CHAPTER 15.

An Act to make further provision with respect to Military Service during the present War. [25th May 1916.]

A.D. 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:—

Extension and continued operation of Military Service Act, 1916. 5 & 6 Geo. 5. c. 104

1.—(1) Every male British subject who has at any time since the fourteenth day of August nineteen hundred and fifteen been, or for the time being is, ordinarily resident in Great Britain, and who for the time being has attained the age of eighteen years and has not attained the age of forty-one years, shall, unless he either is for the time being within the exceptions set out in the First Schedule to the Military Service Act, 1916 (in this Act referred to as the principal Act), as amended by this Act or any subsequent enactment, 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:

Provided that steps shall be taken to prevent so far as possible the sending of men to serve abroad before they attain the age of nineteen.

The appointed date shall, as respects men who come within the operation of this section on the passing of this Act, be the thirtieth day after the date of the passing of this Act, and, as respects men who come within the operation of this section after the passing of this Act, be the thirtieth day after the date on which they so come within the operation of this section.

(2) All the provisions of the principal Act, as amended by this Act, with the exception of those defining the appointed date, shall, so far as applicable, extend to men to whom this section applies in the same manner as to men to whom section one of that Act applied.

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(3) Subsection (4) of section one of the principal Act is hereby repealed.

Prolongation of expiring terms of service. 44 & 45 Vict. c. 58. 7 Edw. 7. c. 9.

2. During the continuance of the present war, subsection (1) of section eighty-seven of the Army Act, and subsection (5) of section nine of the Territorial and Reserve Forces Act, 1907 (which relate to prolongation of service in certain cases), shall have effect as if after the words "not exceeding twelve months" where they occur in those subsections respectively there were inserted the words "or in the case of men whose "time for discharge occurs before the end of the present war "not exceeding the duration of the war":

Provided that this section shall not apply in the case of men who when their time for discharge occurs have served a period of twelve years or more and have attained the age of forty-one years.

Modification of exceptions from service.

3.—(1) Paragraph five of the First Schedule to the principal Act shall cease to have effect so far as it relates to men who have been discharged from the naval or military service of the Crown on the termination of their period of service:

Provided that where a man is transferred to the reserve in pursuance of the principal Act, or this Act, he shall, if he has been so discharged from the military service of the Crown as a warrant officer or non-commissioned officer, be restored to the military rank which he held immediately before the termination of his military service.

(2) Paragraph six of the First Schedule to the principal Act shall, on the first day of September nineteen hundred and sixteen, cease to apply to a man who has offered himself for enlistment and been rejected since the fourteenth day of August nineteen hundred and fifteen, if the Army Council are satisfied that he should again present himself for medical examination, and send him written notice to that effect before the first mentioned date.

(3) Subsection (5) of section two of the principal Act shall have effect as if the words "before the appointed date" were omitted therefrom.

Provisions as to certificates of exemption.

4.—(1) Where a decision of a local tribunal has been varied on appeal to the appeal tribunal, any certificate of exemption granted in pursuance thereof shall be reviewed or renewed only by the appeal tribunal by whom the decision has been varied, or by such other appeal tribunal as may be provided by regulations, on an application made direct to that tribunal, and the provisions of the principal Act as to the review or renewal of certificates of exemption shall apply accordingly.

(2) A certificate of exemption may be granted under the principal Act subject to the condition that the certificate shall not be renewable or open to variation except on an application

made with the leave of the tribunal on whose decision the certificate has been so granted, and, unless leave is so given, the provisions of the principal Act as to the renewal or variation of certificates shall not apply to a certificate granted subject to such a condition.

The decision of the tribunal granting or refusing leave under this provision shall be final.

(3) It is hereby declared that the power to grant special certificates of exemption in the case of an application on conscientious grounds under subsection (3) of section two of the principal Act is additional to and not in derogation of the general power conferred by that Act to grant an absolute, conditional, or temporary certificate in such cases.

(4) Paragraph six of the Second Schedule to the principal Act shall have effect as if for the expression "local tribunals" wherever that expression occurs there were substituted the word "tribunals."

(5) Regulations made under the Second Schedule to the principal Act may provide for permitting the rehearing of a case by a tribunal in cases specified in the regulations.

Amendment of s. 2 (3) of principal Act.

5. The provision in subsection (3) of section two of the principal Act that no certificate of exemption shall be conditional upon a person to whom it is granted continuing in or entering into employment under any specified employer or in any specified place or establishment, shall not apply to a certificate of exemption granted on the ground of a conscientious objection to the undertaking of combatant service.

Amendment of s. 3 (3) of principal Act.

6. Subsection (3) of section three of the principal Act shall, as respects certificates which cease to be in force after the date of the passing of this Act, apply only in the case of men who have been engaged in an occupation certified by a government department to be work of national importance, and who were engaged in such an occupation before the fifteenth day of August nineteen hundred and fifteen, and in the case of men whose conditions of employment have been subject to the provisions of section seven of the Munitions of War Act, 1915, as amended by any subsequent enactment, and who were in the same employment or engaged in the same or similar occupation before the fifteenth day of August nineteen hundred and fifteen, and in all other cases the subsection shall be construed as if "two weeks" were substituted for "two months," and as if the words "unless in the meantime the man has made an application for a renewal of his certificate" were substituted for the words "unless in the meantime the man has obtained a renewal of his certificate."

5 & 6 Geo. 5. c. 54.

Provisions as to exemption of medical practitioners.

7. Regulations made under the Second Schedule to the principal Act shall provide for the establishment of professional committees to deal with claims for exemption made by duly

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qualified medical practitioners; and any application made by such a medical practitioner on any ground, other than that of conscientious objection, for a certificate of exemption shall be referred by the tribunal to whom it is made to such a committee in accordance with those regulations; and the recommendation of the committee on the application shall be binding on any tribunal constituted under the principal Act.

Exception for prisoners of war, &c.

8. Nothing in this or the principal Act shall operate so as to render liable to military service any person who has at any time since the beginning of the war been a prisoner of war, captured or interned by the enemy, and has been released or exchanged.

Proof of offences in connexion with deserters and absentees. 45 & 46 Vict. c. 48.

9. During the continuance of the present war section one hundred and fifty-three of the Army Act and section seventeen of the Reserve Forces Act, 1882 (which relate to offences in connexion with deserters and absentees), shall have effect as though the following provision were inserted at the end of each of those sections:—

> "For the purposes of this section a person shall be deemed to have knowledge unless he proves that he had not knowledge."

and it is hereby declared that, in the application of any provisions of either of those Acts to men who are deemed to have been enlisted and transferred to the reserve in pursuance of the principal Act or this Act, the expression "court of summary jurisdiction" as respects Scotland includes any magistrate or magistrates, by whatever name called, officiating under the provisions of any general or local Police Act.

Duty to produce certificate of exemption or to give particulars.

10.—(1) Every man who holds a certificate of exemption granted under the principal Act shall, if required by a constable or by any person who has authority for the purpose from the Army Council, produce his certificate or give particulars as to the authority by which the certificate was granted and the grounds on which it was granted.

If any man fails to comply with this provision or gives particulars which are false in any material respect, he shall in respect of each offence be liable on summary conviction to a fine not exceeding twenty pounds or to imprisonment for a term not exceeding three months.

(2) If any person alters or tampers with a certificate of exemption granted under the principal Act, or personates or falsely represents himself to be a person to whom such a certificate has been granted, or improperly allows any other person to have possession of any such certificate issued for his use alone, he shall be liable on summary conviction to imprisonment for a term not exceeding six months.

Provision as to notices, &c.

11. Notices served for the purposes of the principal Act or this Act shall not be deemed to be invalid on the ground only that they were served before the Act came into operation or before the man in respect of whom they are served became a member of the reserve.

Transfer to reserve under special circumstances.

12. The Army Council may make arrangements, to take effect during the continuance of the present war, for the transfer to the reserve of any member of the regular forces or for the temporary demobilization of any member of the territorial force, notwithstanding anything in any Act or in the terms of his enlistment, in cases where the transfer or demobilization appears expedient in the general interests of the country and the Army Council are satisfied that it can be effected under conditions which will render the man transferred or demobilized immediately available for service in the case of military necessity:

Provided that during such period of transfer or demobilization the man shall not be subject to military discipline.

Amendment of the Army (Transfers) Act, 1915. 5 & 6 Geo. 5. c. 43.

13. The first proviso to section one of the Army (Transfers) Act, 1915 (which provides for the maintenance of the rate of pay of a soldier transferred to a corps not of the same arm or branch of the service as the corps in which he was serving), shall not have effect in cases in which the Army Council direct that that proviso shall not apply.

Transfer of officers and men of the territorial force.

14.—(1) During the continuance of the present war, notwithstanding anything in section seven of the Territorial and Reserve Forces Act, 1907, the orders and regulations for the government and discipline of the territorial force made under that section—

(*a*) may authorise a man of the territorial force when belonging to one corps to be transferred without his consent to another corps, and may authorise a man of the territorial force to be posted without his consent to a battalion or other body of the regular forces included in the corps to which he belongs or is transferred; and

(*b*) in the case of an officer or man in the territorial force who is liable to service outside the United Kingdom may, for the purposes of such service, and notwithstanding anything in any instrument defining the conditions of such service, authorise the drafting of any such officer or man to any unit of the territorial force within the corps to which he belongs or to which he may be transferred;

and those orders and regulations shall also provide for the maintenance of the rate of pay of a man who is transferred without his consent to a different arm or branch of the service except in cases in which it appears undesirable to the Army Council that the rate of pay should be so maintained.

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(2) This section shall affect officers or men of the territorial force notwithstanding that they were commissioned, enlisted, or re-engaged before the date of any order or regulation under this section.

Power to form corps for more than one county.

15. During the continuance of the present war section nine of the Territorial and Reserve Forces Act, 1907, shall be construed as authorising corps to be formed for more than one county.

Provision as to liability of territorials to serve outside the United Kingdom.

16. Where an officer or man of the territorial force has, before or after the passing of this Act, accepted liability to serve in any place out of the United Kingdom, that liability shall continue, notwithstanding anything in the conditions of service, during the continuance of the present war, unless the competent military authority, as defined for the purposes of Part II. of the Army Act, otherwise direct.

Short title, citation and repeal.

17.—(1) This Act may be cited as the Military Service Act, 1916 (Session 2), and the principal Act and this Act shall be read together, and may be cited together as the Military Service Acts, 1916; and the Territorial and Reserve Forces Act, 1907, and this Act (so far as they relate to the territorial force) may be cited together as the Territorial Force Acts, 1907 and 1916.

(2) The enactments specified in the Schedule to this Act are hereby repealed to the extent mentioned in the third column of that Schedule.

SCHEDULE.

Session and Chapter.	Short Title.	Extent of Repeal.
5 & 6 Geo. 5. c. 104.	The Military Service Act, 1916.	Subsection (4) of section one; the words "before the appointed date" in subsection (5) of section two; the words "and subject to "any provision which may here- "after 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" in paragraph five of the First Schedule; and the word "local" wherever it occurs before the word "tribunals" in paragraph six of the Second Schedule.

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