

ACTS
OF THE
PARLIAMENT
OF THE
DOMINION OF CANADA

PASSED IN THE SESSION HELD IN THE
THIRD YEAR OF THE REIGN OF HIS MAJESTY
KING GEORGE VI
BEING THE
FIFTH SESSION OF THE EIGHTEENTH PARLIAMENT

Begun and holden at Ottawa, on the Seventh day of September, 1939, and closed by
Prorogation on the Thirteenth day of September, 1939



HIS EXCELLENCY THE RIGHT HONOURABLE
BARON TWEEDSMUIR OF ELSFIELD
GOVERNOR GENERAL

PUBLIC GENERAL ACTS

OTTAWA
PRINTED BY EDMOND CLOUTIER
LAW PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
ANNO DOMINI 1940

4 GEORGE VI.

CHAP. 15.

An Act respecting the Royal Canadian Air Force.

[Assented to 21st June, 1940.]

WHEREAS an air force has been constituted by the Governor in Council pursuant to the powers conferred by the *Aeronautics Act*, and His Majesty has been graciously pleased to authorize the said Force to be known as the Royal Canadian Air Force; and Whereas it is desirable that further provisions should be made in respect of the constitution and government of the said force, which is hereinafter referred to as the "air force." Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Preamble.

R.S., c. 3.

SHORT TITLE.

1. This Act may be referred to as *The Royal Canadian Air Force Act*.

Short title.

INTERPRETATION.

2. In this Act unless the context otherwise requires:—
- (a) "air force works" includes aerodromes, air harbours, hangars, barracks and other property used for air force purposes; Definitions
"air force works".
 - (b) "airman" means a person who is liable under this Act or the regulations to perform air force duty otherwise than as an officer; "airman".
 - (c) "emergency" means war, invasion, riot or insurrection, real or apprehended; "emergency".
 - (d) "Minister" means the Minister of National Defence; "Minister".
 - (e) "officer" means a person commissioned by His Majesty as an officer in the air force and includes a person commissioned by His Majesty in any other of His Majesty's forces who, by virtue of this Act or the regulations, is entitled to exercise the functions of an officer of the air force; "officer".

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| "on active service". | (f) "on active service" as defining any period means, in respect to any officer or airman, the period beginning when such officer or airman is ordered for duty by reason of an emergency and ending when he is released from such duty; |
| "on service". | (g) "on service" as defining any period means, in respect to any officer or airman, the period beginning when he is ordered for duty otherwise than by reason of an emergency, and ending when he is released from such duty; |
| "prescribed". | (h) "prescribed" means prescribed by this Act or by regulation or order made by or with the authority of the Governor in Council; |
| "regulation". | (i) "regulation" means a regulation made by the Governor in Council under the authority of this Act; |
| "unit". | (j) "unit" means any body of the air force constituted for the purpose of administration or command and to which officers or airmen may be attached for duty. |
| <i>Interpretation Act to apply.</i> R.S., c. 1. | 3. The <i>Interpretation Act</i> and the last preceding section shall apply to all regulations made under this Act. |

COMMAND.

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| Command in chief. | 4. The command in chief of the air force is declared to continue to be vested in the King, and shall be exercisable by His Majesty or by the Governor General on His Majesty's behalf. |
| R.C.A.F. continued as now constituted. | 5. The air force shall continue as presently constituted under the <i>Aeronautics Act</i> and all orders in council and other orders made in virtue of that Act shall, in so far as they are not inconsistent with this Act, continue in force until rescinded or altered hereunder. |
| Persons subject to the Act. | 6. Persons in this section mentioned shall be subject to this Act as officers or airmen in the circumstances herein-after defined, namely:— |
| Officers and airmen. | (a) every officer and airman when <ul style="list-style-type: none"> (i) in pay as such, or (ii) on service or on active service, or (iii) in air force uniform, or (iv) on any aerodrome, air harbour or other property occupied by the air force, or (v) serving with any unit of the air force, the members of which are at the time subject to this Act, or (vi) present, whether in uniform or not, at any drill, parade or exercise of any unit of the air force; |

- (b) every officer, petty officer, non-commissioned officer, seaman, soldier and constable of the naval forces, of the militia or of the Royal Canadian Mounted Police while attached or lent to the air force; Members naval forces, militia and R.C.M.P.
- (c) subject to such exceptions, adaptations and modifications as may be directed by the Governor in Council under the *Visiting Forces (British Commonwealth) Act*, 1933, every officer and member of any force to which the said Act applies when such officer or member of such force is attached to the air force; Members British forces.
- (d) every person accompanying any part of the air force on active service who holds from the commanding officer of such part a pass entitling him to be treated on the footing of an officer; Persons holding passes.
- (e) every person not otherwise subject to this Act who is employed by or in the service of any part of the air force when on active service or who is a follower of or accompanies any part of the air force when on such service. Followers and employed persons.

7. (1) Airmen may be enlisted for continuous service in pay for any period not longer than five years and may be enlisted for non-continuous service, while remaining free to engage in a civil occupation, for any period not longer than three years. Enlistment of airmen for three or five years.

(2) The term of service of any airman which expires during an emergency shall be subject to extension with his consent until the emergency comes to an end and for not more than one year thereafter, and shall be subject to extension without his consent until the emergency comes to an end or for one year, whichever is the shorter period. Extension of term of service in emergencies.

(3) Notwithstanding anything in this section contained, an airman who, on his enlistment in, or in anticipation of an emergency, has engaged to serve on active service during such emergency, may be required to serve in accordance with the terms of his engagement. Service in accordance with terms of engagement.

8. The Governor in Council may at any time call out any unit of the air force or any officer or airman of such force on service when required for duty, and may call out any such unit, officer or airman on active service in an emergency. Calling out air force.

9. When an officer performing the duties of a district officer commanding a military district has called out the active militia or any portion thereof in aid of the civil power under the provisions of the *Militia Act* and considers that the services of any part of the air force are necessary for the purpose of assisting the militia so called out, he may address to the Minister a request stating the nature and extent of the assistance from the air force which he deems Aid to civil power. R.S., c. 132.

necessary, and upon receiving such request the Minister may authorize the appropriate officer of the air force to call out on active service such units of the air force or officers and airmen thereof, together with their aircraft and equipment, as the Minister considers proper in view of such request.

Powers of peace officer.

(2) Every unit, officer and airman called out under this section shall remain on active service until further order, and every such officer or airman shall while on such service have the powers of a peace officer.

Expenses.

(3) All expenses and costs incurred by His Majesty by reason of any unit of the air force being placed on active service in aid of the civil power shall be payable and recoverable in the same way as like expenses and costs in the case of the militia.

Interference with property in emergencies.

10. (1) The officer commanding any unit of the air force on active service may, subject to regulations, enter upon, take or destroy any private property, real or personal, required to be entered upon, taken or destroyed for the purpose of meeting the emergency.

Compensation.

(2) Any person who suffers damage by reason of the exercise of the powers by this section conferred shall be compensated from the Consolidated Revenue Fund of Canada.

AIR FORCE LAW.

Application of Air Force Act (U.K.).

11. The provisions of the *Air Force Act* for the time being in force in the United Kingdom and not inconsistent with this Act or with any regulation, shall have force and effect as if such provisions formed part of this Act, and any powers conferred by the said Act shall be exerciseable by the Governor in Council, or by such person as may be specified by regulation.

Liability for air force offences.

12. (1) An officer or airman who is alleged to have committed an offence under this Act while on service or active service may be charged with such offence under this Act at any time during such service or active service or within six months following the termination thereof.

Disposition when charge laid.

(2) Any officer or airman so charged shall for the purpose of the disposition of such charge continue to be subject to this Act until the charge has been disposed of by court martial or as otherwise authorized by this Act, and thereafter until any punishment awarded has been completed.

Desertion.

(3) Any officer or airman charged with desertion may be charged, tried and punished under this Act for such offence at any time, and shall remain subject to this Act accordingly.

13. An officer of the air force shall be eligible and may be ordered to serve on any court martial constituted under any statute to try any person not subject to this Act.

Air Force officers may act on any court.

14. (1) A warrant for the imprisonment of any person sentenced to imprisonment by an air force court martial may, if the sentence is for less than two years, direct the person sentenced to be imprisoned either in any place specially appointed for the imprisonment of offenders under this Act, the *Naval Service Act* or the *Militia Act*, or in the common gaol or other lawful prison or place of confinement, other than a penitentiary, nearest to the place at which the sentence was pronounced, but if the sentence is for imprisonment for two years or more, the warrant shall direct the person sentenced to be imprisoned in a penitentiary.

Imprisonment for air force offences.

R.S., c. 139.
R.S., c. 132.

(2) Every officer in charge of any place specially appointed for the imprisonment of offenders under this Act, the *Naval Service Act* or the *Militia Act*, and every governor, keeper or warden of every gaol, prison or penitentiary in Canada shall receive and detain any person delivered into his custody and named in such warrant addressed to him, and shall confine such prisoner until discharged or delivered over in due course of law.

Custody of prisoners.

R.S., c. 139.
R.S., c. 132.

15. The property in any money or other chattel held by any person for the use or benefit of the air force or any unit thereof shall, for the purpose of any legal proceedings, be deemed to be in His Majesty.

Air force property in His Majesty.

16. (1) The Governor in Council may make regulations not inconsistent with the provisions of this Act relating to

- (a) the organization, discipline, training and good government of the air force;
- (b) the pay and allowances of officers and airmen;
- (c) air force works, equipment and supplies and the custody, supervision, use and issue thereof;
- (d) the provision of the transport of officers and airmen and the compensation payable therefor; and
- (e) the ascertainment of the compensation payable for damage suffered by members of the public by reason of air force training or by reason of the entering upon, taking or destruction of property in an emergency.

Regulations.

(2) Any such regulation shall, upon publication in the *Canada Gazette*, have the same force in law as if it had formed part of this Act, and shall be laid before both Houses of Parliament within ten days after such publication, if Parliament is then sitting, and if Parliament is not then sitting, then within ten days after the commencement of the next session thereof.

Publication of regulations.

Laid before Parliament

Interference
with training
or movement.

17. Any person who interferes with the training or movement of any unit, officer or airman on service or on active service shall be liable on summary conviction to a fine not exceeding two hundred dollars or to six months imprisonment or to both fine and imprisonment.

Payments
from
Consolidated
Revenue
Fund.

18. All sums of money payable under this Act by way of compensation for damage arising from acts done in case of emergency or for the pay, allowance and other expenses incurred by reason of the calling out of officers or airmen on active service during such emergency may be paid out of the Consolidated Revenue Fund upon warrant directed by the Governor General to the Minister of Finance.

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King's Most Excellent Majesty.