

RETURNED SOLDIERS AND SAILORS EMPLOYMENT ACT.

Act No. 38, 1919.

An Act to provide that preference in employment ^{George V,} be given to returned soldiers and sailors; for ^{No. 38.} the reinstatement in employment of returned soldiers and sailors; for the appointment of a board to assist returned soldiers and sailors in obtaining employment and otherwise; to amend the Industrial Arbitration Act, 1912, and certain other Acts; and for purposes consequent thereon or incidental thereto.
[Assented to, 16th December, 1919.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same as follows:—

1. This Act may be cited as the "Returned Soldiers ^{Short title.} and Sailors Employment Act, 1919."
2. In this Act, unless the context otherwise requires,—

"Employer" means person employing persons in any profession, business, or industry, whether as principal or on behalf of any other person, or on behalf of the Government of the State, and includes the Crown, the Railway Commissioners for New South Wales, the Sydney Harbour Trust Commissioners, the Board of Water Supply and Sewerage, the Hunter District Water Supply and Sewerage Board, the Water Conservation and Irrigation Commission, the Commissioners of the Government Savings Bank of New South Wales, the Inspector-General of Police, the Municipal Council of Sydney,

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Sydney, any council of a municipality or shire, and any board committee or trustees of any public hospital.

“Enlistment” means an engagement whether by appointment, enlistment, or otherwise rendering a person liable to be employed on active service abroad in connection with the late war.

“Labour exchange” means a State labour exchange under the Industrial Arbitration Act, 1918.

“Naval forces” includes persons serving on board vessels used in mine sweeping in connection with the late war.

“Prescribed” means prescribed by this Act or by regulations made thereunder.

“Regulations” means regulations made under this Act.

“Repatriation Committee” means a local committee under the Australian Soldiers’ Repatriation Act, 1917–1918.

“Returned soldier or sailor” means a person who at the time of his enlistment was either resident or domiciled in Australia, and who has been—

- (a) on active service during the late war as a member of the military or naval forces of the Crown or of any of His Majesty’s allies; or
- (b) on active service abroad during the late war as a member of the Army Medical Corps Nursing Service of the Crown or of any of His Majesty’s allies, and includes all army nurses who have been on such service; or
- (c) on active service abroad during the late war with the Army Medical Service of any of His Majesty’s allies; or
- (d) on service in any work abroad in connection with the late war of the British or Australian Red Cross Society, or the Saint John Ambulance Society, or any religious or patriotic association;

and who is resident in New South Wales and whose enlistment has been terminated.

“Successor”

“Successor” means a person by whom the profession, business, or industry of an employer whose contract to employ a returned soldier or sailor has been terminated or suspended by enlistment, is for the time being carried on, whether in consequence of purchase, transfer, assignment, gift, amalgamation, entry into or dissolution of partnership, bankruptcy, devolution on death, or for any other cause whatsoever, and includes an agent of such person.

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“The board” means the board appointed under this Act.

Preference.

3. Notwithstanding anything contained in the Industrial Arbitration Act, 1912, or in any Act amending the same, or in any award or industrial agreement made thereunder, every employer shall give preference in employment in any profession, business, or industry to a returned soldier or sailor who is capable of effectively performing the duties of such employment, is registered for employment in that profession, business, or industry under section ten of this Act, or applies in writing, for such employment, and is not excluded from the benefits of this Act, as against any other person offering his service at the same time.

Preference
to returned
soldiers and
sailors.

Re-employment.

4. (1) Every returned soldier or sailor, not excluded from the benefits of this Act, whose contract of employment by an employer was terminated or suspended by enlistment, or by engagement on service in any work abroad within the meaning of this Act, and who within six months from the date of the commencement of this Act, or within six months from the termination of his enlistment or engagement on service, or from the termination of any physical or mental disability arising from any illness or any cause resulting from such enlistment or engagement on service, applies to that employer or his successor for re-employment, shall within a reasonable time be re-employed by such employer or successor in as nearly as practicable the same position as that held by him immediately prior to his enlistment or engagement:

Re-employ-
ment of
returned
soldiers and
sailors.

Provided

George V, Provided that the employer or his successor need not
 No. 38. re-employ such returned soldier or sailor, if—

- (a) he has already given the position to another returned soldier or sailor not excluded from the benefits of this Act, or to a person who at all times during the late war was married or was a widower with dependent children and if he cannot employ such returned soldier or sailor in place of such person without discharging such person; or
- (b) the returned soldier or sailor making the application is physically or mentally unfit, or since the termination of his enlistment or engagement has been guilty of dishonesty or serious misconduct; or
- (c) the position has been abolished and has not been reconstituted.

(2) Such re-employment shall be at the salary or wage fixed by any award or industrial agreement in force from time to time in respect of such employment, provided that it be not less than the salary or wage received by the employee when previously employed by the same employer in a similar position.

Appeal.

Appeal to a
 judge of the
 Industrial
 Court from
 the refusal of
 an employer
 to re-employ,
 &c.

5. (1) The applicant may, in accordance with rules made under this section, appeal to a judge of the Industrial Court in the cases mentioned in subsections two and three. Such judge, after hearing the appeal, may make such order as he thinks just and reasonable.

(2) The appeal may be made if an employer refuses the application of any returned soldier or sailor for re-employment on the ground that the applicant is—

- (a) either mentally or physically incapable of effectively performing the duties of such employment; or
- (b) that the applicant has since the termination of his enlistment or engagement been guilty of dishonesty or serious misconduct; or
- (c) that the position has been abolished and has not been reconstituted; or

(3)

(3) The appeal may be made if an employer George V, on an application made under this Act by a No. 38. returned soldier or sailor re-employs the applicant, but refuses to re-employ him in as nearly as practicable the same position as that previously occupied by him.

(4) The judges of the Industrial Court, or any two of them, may make rules prescribing the manner in which such appeals may be made, the notices to be given, the security if any to be lodged for costs of any such appeal, the procedure of such appeals, and generally regulating such appeals.

The board.

6. (1) The Governor may appoint five persons at least three of whom shall be returned soldiers or sailors to constitute a board to be known as the "Returned Soldiers and Sailors' Employment Board," and may appoint one of such persons to be chairman of such board.

(2) Three members of the board shall constitute a quorum at any meeting.

(3) The members of the board shall receive such remuneration as may be determined by the Governor.

Powers and duties of board.

7. (1) The board shall assist returned soldiers and sailors to obtain employment or re-employment.

(2) For such purpose the board shall obtain all available information as to the condition of the labour market so far as returned soldiers and sailors may be affected thereby, and may require the Department of Labour and Industry or any other Government department, local authority or other local body, or any employer of labour to furnish to the board any statistics and data in their possession or under their control relating to the matter.

(3) The board may prosecute in respect of offences under this Act or any regulations made thereunder.

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Secretary
and other
officers.

8. (1) The board on the recommendation of the Public Service Board may appoint a secretary and such other officers as it may deem necessary.

(2) Such secretary and other officers shall receive such salaries or remunerations as may be fixed by the Public Service Board, and shall be subject to the provisions of the Public Service Acts.

Sectional committees.

Committees.

9. (1) The board shall nominate sectional committees to represent such professions, businesses, and industries, as it may think fit.

(2) The members of such committees shall be so nominated on the recommendation of the employers in the profession, business, or industry in question, and each such committee shall consist of three persons.

(3) The duties of such committees shall be to assist the board in obtaining employment for returned soldiers and sailors.

*Applications for employment by returned soldiers
and sailors.*

Application
for
employment.

10. Any returned soldier or sailor desiring employment may apply in the prescribed manner and form to any labour exchange. Every such application shall indicate in order of preference the occupation in which the applicant desires to be employed, and shall contain such other particulars as are prescribed.

Application
to be
registered.

11. (1) The officer-in-charge of the labour exchange to which any such application is made, on being satisfied that the applicant is a returned soldier or sailor not excluded from the benefits of the Act, shall register the applicant as a returned soldier or sailor.

(2) The officer-in-charge of a labour exchange may, in his discretion, register a returned soldier or sailor for employment in an occupation different from that which he followed immediately before his enlistment or engagement.

Application by employer.

Employers to
apply to
labour
exchanges or
repatriation
committees.

12. (1) Every employer desiring to obtain employees shall apply to the labour exchange nearest to the place at which the employees are required if there be

be a labour exchange within twenty miles of that place, **George V,**
 but if there be no labour exchange within that distance **No. 38.**
 shall apply to the repatriation committee nearest to that
 place if there be a repatriation committee within twenty
 miles of that place, and if there be no labour exchange
 or repatriation committee within twenty miles, to the
 sectional committee representing his profession, business,
 or industry.

(2) Every such application shall state—

- (a) the nature of the employment offered;
- (b) the number of employees required;
- (c) the place and time at which, and the period, so
 far as it can be foreseen, during which they
 will be required; and
- (d) such other particulars as are prescribed.

(3) This section shall not apply to cases in
 which, owing to urgency or the nature of the employ-
 ment, it is not reasonably practicable for an employer to
 make application under this section.

(4) In any proceeding against an employer in
 respect of a breach of this section, the onus shall be
 upon him of proving the absence of such reasonable
 practicability.

(5) Nothing in this section shall prevent the
 employment of returned soldiers or sailors without
 application under this section.

13. (1) When application is made by an employer or by a sectional committee to a labour exchange or repatriation committee the officer-in-charge thereof shall give preference in opportunity of employment to returned soldiers and sailors registered for employment in the profession, business, or industry in respect of which the application is made and who are available for employ-
 ment.

(2) Returned soldiers and sailors whose services are offered in answer to an application under section eleven of this Act shall be entitled to preference under section three of this Act as if their services had been offered at the same time as those of any other persons who have offered their services.

14. If the labour exchange or repatriation com-
 mittee to which application by an employer or sectional
 committee is made does not within seventy-two hours
 after ineffective application.

George V, after receiving an application provide sufficient and
 No. 38. suitable applicants for employment the employer may engage the employees which he requires without further communication with the labour exchange or repatriation committee.

Temporary assistance.

Board may assist returned soldiers and sailors for whom it is unable to obtain employment.

15. The board may, where it is unable to obtain employment for any returned soldier or sailor, grant such returned soldier or sailor temporary pecuniary assistance, not exceeding the prescribed amount, from funds to be appropriated by Parliament for that purpose.

General.

Returned soldiers and sailors excluded from benefits of the Act.

16. A returned soldier or sailor shall be excluded from the benefits of this Act if in the opinion of the Board his military or naval service was of an unsatisfactory nature.

Penalties.

17. (1) Any employer who contravenes any of the provisions of, or who disobeys any order made under, this Act, shall be liable on conviction to a penalty not exceeding one hundred pounds.

(2) Any such penalty may be recovered upon summary conviction before a stipendiary, police, or industrial magistrate, or any two justices of the peace in petty sessions.

Penalty for coercing or intimidating employer from giving employment to returned soldier or sailor.

18. Any person who in any manner whatsoever intimidates or coerces or attempts to intimidate or coerce any employer with the intent to deter such employer from giving employment or re-employment to a returned soldier or sailor or to cause such employer to contravene any of the provisions of this Act or any regulations or order made thereunder shall be guilty of a misdemeanour and shall be liable on conviction to a penalty not exceeding one hundred pounds or to a term of imprisonment with or without hard labour not exceeding six months.

Regulations.

19. (1) The Governor may make regulations to carry out and give effect to the provisions of this Act and may provide therein for the imposition of a penalty not exceeding twenty pounds for any breach thereof.

(2)

(2) Such regulations shall—

- (i) be published in the Gazette;
- (ii) take effect from the date of publication, or from a later date to be specified in such regulations; and
- (iii) be laid before both Houses of Parliament within fourteen days after publication if Parliament is in session, and if not, then within fourteen days after the commencement of the next session. If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation, such regulation shall thereupon cease to have effect.

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