemed to be suspended during the period of the leave of absence to which he is entitled under section sixty of this Act in respect of that service or training (in this section referred to as the period of leave), and the following provisions shall apply. Apprentices.

(2) Subject to the provisions of this Part of this Act as to holidays, the employer of any such apprentice shall not be obliged to pay him any remuneration for the period of leave, but the period of leave shall be deemed to be time served under the contract of apprenticeship for the purpose of computing the period of apprenticeship and the rate of wages of the apprentice.

(3) In the case of any contract of apprenticeship under which the period of apprenticeship is fixed by reference to a number of working hours, the period of leave for the purposes of this section shall be deemed to be the number of hours that the apprentice would normally have worked under the contract of apprenticeship during the period of leave if he had continued to work under the contract during that period.

(4) Sections sixty-four and sixty-five of this Act shall apply to apprentices as well as to other workers.

### *Miscellaneous*

**67.** Where any person volunteers for or performs or undergoes any voluntary whole-time service or any voluntary training in any Armed Force or Armed Forces for any period or periods not exceeding in the aggregate three weeks in any calendar year, that voluntary service or training shall, for the purposes of this Part of this Act, be deemed to be training for which he Application of this Part to voluntary service.

is liable to be or has been summoned under Part I of this Act, whether or not he is or has been in fact liable for any service or training under that Part.

Workers to notify employers before commencing service or training.

**68.** (1) Where any person who is employed by any employer is called up or summoned for any service or training under Part I of this Act or for any voluntary service or training which will necessitate his absence from work, he shall forthwith notify his employer thereof.

(2) Every person who fails to comply in any respect with the foregoing provisions of this section commits an offence, and shall be liable on summary conviction to a fine not exceeding twenty pounds.

Proceedings may be taken by Inspector of Factories.

**69.** Without limiting the powers or remedies of any other person, it is hereby declared that—

(a) Civil proceedings for the recovery of compensation from any employer under section sixty-two of this Act may be taken by any Inspector of Factories in the name and on behalf of the person entitled to payment in any case where the Inspector is satisfied that compensation is recoverable:

(b) No Court fees shall be payable by the Inspector of Factories in any such proceedings, but the Court may in any case, if it thinks fit, order that the Court fees shall be paid by the defendant:

(c) Where any such civil proceedings or any proceedings for an offence against this Part of this Act have been instituted by any Inspector of Factories they may be continued and conducted by the same or any other Inspector of Factories.

Evidence.

**70.** (1) A certificate of an authorized officer as to the duration of a person's whole-time or part-time service or training shall be conclusive for the purposes of any proceedings under or for the purposes of this Part of this Act.

(2) Every document purporting to be such a certificate as aforesaid or any other certificate authorized by this Part of this Act and to be signed by an authorized officer shall be received in evidence and shall, in the absence of proof to the contrary, be deemed to be such

a certificate of an authorized officer; and in any proceedings under or for the purposes of this Part of this Act the production of a document purporting to be certified by or on behalf of an authorized officer to be a true copy of any such certificate as is mentioned in this subsection shall, in the absence of proof to the contrary, be sufficient evidence of the certificate.

**71.** (1) Subject to the provisions of this section,—

(a) There shall be included among the debts which, under section one hundred and twenty of the Bankruptcy Act, 1908, are to be paid in the third priority in the distribution of the property of a bankrupt any sum ordered or adjudged to be paid under section sixty-two of this Act as compensation where the default or contravention by reason of which the order or judgment for compensation was made or given occurred before the date of the filing of a debtor's petition, or the filing of a creditor's petition on which an order of adjudication is made, whether or not the order or judgment for compensation was made or given before that date:

Priority in bankruptcy or winding-up of compensation ordered to be paid by employer.

See Reprint of Statutes, Vol. I, p. 540

(b) There shall be included among the debts which, under section two hundred and fifty-eight of the Companies Act, 1933, are to be paid in priority to all other debts in the winding-up of a company any sum ordered or adjudged to be paid under section sixty-two of this Act as compensation where the default or contravention by reason of which the order or judgment for compensation was made or given occurred before the relevant date within the meaning of that section, whether or not the order or judgment for compensation was made or given before that date.

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(2) The sum to which priority is to be given under paragraph (a) or paragraph (b) of the last preceding subsection, as the case may be, shall not in the case of any one claimant exceed one hundred pounds.

**72.** (1) The regulations specified in the Schedule to this Act are hereby revoked.

Revocations and savings.

(2) The revocation of the said regulations shall not affect—

- (a) The validity, invalidity, effect, or consequences of anything done or suffered before the commencement of this Act:
- (b) Any status or capacity existing at the commencement of this Act:
- (c) Any right or civil or criminal liability existing at the commencement of this Act, or any remedy or proceeding in respect thereof:
- (d) Any right of any person who belongs to any Armed Force at the commencement of this Act, or any criminal or civil liability in respect of any such person, or any remedy or proceeding in respect of any such right or liability.

(3) The said regulations, notwithstanding the revocation thereof, shall continue and be in force as far as may be necessary for the purposes of the last preceding subsection.

## Schedule.

## SCHEDULE

## Section 72

## REGULATIONS REVOKED

Title.	Serial Number.
<b>The Occupational Re-establishment Emergency Regulations 1940</b>	1940/291
Amendment No. 2	1942/201
Amendment No. 3	1943/102
Amendment No. 4	1946/75
<b>The Suspension of Apprenticeship Emergency Regulations 1944</b>	1944/23
Amendment No. 1	1946/91