

This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and, having this day passed as now printed, is transmitted to the LEGISLATIVE COUNCIL for its concurrence.

House of Representatives,

28th November, 1918.

Right Hon. Mr. Massey.

WAR LEGISLATION.

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A BILL INTITULED

AN ACT to amend certain Enactments having Reference to the Present State of War, and to make certain Additional Provisions in relation thereto. Title.

5 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 War Legislation Act, 1918. Short Title.

PART I.

ACQUISITION OF LAND BY PERSONS OF ENEMY ORIGIN.

Interpretation.

2. In this Part of this Act, unless inconsistent with the context,—

“Enemy State” means a State with which His Majesty has been at war at any time since the fourth day of August, nineteen hundred and fourteen: 5

“Friendly State” means a State with which His Majesty has been continuously at peace since the fourth day of August, nineteen hundred and fourteen: 10

“Person of enemy origin” means a person who (being a subject of His Majesty or of a friendly State, whether by birth or otherwise), has at any time been a subject of an enemy State, and includes the wife of any such person: 15

“License” means a license granted by the Governor-General in Council pursuant to the provisions of this Part of this Act. 15

Sons of persons of enemy origin who have refused service to be deemed to be persons of enemy origin.

3. Every person who (being the son of an alien enemy as defined by section two of the War Legislation Act, 1917, or the son of a person of enemy origin as defined by section two of this Act)— 20

(a.) Has at any time since the fourth day of August, nineteen hundred and fourteen, refused or neglected to serve His Majesty in any civil or military capacity when required by any Act or by any person duly authorized in that behalf so to serve; or 25

(b.) Has at any time since the fourth day of August, nineteen hundred and fourteen, been convicted of an offence against any war regulation made under the authority of the War Regulations Act, 1914,

shall be deemed for all the purposes of this Act to be a person of enemy origin, and this Act shall apply in all respects to such person and to all persons contracting with him as if such person were a person of enemy origin as defined by section two hereof. 30

Minister of Lands may grant licenses for the acquisition of land by persons of enemy origin, as herein defined.

4. The Governor-General in Council may grant licenses in writing authorizing persons of enemy origin to acquire land or any estate or interest in land. 35

Persons of enemy origin not competent to acquire land except pursuant to license.

5. (1.) Except pursuant to the terms and conditions of a license, it shall not be lawful after the commencement of this Act for a person of enemy origin, or for any person in trust for a person of enemy origin, to contract for the acquisition of land or any estate or interest, whether legal or equitable, in land other than a leasehold estate or interest for a term which will expire within two years from the commencement of such leasehold estate or interest. 40

(2.) Every party to any such contract, and every other person knowingly concerned in the making thereof, shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months. 45

(3.) For the purposes of this section a contract conferring a right or option to acquire an estate or interest in land shall be deemed to be a contract for the acquisition of that estate or interest.

5 6. (1.) Where pursuant to the terms of any deed or contract made and entered into since the fourth day of August, nineteen hundred and fourteen, and before the commencement of this Act, a person of enemy origin has become entitled to land or to any estate or interest, whether legal or equitable, in land, such land or such estate or interest may be taken for public purposes in the manner hereinafter provided.

Land lawfully acquired by persons of enemy origin since the commencement of the war may be taken for public purposes, as herein provided.

10 (2.) Where under the terms of the will of any testator or by succession to a deceased intestate a person of enemy origin has since the fourth day of August, nineteen hundred and fourteen, and whether before or after the commencement of this Act, become
15 entitled to land or to any estate or interest in land, whether legal or equitable, such land, or such estate or interest, may be taken for public purposes in the manner hereinafter provided.

20 7. (1.) On the information of the Attorney-General the Supreme Court shall have jurisdiction to inquire, determine, and ascertain with respect to any land—

Jurisdiction of Supreme Court with respect to land acquired by persons of enemy origin.

(a.) Whether such land or any estate or interest therein has been acquired since the fourth day of August, nineteen hundred and fourteen, by a person of enemy origin :

25 (b.) Whether such land or such estate or interest was so acquired by contract or under the terms of a will or by succession to a deceased intestate :

(c.) If such acquisition was by contract, whether such contract was made before or after the commencement of this Act.

30 (2.) The proceedings by the Attorney-General under this Part of this Act shall be *ex parte*, except so far as the Supreme Court directs notice thereof to be given to any other person. All persons so receiving notice thereof shall be parties to the proceedings.

35 (3.) In all proceedings under this Part of this Act in which any question arises dependent upon the nationality of any person, or as to whether any person is or was at any time a subject of an enemy State, the Supreme Court may accept such evidence as it thinks fit, whether such evidence is admissible in accordance with the law of evidence or not.

40 8. If the Supreme Court shall ascertain and determine that a contract prohibited by this Part of this Act has been made and entered into after the commencement of this Act, the Supreme Court shall have jurisdiction by order to declare the land or the estate or interest in land the subject-matter of such contract to be forfeited to
45 His Majesty, and to vest such land or such estate or interest therein in the Public Trustee in trust for His Majesty; and every such order shall have effect according to its tenor, and may, when it relates to a legal estate or interest in land under the Land Transfer Act, 1915, be registered under that Act.

Land acquired by persons of enemy origin in contravention of this Part of Act may be forfeited to His Majesty.

Provisions with respect to the taking of land subject to this Part of Act for public purposes.

9. (1.) If the Supreme Court shall ascertain and determine that any land or any estate or interest, whether legal or equitable, in land has been acquired by a person of enemy origin under the terms of any contract made since the fourth day of August, nineteen hundred and fourteen, and before the commencement of this Act, or under the terms of any will or by succession under any intestacy since the fourth day of August, nineteen hundred and fourteen, and whether before or after the commencement of this Act, the Governor-General may take such land or such estate or interest by Proclamation approved in the Executive Council in the same manner as the Governor-General is empowered to acquire land for the purposes of a public work under the provisions of the Public Works Act, 1908; and such Proclamation shall have the effect of absolutely vesting such land or such estate or interest in land in His Majesty.

Compensation for land taken.

(2.) Every person having any estate or interest in land so taken shall be entitled to compensation for the same to be determined by arbitration in such manner as may be prescribed.

(3.) The Minister of Finance shall cause to be paid out of the Consolidated Fund, without further appropriation than this Act, the amount of compensation so ascertained.

(4.) Lands and all estates and interests in land acquired by His Majesty under the provisions of this section shall be sold or otherwise dealt with as the Governor-General in Council may from time to time determine.

Duty of Registrars of Deeds and of District Land Registrars to refuse to register instruments intended to have effect in contravention of this Part of Act.

10. It shall be the duty of every Registrar of Deeds and of every District Land Registrar to refuse to register or make any entry other than of refusal in respect of any deed, document, or instrument which he has reasonable grounds for suspecting to be intended to have effect contrary to the provisions of this Part of this Act.

PART II.

RESTRICTION ON INCREASE OF RENT.

Protection of tenants from ejection.

11. (1.) No order for the recovery of possession of a dwelling-house to which Part I of the War Legislation Amendment Act, 1916, applies, or for the ejection of a tenant therefrom, shall, if the tenant is a soldier or a discharged soldier or the wife or widow of a soldier or a discharged soldier within the meaning of this section, be made so long as the tenant continues, subject to the provisions of the said Part I, to pay rent at the agreed rate and performs the other conditions of the tenancy, except on the ground that the tenant has failed to take reasonable care of the premises, or has committed waste, or has been guilty of conduct which is a nuisance or annoyance to adjoining or neighbouring occupiers.

(2.) If the tenant of any dwellinghouse is a person other than a soldier or a discharged soldier or the wife or widow of a soldier or a discharged soldier as aforesaid, an order for the recovery of possession of the dwellinghouse or for the ejection of the tenant therefrom shall not be made except on one or more of the grounds mentioned in the last preceding subsection, or on any of the grounds following, that is to say:—

(a.) That the premises are reasonably required by the landlord for his own occupation; or

(b.) That an agreement for the sale of the premises has been duly entered into, to be completed by transfer within one month from the date thereof, and that the premises are required by the purchaser for his own occupation; or

(c.) Any other ground that may be deemed sufficient by the Court making the order.

(3.) If the tenant is a dependant of a soldier or a discharged soldier other than his wife or widow, the Court, on any application for recovery of possession of a dwellinghouse or for the ejectment of a tenant, shall have regard to the relationship of the tenant to the soldier or discharged soldier, and shall refuse to make an order if it is of opinion that the making of the order would not be just and equitable, or would be a cause of undue hardship to the tenant or to the soldier or the discharged soldier.

(4.) Where an order for the recovery of possession of a dwellinghouse has been made but not executed before the passing of this Act the Court by which the order was made may, if it is of opinion that the order would not have been made if this section had been in operation at the date of the making of the order, rescind or vary the order in such manner as the Court may think fit for the purpose of giving effect to this section.

(5.) For the purposes of this section—

“Soldier” means any officer, warrant officer, non-commissioned officer, or man of an Expeditionary Force under the Expeditionary Forces Act, 1915, who is in receipt of military pay as such, or who, though not in receipt of such pay, has not yet been a member of the Force for four months:

“Discharged soldier” means, in the case of an officer, a member of an Expeditionary Force whose appointment as such has terminated, and in any other case means a soldier who has received his discharge from the Expeditionary Force:

“Widow” of a soldier or of a discharged soldier does not include the widow of a member of the Expeditionary Force who in his lifetime was never in receipt of continuous military pay as such, but includes the widow of any other soldier or discharged soldier as hereinbefore defined:

“Dependant” in relationship to a soldier or discharged soldier includes his father, mother, step-father, step-mother, mother-in-law, brother or sister of the whole or half-blood, or child (including step-child or illegitimate child) who is, or within two years from the date of an application for an order under this section has been, wholly or partially dependent on the soldier or discharged soldier, whether before or after he became a soldier. In the case of a soldier or discharged soldier who has died every person shall, for the purposes of this section, be deemed

to be a dependant of that soldier or discharged soldier who would be a dependant if the soldier or discharged soldier were alive.

Repeal.

(6.) This section is in substitution for section five of the War Legislation Amendment Act, 1916, and that section is hereby accordingly repealed. 5

PART III.

REGULATION OF TRADE AND COMMERCE.

Power to make regulations for the purpose of securing supplies for use of His Majesty's Government of the United Kingdom.

12. In addition to and without in any manner restricting the powers conferred by the War Regulations Act, 1914, and its amendments, the Governor-General in Council may, for the purpose of securing for His Majesty's Government of the United Kingdom such supplies of goods and merchandise as the necessities of that Government may require, whether during or after the present war, make such regulations as he deems necessary either under the War Regulations Act, 1914, or under this Act, prohibiting, restricting, or regulating sales, purchases, and other commercial transactions of or in respect of any class of goods or merchandise, or otherwise making provision for the purpose aforesaid. 15

Penalty on summary conviction for offence against Regulation of Trade and Commerce Act, 1914.

13. Notwithstanding anything to the contrary in section fourteen of the Regulation of Trade and Commerce Act, 1914 (providing a penalty of five hundred pounds for the offences referred to in that section), any person who commits any such offence may be proceeded against either by way of action for a penalty in accordance with that Act or by way of summary prosecution, and on being convicted on such prosecution shall be liable to a fine not exceeding one hundred pounds and not less than ten pounds. 20 25

Section 30 of Regulation of Trade and Commerce Act, 1914, extended.

14. Section thirty of the Regulation of Trade and Commerce Act, 1914, is hereby amended by adding thereto the words "or for supplying the necessities of His Majesty's Government of the United Kingdom." 30

Authority to make contracts with respect to supplies produced in New Zealand and required for use of His Majesty's Government of the United Kingdom.

15. (1.) The Governor-General or any Minister of the Crown authorized by him for that purpose may, on behalf of His Majesty's Government of the United Kingdom, make such contracts as are deemed necessary for or relating to the purchase or acquisition of any goods or merchandise produced in New Zealand and required, whether before or after the present war, for the necessities of His Majesty's said Government. 35

(2.) All contracts heretofore made during the present war by the Governor-General or by any Minister of the Crown for the purpose aforesaid are hereby declared to be and at all times to have been of full force and effect. 40

Arbitration Court may amend certain awards or industrial agreements with respect to hours of employment and rates of wages.

16. (1.) At any time and from time to time while this Part of this Act remains in force the Court of Arbitration shall have power, subject to the conditions hereinafter expressed, to amend in such manner as it thinks fit the provisions of any award or industrial agreement under the Industrial Conciliation and Arbitration Act, 1908, in so far as such provisions determine the hours of employment or the rates of remuneration of any workers. 45

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(2.) Every amendment of an award or industrial agreement made pursuant to this section shall be deemed, as from the date of the amendment or as from such later date as may be specified in the amendment in that behalf, to be incorporated in the award or agreement, and shall have effect according to its tenor.

(3.) In exercising the powers conferred on it by this section the Court shall take into consideration—

(a.) Any alteration since the date of the award or agreement in the conditions affecting the industry or industries to which such award or agreement relates; and

(b.) Any increase since the date of the award or agreement in the cost of living affecting the workers or any class of workers engaged in any such industry or industries.

(4.) If, having regard to these and to all other relevant considerations, the Court is of opinion that it is just and equitable to amend the award or agreement, it shall amend the same accordingly.

(5.) Application for the amendment of an award or industrial agreement under this section may be made by any party to such award or agreement:

Provided that an application shall not be made by an industrial union or industrial association unless and until a proposal to make such application has been approved by the members of the union, or of each of the unions comprised in the association, as the case may be, in the same manner as if the application were an application to which section one hundred and seven of the Industrial Conciliation and Arbitration Act, 1908, applies.

(6.) Every application under this section shall state the special grounds on which the application is based, and shall be filed with the Clerk of Awards in the industrial district in which the industrial agreement is filed or in each of the industrial districts to which the award relates. Forthwith, after a date has been fixed by the Court for the hearing of any such application, the Clerk shall give notice of the date to the parties concerned.

(7.) The power to amend an award or industrial agreement conferred by this section is in addition to and not in substitution of the powers to modify or suspend an award or industrial agreement conferred on the Governor-General by section twenty-five of the Regulation of Trade and Commerce Act, 1914.

(8.) The repeal or expiry of this section shall not affect the operation of any award or industrial agreement amended pursuant thereto, and every such award or agreement as so amended shall continue to operate as if this section had remained in force.

17. (1.) This Part of this Act shall be read together with and deemed to form part of the Regulation of Trade and Commerce Act, 1914.

(2.) Notwithstanding any other enactment to the contrary, the Regulation of Trade and Commerce Act, 1914, and every amendment thereof shall, unless sooner repealed, remain in operation during the present war with Germany and for two years thereafter, and shall then expire.

18. (1.) The Acts specified in the Schedule hereto are hereby amended in the manner set forth in that Schedule.

This Part of Act
to be read with
Regulation of Trade
and Commerce Act.

Duration of
Regulation of Trade
and Commerce Act.

Miscellaneous
amendments.

Repeals.

(2.) The Regulation of Trade and Commerce Amendment Act, 1915 (No. 2), and the Regulation of Trade and Commerce Amendment Act, 1917, are hereby repealed.

PART IV.

Miscellaneous.

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Explanation of section 11 of Wills Act, 1837 (Imperial). Cf. 7 and 8 Geo. V, c. 58, section 1 (Imperial).

19. (1.) In order to remove doubts as to the construction of the Imperial Act entitled "An Act for the Amendment of the Laws with respect to Wills" (7 William IV and 1 Victoria, Chapter 26) it is hereby declared and enacted that section eleven of that Act authorizes and always has authorized any soldier being in actual military service, or any mariner or seaman being at sea, to dispose of his personal estate as he might have done before the passing of that Act, though under the age of twenty-one years. 10

And of section 39 of War Legislation Amendment Act, 1916.

(2.) Section thirty-nine of the War Legislation Amendment Act, 1916 (relating to wills made by soldiers in respect of their real estate) shall be read and construed accordingly to extend and apply, and at all times since the commencement of the present war with Germany to have extended and applied, to such wills, although made by soldiers under the age of twenty-one years. 15

References in Acts to the duration of the war or the termination of the war explained.

20. (1.) Wherever in any Act passed since the fourth day of August, nineteen hundred and fourteen, the war, or the duration of the war, or the termination of the war is referred to, or any equivalent expression is used, every such reference or expression shall be interpreted by the following rules:— 20

- (a.) The war is the war with Germany. 25
- (b.) The war shall be deemed to be existent until a date to be named as the date of the termination of the war in a Proclamation to be published by the Governor-General in the *Gazette*.
- (c.) The date to be named in such Proclamation as the date of the termination of the war shall be the date of such termination for the purpose of every such Act, and the war shall for such purpose be deemed to continue and to be existent until such date. 30

(2.) The judicial cognizance by the Courts required by any Act of the existence of or termination of a state of war shall be governed by this section. 35

Authority for cancellation of warrants for arrest of persons who are proved to have served beyond the seas in the present war in cases where the Attorney-General and the Minister of Justice are of opinion that a prosecution is not necessary in the public interest.

21. (1.) Any warrant issued otherwise than by a military authority, whether before or after the passing of this Act, for the arrest of any person charged with an offence may at any time before the execution thereof be cancelled by the Attorney-General and the Minister of Justice, acting jointly, if such person has since the date of the offence or alleged offence in respect of which the warrant was issued served beyond the seas in the present war as a member of the New Zealand Expeditionary Force or of any other portion of His Majesty's Military Forces, and if the Attorney-General and the Minister of Justice are satisfied that the prosecution of that person is not necessary in the public interest. 40 45

(2.) The cancellation of a warrant shall not render unlawful anything done pursuant to the warrant before its cancellation or anything that may be thereafter done pursuant to the warrant by any person without notice of its cancellation.

5 (3.) On the cancellation of a warrant so issued against any person, no criminal proceedings shall be continued or instituted against that person in respect of the offence to which the warrant relates.

10 22. (1.) In addition to and without in any manner restricting the powers conferred by the War Regulations Act, 1914, and its amendments, the Governor-General in Council may, by regulations under that Act, make such provisions as he deems just and necessary for the protection of soldiers or discharged soldiers from the execution of civil judgments or process, proceedings in bankruptcy, forfeitures, the exercise of rights of distress or re-entry, the exercise of rights of sale or entry into possession in pursuance of any mortgage or other security, or the enforcement in any other manner of the civil obligations or liabilities of soldiers or discharged soldiers.

Additional provisions for protection of soldiers and discharged soldiers from judicial process.

15 (2.) In this section "soldier" means a member of an Expeditionary Force under the Expeditionary Forces Act, 1915, and "discharged soldier" means a person who has in any manner ceased to be a member of an Expeditionary Force after military service as such beyond the seas.

20 23. (1.) The right to apply for relief from contracts conferred on soldiers by section fourteen of the War Legislation Act, 1917, shall not in any case lapse or be extinguished by the discharge of the soldier from the Expeditionary Force after military service as such beyond the seas, and any person so discharged may, in accordance with the provisions of the said Act and this section, apply accordingly for relief from any contract to which he was a party at the date of his discharge.

Extension of provisions as to relief of soldiers from burdensome contracts.

25 (2.) Any order made for the relief of a soldier or discharged soldier under this section or under section fifteen of the War Legislation Act, 1917, may be made retrospective to such extent as the Court making the order thinks fit.

30 (3.) In the course of any action or other proceeding in the Supreme Court for the enforcement of a contract to which a soldier or discharged soldier is a party, the Supreme Court shall have jurisdiction on the application of that soldier or discharged soldier to make an order affording any relief which might have been granted by a Stipendiary Magistrate in pursuance of section fifteen of the War Legislation Act, 1917, as modified by this section.

35 (4.) This section shall be read together with and deemed part of Part III of the War Legislation Act, 1917.

40 24. Section two of the War Regulations Amendment Act, 1915 (No. 2), is hereby amended by adding thereto, after the words "the present war," the words "or for the purposes of an Expeditionary Force, whether during or after the present war."

Section 2 of War Regulations Amendment Act, 1915 (No. 2), (relative to the requisition of military supplies extended.

45 25. All regulations heretofore made under the War Regulations Act, 1914, and its amendments shall for all purposes whatever be deemed, as from the making thereof, to have been made with full

Validation of war regulations.

power and authority, and to be and to have been valid and of full effect; and the powers, rights, duties, and liabilities of all persons in respect of all things done or suffered, whether before or after the passing of this Act, shall be determined accordingly.

Unauthorized
representatives
of foreign
States.

26. (1.) It shall not be lawful for any person without the *exequatur* or other authorization of the Governor-General to act as or to purport or profess to be a diplomatic, consular, commercial, or other representative, agent, or officer of any foreign State or political community, whether recognized by His Majesty or not. 5

(2.) Every person who commits an offence against this section shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds. 10

Schedule.

SCHEDULE.

1914, No. 6.—THE REGULATION OF TRADE AND COMMERCE ACT, 1914.

Title: By omitting the words "in time of war."

Section 2 (1): By omitting the words "At any time when His Majesty is at war with any foreign prince or State."

Section 2 (2): By repealing this subsection.

Section 24 (1): By omitting the words "At all times while His Majesty is at war with any foreign prince or State."

Section 24 (2): By repealing this subsection.

Section 26: By omitting the words "At any time when His Majesty is at war with any foreign prince or State."

Section 27: By omitting the words "at any time while a state of war exists as aforesaid."

Section 34 (1): By omitting the words "At any time while His Majesty is at war with any foreign prince or State."

1915, No. 8.—THE REGULATION OF TRADE AND COMMERCE AMENDMENT ACT, 1915.

Section 2 (1): By omitting the words "At all times while His Majesty is at war with any foreign prince or State."

Section 2 (3): By repealing this subsection.

1917, No. 21.—THE WAR LEGISLATION ACT, 1917.

Section 27 (2): By omitting the words "in time of war."

By Authority: MARCUS F. MARKS, Government Printer, Wellington.—1918.