

95

126

Chap. 43

An Act respecting the Naval Service of Canada.

assented to May 4<sup>th</sup> 1910

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

SHORT TITLE.

- 1. This Act may be cited as The Naval Service Act. Short title.

INTERPRETATION.

- 2. In this Act, and in any regulations made hereunder, unless Definitions.
5 the context otherwise requires,—
(a) "Active Service," as applied to a person in the Naval "Active service."
Forces, means service or duty during an emergency;
(b) "Department" means the Department of the Naval "Department."
Service.
10 (c) "Deputy Minister" means the Deputy Minister of the "Deputy Minister."
Naval Service.
(d) "emergency" means war, invasion or insurrection, real "Emergency."
or apprehended;
(c) "general orders" means orders and instructions issued "General orders."
15 to the Naval Forces by the authority of the Minister;
(f) "Minister" means the Minister of the Naval Service. "Minister."
(g) "naval establishment" includes officers' quarters, barracks, "Naval establish-
dockyards, victualling yards, naval yards, factories, rifle and gun ment."
20 ranges, naval colleges, and all other buildings, works and pre-
mises under the control of the Minister, constructed or set apart
for the Naval Service;
(h) "Naval Forces" means those naval forces organized for "Naval Forces."
the defence and protection of the Canadian coasts and trade, or
engaged as the Governor in Council may from time to time
25 direct;
(i) "Naval Service" includes His Majesty's service in respect "Naval Service."
of all naval affairs of which by this Act the Minister is given the
control and management, and also the Fisheries Protection
Service, Hydrographic Survey, tidal observations on the coasts
30 of Canada, and wireless telegraph service;

"Officer."	(j) "officer" includes commissioned, warrant and subordinate officers serving in the Naval Service of Canada, but not petty officers so serving;	
"Prescribed."	(k) "prescribed" means prescribed by this Act or by regulations made thereunder;	5
"Regulations."	(l) "regulations" means regulations made by the Governor in Council under the authority of this Act;	
"Seaman."	(m) "seaman" includes petty officers, seamen and all other persons engaged in the Naval Service of Canada, other than officers;	10
"On service."	(n) "on service" means when called upon for the performance of any duties other than those specified as active service.	
Interpretation of regulations and orders.	<b>3.</b> <i>The Interpretation Act</i> and section 2 of this Act shall apply to all regulations, orders and articles of engagement made or entered into under this Act.	15

COMMAND IN CHIEF.

Command in Chief.	<b>4.</b> The Command in Chief of the Naval Forces is declared to continue and be vested in the King, and shall be exercised and administered by His Majesty, or by the Governor General as His representative.	20
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DEPARTMENT OF THE NAVAL SERVICE.

Department of Naval Service.	<b>5.</b> There shall be a Department of the Government of Canada, which shall be called the Department of the Naval Service, over which the Minister of Marine and Fisheries for the time being shall preside, and he shall be the Minister of the Naval Service.	25
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Deputy head and officers.	<b>6.</b> The Governor in Council may also appoint an officer, who shall be called the Deputy Minister of the Naval Service, who shall be the deputy head of the Department, and may also appoint such other officers and clerks as are requisite for the due administration of the business of the Department, each of whom shall hold office during pleasure.	30
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Transfer of officers and employees of Marine and Fisheries to Naval Service.	<b>2.</b> The Governor in Council may transfer to the Department of the Naval Service any officer, clerk or employee of the Department of Marine and Fisheries whether or not such officer, clerk, or employee is at present connected with any one of the branches of the Department of Marine and Fisheries which is by this Act transferred or assigned to the Department of the Naval Service, and the money voted by Parliament for the financial year ending the thirty-first day of March, one thousand nine hundred and eleven, applicable to the payment of the salary or the increase of salary of any such officer, clerk or employee shall be available for the payment of his salary or increase of salary in the Department of the Naval Service in the	40
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same manner and to the same extent as if such officer, clerk or employee had not been so transferred.

#### ADMINISTRATION.

7. The Minister shall have the control and management of all naval affairs, including the purchase, maintenance and repair of the ordnance, ammunition, arms, armouries, stores, munitions, and habiliments of war intended for the use of the Naval Service.

Administration of all naval affairs by Minister.

8. The Minister shall have the control and management, including the construction, purchase, maintenance and repair, of naval establishments and of ships and other vessels for the Naval Service.

Control of naval establishments.

9. There shall be appointed an officer, not lower in rank than Rear Admiral, to be called the Director of the Naval Service of Canada. If a suitable officer of such rank is not available then an officer of the rank of captain may be appointed, who shall have the rank of Commodore of the first class.

Director of the Naval Service.

2. The Director of the Naval Service of Canada shall, subject to the regulations and under the instructions of the Minister, be charged with the direction of the Naval Service.

Duties.

10. The Governor in Council may appoint a Naval Board to advise the Minister on all matters relating to naval affairs which are referred to the Board by the Minister.

Naval Board.

2. The composition, procedure and powers of the Board shall be as prescribed.

Constitution of Board.

11. The Governor in Council may organize and maintain a permanent naval force.

Permanent naval force.

12. The Governor in Council may authorize the engagement of officers and seamen in the Naval Service upon such terms and conditions as may be prescribed, and may from time to time fix the maximum number that may be so engaged.

Engagement of officers and seamen.

2. Every officer and seaman shall take and subscribe the following oath upon engaging to serve in the Naval Service:—

Oath of allegiance.

“I, A.B., do sincerely promise and swear (or, solemnly declare) that I will be faithful and bear true allegiance to His Majesty.”

3. Such oath may be administered by any commissioned officer in the Naval Service.

Administration of oath.

13. The rank and authority of officers in the Naval Service shall be as prescribed.

Rank of officers.

Commissions and appointments of officers.

**14.** The commissions of officers in the Naval Service shall be granted by His Majesty during pleasure, and all warrant, subordinate and petty officers shall be appointed in such manner and shall hold such rank and perform such duties as may be prescribed.

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Relief from duty.

**15.** The Governor in Council may at any time relieve from duty any officer or seaman in the Naval Service.

Conditions of discharge from service.

**16.** Any person who has voluntarily engaged in the Naval Service shall be entitled to be discharged at the expiration of the time of service for which he engaged, unless such expiration occurs in time of emergency, in which case he shall be liable to serve for a further period of not more than twelve months, and for such further service he shall not be entitled to any increase of pay unless, in the opinion of the Governor in Council, the circumstances of the case and the conduct of the person concerned merits it.

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Uniforms and equipment.

**17.** The uniform, arms, clothing and equipment of the Naval Service shall be of such patterns and designs as are prescribed, and where supplied at the public cost shall be issued as may be prescribed.

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Uniforms and equipment of officers.

**18.** Officers of the Naval Service shall provide their own uniforms and equipment, with the exception of officers of torpedo vessels and of the submarine service, to whom special clothing may be issued as prescribed.

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#### NAVAL RESERVE.

Constitution of Naval Reserve.

**19.** The Naval Reserve Force shall consist of such persons as join the said reserve after naval service or after undergoing such training as may be prescribed. All members of the said reserve shall be liable to active service upon an emergency.

Regulations.

**20.** The Governor in Council may make regulations for the government of the Naval Reserve Force.

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War service period.

**21.** In time of war no officer or seaman in the Naval Reserve Force shall be required to serve continuously for a longer period than one year; but any officer or seaman who volunteers to serve for the war, or for any longer period than one year, may be compelled to fulfill his engagement: Provided, however that the Governor in Council may, in case of unavoidable necessity (of which necessity the Governor in Council shall be the sole judge), call upon any officer or seaman to continue to serve beyond his one year's service for any period not exceeding six months, and for such further service he shall not be entitled to any increased rate of pay, unless, in the opinion of the

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Extension of service, and increase of pay for merit.

Governor in Council, the circumstances of the case and the conduct of the person concerned merits it.

ACTIVE SERVICE.

22. The Governor in Council may place the Naval Forces or any part thereof, on active service at any time when it appears 5 advisable so to do by reason of an emergency. Active service.

23. In case of an emergency the Governor in Council may place at the disposal of His Majesty, for general service in the Royal Navy, the Naval Service or any part thereof, any ships or vessels of the Naval Service, and the officers and seamen serving 10 in such ships or vessels, or any officers or seamen belonging to the Naval Service. Naval service may be at disposal of His Majesty in emergency.

24. Whenever the Governor in Council places the Naval Service or any part thereof on active service, as provided in the two preceding sections, if Parliament is then separated by such 15 adjournment or prorogation as will not expire within ten days, a proclamation shall issue for a meeting of Parliament within fifteen days, and Parliament shall accordingly meet and sit upon the day appointed by such proclamation, and shall continue to sit in like manner as if it had stood adjourned or pro- 20 rogued to the same day. Parliament to meet when Naval Service on active service.

25. When the Governor in Council declares that an emergency has arisen in which it is expedient for the public service that His Majesty should have control of any dock, shipyard, pier, wharf, machine shop, repairing or salvage plant, factory, 25 warehouse, store or other building the Minister may, by warrant under his hand, empower any person named in such warrant to take possession thereof in the name and on behalf of His Majesty, and to use it for the service of His Majesty in such manner as the Minister directs, and all persons, officers, servants 30 and employees employed thereon shall obey the directions of the Minister in connection with the management or operation thereof. Possession may be taken of shipyards, plants and buildings.

2. Such warrant shall remain in force so long as, in the opinion of the Minister, the emergency exists. Duration of possession.

35 3. There shall be paid to any person whose property is taken possession of in pursuance of this section, out of moneys to be provided by Parliament, such full compensation for any loss or injury he so sustains as is agreed upon between the Minister and the said person, or, in case of difference, as is fixed upon reference 40 to the Exchequer Court of Canada. Compensation.

4. Where any property is taken possession of under the provisions of this section all contracts and agreements between the persons whose property is so taken possession of and the directors, officers and servants of such person or between such 45 Existing contracts may be enforced by His Majesty.

person and any other person in relation to the working or maintenance of such property which would, if such possession had not been taken, have been enforceable by the said person shall, during the continuance of such possession, be enforceable by His Majesty.

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#### NAVAL VOLUNTEER FORCE.

Naval  
Volunteer  
Force.

**26.** The Governor in Council may organize and maintain a force to be called the Naval Volunteer Force.

Constitution.

**27.** The Naval Volunteer Force shall consist of officers and seamen raised by voluntary engagement from among seafaring men and others who may be deemed suitable for the service in which such volunteers are to be employed. 10

Regulations.

**28.** The Governor in Council may make regulations for the government of the Naval Volunteer Force.

Engagement  
and  
discharge.

**29.** Every naval volunteer shall be engaged for the term of three years and, provided his conduct and qualifications are satisfactory, shall be eligible for re-engagement for further periods of three years up to the age of forty-five years; at the expiration of each term he shall be entitled to his discharge, save as hereinafter mentioned. 15

Training  
and pay.

**30.** Naval volunteers shall receive such training and capitulation or other remuneration as may be prescribed. 20

Active  
service in  
emergency.

**31.** In an emergency the Governor in Council may order and direct that the Naval Volunteer Force, or such part thereof as may be deemed necessary, shall be called into active service, and the naval volunteers so called out shall be liable to serve under such regulations as may be prescribed. 25

Period of  
service  
extended,  
and increased  
remuneration  
for merit.

2. If a naval volunteer's period of service expires while he is employed on active service, he shall be liable to serve for a further period of not more than six months, and for such further service he shall not be entitled to any increased remuneration, unless, in the opinion of the Governor in Council, the circumstances of the case and the conduct of the person concerned merits it. 30

#### NAVAL COLLEGE.

Naval College  
to be  
established.

**32.** There shall be an institution for the purpose of imparting a complete education in all branches of naval science, tactics and strategy. 35

Name and  
location.

2. Such institution shall be known as the Naval College of Canada, and shall be located at such place as the Governor in Council may determine.

**33.** The Naval College shall be governed and its affairs administered under such regulations as may be made by the Governor in Council. Administration.

2. Such regulations shall be published in *The Canada Gazette*, and upon such publication shall have the same force of law as if they formed part of this Act. Regulations.

**34.** The Naval College shall be conducted under the superintendence of a naval officer who has special qualifications with regard to discipline and to the instruction to be given, and such professors, instructors and assistants as are found necessary and as are authorized by Parliament. Superintendence of naval officer.

2. The staff of the Naval College shall be appointed by the Governor in Council and shall hold office during pleasure. Staff.

**35.** Every candidate for admission to the Naval College shall be required to pass a medical examination and produce satisfactory proof of date of birth and satisfactory certificates of good character. Requirements for admission.

2. No candidate shall be admitted until he has passed a medical examination, and thereafter such qualifying examination as may be prescribed. Examinations.

3. The age of candidates on admission for the Military and the Engineering branches of the Naval Service shall be as prescribed. Age.

**36.** Every person admitted as a student to the Naval College shall engage to serve in the Canadian Naval Forces for such length of time and under such conditions as may be prescribed, and shall take the oath of allegiance to His Majesty. Period and conditions of service.

#### TARGET PRACTICE.

**37.** The Minister may lay down targets, buoys and other appliances for target practice by the vessels in the Naval Service, and also may provide rifle ranges suitably equipped for the use of the Naval Service at or near any port or any naval establishment. Target practice by vessels.

2. The Governor in Council may make regulations for ensuring the safety of the public during such practice and may provide penalties for infringement of such regulations and for wilful damage to any such targets, buoys, ranges or other appliances. Regulations.

#### GENERAL PROVISIONS.

**38.** For the purpose of legal proceedings, all moneys subscribed by or for or otherwise appropriated to the use of the Naval Service, and all vessels, arms, ammunition, clothing, equipment, musical instruments, or other things belonging to or used by the Naval Service, shall be deemed to be the property of His Majesty. Property vested in His Majesty.

Conditions of alienation. of His Majesty; and no gift, sale or other alienation of any such thing by any person shall be effectual to pass the property therein without the consent of the Governor in Council.

Notice of general orders. 39. All general orders issued to the Naval Forces shall be held to be sufficiently notified to all persons whom they concern by their publication and exhibition in the vessel or naval establishment to which those concerned belong, and proof of such exhibition shall be evidence of the issue of such orders. 5

Proof of commissions, orders and regulations. 40. The production of a commission or appointment, warrant or order in writing, purporting to be made under the provisions of this Act, or of regulations made hereunder, shall be *prima facie* evidence of such commission or appointment, warrant or order, without proving the signature or seal thereto, or the authority of the person granting or making it. 10

Provision for widow and family of deceased officers and seamen. 41. When any officer or seamen is killed on active service, or dies from wounds or disease contracted on active service, drill or training, or on duty, provision shall be made for his widow and family out of the public funds at the prescribed rates. 15

Compensation for disability. 42. Every case of permanent disability, arising from injuries received or illness contracted on active service, drill or training or on duty, shall be reported on by a medical board and compensation awarded, under such regulations as are made from time to time by the Governor in Council. 20

Transfer of vessels. 43. The Governor in Council may from time to time transfer to or from the Naval Service any vessel belonging to His Majesty. 25

Application of R S., c. 111. 44. The Governor in Council may from time to time direct that *The Government Vessels Discipline Act* shall or shall not apply to any ship or vessel in the Naval Service, or to the officers, seamen or persons engaged for service thereon. Until otherwise provided the said Act shall continue to apply to all ships and vessels in the Fisheries Protection Service and the officers and persons engaged for service thereon, and to all ships and vessels employed on the Hydrographic Survey and Tidal Survey and the officers and persons engaged for service thereon. 30

Fisheries protection.  
Hydrographic and Tidal survey.

#### REGULATIONS.

Regulations for Naval Service generally. 45. The Governor in Council may make regulations for carrying out this Act, and for the organization, training, discipline, efficiency, administration and good government generally of the Naval Service. 40

46. Such regulations shall be published in *The Canada Gazette*, and upon being so published they shall have the same force in law as if they formed part of this Act.

47. Such regulations shall be laid before both Houses of Parliament within ten days after the publication thereof if Parliament is then sitting, and if Parliament is not then sitting then within ten days after the next meeting thereof.

48. "The Naval Discipline Act, 1866," and the Acts in amendment thereof passed by the Parliament of the United Kingdom for the time being in force, and the King's Regulations and Admiralty Instructions, in so far as the said Acts, regulations and instructions are applicable, and except in so far as they may be inconsistent with this Act or with any regulations made under this Act, shall apply to the Naval Service and shall have the same force in law as if they formed part of this Act.

2. Where in the said Acts or in the King's Regulations and Admiralty Instructions any power or duty is vested in or imposed upon the Admiralty or any other body or officer, and there is no such body or officer in Canada or in the Naval Service, the Governor in Council may direct who shall exercise or perform such power or duty in Canada, or in the Naval Service.

3. This section shall not apply to any ship or vessel to which *The Government Vessels Discipline Act* applies, or to officers or persons who, being engaged for service upon such ships or vessels, are subject to the said Act.

#### PENALTIES.

49. Any person who,—  
(a) procures or persuades any member of the Naval Forces to desert; or,  
(b) aids or assists any member of the Naval Forces in deserting; or,  
(c) knowing any person to be a deserter from the Naval Forces conceals him or aids or assists him in concealing himself,  
shall be liable upon summary conviction to imprisonment, with or without hard labour, for any period not exceeding twelve months.

#### EXECUTION OF WARRANTS AND SENTENCES.

50. The keeper, gaoler or warden of every gaol, prison or penitentiary in Canada shall receive and detain according to the exigency of any warrant under the hand of the senior commissioned officer in the Naval Service present in any district, or other person authorized under the regulations to issue a warrant, any person mentioned in such warrant and delivered into his custody, and shall confine such prisoner until discharged

or delivered over in due course of law; and every such keeper, gaoler or warden shall take cognizance of any warrant purporting to be signed by any such officer or other authorized person.

Imprisonment in penitentiary.

**51.** Any prisoner sentenced for any term of imprisonment by any naval court martial, or by any naval authority under this Act, may be sentenced to imprisonment in a penitentiary. 5

In gaol.

2. If such prisoner is sentenced to a term less than two years, he may be sentenced to imprisonment in the common gaol of the district, county or place in which the sentence is pronounced, or if there is no common gaol there, then in that common gaol which is nearest to such locality, or in some other lawful prison or place of confinement other than a penitentiary in which imprisonment may be lawfully executed. 10

In special prison.

**52.** Any officer or seaman in the Naval Service, sentenced to be imprisoned may, if the Governor in Council by regulation or otherwise directs, be imprisoned in any place specially appointed therefor, instead of in a gaol, prison or penitentiary. 15

REPEAL.

R.S.C., 1886, c. 41 repealed as to Militia Marine Force.

**53.** Chapter 41 of the Revised Statutes, 1886, intituled an Act respecting the Militia and Defence of Canada, is repealed in so far as it concerns the Active and Reserve Militia Marine Force. 20

R.S., c. 44, Schedule amended.

**54.** The Schedule to *The Department of Marine and Fisheries Act*, chapter 44 of the Revised Statutes, 1906, is amended as follows:—

Clause 5, by adding thereto the following: "except steamships and vessels belonging to the Naval Service;" 25

Clauses 15 and 20 are repealed;

Clause 23, by adding thereto the following: "except the Fisheries Protection Service which is under the control and management of the Department of the Naval Service;" 30

Clause 24, by adding thereto the following: "except such matters as are under the control and management of the Department of the Naval Service."

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*as of Law Clerk*

*April 20<sup>th</sup> 1910.*

*Bill passed by the House of Commons.*

*Ordered that the Clerk do carry this Bill to the Senate and desire their concurrence.*

*Clerk of the House of Commons.*

Passed by the Senate Saturday, April 30<sup>th</sup>  
1910, without any amendment.

Paul D. Chaplain  
Clerk of the Senate.

I assent to this Bill in His Majesty's name

Grey