

*This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.*

W. L. S. COOPER,  
*Clerk of the Parliaments.*

*Legislative Council Chamber,  
Sydney, 28th August, 1918.*

## New South Wales.



ANNO NONO

## GEORGI V REGIS.

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Act No. , 1918.

An Act to facilitate the execution by persons engaged on war service during such service and during a certain period thereafter of certain instruments under the Real Property Act, 1900; to facilitate the making of wills by soldiers and sailors; to amend the Real Property Act, 1900, and the Wills, Probate and Administration Act, 1898; and for purposes consequent thereon or incidental thereto.

**B**E 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 "Execution of Short title. Instruments (War Facilities) Act, 1918."

*Execution of Instruments (War Facilities).*

2. (1) Notwithstanding any statutory requirement, any instrument requiring attestation under the Real Property Act, 1900, including any power of attorney for use under that Act, signed by any person during any  
 5 period for which the said person is engaged on war service, and a further period of six months thereafter, upon verification of the signatures thereto to the satisfaction of the Registrar-General shall, whether attested or not, be held to be duly executed, saving all other  
 10 just exceptions or objections.

Evidence of due execution of certain instruments by persons engaged on war service.  
 cf. Vic. Act, No. 2757, s.

(2) Whenever by any law a deed or document other than a will requires to be executed or declared before or in the presence of and be attested by a person prescribed by such law it shall be a sufficient compliance  
 15 with the law in the case of a person engaged on war service if it be executed or declared in the presence of and attested by a commissioned officer in the Imperial or Australian army or navy.

(3) For the purposes of this section the words  
 20 "engaged on war service" shall mean—

- (a) engaged on active service abroad in connection with the present war as a member of the military or naval forces of the Crown or of any of His Majesty's allies ; or
- 25 (b) engaged on active service abroad in connection with the present war as a member of the Medical Corps Nursing Service of the military or naval forces of the Crown or of any of His Majesty's allies ; or
- 30 (c) engaged on active service abroad in connection with the present war with the Army Medical Service of any of His Majesty's allies ; or
- (d) engaged on service in any work abroad, in connection with the present war, of the British  
 35 or Australian Red Cross Society, or the Saint John Ambulance Association, or of any religious or patriotic organisation ; or
- (e) being in connection with the present war a  
 40 prisoner of war in the enemy's country, or interned in the country of a neutral power ;  
 or

(f)

*Execution of Instruments (War Facilities).*

(f) engaged abroad in making munitions, or in any other service in connection with the present war.

(4) (a) A statutory declaration by any person, who in the opinion of the Registrar-General is qualified to declare as to the fact, that any party to any instrument submitted to the Registrar-General for registration under the Real Property Act, 1900, was at the time such party signed the instrument, or was during the six months immediately preceding the date of such signature, engaged on war service, shall be accepted by the Registrar-General as sufficient evidence of the fact.

(b) A statutory declaration by the donee of a power of attorney or by any person who in the opinion of the Registrar-General is qualified to declare as to the fact that the donor was at the time such donor signed the power of attorney, or was during the six months immediately preceding the date of such signature engaged on war service, shall be accepted as sufficient evidence of the fact by the Registrar-General and every other person dealing with the donee.

**3.** Section ten of the Wills, Probate and Administration Act, 1898, is repealed, and the following section substituted in lieu thereof:—

25 10. (1) Any soldier, mariner, or seaman being in actual military or naval service, and any mariner or seaman being at sea, whether he is of the full age of twenty-one years or not, may in the same manner as any soldier being in actual military service, or any mariner or seaman being at sea, might have disposed of his personal estate before the coming into operation of this Act—

- 30 (i) dispose by will of his real or personal estate ;  
 35 (ii) revoke a will of real or personal estate ;  
 (iii) appoint a testamentary guardian ;  
 (iv) exercise a testamentary power of appointment.

40 (2) This section shall be deemed to apply to the will of a person who dies after the passing of the Execution of Instruments (War Facilities) Act, 1918, although the will was made before the passing of that Act.

(3)

Repeal.

Soldiers and mariners' wills.

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*Execution of Instruments (War Facilities).*

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5 (3) In the case of persons who have died before the passing of the Execution of Instruments (War Facilities) Act, 1918, this Act shall be deemed to have authorised an infant soldier being in actual military service, or an infant mariner or seaman being at sea, to dispose of his personal estate in the same manner as he might have done before the coming into operation of this Act if he had been of the full age of twenty-one years.

Legislative Council.

No. , 1918.

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## A BILL

To facilitate the execution by persons engaged on war service during such service and during a certain period thereafter of certain instruments under the Real Property Act, 1900; to facilitate the making of wills by soldiers and sailors; to amend the Real Property Act, 1900, and the Wills, Probate and Administration Act, 1898; and for purposes consequent thereon or incidental thereto.

[MR. GARLAND;—3 *July*, 1918.]

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5 the same, as follows:—

**1.** This Act may be cited as the "Execution of Short title. Instruments (War Facilities) Act, 1918."

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**2.**

Evidence of  
due execution  
of certain  
instruments  
by persons  
engaged on  
war service.  
cf. Vic. Act,  
No. 2757, s. 2.

**2.** (1) Notwithstanding any statutory requirement, any instrument requiring attestation under the Real Property Act, 1900, including any power of attorney for use under that Act, signed by any person during any period for which the said person is engaged on war service, and a further period of six months thereafter, upon verification of the signatures thereto to the satisfaction of the Registrar-General shall, although not attested, be held to be duly executed, saving all other just exceptions or objections. 5 10

(2) For the purposes of this section the words "engaged on war service" shall mean—

- (a) engaged on active service abroad in connection with the present war as a member of the military or naval forces of the Crown or of any of His Majesty's allies; or 15
- (b) engaged on active service abroad in connection with the present war as a member of the Medical Corps Nursing Service of the military or naval forces of the Crown or of any of His Majesty's allies; or 20
- (c) engaged on active service abroad in connection with the present war with the Army Medical Service of any of His Majesty's allies; or
- (d) engaged on service in any work abroad, in connection with the present war, of the British or Australian Red Cross Society, or the Saint John Ambulance Association, or of any religious or patriotic organisation; or 25
- (e) being in connection with the present war a prisoner of war in the enemy's country, or interned in the country of a neutral power; or 30
- (f) engaged abroad in making munitions, or in any other service in connection with the present war. 35

(3) (a) A statutory declaration by any person, who in the opinion of the Registrar-General is qualified to declare as to the fact, that any party to any instrument submitted to the Registrar-General for registration under the Real Property Act, 1900, was at the time such party signed 40

signed the instrument, or was during the six months immediately preceding the date of such signature, engaged on war service, shall be accepted by the Registrar-General as sufficient evidence of the fact.

5 (b) A statutory declaration by the donee of a power of attorney or by any person who in the opinion of the Registrar-General is qualified to declare as to the fact that the donor was at the time such donor  
10 months immediately preceding the date of such signature engaged on war service, shall be accepted as sufficient evidence of the fact by the Registrar-General and every other person dealing with the donee.

15 **3.** Section ten of the Wills, Probate and Administration Act, 1898, is repealed, and the following section substituted in lieu thereof:—

20 10. Any soldier being in active military service, <sup>Soldiers and</sup> and any mariner or seaman being at sea, may in the <sup>mariners'</sup> same manner as he might have disposed of his <sup>wills</sup> personal estate before the coming into operation of <sup>excepted.</sup> this Act,—

- 25 (i) dispose by will of his real or personal estate ;  
(ii) revoke a will of real or personal estate ;  
(iii) appoint a testamentary guardian, who shall have all the powers and duties of a guardian appointed under the statute of the twelfth year of the reign of King Charles the Second, chapter twenty-four.

