CHAPTER 15.

An Act to make provision for calling up men for civil defence and to amend the National Service (Armed Forces) Act, 1939. [10th April 1941.]

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 :—

Calling up for civil defence.

Liability to be called up for civil defence.
2 & 3 Geo. 6. c. 81.

1.—(1) Every person who for the time being—

(*a*) is liable under the National Service (Armed Forces) Act, 1939 (hereinafter referred to as "the principal Act") to be called up for service in the armed forces of the Crown; or

(*b*) is not so liable by reason only that he is a conditionally registered conscientious objector;

shall be liable to be called up for civil defence in the manner and on the terms provided by this Act.

(2) If any person liable to be called up for civil defence notifies the Minister in the manner prescribed under subsection (6) of section two of the principal Act that he has a preference for service with the civil defence forces or any particular civil defence force, that fact shall be recorded—

(*a*) in the military service register; or

(*b*) if he is a registered conscientious objector, in the register of conscientious objectors; or

(*c*) if he is a person of a class exempted from registration by regulations made under the said section two, in such other manner as the Minister thinks fit.

(3) References in section three of the principal Act (which relates to medical examination) and in section six of that Act (which relates to postponement of liability to serve) to persons for the time being liable under that Act to be called up for service, and to liability to be so called up, shall include references to persons for the time being liable to be called up for civil defence and to liability to be so called up.

Enrolment notices.

2.—(1) The Minister may cause to be served on any person for the time being liable to be called up for civil defence, who has been medically examined under the principal Act, a notice (in this Act referred to as " an enrolment notice ") stating that he is so called up.

(2) Every such notice shall require the person on whom it is served to present himself in accordance with the terms of the notice at such place and time (not earlier than the third day after the date of the service of the notice), and to such authority, and for service with such civil defence force, as may be specified in the notice.

(3) References to an enlistment notice in section six of the principal Act (which relates to postponement of liability to serve) and in section seven of that Act (which relates to suspension of enlistment notices pending appeals) shall be construed as including references to an enrolment notice.

(4) Subject to the provisions of this Act and of section seven of the principal Act, the person upon whom an enrolment notice is served shall be deemed as from the day specified in the notice to have been taken into the service of the Crown on the terms set out in the next following section.

(5) Where an enrolment notice has been duly served on any person, the Minister may, at any time while that person remains liable to be called up for civil defence, cancel the notice, or cause to be served on him a further enrolment notice varying the original notice.

(6) An enrolment notice served on any person shall cease to have effect if, before the date on which he is thereby required to present himself, he ceases to be liable to be called up for civil defence.

(7) The Minister may pay to persons required to present themselves in accordance with enrolment notices served upon them such travelling and other allowances as he may, with the approval of the Treasury, determine.

(8) If any person on whom an enrolment notice is served fails to comply with the requirements of that notice, he shall be guilty of an offence under the principal Act and liable—

(*a*) on conviction on indictment, to imprisonment for a term not exceeding twelve months, or to a fine not exceeding one hundred pounds, or to both such imprisonment and such fine; or

(*b*) on summary conviction, to imprisonment for a term not exceeding six months, or to a fine not exceeding fifty pounds, or to both such imprisonment and such fine.

Terms of service.

3.—(1) A person who is deemed by virtue of subsection (4) of the last foregoing section to have been taken into the service of the Crown shall be deemed to have been taken into such service on the following terms:—

(*a*) he shall continue in the service of the Crown until the end of the present emergency, unless he is previously discharged from such service by the prescribed authority in the prescribed manner;

(*b*) he shall serve with the civil defence force specified in the enrolment notice served upon him, or with such other civil defence force as may from time to time be notified to him by the prescribed authority in the prescribed manner;

(*c*) he shall serve under the directions of the authority specified in the notice aforesaid, or such other authority as may from time to time be notified to him by the prescribed authority in the prescribed manner;

(*d*) he shall not be required to serve outside the United Kingdom or the Isle of Man;

(*e*) he shall, subject to the directions of the authority under whose directions he is for the time being required by the foregoing provisions to serve (hereafter referred to as "the controlling authority"), perform the duties of a member of the civil defence force with which he is serving for the time being, and may, subject to such directions as aforesaid, exercise by virtue of this Act the powers of a member of that force, or, if that force is the police war reserve, of a constable;

(*f*) he shall perform such further duties as may (subject to the directions of the Minister) be required of him by the controlling authority, being duties of a member of any other civil defence force, and for that purpose may, subject to the directions of the controlling

authority, exercise by virtue of this Act the powers of a member of that other force, or, if that other force is the police war reserve, of a constable;

(*g*) he shall be subject to the provisions of any regulations or orders for the time being in force under the Emergency Powers (Defence) Acts, 1939 and 1940, which create offences by members of the civil defence force with which he is for the time being serving;

(*h*) while serving with any civil defence force for which rules are for the time being in force by virtue of the said Acts as to the government and discipline of the force, he shall be subject to those rules, and, while not serving with such a force, he shall be subject to such provisions as to government and discipline as may be prescribed;

(*i*) his conditions of service as regards pay, allowances, clothing, expenses and other matters shall be such as the Minister, with the approval of the Treasury, may determine;

(*j*) he shall not be liable under the principal Act to be called up for service so long as he is in the service of the Crown by virtue of this section.

(2) A person shall not be incapable of being elected to, or of sitting or voting in, the Commons House of Parliament by reason only that, as being in the service of the Crown by virtue of this section, he holds any office or place of profit under the Crown.

(3) While any person is in the service of the Crown by virtue of this section—

(*a*) he shall be exempt from serving on a jury;

(*b*) he shall be treated for the purpose of section seven of the Societies (Miscellaneous Provisions) Act, 1940 (which relates to the membership of friendly societies of persons serving in any of the naval, military or air forces of the Crown) as if he were serving in those forces; and

3 & 4 Geo. 6. c. 19.

(*c*) he shall be treated for the purposes of section three of the Courts (Emergency Powers) Amendment Act, 1940 (which provides for the relief of mortgagors serving in the armed forces of His Majesty) as if he were serving in those forces.

3 & 4 Geo. 6. c. 37.

(4) Where a conditionally registered conscientious objector is called up for civil defence, the condition on which he was registered shall be suspended so long as he is in the service of the Crown by virtue of this section.

(5) The pay and allowances of a person in the service of the Crown by virtue of this section, and any expenses incurred in connection with his service, shall be defrayed as follows—

(*a*) if and so long as the controlling authority is a local authority, they shall be defrayed in like manner as the pay and allowances, and expenses incurred in connection with the service, of such members of the civil defence force with which he is serving for the time being as are serving under the directions of that authority;

(*b*) if and so long as the controlling authority is a chief officer of police, they shall be defrayed in like manner as the pay and allowances, and expenses incurred in connection with the service, of such members of the police war reserve as are serving under the directions of that chief officer;

(*c*) if and so long as the controlling authority is not a local authority or a chief officer of police, they shall be defrayed by the Minister.

(6) In this section the following expressions have the meanings hereby respectively assigned to them—

"chief officer of police" has the same meaning as in the Police Pensions Act, 1921; 11 & 12 Geo. 5. c. 31.

"local authority" means the common council of the City of London, the council of a metropolitan borough, the council of a county, county borough or county district, or any authority or person for the time being exercising any of the functions of any such council;

"the Minister" means a Secretary of State or the Minister of Home Security;

"prescribed" means prescribed by regulations made by the Minister.

Miscellaneous amendments of principal Act.

Enforcement of requirements as to medical examination.

4.—(1) The court by which any person is convicted of an offence under the principal Act by reason of his failure to comply with—

(*a*) a notice served on him by the Minister under subsection (1) of section three of that Act requiring him to submit himself to medical examination by a medical board; or

(*b*) directions given by a medical board by virtue of paragraph (*a*) of subsection (2) of that section requiring him to submit himself to a further medical examination by a medical board; or

(*c*) directions given by a medical board by virtue of paragraph (*b*) of the said subsection (2) requiring him to submit himself to examination by a consultant examiner;

may, without prejudice to any penalty which may be imposed on him, order him to submit himself to medical examination, further medical examination or examination by a consultant examiner, as the case may be, at such time and place as may be fixed by a notice served on him by the Minister and any such order may include provisions that he shall be detained in custody until that time and taken by a constable to that place at that time:

Provided that no person shall be detained by virtue of any such order for more than seven days.

(2) A person who fails to submit himself for examination in accordance with any such order shall be guilty of an offence under the principal Act and liable—

(*a*) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine not exceeding one hundred pounds, or to both such imprisonment and such fine; or

(*b*) on summary conviction, to imprisonment for a term not exceeding twelve months, or to a fine not exceeding fifty pounds, or to both such imprisonment and such fine.

(3) Subsection (5) of section three of the principal Act is hereby repealed:

Provided that nothing in this subsection shall affect any order made under the said subsection (5) before this section comes into operation.

(4) This section shall come into operation at the expiration of the fourteenth day next after the day on which this Act is passed.

Breach of condition of registration as conscientious objector.

5.—(1) Where it appears to the Minister that a conditionally registered conscientious objector has failed to comply with any condition on which he is registered, but had reasonable excuse for the failure, the Minister may refer his case to a local tribunal.

(2) On any such reference of the case of any person, the tribunal, if it is satisfied that he has failed to comply with the condition but had reasonable excuse for the failure, shall report to the Minister accordingly and either—

(*a*) make no order in the matter; or

(*b*) order that he shall be registered without conditions in the register of conscientious objectors; or

(*c*) order that the condition on which he was registered shall be varied, or that another condition shall be substituted therefor;

and any order made under paragraph (*b*) or (*c*) of this subsection shall have effect notwithstanding any previous order made by a local or appellate tribunal.

(3) Where the case of any person has been referred to a local tribunal under this section—

(*a*) that person, if he is aggrieved by the order of the tribunal or by its failure to make an order or report to the Minister; or

(*b*) the Minister, if he considers it necessary;

may within the prescribed time and in the prescribed manner appeal to the appellate tribunal, and the decision of the appellate tribunal shall be final.

(4) If a conditionally registered conscientious objector fails to comply with any condition on which he is registered, he shall, unless he satisfies the court that he had reasonable excuse for the failure, be guilty of an offence under the principal Act and liable—

(*a*) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine not exceeding one hundred pounds, or to both such imprisonment and such fine; or

(*b*) on summary conviction, to imprisonment for a term not exceeding twelve months, or to a fine not exceeding fifty pounds, or to both such imprisonment and such fine.

(5) A prosecution against any person under the last foregoing subsection for failing to comply with a condition shall not be instituted except by or with the consent of the Minister; and where the case of any person has been referred to a local tribunal under subsection (1) of this section, the Minister shall not institute or consent to the institution of such a prosecution against him—

(*a*) unless that tribunal has determined the matter and made no report that he had reasonable excuse for the failure and the time for appealing from that determination has expired; or,

(*b*) where an appeal has been brought from the determination of the local tribunal, unless the appellate tribunal has determined the matter and made no such report as aforesaid.

(6) On the prosecution of any person for such an offence, a certificate purporting to be signed on behalf of the Minister and stating—

(*a*) that he has not referred the case of that person to a local tribunal under subsection (1) of this section; or

(*b*) that he has so referred the case and either—

(i) that the local tribunal has determined the matter and made no such report and that the time for appealing from the determination has expired; or

(ii) that an appeal has been brought from the determination of the local tribunal and that the appellate tribunal has determined the matter and made no such report;

shall be conclusive evidence of the facts so stated.

(7) Subsection (8) of section five of the principal Act shall cease to have effect.

Transfer of non-combatants from military service register to register of conscientious objectors.

6.—(1) After the commencement of this Act, the name of any person to be registered by virtue of any provision of the principal Act as a person liable under that Act to be called up for service, but to be employed only in non-combatant duties, shall be registered in the register of conscientious objectors instead of in the military service register; and any provision of the principal Act authorising or requiring the removal of the name of a person from the register of conscientious objectors in connection with his registration as a person liable as aforesaid shall cease to have effect.

(2) As soon as may be after the commencement of this Act, the Minister shall remove from the military service register the names of all persons registered therein as persons liable under the principal Act to be called up for service, but to be employed only in non-combatant duties, or deemed to be so registered by virtue of subsection (3) of section twelve of that Act, and shall register them in the register of conscientious objectors as persons liable as aforesaid.

(3) Where a person is registered in the register of conscientious objectors as a person liable under the principal Act to be called up for service, but to be employed only in non-combatant duties, nothing in subsection (10) of section five of that Act shall affect his liability to be so called up.

Applications by conscientious objectors for service.

7.—(1) A registered conscientious objector may at any time apply to the Minister in the prescribed manner either—

(*a*) for the removal of his name from the register of conscientious objectors and for his registration in the military service register as a person liable under the principal Act to be called up for service; or

(*b*) for his registration in the register of conscientious objectors as a person liable as aforesaid, but to be employed only in non-combatant duties.

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

(3) The arrangements made under subsection (10) of section five of the principal Act by the Admiralty, Army Council and Air Council shall include arrangements for enabling a person registered in the register of conscientious objectors as a person liable under the principal Act to be called up for service, but to be employed only in non-combatant duties, to apply to the Minister, at any time on or after the day mentioned in the last foregoing subsection, for the removal of his name from that register and for his registration in the military service register as a person liable under the principal Act to be called up for service; 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 Minister shall cause the register or registers to be amended accordingly.

Postponement certificates.

8.—(1) Where, on any appeal to the umpire under subsection (3) of section six of the principal Act, (which relates to postponement certificates), one or both of the assessors appointed to sit with the umpire is or are absent, then, with the consent in writing of the person to whose application the appeal relates, the umpire may, notwithstanding anything in that subsection, proceed to consider and determine the appeal with the other assessor or without either assessor, as the case may be.

(2) In the last foregoing subsection references to the umpire include references to any deputy umpire.

(3) The Minister may, in special circumstances, allow an application under section six of the principal Act for the renewal of a postponement certificate to be made at any time before an enlistment notice or enrolment notice is served on the holder of the certificate.

Exemption of persons not ordinarily

9. Subsection (1) of section eleven of the principal Act (which exempts certain persons from liability under the Act) shall have

resident in Great Britain.

effect, and be deemed always to have had effect, as if the following paragraph were substituted for paragraph (*a*) thereof :—

" (*a*) not being a person ordinarily resident in Great Britain, is either—

(i) under the provisions of any Act in force in any part of His Majesty's dominions outside Great Britain, a national or a citizen of that part within the meaning of that Act ; or

(ii) a person born or domiciled in any such part of His Majesty's dominions, or in a British protectorate, mandated territory or any other country or territory being a country or territory under His Majesty's protection or suzerainty."

Reinstatement in civil employment.

10.—(1) In subsection (1) of section fourteen of the principal Act (which relates to reinstatement in civil employment) for the words from the beginning of the section to " that service ", there shall be substituted the following words :—

" It shall be the duty of the employer by whom any person was last employed during the period of fourteen days immediately preceding the day on which he was called up or called out (whether before or after the commencement of this Act) to reinstate him in his employment at the termination of his service as a person called up or called out."

(2) In the said section fourteen, for the words " called from his civil employment for service connected with the present emergency " and " called from their civil employment for service connected with the present emergency " wherever they occur, there shall be substituted the words " called up or called out ", and in subsection (2) of the said section for the words " that service " there shall be substituted the words " the service of the employees as persons called up or called out."

(3) Where, by virtue of any provision of the Naval and Marine Forces (Temporary Release from Service) Act, 1940, or the Armed Forces (Conditions of Service) Act, 1939, a person called up or called out has, at any time (whether before or after the commencement of this Act) before such date as His Majesty may by Order in Council appoint, been released from service in the Royal Navy or the Royal Marines, or from army service or air force service, or from obligations which he is under by reason of the embodiment of any part of the territorial army or the auxiliary air force, his service in the royal navy, royal marines, army, air force, territorial army or auxiliary air force shall not, for the purposes of the said section fourteen, be deemed to have terminated by reason only of his release as aforesaid.

An Order in Council under this subsection may appoint different dates in relation to different forces or parts of forces.

(4) The power of the Minister to make regulations under subsection (4) of the said section fourteen shall include power to make regulations for restraining employers from terminating the employment of their employees by reason of any duties or liabilities which they may become liable to perform or discharge by reason of their liability to be called up or called out.

(5) For the purpose of this section and the said section fourteen—

(*a*) the expression "called up" means called up under the Military Training Act, 1939, the principal Act or this Act; and 2 & 3 Geo. 6. c. 25.

(*b*) the expression "called out" means called out for service under the Reserve and Auxiliary Forces Act, 1939, or called into service under the enactments (including any proclamation, Order in Council, regulation, warrant or other instrument) mentioned in subsection (3) of section one of that Act; 2 & 3 Geo. 6. c. 24.

and for the purpose of paragraph (*b*) of this subsection, the expression "called into service" means called into actual service, ordered to join the Royal Navy, ordered to serve in the Royal Marine forces, called to army service, called out on permanent service, embodied, called out on service, or called out for service.

Evidence on prosecutions

11.—(1) Where for the purposes of the prosecution of any person for an offence under the principal Act by reason of his failure to comply—

(*a*) with the requirements of regulations made under subsection (1) of section two of that Act or with the requirements of subsection (9) of that section; or

(*b*) with the requirements of a notice served on him or directions given to him under section three of that Act; or

(*c*) with the requirements of an enrolment notice served on him under this Act;

it is necessary to show that he is, or was at any particular time, a British subject or within particular limits of age, he shall be presumed to be, or to have been at that time, a British subject or within those limits of age, unless the contrary is proved:

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

(2) On the prosecution of any person (hereafter in this subsection referred to as the "defendant") for any offence under the principal Act—

(*a*) a certificate purporting to be signed on behalf of the Minister, and stating that a person bearing the name in

which the defendant is charged is, or was at any particular time, a conditionally registered conscientious objector and so registered on a condition specified in the certificate, shall be evidence that the defendant is or was at that time such a conscientious objector and registered on the condition so specified;

(*b*) 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 any 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.

General.

Interpretation.

12.—(1) For the purposes of this Act the following expressions have the meanings hereby respectively assigned to them—

"appellate tribunal" means an appellate tribunal constituted under Part I of the Schedule to the principal Act;

"civil defence force" means the police war reserve and any organisation which is declared by order of the Minister of Home Security to be a civil organisation established for forestalling or mitigating attacks by the enemy and to be a civil defence force for the purposes of this Act;

"registered conscientious objector" means a person who is for the time being registered in the register of conscientious objectors or is deemed to be so registered by virtue of subsection (3) of section twelve of the principal Act; and the expression "conditionally registered" in relation to a conscientious objector means a person who is for the time being conditionally so registered by virtue of an order made, or having effect as if it had been made, under paragraph (*b*) of subsection (6) of section five of the principal Act, or made under subsection (3) of section thirteen of that Act or made under this Act.

(2) Any order made under the foregoing subsection by the Minister of Home Security may be varied or revoked by a subsequent order made by him.

(3) In this Act any reference to the principal Act shall be construed as a reference to the principal Act as amended by any

subsequent enactment or by any Regulations for the time being in force under the Emergency Powers (Defence) Acts, 1939 and 1940.

Application to Scotland.

13. In the application of this Act to Scotland—

(*a*) section three shall have effect as if, for the definition of "local authority" in subsection (6), the following definition were substituted—

"'local authority' means a county or town council or any authority or person for the time being exercising any of the functions of such a council;"

(*b*) section five shall have effect as if for subsection (5), the following subsection were substituted:—

"(5) Where the case of any person has been referred to a local tribunal under subsection (1) of this section, no prosecution under the last foregoing subsection for failing to comply with a condition shall be instituted against him—

(*a*) unless that tribunal has determined the matter and made no report that he had reasonable excuse for the failure and the time for appealing against that determination has expired, or

(*b*) where an appeal has been brought from the determination of the local tribunal, unless the appellate tribunal has determined the matter and made no such report as aforesaid."

Amendment of Act by Defence Regulations. 2 & 3 Geo. 6. c. 62. 3 & 4 Geo. 6. c. 20.

14.—Paragraph (*d*) of subsection (2) and subsection (4) of section one of the Emergency Powers (Defence) Act, 1939, as amended by subsection (2) of section one of the Emergency Powers (Defence) Act, 1940, shall have effect as if this Act had been passed before the commencement of the last mentioned Act.

Expenses.

15. Any expenses incurred by a Secretary of State or other Minister of the Crown in consequence of the passing of this Act shall be defrayed out of moneys provided by Parliament.

Short title, construction and repeal.

16.—(1) This Act may be cited as the National Service Act, 1941, and shall be construed as one with the National Service (Armed Forces) Acts, 1939 and 1940 and may be cited together with those Acts as the National Service Acts, 1939 to 1941.

(2) The sections of the principal Act set out in the first column of the Schedule to this Act are hereby repealed to the extent specified in the second column of that Schedule.

Section 16.

SCHEDULE.

PROVISIONS OF PRINCIPAL ACT REPEALED.

Section of principal Act.	Extent of Repeal.
Section five - - -	In subsection (6), the words "that his name shall be removed from the register of conscientious objectors and" and the words "without qualification"; subsection (8); in subsection (9) the words "remove his name from the register of conscientious objectors and"
Section fourteen - - -	Subsection (5).

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