

Emergency Powers (No. 362) Order, 1945

Emergency Powers (No. 362) Order, 1945:

13.—(1) Where—

(a) a member of the Defence Forces has deserted or absented himself without leave on a date (in this subsection referred to as the date of desertion) which falls on or after the 3rd day of October, 1945, and during the emergency period, and

(b) such member has not surrendered or been apprehended during the period of one hundred and eighty days beginning on the date of desertion, then, notwithstanding anything contained in the Acts, the following provisions shall apply—

(i) such member shall, on and from the day next following the expiration of such last-mentioned period, by virtue of this subsection, stand dismissed from the Defence Forces for desertion in time of national emergency and cease to be a member of the Defence Forces,

(ii) the pay and allowances of such member shall be automatically forfeited for every day during such last-mentioned period.

(2) Where by virtue of Article 3 of the Emergency Powers (No. 362) Order, 1945 (S. R. & O., No. 198 of 1945), or subsection (1) of this section a member of the Defence Forces has been or is dismissed from the Defence Forces for desertion in time of national emergency, the following provisions shall have effect—

(a) such member shall be disqualified for a period of seven years from the date of such dismissal from holding—

(i) any office or employment remunerated out of the Central Fund or moneys provided by the Oireachtas or moneys raised by local taxation, or

(ii) any office or employment under any board or body established by or under statutory authority, or

(iii) office as a paid member of any such board or body;

(b) no pension, gratuity or allowance, in respect of his service in the Defence Forces, shall be payable, under the Army Pensions Acts, 1923 to 1946, to or in respect of such member;

(c) no pension or gratuity shall be payable, under any scheme made under the Defence Forces (Pensions) Acts, 1932 and 1938, to or in respect of such member;

(d) such dismissal shall not constitute a discharge for the purposes of the Unemployment Insurance Act, 1945 (No. 23 of 1945).

(3) A certificate under the hand of an officer of the Defence Forces authorised by the Adjutant-General in that behalf certifying that a specified member of the Defence Forces deserted or absented himself without leave on a specified date and that such member did not surrender and was not apprehended before a specified date shall, for the purposes of the Emergency Powers (No. 362) Order, 1945 (S. R. & O., No. 198 of 1945) or this section, be conclusive evidence of the facts so certified.

(4) In this section — the expression “the emergency period” means the period which commenced on the 3rd day of September, 1939, and will end on the date on which the Defence Forces (Temporary Provisions) (No. 2) Act, 1940 (State of Emergency) Order, 1940 (S. R. & O., No. 163 of 1940), is revoked; the expression “member of the Defence Forces” does not include an officer of the Defence Forces.

(5) This section shall come into operation on the 1st day of April, 1946.