

CHAPTER 104.

An Act to make provision with respect to Military Service in connexion with the present War. [A.D. 1916.

[27th January 1916.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Obligation of unmarried men to serve.

1.—(1) Every male British subject who—

(*a*) on the fifteenth day of August nineteen hundred and fifteen, was ordinarily resident in Great Britain, and had attained the age of eighteen years and had not attained the age of forty-one years; and

(*b*) on the second day of November nineteen hundred and fifteen was unmarried or was a widower without any child dependent on him;

shall, unless he either is within the exceptions set out in the First Schedule to this Act, or has attained the age of forty-one years before the appointed date, be deemed as from the appointed date to have been duly enlisted in His Majesty's regular forces for general service with the colours or in the reserve for the period of the war, and to have been forthwith transferred to the reserve.

(2) The Army Act (with the exception of section ninety-six thereof, which relates to the claim of masters to apprentices) and the Reserve Forces Acts, 1882 to 1907, and any orders and regulations made thereunder, shall apply accordingly to any man who is so deemed to have been enlisted and transferred to the reserve; and if any question arises in any legal proceeding under any of those Acts, orders, or regulations whether any man is a man who is under this section deemed to have been enlisted and transferred to the reserve or not, the court may require the man to give evidence on the question, and if satisfactory evidence is not given to the contrary the man shall be deemed to have been so enlisted and transferred;

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Provided that—

(*a*) where the question, whether a man is a man who, under this section is deemed to have been enlisted and transferred to the reserve or not, is raised on proceedings in respect of an offence alleged to have been committed by the man as a member of the reserve whilst he was a member of the reserve in pursuance of the transfer under this Act, or in respect of any alleged failure to comply with any order calling him up from the reserve for permanent service, that question shall be decided only on proceedings before a civil court; and

(*b*) no such proceedings shall be instituted except during the continuance of the present war and a period of six months thereafter; and

(*c*) a man who is deemed to have been enlisted and transferred to the reserve under this section shall not be liable to suffer death in respect of failure to obey an order calling him up from the reserve for permanent service.

(3) Provision shall be made under section twenty of the Reserve Forces Act, 1882, for information being obtained from men who are transferred to the reserve under this section as to preference for naval service, and the Admiralty shall have the first call on such men in case their services are needed for that purpose.

45 & 46 Vict. c. 48.

(4) This section shall apply to any male British subject who, since the fifteenth day of August nineteen hundred and fifteen, has become or hereafter becomes ordinarily resident in Great Britain in the same manner as it applies to a male British subject who was ordinarily resident in Great Britain on the fifteenth day of August nineteen hundred and fifteen, with the substitution in the case of a man becoming so resident after the appointed date of the thirtieth day after he has become so resident for the appointed date.

Certificates of exemption.

2.—(1) An application may be made at any time before the appointed date to the Local Tribunal established under this Act by or in respect of any man for the issue to him of a certificate of exemption from the provisions of this Act—

(*a*) on the ground that it is expedient in the national interests that he should, instead of being employed in military service, be engaged in other work in which he is habitually engaged or in which he wishes to be engaged or, if he is being educated or trained for any work, that he should continue to be so educated or trained; or

(*b*) on the ground that serious hardship would ensue, if the man were called up for Army Service, owing to his exceptional financial or business obligations or domestic position; or

(*c*) on the ground of ill-health or infirmity; or

(*d*) on the ground of a conscientious objection to the undertaking of combatant service;

and the Local Tribunal, if they consider the grounds of the application established, shall grant such a certificate.

The Local Tribunal may allow an application to be made after the appointed date in any case in which it is shown to their satisfaction that the failure to make the application within the required time has arisen owing to the absence of the applicant abroad, or owing to any other cause which appears to the tribunal to afford a reasonable ground for allowing the application to be so made.

(2) Certificates of exemption from the provisions of this Act may also be granted by any Government Department, after consultation with the Army Council, to men, or classes or bodies of men, in the service or employment of that Department, or, in cases where it appears to the department that certificates can be more conveniently granted by the department than by the Local Tribunal, to men or classes or bodies of men who are employed or engaged or qualified for employment or engagement in any work which is certified by the Department to be work of national importance and whose exemption comes within the sphere of the Department.

If any question arises whether any person or body of persons is to be treated as a Government Department, or as a separate Government Department, for the purpose of this provision, or whether any exemption comes within the sphere of one Department or another, the question shall be referred to the Treasury, and the decision of the Treasury thereon shall be final for the purposes of this section.

Where a certificate is granted by a Government Department to a class or body of men, regulations made under this Act with respect to the constitution, functions and procedure of Local Tribunals may provide for the grant of individual certificates to men belonging to that body or class by Local Tribunals in such cases and subject to such provisions as may be prescribed by the regulations.

(3) Any certificate of exemption may be absolute, conditional, or temporary, as the authority by whom it was granted think best suited to the case, and also in the case of an application on conscientious grounds, may take the form of an exemption from combatant service only, or may be conditional on the applicant being engaged in some work which in the opinion of the Tribunal dealing with the case is of national importance:

Provided that a certificate granted on the ground of the continuance of education or training, or on the ground of exceptional financial or business obligations or domestic position, shall be a conditional or temporary certificate only.

No certificate of exemption shall be conditional upon a person to whom it is granted continuing in or entering into employment

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under any specified employer or in any specified place or establishment.

(4) Where a conditional certificate is granted the conditions upon which it is granted shall be stated on the certificate.

(5) Any Government Department may direct that any certificates granted by or on behalf of that Department before the appointed date as to employment on work for war purposes may be treated as certificates of exemption for the purposes of this Act.

(6) Where a certificate of exemption is destroyed, missing, or defaced, the authority by whom it was granted shall, upon the application of the man to whom it was granted and upon payment of a fee of a shilling, issue a duplicate of the certificate to him.

(7) The Local Tribunal, Appeal Tribunal, and Central Tribunal shall be constituted in accordance with the provisions of the Second Schedule to this Act, and any decision of the Local Tribunal or Appeal Tribunal shall be subject to appeal as provided in that Schedule.

Supplemental provisions as to certificates of exemption.

3.—(1) A certificate of exemption may be reviewed or renewed at any time by the Local Tribunal or the Government Department, as may be directed by regulations made under this Act with respect to the constitution, functions and procedure of Local Tribunals, on the application either of the holder of the certificate or of any person generally or specially authorised for the purpose by the Army Council, and may be withdrawn or varied if the authority by whom the certificate is reviewed are of opinion that, in the circumstances of the case, the certificate should be withdrawn or varied.

(2) It shall be the duty of any man holding a conditional certificate, if the conditions on which the certificate was granted are no longer satisfied, to give notice to the authority mentioned in the certificate that the conditions are no longer satisfied; and if he fails without reasonable cause or excuse to do so, he shall be liable on summary conviction to a fine not exceeding fifty pounds.

(3) Where a certificate of exemption ceases to be in force owing to the withdrawal of the certificate or the failure to comply with the conditions on which the certificate was granted or the expiration of the time for which the certificate was granted, the man to whom the certificate was granted shall, as from the expiration of two months after the date on which the certificate so ceases to be in force, be deemed to have been enlisted and transferred to the reserve in the same manner as if no such certificate had been granted unless in the meantime the man has obtained a renewal of his certificate.

(4) If for the purpose of obtaining exemption for himself or any other person, or for the purpose of obtaining the renewal, variation, or withdrawal of a certificate of exemption, any person makes any false statement or false representation, he shall be

liable on summary conviction to imprisonment for a term not exceeding six months with or without hard labour. A.D. 1916.

(5) Where an application has been made by or in respect of any man for a certificate of exemption or for a renewal of such a certificate, he shall not be called up for service with the colours until the application has been finally disposed of.

Short title and commencement.

4. This Act may be cited as the Military Service Act, 1916, and shall come into operation on such day as His Majesty may fix by proclamation, not being more than fourteen days after the passing thereof.

The appointed date for the purposes of this Act shall be the twenty-first day after the day on which this Act comes into operation.

SCHEDULES.

FIRST SCHEDULE.

Section 1 (1).

EXCEPTIONS.

1. Men ordinarily resident in His Majesty's Dominions abroad, or resident in Great Britain for the purpose only of their education or for some other special purpose.

2. Members of His Majesty's regular or reserve forces, or of the forces raised by the Governments of His Majesty's Dominions, and members of the Territorial Force who are liable for foreign service or who are, in the opinion of the Army Council, not suited for foreign service.

3. Men serving in the Navy, or the Royal Marines, or who, though not serving in the Navy or Royal Marines, are recommended for exception by the Admiralty.

4. Men in holy orders or regular ministers of any religious denomination.

5. Men who have left or been discharged from the naval or military service of the Crown in consequence of disablement or ill-health (including officers who have ceased to hold a commission in consequence of disablement or ill-health), and, subject to any provision which may hereafter be made by Parliament, men who have been discharged from the naval or military service of the Crown on the termination of their period of service.

6. Men who hold a certificate of exemption under this Act for the time being in force (other than a certificate of exemption from combatant service only), or who have offered themselves for enlistment and been rejected since the fourteenth day of August nineteen hundred and fifteen.

SECOND SCHEDULE.

Section 2 (7).

CONSTITUTION OF TRIBUNALS.

1. There shall be a Local Tribunal for each local registration district under the National Registration Act, 1915, in Great Britain, or for any division of any such district which may be adopted for the purpose by the registration authority of the district, consisting of such persons, not less than five and not exceeding twenty-five in number, as may be appointed for the purpose by that authority.

2. There shall be Appeal Tribunals, acting within such areas as His Majesty may appoint, consisting of such persons as may be appointed for the purpose by His Majesty.

3. Tribunals may act through committees appointed by them, consisting of members of the tribunal.

4. There shall be a Central Tribunal for Great Britain consisting of such persons as may be appointed for the purpose by His Majesty.

5. His Majesty may by Order in Council make regulations with respect to the constitution, functions and procedure of the Local Tribunals, the Appeal Tribunals and the Central Tribunal; and, so far as provision is not made for procedure by those regulations, the procedure of the tribunal shall be such as may be determined by the tribunal.

Regulations made under this provision shall contain instructions to the Local and Appeal Tribunals given with a view to securing uniformity of decision and practice amongst the several tribunals.

Any Order in Council under this provision may be revoked or varied by any subsequent Order in Council and any regulations made under any such Order shall, as soon as may be, be presented to Parliament.

6. If any difficulty arises with respect to the constitution of Local Tribunals, or otherwise in relation to the operation of this Act with respect to Local Tribunals, the Local Government Board, or, as respects Scotland, the Secretary for Scotland, may make any appointment and do anything which appears to them necessary or expedient for the establishment of those tribunals or for securing the full operation of this Act with respect to those tribunals.

APPEAL.

1. Any person aggrieved by the decision of a Local Tribunal, and any person generally or specially authorised to appeal from the decision of that tribunal by the Army Council, may appeal against the decision of a Local Tribunal to the Appeal Tribunal of the area.

2. Any person aggrieved by the decision of an Appeal Tribunal, and any person generally or specially authorised to appeal from the decision of that tribunal by the Army Council, may, by leave of the Appeal Tribunal, appeal to the Central Tribunal.

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