



**BILLE FORSAI COSANTA (FORALACHA SEALADACHA),  
1942.**

**DEFENCE FORCES (TEMPORARY PROVISIONS) BILL,  
1942.**

*Mar do tugadh isteach.*

*As introduced.*

**ARRANGEMENT OF SECTIONS.**

**Section.**

1. Definitions and construction.
2. Continuance of the Acts.
3. Definition of expression "non-commissioned officer".
4. Promotion of officers.
5. Promotion of soldiers.
6. Amendment of section 131 of the Principal Act.
7. Suspension of right of soldier to be discharged during a period of emergency.
8. Application of section 9 of the Defence Forces (Temporary Provisions) Act, 1925, to officers.
9. Amendment of section 17 of the No. 2 Act of 1940.
10. Amendment of section 18 of the No. 2 Act of 1940.
11. Amendment of section 57 of the No. 2 Act of 1940.
12. Amendment of section 8 of the Act of 1941.
13. Apprehension of suspected deserters and absentees.
14. Repeals.
15. Short title and collective citation.

**SCHEDULE.**

**ENACTMENTS REPEALED.**



# ÉIRE.

## BILLE FORSAI COSANTA (FORALACHA SEALADACHA), 1942.

### DEFENCE FORCES (TEMPORARY PROVISIONS) BILL, 1942.

5

## BILL

*entitled*

AN ACT TO CONTINUE, AMEND AND EXTEND THE  
DEFENCE FORCES (TEMPORARY PROVISIONS) ACTS,  
1923 TO 1941.

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BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS :—

Definitions and  
construction.

1.—(1) In this Act—

the expression “ the Principal Act ” means the Defence Forces  
(Temporary Provisions) Act, 1923 (No. 30 of 1923);

the expression “ the No. 2 Act of 1940 ” means the Defence Forces 15  
(Temporary Provisions) (No. 2) Act, 1940 (No. 11 of 1940);

the expression “ the Act of 1941 ” means the Defence Forces (Tem-  
porary Provisions) Act, 1941 (No. 6 of 1941);

the expression “ the Acts ” means the Defence Forces (Temporary  
Provisions) Acts, 1923 to 1941.

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(2) References in this Act to any enactment shall be construed  
as references to that enactment as amended by any subsequent  
enactment.

(3) The Acts and this Act shall be read and construed together  
and accordingly every word and expression used in this Act to 25  
which a particular meaning is given by the Acts for the purposes  
of the Acts has in this Act the meaning so given.

Continuance  
of the Acts.

2.—The Acts, as amended and extended by this Act, shall con-  
tinue in force until the 31st day of March, 1943, and shall then  
expire.

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Definition of  
expression “ non-  
commissioned  
officer ”.

3.—(1) The expression “ non-commissioned officer ”, where it  
occurs in the Acts or any enactment (including this Act) amending  
the Acts, shall be construed as meaning a member of the Defence  
Forces who holds any grade of rank or rating set out at any refer-  
ence number (other than reference number 7) in the Table to 35  
section 18 of the No. 2 Act of 1940.

(2) This section shall be deemed to have come into operation on,  
and shall have effect as on and from, the 7th day of June, 1940.

Promotion  
of officers.

4.—(1) The Minister may promote any officer to a higher sub-  
stantive rank.

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(2) The Minister may promote any officer to a higher acting  
rank.



(3) An officer promoted to higher acting rank shall at any time thereafter, on a direction to that effect being given by the Minister and published in *Iris Oifigiúil*, revert to his substantive rank or, as may be so directed, to an acting rank higher than his substantive rank.

(4) Sub-sections (2) and (3) of this section shall be deemed to have come into operation on, and shall have effect as on and from, the 3rd day of September, 1939.

5.—(1) The Minister or any officer authorised by him in that behalf may promote any member of the Defence Forces holding a non-commissioned military rank or grade of marine rating to a higher substantive non-commissioned rank or grade of rating.

(2) The Minister or any officer authorised by him in that behalf may reduce a non-commissioned officer of the Defence Forces holding a substantive non-commissioned rank or grade of rating to a lower substantive non-commissioned rank or grade of rating.

(3) The Minister or any officer authorised by him in that behalf may promote any member of the Defence Forces holding a non-commissioned military rank or grade of marine rating to a higher acting non-commissioned rank or grade of rating.

(4) Any officer authorised in that behalf by the Minister may direct that an acting non-commissioned officer of the Defence Forces shall revert to his substantive rank or grade of rating or to an acting rank or grade of rating higher than his substantive rank or grade of rating and any such direction shall have effect accordingly.

(5) Sub-sections (3) and (4) of this section shall be deemed to have come into operation on, and shall have effect as on and from, the 3rd day of September, 1939.

6.—Section 131 (which relates to deductions which may be made from ordinary pay of soldiers) of the Principal Act is hereby amended by the insertion therein, after paragraph (e), of the following paragraph, that is to say :—

“(ee) the sum required to pay any penalty, damages, compensation or costs awarded against him by a civil court before which he has been charged with an offence”.

7.—(1) Notwithstanding anything contained in the Acts, no soldier of the Forces or man of the Reserve shall be entitled to be discharged during a period of emergency, and where the term of original enlistment of any such soldier or man expires during a period of emergency, it shall be deemed to be extended for that period of emergency, and such extension shall be deemed, in the case of a soldier of the Forces, to be an extension of his army service, or, in the case of a man of the Reserve, to be an extension of his reserve service, and the provisions of the Acts shall apply in each such case as if the term of original enlistment included such extension of service.

(2) The operation of section 155 (which relates to prolongation of service in certain cases) of the Principal Act and sub-section (2) of section 34 (which relates to discharge of Reserve men on completion of service) of the No. 2 Act of 1940 shall, by virtue of this sub-section, be suspended during any period of emergency.

(3) In this section the expression “period of emergency” has the same meaning as in the No. 2 Act of 1940.



(4) This section shall be deemed to have come into force on, and shall have effect as on and from, the 1st day of January, 1941.

Application of section 9 of the Defence Forces (Temporary Provisions) Act, 1925, to officers.

8.—Section 9 (which relates to lunatic soldiers on discharge) of the Defence Forces (Temporary Provisions) Act, 1925 (No. 4 of 1925), shall apply, in respect of an officer who, if he is an officer of the Forces, is retired therefrom on the grounds of infirmity of mind or, if he is an officer of the Reserve of Officers, relinquishes his commission on the said grounds and who is certified by a registered medical practitioner to be a person of unsound mind and to be a proper person to be detained under care and treatment, in like manner as the said section applies to a soldier of the Forces in respect of whom, upon his discharge, it is similarly certified.

Amendment of section 17 of the No. 2 Act of 1940.

9.—Section 17 (which relates to commissioned ranks in the Defence Forces) of the No. 2 Act of 1940 shall be construed and have effect as if—

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(a) the following sub-section were substituted for sub-section (3) thereof, that is to say:—

“(3) For the purposes of any enactment to which this sub-section applies or any scheme made (whether before or after the passing of this Act) under the Defence Forces (Pensions) Acts, 1932 and 1938, every commissioned marine rank mentioned in the third column of the Table hereto shall be deemed to be a rank corresponding to the commissioned military rank respectively mentioned opposite thereto in the second column of the said Table, and references in any such enactment or scheme to a commissioned military rank corresponding to a commissioned marine rank shall be construed as including references to such commissioned marine rank.

This sub-section applies to any enactment, whether passed before or after this Act, including this Act, which is a Saorstát Éireann statute or an Act of the Oireachtas.”; and

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(b) the following two sub-sections were inserted after sub-section (3), that is to say:—

“(4) The Minister may direct that an officer of the Defence Forces who holds (whether by virtue of his appointment thereto, or a direction given under the next following sub-section) a commissioned military rank set out in the second column of the Table hereto shall, in lieu of that commissioned military rank, hold the commissioned marine rank set out in the third column of the said Table opposite the mention of such commissioned military rank, and any such direction shall have effect according to the tenor thereof.

(5) The Minister may direct that an officer of the Defence Forces who holds (whether by virtue of his appointment thereto or a direction given under the immediately preceding sub-section) a particular commissioned marine rank shall, in lieu of that commissioned marine rank, hold the commissioned military rank corresponding to such commissioned marine rank and any such direction shall have effect according to the tenor thereof.”.

Amendment of section 18 of the No. 2 Act of 1940.

10.—Section 18 (which relates to non-commissioned ranks and ratings in the Defence Forces) of the No. 2 Act of 1940 shall be construed and have effect as if—

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(a) the following sub-section were substituted for sub-section (4) thereof, that is to say:—

5 “ (4) For the purposes of any enactment to which this sub-section applies or any scheme made (whether before or after the passing of this Act) under the Defence Forces (Pensions) Acts, 1932 and 1938,—

10 (a) the marine rank of Warrant Officer shall be deemed to be a rank corresponding to the military rank of Sergeant-Major, and references in any such enactment or scheme to the rank of Sergeant-Major shall be construed as including references to the rank of Warrant Officer;

15 (b) every marine rating mentioned in the fourth column of the Table hereto shall be deemed to be a rank corresponding to the military rank respectively mentioned opposite thereto in the second column of the said Table, and references in any such enactment or scheme to a grade of non-commissioned military rank corresponding to a grade of non-commissioned marine rating shall be construed as including references to such grade of non-commissioned marine rating.

This sub-section applies to any enactment, whether passed before or after this Act, including this Act, which is a Saorstát Éireann statute or an Act of the Oireachtas.”;

30 (b) the following sub-section were substituted for sub-section (5) thereof, that is to say:—

35 “ (5) The Minister may by order direct that in relation to any Corps or Service or part of a Corps or Service the holder of non-commissioned military rank therein shall in lieu of holding a rank specified in the second column of the Table hereto hold such other equivalent rank as may be specified in such order, and in such case references in any enactment to which this sub-section applies or in any scheme made (whether before or after the passing of this Act) under the Defence Forces (Pensions) Acts, 1932 and 1938, to a rank specified in the said second column shall as respects such Corps or Service or part of such Corps or Service be construed as references to the equivalent rank specified in such order.

40 This sub-section applies to any enactment, whether passed before or after this Act, including this Act, which is a Saorstát Éireann statute or an Act of the Oireachtas.”; and

50 (c) the following four sub-sections were inserted after sub-section (6), that is to say:—

55 “ (7) The Minister may direct that a member of the Defence Forces who holds (whether by virtue of his appointment thereto or a direction given under the next following sub-section) the military rank of Sergeant-Major shall, in lieu of that military rank, hold the marine rank of Warrant Officer, and any such direction shall have effect according to the tenor thereof.

60 (8) The Minister may direct that any member of the Defence Forces who holds (whether by virtue of



his appointment thereto or a direction given under the immediately preceding sub-section) the marine rank of Warrant Officer shall, in lieu of that marine rank, hold the military rank of Sergeant-Major, and any such direction shall have 5 effect according to the tenor thereof.

(9) The Minister may direct that any member of the Defence Forces who holds (whether by virtue of his enlistment or appointment thereto or a direction given under the next following sub-section) a 10 non-commissioned military rank (other than that of Sergeant-Major) set out in the second column of the Table hereto shall, in lieu of that non-commissioned military rank, hold the grade of non-commissioned marine rating set out in the 15 fourth column of the said Table opposite the mention of such non-commissioned military rank, and any such direction shall have effect according to the tenor thereof.

(10) The Minister may direct that any member 20 of the Defence Forces who holds (whether by virtue of his enlistment or appointment thereto or a direction given under the immediately preceding sub-section) a grade of non-commissioned marine rating set out in the fourth column of the Table hereto 25 shall, in lieu of that grade of non-commissioned marine rating, hold the non-commissioned military rank set out in the second column of the said Table opposite the mention of such non-commissioned marine rating, and any such direction shall have 30 effect according to the tenor thereof."

Amendment of section 57 of the No. 2 Act of 1940.

11.—Section 57 (which relates to restoration to employment of reservists called out on permanent service and of soldiers enlisted in the Forces for a period of emergency) of the No. 2 Act of 1940 shall not apply in respect of any man of the Reserve or any person 35 who enlists in the Forces, within the meaning of the said section, who is—

(a) discharged with ignominy from the service or discharged from the service by sentence of a court-martial, or

(b) discharged from the service for any of the following 40 reasons, namely—

(i) wilfully making a false statement on attestation,

(ii) misconduct,

(iii) conviction by the civil power,

(c) a person to whom sub-section (2) of section 119 of the 45 Principal Act is applicable.

Amendment of section 8 of the Act of 1941.

12.—Section 8 (which relates to restoration to employment of certain officers) of the Act of 1941 shall not apply in respect of an officer belonging to the Reserve of Officers or a temporary officer, within the meaning of the said section, who is— 50

(a) dismissed with ignominy from the service or dismissed from the service by sentence of a court martial, or

(b) dismissed under section 7 of the Defence Forces Act, 1937 (No. 41 of 1937).



13.—(1) Where an officer or soldier or a member of the *Gárda Síochána* has reasonable grounds for suspecting that any person is a deserter or an absentee without leave from the Defence Forces, he may, without warrant, arrest such person and there-  
5 upon the following provisions shall have effect, that is to say:—

Apprehension  
of suspected  
deserters and  
absentees.

(a) such person (in this sub-section referred to as the arrested person) may demand that an inquiry into his arrest be made under the next following paragraph, and the person making the arrest shall inform the arrested  
10 person of his right under this paragraph;

(b) if the arrested person so demands, then—

(i) the arrested person shall be brought before a Justice of the District Court or a Peace Commissioner and may in the meantime be detained in  
15 any *Gárda Síochána* station;

(ii) the Justice of the District Court or the Peace Commissioner before whom the arrested person is brought shall inquire into the arrest, and

(I) if satisfied that the arrested person is a deserter or absentee without leave, shall forthwith cause the arrested person to be delivered into military custody or, until he can be so delivered, to be committed to some prison or *Gárda Síochána* station for such  
20 time as appears to him reasonably necessary for the taking of steps to receive the arrested person into military custody,

(II) if not so satisfied, shall order the release of the arrested person;

(iii) the Justice of the District Court or Peace Commissioner before whom the arrested person is brought may from time to time adjourn the inquiry, and, if he so does, shall order that the arrested person be detained, during any such  
25 adjournment, in a prison or a *Gárda Síochána* station;

(c) if the arrested person does not so demand, the person making the arrest may deliver him into military custody and pending such delivery the arrested person may be  
40 detained in any prison or *Gárda Síochána* station.

(2) Where a person surrenders himself to an officer or soldier or a member of the *Gárda Síochána* and alleges that he is a deserter or absentee without leave from the Defence Forces, such officer, soldier or member of the *Gárda Síochána* may deliver such  
45 person into military custody and pending such delivery such person may be detained in any prison or *Gárda Síochána* station.

14.—The enactments mentioned in the second column of the Schedule to this Act are hereby repealed to the extent specified in the third column of the said Schedule.

Repeals.

15.—(1) This Act may be cited as the Defence Forces (Temporary Provisions) Act, 1942.

Short title and  
collective  
citation.

(2) The Acts and this Act may be cited together as the Defence Forces (Temporary Provisions) Acts, 1923 to 1942.



# SCHEDULE.

## ENACTMENTS REPEALED.

Number and Year	Short Title	Extent of Repeal
No. 30 of 1923	Defence Forces (Temporary Provisions) Act, 1923.	Sections 11A and 11B (inserted by section 8 of the Defence Forces (Temporary Provisions) Act, 1923 (Continuance and Amendment) Act, 1924 (No. 38 of 1924)).
No. 38 of 1924	Defence Forces (Temporary Provisions) Act, 1923 (Continuance and Amendment) Act, 1924.	Section 8.
No. 11 of 1940.	Defence Forces (Temporary Provisions (No. 2) Act, 1940.	Sub-section (3) of section 17 ; sub-sections (4) and (5) of section 18 ; section 54.
No. 6 of 1941.	Defence Forces (Temporary Provisions) Act, 1941.	Sections 3 and 7.



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Éire.

BILLE FORSAI COSANTA (FORALACHA  
SEALADACHA), 1942.

## BILLE

(*mar do tugadh isteach*)

*dá ngairmtear*

Acht chun na nAchtanna Fórsaí Cosanta  
(Forálacha Sealadacha), 1923 go 1941, do  
bhuanú agus do leasú agus do leathnú.

*An tAire Cosanta do thug isteach.*

*Do hordúodh, ag Dáil Éireann, do chló-  
bhualadh, 4adh Márta, 1942.*

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[*Raol Glan.*]

Éire.

DEFENCE FORCES (TEMPORARY PRO-  
VISIONS) BILL, 1942.

## BILL

(*as introduced*)

*entitled*

An Act to continue, amend and extend the  
Defence Forces (Temporary Provisions)  
Acts, 1923 to 1941.

*Introduced by the Minister for Defence.*

*Ordered by Dáil Éireann, to be printed,  
4th March, 1942.*

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