

Defence Act 1971

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An Act to consolidate and amend the Defence Act 1964 and those parts of the Navy Act 1954, the New Zealand Army Act 1950, and the Royal New Zealand

Air Force Act 1950 relating to the constitution, command, and administration of the New Zealand Naval Forces, the New Zealand Army, and the Royal New Zealand Air Force

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1 Short Title and commencement

- (1) This Act may be cited as the Defence Act 1971.
- (2) This Act shall come into force on a date to be fixed by the Governor-General by Order in Council.

2 Interpretation

- (1) In this Act, unless the context otherwise requires,—

“Active service order” means an order of the Defence Council, or of an officer authorised by the Defence Council for the purpose, posting a part of the Armed Forces or any serviceman on active service, or declaring that a part of the Armed Forces or a serviceman has ceased to be on active service:

“Air cadet” means any person, other than a cadet officer, who is a member of the Air Training Corps; and includes an under-officer or any other noncommissioned officer of the Air Training Corps; but does not include a serviceman:

“Aircraft” means any machine that can derive support in the atmosphere from the reactions of the air; and includes any aeroplane, balloon, kite balloon, airship, or glider:

“Air Force” means the Royal New Zealand Air Force constituted under section 5 of this Act:

“Air force base” means any area of land or water (either in New Zealand or elsewhere) used or set aside for the purposes of the Air Force; and includes any building or other premises, tents, structures, or works on any such land, and any structures or works in any such water:

“Airman” means any person (whether a man or a woman) duly attested for service in the Air Force, or declared by or under this or any other enactment to belong to the Air Force; and includes—

- (a) A non-commissioned officer of the Air Force; and
- (b) A rating of the Navy and a soldier of the Army attached to the Air Force;—

but does not include an officer:

“Allied force” means a force or part of a force of another country acting in co-operation with a part of the Armed Forces:

“Armed Forces” means the Navy, the Army, and the Air Force collectively; and includes any branch, corps, command, formation, unit, or other part of the Armed Forces; but does not include any part of the cadet forces:

“Army” means the New Zealand Army constituted under section 5 of this Act:

“Army camp” means any area of land or water (either in New Zealand or elsewhere) used or set aside for the purposes of the Army; and includes any building or other premises, tents, structures, or works on any such land, and any structures or works in any such water:

“Cadet forces” means the Sea Cadet Corps, the School Cadet Corps (including school army, sea, and air cadet units), and the Air Training Corps collectively; and includes any part of those forces:

“Cadet officer” means a person who holds a cadet commission from the Minister in any corps of the cadet forces; but does not include an officer of the regular forces, the territorial forces, or the reserve forces:

“Defence Council”, or “council”, means the New Zealand Defence Council constituted under this Act:

“Defence area” means any land, water, or part of the seabed, or any building, or part of a building, either in New Zealand or elsewhere, which is set apart, used, or occupied for the purposes of the Armed Forces, whether the property is owned by the Crown or is used or occupied by or on behalf of the Armed Forces with the consent of the owner; and more particularly includes—

- (a) The Calliope Dock at Auckland and all land and buildings contiguous to the dock which belongs to or is administered by the Auckland Harbour Board:
- (b) Every naval establishment, army camp, and air force base:
- (c) Any arsenal and any other place used for the purpose of building, repairing, making, or storing munitions or equipment for or belonging to the Armed Forces:

“Enemy” means any country, or any armed force, or any authority or *de jure* or *de facto* government controlling any such force, with which New Zealand, or any force acting in co-operation with any part of the Armed Forces of New Zealand, is at war or is engaged in armed combat operations; and includes—

- (a) Any member of any such armed force or any member of that authority or government, as the case may be:
- (b) Any person materially assisting that country, force, authority, or government in its war effort or armed combat operations:
- (c) Any ally of that country, force, authority, or government:
- (d) All pirates:

- (e) All armed persons who are engaged in any mutiny, rebellion, or riot against New Zealand or against any service authority of the Armed Forces of New Zealand or against any ally of New Zealand:

“Land” includes any estate or interest in land:

“Leading aircraftman” includes an aircraftman, cadet aircrew, aircraft apprentice, or airman cadet; and includes the equivalent women’s ranks in the Air Force:

“Military” means of or pertaining to the Armed Forces:

“Minister” means the Minister of Defence; and includes any other Minister for the time being lawfully exercising his powers:

“Naval establishment” means any area of land or water (either in New Zealand or elsewhere) used or set aside for the purposes of the Navy; and includes any building or other premises, tents, structures, or works on any such land, and any structures or works in any such water:

“Naval ship” means any of Her Majesty’s New Zealand ships; and includes any ship used or set aside for the purposes of the Navy; but does not include a New Zealand Government ship as defined in section 2 of the Shipping and Seamen Act 1952 unless it is used or set aside for the purposes of the Navy:

“Navy” means the New Zealand Naval Forces constituted under section 5 of this Act:

“Non-commissioned officer” means—

- (a) In relation to the Navy, a rating of warrant officer, chief petty officer, petty officer, or leading rank; and includes—
- (i) A non-commissioned officer of the Army or the Air Force attached to the Navy; and
 - (ii) A person duly attached or lent as a non-commissioned officer to or seconded for service or appointed for duty as a non-commissioned officer with the Navy:
- (b) In relation to the Army, a soldier above the rank of private but below the rank of commissioned officer, and includes a warrant officer; and also includes—
- (i) A non-commissioned officer of the Navy or the Air Force attached to the Army; and
 - (ii) A person duly attached or lent as a non-commissioned officer to or seconded for service or appointed for duty as a non-commissioned officer with the Army:
- (c) In relation to the Air Force, an airman above the rank of leading aircraftman but below the rank of commissioned officer, and includes a warrant officer; and also includes—

- (i) A non-commissioned officer of the Navy or the Army attached to the Air Force; and
- (ii) A person duly attached or lent as a non-commissioned officer to or seconded for service or appointed for duty as a non-commissioned officer with the Air Force:

“Officer” means—

- (a) In relation to the Navy, a person (whether a man or a woman) who holds Her Majesty’s Commission in the Navy; and includes—
 - (i) An officer of the Army or the Air Force attached to the Navy or any part of it; and
 - (ii) Any person duly attached or lent as an officer to or seconded for service or appointed for duty as an officer with the Navy:
- (b) In relation to the Army, a person (whether a man or a woman) who holds Her Majesty’s Commission in the Army; and includes—
 - (i) An officer of the Navy or the Air Force attached to the Army or any part of it; and
 - (ii) Any person duly attached or lent as an officer to or seconded for service or appointed for duty as an officer with the Army:
- (c) In relation to the Air Force, a person (whether a man or a woman) who holds Her Majesty’s Commission in the Air Force; and includes—
 - (i) An officer of the Navy or the Army attached to the Air Force or any part of it; and
 - (ii) Any person duly attached or lent as an officer to or seconded for service or appointed for duty as an officer with the Air Force:

“Prescribed” means prescribed by regulations made under this Act or by Defence Council Orders issued under this Act or under the Armed Forces Discipline Act 1971:

“Private” includes a gunner, trooper, sapper, signalman, driver, or craftsman; and includes the equivalent women’s ranks in the Army:

“Public property” means any property belonging to the Crown in right of New Zealand; and also includes any other property (whether belonging to the Crown or not) used by or in the possession or under the control of the Armed Forces or an allied force:

“Rank”, in relation to any serviceman, means the rank held by him for the time being, whether substantive, temporary, acting, or honorary:

“Rating” means any person (whether a man or a woman) duly attested for service in the Navy or declared by or under this or any other enactment to belong to the Navy; and includes—

- (a) A non-commissioned officer of the Navy; and

- (b) A soldier of the Army and an airman of the Air Force attached to the Navy;—

but does not include an officer:

“Regular forces” means the Royal New Zealand Navy, the Regular Force of the New Zealand Army, and the Regular Air Force collectively:

“Reserve Forces” means the Naval Reserves (other than the Royal New Zealand Naval Reserve and the Royal New Zealand Naval Volunteer Reserve), the Army Reserve, and the Air Force Reserve collectively:

“School cadet” means any person, other than a cadet officer, who is a member of the School Cadet Corps; and includes an under-officer or any other noncommissioned officer of the School Cadet Corps; but does not include a serviceman:

“Sea cadet” means any person, other than a cadet officer, who is a member of the Sea Cadet Corps; and includes any non-commissioned officer of the Sea Cadet Corps; but does not include a serviceman:

“Service” means either the Navy, the Army, or the Air Force or any part of the Navy, Army, or Air Force; and, when used adjectivally, means belonging or pertaining to, or connected with, one or more of those services or any part of one or more of those services:

“Serviceman” means either an officer, a rating, a soldier, or an airman; and includes a servicewoman:

“Ship” means every description of vessel, boat, barge, or watercraft, however propelled; and includes a hovercraft as defined in section 2 of the Hovercraft Act 1971:

“Soldier” means any person (whether a man or a woman) duly attested for service in the Army or declared by or under this or any other enactment to belong to the Army; and includes—

- (a) A non-commissioned officer of the Army; and
(b) A rating of the Navy and an airman of the Air Force attached to the Army;—

but does not include an officer:

“Territorial forces” means the Royal New Zealand Naval Reserve, the Royal New Zealand Naval Volunteer Reserve, the Territorial Force of the New Zealand Army, and the Territorial Air Force collectively:

“Unit” means any part of the Armed Forces determined by the Defence Council to be a unit:

“Warrant officer” means—

- (a) A warrant officer in the Navy; and
(b) In relation to the Army, a warrant officer class I and warrant officer class II; and

- (c) In relation to the Air Force a warrant officer and master air crew;—
and includes the equivalent women's ranks in the Navy, the Army, and the Air Force.
- (2) In this Act and in any instrument made under this Act, unless the context otherwise requires, mention of a person by reference to the designation of his office or appointment includes a reference to any person who for the time being is lawfully performing the functions or duties of, or acting in, the office or appointment—
- (a) By virtue of a permanent, temporary, or acting appointment; or
- (b) By assumption of the functions or duties of the office or appointment pursuant to this Act or any other Act; or
- (c) Pursuant to an order, or to a custom of the service which pertains to the office or appointment.

3 Application of Act

- (1) Except as otherwise provided in this Act, either specifically or by necessary implication, this Act shall, in addition to applying to New Zealand, apply to all naval ships and defence areas outside New Zealand.
- (2) Except as otherwise provided in this Act, either specifically or by necessary implication, this Act shall, in addition to applying to all persons for the time being within New Zealand, apply to all New Zealand citizens and persons ordinarily resident in New Zealand who are for the time being outside New Zealand, and to all servicemen of the Armed Forces for the time being outside New Zealand notwithstanding that they may not be New Zealand citizens or ordinarily resident in New Zealand.

Part I

Constitution, Command, and Administration of the Armed Forces

Constitution of Armed Forces

4 Power of Governor-General as Commander-in-Chief to raise armed forces

- (1) The Governor-General may from time to time, in the name and on behalf of Her Majesty the Queen, continue to raise and maintain armed forces, either in New Zealand or elsewhere, for the following purposes, namely—
- (a) The defence of New Zealand:
- (b) The protection of the interests of New Zealand, whether in New Zealand or elsewhere:
- (c) The contribution of forces under collective security treaties, agreements, or arrangements:

- (d) The fulfilment of obligations undertaken by New Zealand in or under the Charter of the United Nations:
 - (e) The provision of assistance to the civil power either in New Zealand or elsewhere in time of emergency or disaster:
 - (f) The provision of such public services as may from time to time be required by or for the Government of New Zealand.
- (2) For the purposes of subsection (1) of this section, the term “New Zealand”, when used as a territorial description, includes the Cook Islands, the Tokelau Islands, and Niue.
 - (3) The Governor-General, by virtue of being Commander-in-Chief of New Zealand, shall have such powers and may exercise and discharge such duties and obligations relating to the Armed Forces as pertain to the office of Commander-in-Chief.
 - (4) Nothing in this section shall affect any power vested in the Governor-General apart from this section.

Compare: 1950, No. 39, ss. 3 and 15; 1950, No. 40, ss. 5 and 14; 1954, No. 53, s. 3; 1964, No. 67, ss. 6 and 15

5 The Armed Forces of New Zealand

- (1) The armed forces raised and maintained under section 4 of this Act shall continue to comprise the New Zealand Naval Forces, the New Zealand Army, and the Royal New Zealand Air Force.
- (2) The New Zealand Naval Forces shall consist of—
 - (a) The Royal New Zealand Navy:
 - (b) The Royal New Zealand Naval Reserve:
 - (c) The Royal New Zealand Naval Volunteer Reserve:
 - (d) The Naval Reserves:
 - (e) Such additional naval forces as may be raised by the Governor-General in time of war or other like emergency.
- (3) The New Zealand Army shall consist of—
 - (a) The Regular Force of the New Zealand Army:
 - (b) The Territorial Force of the New Zealand Army:
 - (c) The Army Reserve:
 - (d) Such additional army forces as may be raised by the Governor-General in time of war or other like emergency.
- (4) The Royal New Zealand Air Force shall consist of—
 - (a) The Regular Air Force:
 - (b) The Territorial Air Force:
 - (c) The Air Force Reserve:

- (d) Such additional air forces as may be raised by the Governor-General in time of war or other like emergency.

Compare: 1950, No. 39, s. 4; 1950, No. 40, s. 6(1); 1954, No. 53, s. 4

Personnel

6 Personnel of the regular forces

- (1) The regular forces of the Armed Forces shall, subject to Part II of this Act, consist of such officers and of such ratings, soldiers, and airmen as are for the time being and from time to time appointed, engaged, enlisted, or transferred for continuing full-time service in either the Royal New Zealand Navy, the Regular Force of the Army, or the Regular Air Force.
- (2) The maximum numbers of officers, ratings, soldiers, and airmen in the regular forces shall be such as the Minister authorises from time to time.
- (3) The Royal New Zealand Navy, the Regular Force of the Army, and the Regular Air Force may each be divided into such branches or corps, formations, commands, units, and other parts as the Defence Council determines from time to time.

Compare: 1950, No. 39, ss. 5 and 23; 1950, No. 40, ss. 6(2) and 23; 1954, No. 53, s. 5

7 Personnel of the territorial forces

- (1) The territorial forces of the Armed Forces shall, subject to Part II of this Act, consist of such officers and of such ratings, soldiers, and airmen as are for the time being and from time to time appointed, engaged, enlisted, or transferred for service in either the Royal New Zealand Naval Reserve, the Royal New Zealand Naval Volunteer Reserve, the Territorial Force of the New Zealand Army, or the Territorial Air Force.
- (2) The maximum numbers of officers, ratings, soldiers, and airmen in the territorial forces shall be such as the Minister authorises from time to time.
- (3) The Royal New Zealand Naval Reserve, the Royal New Zealand Naval Volunteer Reserve, the Territorial Force of the Army, and the Territorial Air Force may each be divided into such branches or corps, formations, commands, units, and other parts as the Defence Council determines from time to time.

Compare: 1950, No. 39, ss. 6 and 23; 1950, No. 40, ss. 6(3) and 23; 1954, No. 53, s. 6

8 Personnel of the reserve forces

- (1) The reserve forces of the Armed Forces shall, subject to Part II of this Act, consist of such officers and of such ratings, soldiers, and airmen as are for the time being and from time to time appointed, engaged, enlisted, or transferred for service in either the Naval Reserves, the Army Reserve, or the Air Force Reserve.

- (2) The Naval Reserves, the Army Reserve, and the Air Force Reserve may each be divided into such parts as the Defence Council determines from time to time.

Compare: 1950, No. 39, ss. 7 and 23; 1950, No. 40, ss. 6(4) and 23; 1954, No. 53, s. 6

Relations between the Navy, the Army, and the Air Force

9 Equivalent ranks of naval, army, and air force personnel

The equivalent ranks of naval, army, and air force officers, non-commissioned officers, and other servicemen shall, for the purposes of this Act, and for the purposes of the Armed Forces Discipline Act 1971, be such as may be determined from time to time by the Governor-General by Order in Council.

Compare: 1950, No. 39, s. 147(4); 1950, No. 40, s. 147(4); 1954, No. 53, s. 48

10 Attachment of servicemen to other services

A serviceman belonging to one service may be attached to either of the other two services, subject to such conditions as may be prescribed.

Compare: 1950, No. 39, ss. 145, 146; 1950, No. 40, ss. 145, 146

11 Circumstances in which servicemen are attached to other forces

- (1) Except when provided in orders issued by or under the authority of the Defence Council, an officer or soldier of the Army or an officer or airman of the Air Force shall, for the purposes of this Act and of the Armed Forces Discipline Act 1971, be deemed to be attached to the Navy—

- (a) When he is serving in any naval ship or naval establishment; or
- (b) When he is lawfully ordered to serve in any naval ship or naval establishment; or
- (c) When he is serving in a joint service organisation which is primarily a naval responsibility; or
- (d) When he is lawfully ordered to serve in a joint service organisation which is primarily a naval responsibility, or when he is a patient in any hospital, hospital ship, or medical establishment which is such a joint service organisation; or
- (e) When he is a patient in a naval hospital ship or other naval medical establishment; or
- (f) When he is in transit in any naval establishment or other establishment administered by the Navy; or
- (g) When he is serving a sentence of imprisonment or detention in a naval detention quarter.

When any order is given under paragraph (b) or paragraph (d) of this subsection, the officer, soldier, or airman to whom the order relates shall be deemed

to be attached to the service specified in the order from such time and for such period (if any) as may be specified in the order.

- (2) Except as provided in orders issued by or under the authority of the Defence Council, an officer or rating of the Navy or an officer or airman of the Air Force shall, for the purposes of this Act and of the Armed Forces Discipline Act 1971, be deemed to be attached to the Army—
- (a) When he is serving in a unit or formation of the Army; or
 - (b) When he is lawfully ordered to serve in a unit or formation of the Army; or
 - (c) When he is serving in a joint service organisation which is primarily an army responsibility; or
 - (d) When he is lawfully ordered to serve in a joint service organisation which is primarily an Army responsibility, or when he is a patient in a hospital, hospital ship, or medical establishment which is such a joint service organisation; or
 - (e) When he is a patient in an army hospital, hospital ship, or other army medical establishment; or
 - (f) When he is in transit at a transit camp or other establishment administered by the Army; or
 - (g) When he is serving a sentence of imprisonment or detention in an Army detention quarter.

When any order is given under paragraph (b) or paragraph (d) of this subsection, the officer, rating, or airman to whom the order relates shall be deemed to be attached to the Service specified in the order from such time and for such period (if any) as may be specified in the order.

- (3) Except as provided in orders issued by or under the authority of the Defence Council, an officer or rating of the Navy or an officer or soldier of the Army shall, for the purposes of this Act and of the Armed Forces Discipline Act 1971, be deemed to be attached to the Air Force—
- (a) When he is serving in a unit or formation of the Air Force; or
 - (b) When he is lawfully ordered to serve in a unit or formation of the Air Force; or
 - (c) When he is serving in a joint service organisation which is primarily an air force responsibility; or
 - (d) When he is lawfully ordered to serve in a joint service organisation which is primarily an air force responsibility, or when he is a patient in a hospital, hospital ship, or medical establishment which is such a joint service organisation; or
 - (e) When he is a patient in an air force hospital or other air force medical establishment; or

- (f) When he is in transit at a transit camp, staging post, or other establishment administered by the air force; or
- (g) When he is serving a sentence of imprisonment or detention in an air force detention quarter.

When any order is given under paragraph (b) or paragraph (d) of this subsection, the officer, rating, or soldier to whom the order relates shall be deemed to be attached to the Service specified in the order from such time and for such period (if any) as may be specified in the order.

12 Modification for servicemen attached

Where a serviceman of one service is attached by virtue of section 10, or is deemed to be attached by virtue of section 11, of this Act to another service, this Act and the Armed Forces Discipline Act 1971 shall apply to him subject to the following modifications:

- (a) Anything required or authorised by this Act or the Armed Forces Discipline Act 1971 to be done by, to, or before the Chief of Staff of the service to which he belongs may, in respect of any such serviceman, be done by, to, or before the Chief of Staff of the service to which he is attached:
- (b) Any such serviceman shall, in the service to which he is attached, have the same powers and be treated as if he were a serviceman of that service holding an equivalent rank:
- (c) Such other necessary modifications as may be prescribed—

and the provisions of this Act and of the Armed Forces Discipline Act 1971 shall be construed accordingly.

Compare: 1950, No. 39, s. 134; 1950, No. 40, s. 134

13 Services acting together

- (1) A serviceman of the Army or the Air Force who is acting with, or who is a member of a part of the Army or Air Force which is acting with, a part of the Navy shall have the same powers of command and arrest as a serviceman of the Navy of an equivalent rank; and, for the purposes of sections 35, 36, 38, and 88 of the Armed Forces Discipline Act 1971, any such serviceman of the Army or the Air Force shall be treated as if he were a serviceman of the Navy of an equivalent rank.
- (2) A serviceman of the Navy or the Air Force who is acting with, or who is a member of a part of the Navy or Air Force which is acting with, a part of the Army shall have the same powers of command and arrest as a serviceman of the Army of an equivalent rank; and, for the purposes of sections 35, 36, 38, and 88 of the Armed Forces Discipline Act 1971, any such serviceman of the Navy or the Air Force shall be treated as if he were a serviceman of the Army of an equivalent rank.

- (3) A serviceman of the Navy or the Army who is acting with, or who is a member of a part of the Navy or Army which is acting with, a part of the Air Force shall have the same powers of command and arrest as a serviceman of the Air Force of an equivalent rank; and, for the purposes of sections 35, 36, 38, and 88 of the Armed Forces Discipline Act 1971, any such serviceman of the Navy or the Army shall be treated as if he were a serviceman of the Air Force of an equivalent rank.
- (4) Nothing in this section shall authorise any officer of a service to assume command of any unit or part of any other service unless that unit or part has been specifically placed under his command.

Compare: 1950, No. 39, s. 147; 1950, No. 40, s. 147; 1954, No. 53, s. 47; Naval Discipline Act 1957, s. 122 (U.K.)

14 Transfer of servicemen

A serviceman belonging to one service may, with his written consent, be transferred from that service to either of the other two services, subject to such conditions as may be prescribed.

15 Transfer for employment with other forces

- (1) Without prejudice to the provisions of section 6 of the Visiting Forces Act 1939, any serviceman may, by order of the Defence Council, or, in the case of a serviceman serving with any New Zealand force outside New Zealand, by order of the officer commanding that force, be transferred for employment with the armed forces of a Commonwealth country, or of any other allied country, or of the United Nations.
- (2) A transfer ordered under subsection (1) of this section may be for such period and subject to such conditions as may be arranged between the New Zealand authority and the appropriate authority of the armed forces of the other country or the United Nations, as the case may be.
- (3) A serviceman transferred for employment pursuant to subsection (1) of this section shall remain subject to this Act and to the Armed Forces Discipline Act 1971 and, in the case of a serviceman already attached temporarily to the armed forces of another part of the Commonwealth under the provisions of the Visiting Forces Act 1939, to the law applicable to those forces.
- (4) The power conferred by subsection (1) of this section shall be exercised only in respect of—
 - (a) Servicemen of the regular forces:
 - (b) Servicemen of the territorial or reserve forces who are for the time being liable for continuous service pursuant to a Proclamation issued under section 43 or section 44 of this Act, or liable to serve outside New Zealand pursuant to an offer under section 52 of this Act.

- (5) Except in time of war or other like emergency, a serviceman shall not be dealt with under paragraph (b) of subsection (4) of this section without his consent.

Compare: 1954, No. 53, s. 45

16 Attachment of servicemen to other Commonwealth forces

- (1) The power conferred on the Defence Council by section 6 of the Visiting Forces Act 1939 to place servicemen at the disposal of the service authorities of other parts of the Commonwealth for the purpose of being attached temporarily by those authorities to forces to which that section applies shall be exercised only in respect of—

- (a) Servicemen of the regular forces:
- (b) Servicemen of the territorial or reserve forces who are for the time being liable for continuous service pursuant to a Proclamation issued under section 43 or section 44 of this Act, or liable to serve outside New Zealand pursuant to an offer under section 52 of this Act.

- (2) Except in time of war or other like emergency, the Defence Council shall not deal with a serviceman under paragraph (b) of subsection (1) of this section without his consent.

Compare: 1950, No. 39, s. 150; 1950, No. 40, s. 150

Ministry of Defence

17 Composition of the Ministry of Defence

- (1) There shall continue to be a department of State, known as the Ministry of Defence, which shall be under the control of the Minister of Defence and shall comprise the armed forces raised and maintained under section 4 of this Act, together with such persons as may from time to time be appointed to the Ministry pursuant to the State Services Act 1962.
- (2) The Acts specified in the First Schedule to this Act shall be administered in the Ministry of Defence.

Compare: 1964, No. 67, ss. 3–5

New Zealand Defence Council and Chiefs of Staff

18 Composition of Defence Council

There shall continue to be a council to be known as the New Zealand Defence Council, which shall consist of the following permanent members:

- (a) The Minister:
- (b) The Chief of Defence Staff:
- (c) The Secretary of Defence:
- (d) The Chief of Naval Staff:
- (e) The Chief of General Staff:

(f) The Chief of Air Staff.

Compare: 1964, No. 67, s. 9(1), (2)

19 Temporary members of Defence Council

- (1) If at any time there is a vacancy in any of the positions specified in paragraphs (b) to (f) of section 18 of this Act, the Minister may designate a suitably qualified member of the Ministry of Defence to act as a temporary member of the Defence Council pending the filling of the vacancy.
- (2) Every person so appointed shall hold office at the pleasure of the Minister.
- (3) Subject to any directions of the Minister, a temporary member shall have and may exercise all the powers and duties of the member who has vacated office.
- (4) No acts done by a temporary member shall in any proceedings be questioned on the ground that the occasion for his so acting had ceased or had not arisen.

20 Associate members of Defence Council

- (1) The Secretary to the Treasury and the Secretary of Foreign Affairs shall be associate members of the Defence Council.
- (2) The Defence Council may from time to time also appoint as an associate member of the council any other officer of a department of State.
- (3) Any associate member may attend any meeting of the Defence Council for the purpose of participating in the exercise of its functions under paragraph (c) of subsection (1) of section 21 of this Act.
- (4) While any associate member attends any meeting as an associate member of the Defence Council, he shall be entitled to participate in the proceedings of the council in the exercise of its functions referred to in subsection (3) of this section in like manner as any permanent member of the council.
- (5) Any appointment made under subsection (2) of this section may at any time be revoked by the council.

Compare: 1964, No. 67, s. 9(3)

21 Functions and powers of the Defence Council

- (1) Subject to the provisions of this Act, the Defence Council shall have the following functions:
 - (a) Through officers appointed for the purpose, to command the Armed Forces:
 - (b) To administer the Armed Forces:
 - (c) To assist the Minister in formulating defence policy or recommendations thereon.
- (2) The Defence Council shall have such powers as may be reasonably necessary to enable it to carry out its functions effectively.

- (3) Nothing in this section shall affect or limit the functions and duties of the Secretary of Defence and the Chief of Defence Staff which they are required to discharge under this Act or any other Act.

Compare: 1964, No. 67, s. 10

22 Meetings of the Defence Council

- (1) The Minister shall be the chairman of the Defence Council.
- (2) The Chief of Defence Staff and the Secretary of Defence shall each be a deputy chairman of the Defence Council.
- (3) In the absence of the Minister from any meeting of the Defence Council, the appropriate deputy chairman shall preside. The Council may from time to time under subsection (7) of this section determine the circumstances in which for the purposes of this subsection the Chief of Defence Staff is to preside and the circumstances in which the Secretary of Defence is to preside.
- (4) No business shall be transacted at any meeting of the Council unless all the permanent members, other than the Minister, and any temporary members (or the representatives of the permanent and temporary members) are present.
- (5) Subject to section 23 of this Act, anything that may be done by resolution passed at a meeting of the Council may, unless any member (not being an associate member) requires it to be dealt with at a meeting of the Council, be done by the Council by means of a council memorandum signed by all the members of the Council (other than associate members).
- (6) The powers of the Council shall not be affected by any vacancy in its membership.
- (7) Except as provided in this section, the Council may regulate its procedure in such manner as it thinks fit.

Compare: 1964, No. 67, s. 11

23 Minister to be a party to important decisions of Defence Council

No decision of the Defence Council on any matter determined by the Minister to be an important matter of principle or policy or administration shall have any force or effect, unless the Minister is a party to the decision or assents to it in writing or, in any case where the decision on any such matter is made by council memorandum, unless the Minister is an assenting signatory to the memorandum.

Compare: 1964, No. 67, s. 12

24 Chief of Defence Staff

- (1) The Governor-General in Council may from time to time appoint an officer of the Armed Forces to be Chief of Defence Staff.
- (2) The Chief of Defence Staff shall hold such rank as the Governor-General in Council may determine.

- (3) In addition to the functions conferred on the Chief of Defence Staff by this or any other Act, he shall—
 - (a) Under the Defence Council, command the Navy through the Chief of Naval Staff, the Army through the Chief of General Staff, and the Air Force through the Chief of Air Staff:
 - (b) Be the principal military adviser to the Minister:
 - (c) Be responsible for the direction and control of all military and civilian personnel employed in respect of his functions.
- (4) In the exercise of his functions, the Chief of Defence Staff may from time to time—
 - (a) Carry out inspections of all or any parts of the Armed Forces:
 - (b) Make such representations as he considers necessary to the Minister or, if he considers the circumstances to be exceptional, to any higher authority.

Compare: 1964, No. 67, s. 8

25 Secretary of Defence

- (1) There shall for the purposes of this Act be a Secretary of Defence, who shall be appointed under the State Services Act 1962; and he shall, for the purposes of the State Services Act 1962, the Public Revenues Act 1953, and any other Act that makes provision in relation to permanent heads of departments of State, be the permanent head of the Ministry of Defence.
- (2) In addition to the functions conferred on the Secretary of Defence under this or any other Act, he shall—
 - (a) Be the principal civilian adviser to the Minister:
 - (b) Be responsible for the efficient administration, control, and accounting of all expenditure and revenue in the Ministry of Defence:
 - (c) Be responsible for the co-ordination of long-term financial planning within the Ministry of Defence:
 - (d) Account for stores and other equipment for which the Ministry of Defence is responsible as required under the Public Revenues Act 1953:
 - (e) Be responsible for the efficient financial administration and control of all accommodation, land, and materials used by or within the Ministry of Defence:
 - (f) Subject to the provisions of the State Services Act 1962, be responsible for the assignment and discipline of persons appointed to the Ministry of Defence under the provisions of that Act:
 - (g) Be responsible for the direction and control of all civilian or military personnel employed in respect of his functions:
 - (h) Be the executive secretary to the Defence Council.

- (3) Nothing in this section shall be construed as making the Secretary responsible for the command of the Armed Forces, but he may from time to time inspect or cause to be inspected all or any parts of the Armed Forces for the purpose of exercising his functions.

Compare: 1964, No. 67, s. 7

26 Joint functions of the Chief of Defence Staff and the Secretary of Defence

The Chief of Defence Staff and the Secretary of Defence shall jointly—

- (a) Supervise the execution of decisions of the Defence Council and make such arrangements as may be necessary to ensure the co-ordination of the activities of the Ministry of Defence:
- (b) On behalf of the Defence Council, co-ordinate the preparation of policies, plans, and programmes governing the composition, maintenance, manning, training, equipping, and management of the Armed Forces in accordance with such policy as may from time to time be laid down or approved by the Government of New Zealand:
- (c) Keep under continuous review the policies, functions, organisation, and procedures of the Ministry of Defence:
- (d) Ensure that the organisation of the Ministry of Defence is clearly defined and adequately controlled and supervised:
- (e) Ensure that the functions carried out within the Ministry of Defence are clearly defined and adequately controlled and supervised.

27 Chiefs of Staff

- (1) The Governor-General in Council may from time to time appoint an officer of the Royal New Zealand Navy to be Chief of Naval Staff who shall hold such rank as the Governor-General in Council may determine, and who shall—
 - (a) Under the Chief of Defence Staff, command the Navy; and
 - (b) Be responsible for advising the Minister, through the Chief of Defence Staff, on any matter relating to the Navy; and
 - (c) Be responsible to the Chief of Defence Staff for the implementation of policies, plans, and programmes prescribed or approved in accordance with this Act in relation to the Navy.
- (2) The Governor-General in Council may from time to time appoint an officer of the Army to be Chief of General Staff who shall hold such rank as the Governor-General in Council may determine, and who shall—
 - (a) Under the Chief of Defence Staff, command the Army; and
 - (b) Be responsible for advising the Minister, through the Chief of Defence Staff, on any matter relating to the Army; and

- (c) Be responsible to the Chief of Defence Staff for the implementation of policies, plans, and programmes prescribed or approved in accordance with this Act in relation to the Army.
- (3) The Governor-General in Council may from time to time appoint an officer of the Air Force to be Chief of Air Staff who shall hold such rank as the Governor-General in Council may determine, and who shall—
 - (a) Under the Chief of Defence Staff, command the Air Force; and
 - (b) Be responsible for advising the Minister, through the Chief of Defence Staff, on any matter relating to the Air Force; and
 - (c) Be responsible to the Chief of Defence Staff for the implementation of policies, plans, and programmes prescribed or approved in accordance with this Act in relation to the Air Force.
- (4) In performing his functions, each Chief of Staff may, after notifying the Chief of Defence Staff in that behalf, make such representations as he considers desirable or necessary to the Minister or, if he considers the circumstances to be exceptional, to any higher authority.
- (5) The officers for the time being controlling the personnel or support or as appropriate other staffs in the Ministry of Defence shall be responsible to each Chief of Staff to the extent necessary to enable him effectively to perform his functions.

28 Defence Council Orders

- (1) In performing its functions and duties and exercising its powers, the Defence Council may from time to time, for the purposes of this Act, issue and promulgate Defence Council Orders, not inconsistent with this Act, the Armed Forces Discipline Act 1971, or any other Act.
- (2) Any officer or person duly authorised by the Defence Council, either by name or by appointment, may issue and promulgate Defence Council Orders.
- (3) The production of a document purporting to be a copy of a Defence Council Order and which includes a copy of the signature of the Secretary of Defence, or of any officer or other person duly authorised by the Defence Council to sign such copies, shall, in the absence of proof to the contrary, be sufficient evidence of the order in all courts and proceedings and for all other purposes.
- (4) All orders issued under this section shall come into force on such date as may be specified in the orders, being the date of the orders or any other date after the date on which they were issued:

Provided that any such orders relating to terms and conditions of service of servicemen and conferring benefits on any such servicemen may have effect from a date before the date of the issue of the orders.

Compare: 1964, No. 67, s. 13

29 Delegation of functions, duties, and powers

- (1) The Minister may, from time to time by writing under his hand, either generally or particularly, delegate to the Defence Council or to any person employed in the Ministry of Defence any of his functions, duties, or powers, under this Act (except this power of delegation).
- (2) The Defence Council may, from time to time, either generally or particularly, delegate any of its functions, duties, or powers (including this power of delegation) to—
 - (a) The Chief of Defence Staff; or
 - (b) The Secretary of Defence; or
 - (c) The Secretary of Defence and the Chief of Defence Staff jointly.
- (3) The Defence Council may, from time to time, either generally or particularly, delegate to any committee established by it any of its functions, duties, or powers (except this power of delegation).
- (4) The Chief of Defence Staff may, from time to time, by writing under his hand, either generally or particularly, delegate to any officer of the Armed Forces any of his functions, duties, or powers under this Act or any other Act or under any Defence Council Order (except this power of delegation).
- (5) The Secretary of Defence may, from time to time, by writing under his hand, either generally or particularly, delegate to any person employed in the Ministry of Defence any of his functions, duties, or powers under this Act or the Armed Forces Discipline Act 1971, or under any Defence Council Order (except this power of delegation).
- (6) Any Chief of Staff may, from time to time, by writing under his hand, either generally or particularly, delegate to any serviceman belonging or attached to the service which he commands any of his functions, duties, or powers under this Act or under any Defence Council Order (except this power of delegation).
- (7) A person to whom any delegation is made under this section may be referred to by name or may be the holder for the time being of any specified appointment.
- (8) Subject to any general or special directions given or conditions attached by the delegating authority, the committee or person to whom any functions, duties, or powers, have been delegated may exercise those functions, duties, or powers, as the case may be, in the same manner and to the same extent as if they had been directly conferred on the committee or person by this Act and not by delegation.
- (9) Any such delegation may at any time be revoked in whole or in part by the delegating authority, but no such revocation shall affect anything done under the delegation.
- (10) No delegation under this section shall prevent the exercise by the delegating authority of its or his functions, duties, or powers.

- (11) The fact that a committee or person purports to exercise any function, duty, or power pursuant to a delegation made under this section shall, in the absence of proof to the contrary, be sufficient evidence that the committee or person is acting within the scope of the authority conferred by the delegation.

Compare: 1964, No. 67, s. 14

30 Chiefs of Staff Committee

- (1) There shall continue to be a committee known as the Chiefs of Staff Committee which shall be a committee of the Defence Council, and shall consist of the following permanent members:
- (a) The Chief of Defence Staff:
 - (b) The Chief of Naval Staff:
 - (c) The Chief of General Staff:
 - (d) The Chief of Air Staff.
- (2) The committee shall have such functions, duties, and powers, not inconsistent with this Act, as the Defence Council may determine.
- (3) The Chief of Defence Staff shall be the convener and chairman of the committee. In the absence of the Chief of Defence Staff from any meeting of the committee, he shall appoint one of the permanent members to act as chairman.
- (4) The committee may from time to time appoint any officer of the Armed Forces or any other person employed in the service of the Crown to be an associate member of the committee. Any such appointment may at any time be revoked by resolution of the permanent members of the committee.
- (5) An associate member of the committee shall, subject to subsection (4) of this section, be entitled to participate in the proceedings of the committee in like manner as if he were a permanent member.
- (6) Where a meeting of the Chiefs of Staff Committee has been held, the Chief of Defence Staff shall tender to the Minister the agreed collective advice of that committee, except that if the members of the committee hold more than one opinion on any particular subject, he shall convey those opinions to the Minister and tender his advice in respect of them.
- (7) Subject to the provisions of this Act and of any directions given by the Defence Council, the committee may regulate its procedure in such manner as it thinks fit.

31 Committees may be established by the Defence Council

- (1) The Defence Council may from time to time establish one or more committees each consisting of two or more persons for such purposes contemplated by this Act as it may determine.
- (2) Where the council establishes a committee under subsection (1) of this section, it shall—

- (a) Specify the powers of the committee and to whom it is to be responsible; and
 - (b) Prescribe the constitution and procedure of the committee.
- (3) Any such committee may at any time be reconstituted or abolished by the Defence Council.

Compare: 1964, No. 67, s. 21

32 Committees may be established by Secretary of Defence and Chief of Defence Staff

- (1) The Secretary of Defence and the Chief of Defence Staff, either individually or jointly, may from time to time establish one or more committees each consisting of two or more persons for such purposes contemplated by this Act as they or, where one of them is acting individually, he may determine.
- (2) Where the Secretary of Defence and Chief of Defence Staff jointly, or either of them individually, establishes a committee under subsection (1) of this section, they or he, as the case may be, shall—
- (a) Specify the powers of the committee and to whom the committee is to be responsible; and
 - (b) Prescribe the constitution and procedure of the committee.
- (3) Any such committee may at any time be reconstituted or abolished by the person or persons who established it.

Compare: 1964, No. 67, s. 21

33 Representatives of members of Defence Council, etc.

- (1) In the absence from any meeting of any member of the Defence Council (including a temporary or associate member), or of any member of the Chiefs of Staff Committee (including an associate member), or of any member of a committee established under section 31 or section 32 of this Act, any person authorised by the absent member, either generally or in respect of any specified meeting (being in the case of a member who is an officer of a service, a serviceman of that service, and, in the case of a member who is employed in any department of State, a person employed in that department) may attend the meeting in his place as his representative.
- (2) While any person is attending any meeting under this section as a representative, he shall for all purposes be deemed to be a member of the Defence Council or committee, as the case may be:

Provided that any person who under this section attends any meeting of the Defence Council instead of the Chief of Defence Staff or of the Secretary of Defence shall not be deemed, by reason only of that fact, to be a deputy chairman of the Council.

- (3) Any person authorised under this section to attend meetings of the Defence Council as the representative of any member shall also be authorised to act for that member in relation to decisions by council memorandum.
- (4) The fact that any person attends and acts as a member of the council or committee at any such meeting or signs any council memorandum as the representative of any member shall be conclusive proof of his authority to do so.

Compare: 1964, No. 67, s. 22

34 Deputy Chief of Defence Staff and Deputy Secretary of Defence

- (1) The Chief of Defence Staff may from time to time, with the concurrence of the Minister, appoint an officer of the Armed Forces to be Deputy Chief of Defence Staff. Every such officer shall have such functions, duties, and powers as may be delegated or assigned to him by the Chief of Defence Staff, or the Secretary of Defence, or the Chief of Defence Staff and Secretary of Defence jointly.
- (2) There may be from time to time appointed under the State Services Act 1962 a Deputy Secretary of Defence who shall, subject to the provisions of this Act, have such functions, duties, and powers as may be delegated or assigned to him by the Secretary of Defence, or the Chief of Defence Staff, or the Secretary of Defence and Chief of Defence Staff jointly.

Compare: 1964, No. 67, s. 23

Part II

Terms and Conditions of Service in the Armed Forces

Appointments and Enlistments

35 Appointment, promotion, and discharge of officers

- (1) Subject to the provisions of this Act, the Governor-General may from time to time—
 - (a) Appoint officers to a service of the Armed Forces:
 - (b) In the name and on behalf of Her Majesty the Queen, issue commissions under the Public Seal of New Zealand to officers of the Armed Forces:
 - (c) Promote officers to a higher rank:
 - (d) Compulsorily retire an officer or discharge him or cancel or vary his commission or annul or vary his appointment or transfer him—
 - (i) In the case of a naval officer, to the Naval Reserve; or
 - (ii) In the case of an army officer, to the Army Reserve; or
 - (iii) In the case of an air force officer, to the Air Force Reserve.

- (2) The Chief of Defence Staff shall cause notice of all appointments, commissions, and other acts done under this section to be notified in the *Gazette*.

Compare: 1950, No. 39, s. 16; 1950, No. 40, s. 15; 1954, No. 53, S.18

36 Enlistment

Subject to Defence Council Orders and to section 39 of this Act, any person may be enlisted in the prescribed manner into the Navy, the Army, or the Air Force, except that an alien may be enlisted only with the prior consent of the Chief of Defence Staff.

Compare: 1950, No. 39, s. 152; 1950, No. 40, s. 152; 1954, No. 53, s. 27(1)

37 Oath of allegiance to Her Majesty the Queen

Every person who is appointed to, or is enlisted or engaged in, the Navy, the Army, or the Air Force shall take and subscribe before a commissioned officer, or such other person as may be prescribed, an oath of allegiance to Her Majesty the Queen in such form as may be prescribed from time to time.

Compare: 1950, No. 39, ss. 14 and 152; 1950, No. 40, ss. 13 and 152; 1954, No. 53, ss. 26(1) and 27(2)

38 Effect of oath of allegiance

An oath of allegiance shall bind the serviceman subscribing it to serve in the service to which he is appointed, or in which he is engaged or enlisted, in accordance with the tenor of the oath until he is discharged, dismissed, or otherwise removed from the service.

Compare: 1954, No. 53, s. 26(2)

Provisions Relating to Minors

39 Enlistment of minors

- (1) Subject to the National Military Service Act 1961 and to section 14 of the Guardianship Act 1968, a minor shall not, unless he is or has been married, be eligible to enlist or be accepted for service in the Armed Forces if any of the persons referred to in subsection (2) of this section objects to the enlistment.

- (2) Any such objection may be made—

- (a) By a parent of the minor:
- (b) By any testamentary or court-appointed guardian of the minor:
- (c) By the Supreme Court in any case where the minor is for the time being placed under the guardianship of the Supreme Court:

Provided that no such objection may be made by any parent or guardian who is for the time being under a disability.

- (3) Subject to section 14 of the Guardianship Act 1968, every application by a minor (being a minor who is not or has not been married) for enlistment in the Armed Forces shall be accompanied by a consent in writing obtained—

- (a) If both parents of the minor are alive, are guardians of the minor, and are not under a disability, from one of those parents:
 - (b) If both parents of the minor are alive, but only one of them is a guardian of the minor and is not under a disability and the minor has no other legal guardian, from that parent:
 - (c) If only one of the parents of the minor is alive (being a parent who is a guardian of the minor and not under a disability) and the minor does not have any other legal guardian, from the surviving parent:
 - (d) If both parents of the minor are alive but are under a disability, or if only one of the parents is alive but is under a disability, or if both of the parents are dead, and the minor has one or more testamentary or court-appointed guardians, from that guardian or one of those guardians, as the case may be:
 - (e) If one of the parents of the minor is alive, and is a guardian of the minor and not under a disability, and the minor also has a testamentary or court-appointed guardian, from either the parent or the guardian:
 - (f) If both parents of the minor are alive but are under a disability or if only one of the parents is alive but is under a disability, or if both of the parents are dead, and the minor has no testamentary or court-appointed guardian, from a Magistrate:
 - (g) If the minor is for the time being placed under the guardianship of the Supreme Court, from that Court.
- (4) If any such application is not accompanied by the required consent, it shall be accompanied by a statement of the reasons as to why it has not or cannot be obtained.
 - (5) The enlistment of any person pursuant to this section shall be binding on him notwithstanding anything to the contrary in the Minors Contracts Act 1969 or any other Act.
 - (6) For the purposes of this section and of section 40 of this Act, a person shall be deemed to be under a disability if, by reason of his mental condition, he is unable to understand the nature of any objection or, as the case may be, any consent made or given for the purposes of this section or of the said section 40.

Compare: 1950, No. 40, s. 8; 1954, No. 53, s. 25

40 Liability of minors of the regular forces for overseas service

- (1) Subject to section 14 of the Guardianship Act 1968, a minor serving in the Army shall not, unless he is or has been married, be liable for active service outside New Zealand if any of the persons referred to in subsection (2) of this section objects to his being sent on active service outside New Zealand.
- (2) Any such objection may be made—
 - (a) By a parent of the minor:

- (b) By any testamentary or court-appointed guardian of the minor:
- (c) By the Supreme Court, in any case where the minor is for the time being placed under the guardianship of that Court:

Provided that no such objection may be made by any parent or guardian who is for the time being under a disability.

- (3) Subject to section 14 of the Guardianship Act 1968, before any minor (being a minor who is not or has not been married) who is serving in the Army may be sent on or accepted for active service outside New Zealand, the Chief of Defence Staff shall cause to be obtained, in addition to the written consent of the minor, a consent in writing—
 - (a) If both parents of the minor are alive, are guardians of the minor, and are not under a disability, from one of those parents:
 - (b) If both parents of the minor are alive, but only one of them is a guardian of the minor and is not under a disability and the minor has no other legal guardian, from that parent:
 - (c) If only one of the parents of the minor is alive (being a parent who is a guardian of the minor and not under a disability) and the minor does not have any other legal guardian, from the surviving parent:
 - (d) If both parents of the minor are alive but are under a disability, or if only one of the parents is alive but is under a disability, or if both of the parents are dead, and the minor has one or more testamentary or court-appointed guardians, from the guardian or one of those guardians, as the case may be:
 - (e) If one of the parents of the minor is alive, and is a guardian of the minor and not under a disability, and the minor also has a testamentary or court-appointed guardian, from either the parent or the guardian:
 - (f) If both parents of the minor are alive but are under a disability or if only one of the parents is alive but is under a disability, or if both of the parents are dead, and the minor has no testamentary or court-appointed guardian, from a Magistrate:
 - (g) If the minor is for the time being placed under the guardianship of the Supreme Court, from that Court.
- (4) If no such consent is obtained or obtainable, the minor shall provide a statement of the reasons as to why the consent has not been or cannot be obtained.
- (5) Subject to the provisions of this Act, every naval officer, air force officer, rating, or airman who is a minor is, notwithstanding that he is a minor, liable for active service outside New Zealand.

Compare: 1950, No. 39, s. 10

41 Liability of minors of the territorial forces for overseas service

- (1) No person who is serving under the provisions of the National Military Service Act 1961 shall be liable for active service outside New Zealand while he is under 20 years of age.
- (2) No officer or soldier of the Territorial Force of the New Zealand Army shall be liable for active service outside New Zealand while he is under 20 years of age.
- (3) No officer or rating of the Royal New Zealand Naval Reserve or of the Royal New Zealand Naval Volunteer Reserve, or officer or airman of the Territorial Air Force, shall be liable for service outside New Zealand while he is under 20 years of age, unless he has previously consented in writing to so serve.

Compare: 1950, No. 39, s. 10

*Liability for and Duration of Service***42 Liability for and duration of service in the regular forces**

- (1) Subject to sections 39 and 40 of this Act, all servicemen of the regular forces shall be liable at all times for service, either within New Zealand or elsewhere, subject to such conditions as may be prescribed.
- (2) An officer shall be liable to serve until he attains the prescribed compulsory retiring age for his rank or until the period for which he has been appointed expires, whichever first occurs:
Provided that, subject to such conditions as may be prescribed, an officer may, with his written consent, be reappointed on or after his attaining the retiring age prescribed for his rank.
- (3) Ratings, soldiers, and airmen may be engaged for such periods and subject to such conditions as may be prescribed.
- (4) Every rating, soldier, and airman shall be liable to serve for the period of his engagement.
- (5) Notwithstanding the provisions of subsections (1) to (4) of this section,—
 - (a) A serviceman of the regular forces whose period of appointment or engagement has expired shall be discharged, or be otherwise released from service with the regular forces, or be transferred to the Naval Reserves, the Army Reserve, or the Air Force Reserve, as the case may require, without delay, but he shall be able to continue his service until that discharge, release, or transfer is effected:
 - (b) In time of war or other like emergency, the Governor-General may, by Proclamation, make an order that servicemen of the regular forces who would, but for the war or emergency, be entitled to be discharged or released from service shall be liable to continue to serve; and on the making of any such Proclamation those servicemen shall be liable to

continue to serve during the continuance of the state of war or emergency for such period as the Defence Council may determine.

Compare: 1950, No. 39, ss. 9, 12; 1950, No. 40, ss. 7, 11; 1954, No. 53, ss. 17, 21, 22

43 Liability for service in the territorial forces

Subject to the provisions of the National Military Service Act 1961 and of section 41 of this Act,—

- (a) The terms and conditions of service in the territorial forces shall be such as may be prescribed from time to time; and
- (b) In time of war or other like emergency, the Governor-General may, by Proclamation, declare the territorial forces, or any specified part of those forces, to be liable for continuous service, either in New Zealand or elsewhere, during the continuance of the state of war or emergency.

Compare: 1950, No. 39, s. 13; 1950, No. 40, s. 12; 1954, No. 53, ss. 17, 24

44 Liability for service in the reserve forces

- (1) The terms and conditions of service and training in the reserve forces shall be such as may be prescribed from time to time.
- (2) In time of war or other like emergency, the Governor-General may, by Proclamation, transfer the reserve forces, or any specified part of those forces, to the regular forces or the territorial forces; and on the making of any such Proclamation, the forces so transferred shall be liable for continuous service, either in New Zealand or elsewhere, during the continuance of the state of war or emergency for such period as the Defence Council may determine.

Compare: 1950, No. 39, s. 13; 1950, No. 40, s. 12; 1954, No. 53, ss. 17, 24

45 Active service

- (1) For the purposes of this Act, any part of the Armed Forces is on active service when—
 - (a) There is for the time being in force an active service order posting it for active service; or
 - (b) It is engaged in any war or any warlike operations against the enemy, or is engaged in any war or any warlike operations in a country or place wholly or partly occupied by the enemy, or is in armed occupation of any foreign country.
- (2) For the purposes of this Act, every serviceman is on active service when—
 - (a) There is for the time being in force an active service order posting him for active service; or
 - (b) The part of the Armed Forces with which he is serving or which he is visiting is on active service.

- (3) No person or part of the Armed Forces that is for the time being on active service shall cease to be on active service until the issue of an active service order to that effect.

Compare: 1950, No. 39, s. 2; 1950, No. 40, s. 3

Pay, Allowances, etc., of Armed Forces

46 Pay, allowances, etc., of servicemen

The pay, allowances, expenses, grants, bonuses, gratuities, and leave, and any other conditions of employment specified in section 4 of the State Services Remuneration and Conditions of Employment Act 1969, applicable in respect of servicemen shall be determined in accordance with the provisions of that Act.

Compare: 1950, No. 39, s. 23b; 1950, No. 40, s. 23a; 1954, No. 53, s. 13b; 1960, No. 64, s. 60

47 Regulations fixing certain terms and conditions of service

Without limiting the power to make regulations under section 88 of this Act, regulations may be made under that section, not inconsistent with this Act, the Superannuation Act 1956, or the War Pensions Act 1954, relating to all or any of the following matters:

- (a) The making of grants to discharged or retired servicemen, dependants of servicemen, dependants of deceased servicemen, or dependants of discharged or retired servicemen of such amounts and in such circumstances as may be prescribed in the regulations:
- (b) The continuance or withholding of pay and allowances of servicemen who are absent from duty without leave, in desertion, posted missing, or captured by the enemy:
- (c) Providing for the payment of expenses to persons (not being servicemen of the regular forces) required to attend medical examinations or selection boards or required to act on any matter which concerns the Ministry of Defence:
- (d) The payment of compensation for loss of or damage to service kit and personal effects:
- (e) Providing for injuries suffered by servicemen in authorised sports to be deemed to be attributable to service:
- (f) Providing for the grant of travelling privileges or expenses, or both, to next of kin to visit the sick and wounded or to attend investitures:
- (g) Providing for stoppages from the pay of a serviceman—
 - (i) To make good in whole or in part, damage to, or the loss or destruction of, any public or other property found after investigation to have been caused by him in the course of or in connection with his duties by wrongful act or negligence; or

- (ii) To make good loss found after investigation to have resulted from the unlawful retention of public or other money by him in the course of or in connection with his duties:
- (h) Requiring, in cases where for a special purpose public money has been or is to be advanced to or expended on behalf of a serviceman, for the serviceman to enter into a bond or deed of covenant in such form as may be prescribed:
- (i) Providing for funerals and burials of deceased servicemen:
- (j) Providing for the establishment of educational, training, and entertainment funds and such other funds as the Minister, with the concurrence of the Minister of Finance, may prescribe.

Compare: 1950, No. 39, ss. 17, 152a; 1950, No. 40, ss. 16, 152a; 1954, No. 53, s. 16; 1963, No. 54, s. 17; 1965, No. 55, s. 13

48 Defence Council Orders fixing certain terms and conditions of service

Without limiting the power of the Defence Council to issue orders under section 28 of this Act, orders may be issued under that section, not inconsistent with sections 46 and 47 of this Act or with any other Act, for all or any of the following purposes:

- (a) Providing for the appointment, enlistment (including attestation procedures), qualifications for appointment and promotion, promotions, reversion in rank, reinstatement in rank, and restoration of seniority of servicemen:
- (b) Prescribing the rank and authority of officers and noncommissioned officers, and the seniority of officers and non-commissioned officers in their respective ranks:
- (c) Prescribing the procedure and the conditions under which servicemen may be attached or transferred to another service or unit of the Armed Forces or to any allied force:
- (d) Prescribing the procedure for the discharge from service, retirement, retiring ages, re-engagement, extension of service, cancellation of commissions, annulment or variation of appointments, and redundancy of servicemen:
- (e) Providing for the health (including medical, surgical, and dental treatment) and welfare of servicemen:
- (f) Providing for the training of servicemen (including courses of instruction, examinations, and rules governing the allocation of study awards):
- (g) Providing for such other matters relating to the terms and conditions of service of servicemen as are necessary to give full effect to the

provisions of this Act and for the effective command and administration of the Armed Forces.

Compare: 1950, No. 39, s. 23a; 1950, No. 40, s. 23; 1954, No. 53, ss. 13a, 20; 1962, No. 87, s. 2; 1962, No. 88, s. 2; 1969, No. 58, s. 4

49 Determinations and regulations to be notified in Defence Council Orders

All determinations made under section 46 and all regulations referred to in section 47 of this Act shall, in addition to any other instrument in which they may be published, notified, or promulgated, be published in Defence Council Orders:

Provided that failure to publish any such determination or regulations in Defence Council Orders as aforesaid shall not of itself affect the validity of the determination or regulations, as the case may be.

Miscellaneous Provisions Relating to Service

50 Redress of complaints

- (1) Except in respect of a matter that would properly be the subject of an appeal under the Courts Martial Appeals Act 1953, or a petition under section 162 of the Armed Forces Discipline Act 1971, any serviceman who considers that he has been wronged in any matter whatsoever may make a complaint as of right to such service authority and in such manner as may be prescribed in Defence Council Orders.
- (2) If the complainant is not satisfied with the decision of the authority to whom his complaint was made, and that authority refuses or fails, when requested to do so, to forward the complaint to the next superior authority, the complainant shall be entitled to make a complaint direct to the next superior authority, and, in the case of any further refusal or failure, to the next superior authority, and so on as prescribed.
- (3) It is the duty of any authority receiving a complaint under this section to investigate it or have it investigated as soon as practicable and to take such steps for redressing the complaint as appear to that authority to be necessary.

Compare: 1950, No. 39, ss. 139, 140; 1950, No. 40, ss. 139, 140; Naval Discipline Act 1957, s. 130 (U.K.)

51 Apprentices

The Defence Council may from time to time appoint officers of the Armed Forces to enter into indentures of apprenticeship with servicemen to enable those servicemen to learn trades subject to such terms and conditions as may be prescribed from time to time, and to supervise the trade training of those servicemen.

Compare: 1950, No. 39, s. 10a; 1967, No. 100, s. 2

52 Special service

- (1) Without limiting the provisions of paragraph (b) of section 43 and subsection (2) of section 44, but subject to sections 39 to 41 of this Act, the Governor-General may accept the offer of any serviceman of the territorial forces or reserve forces, or any other person (not being a minor) for special service, either in New Zealand or elsewhere.
- (2) On any such offer being accepted, the serviceman or other person shall be accordingly liable to serve, whenever required, during the period to which the offer extends.

Compare: 1950, No. 39, s. 11; 1950, No. 40, s. 10

53 Persons receiving pay but not duly attested

Where a person has accepted pay (whether before or after the commencement of this Act) as a serviceman of the regular forces without having been properly attested for service, the following provisions shall apply:

- (a) He shall be deemed to be a serviceman of the regular forces until he is discharged; and
- (b) He may at any time before being properly attested request that he be discharged, and if he does so he shall be discharged without delay, and without being under any liability to make any payment under section 54 of this Act.

Compare: 1950, No. 39, s. 12a; 1950, No. 40, s. 11a; 1957, No. 33, s. 3; 1957, No. 34, s. 3

54 Discharge before completion of service

- (1) Subject to the approval of the Chief of Staff of the service to which the applicant belongs, any serviceman of the regular forces may, at any time before completion of the period of service for which he was appointed, enlisted, or engaged, obtain, on application in writing, his discharge or his transfer to the reserve forces of the service to which he belongs.
- (2) Subject to paragraph (b) of subsection (5) of section 42 of this Act, the Chief of Staff may approve such an application subject to such terms and conditions as may be prescribed and, except in the case of a serviceman who has completed more than 8 years' service, subject to payment of such amount as may be determined by the Chief of Staff, not exceeding the amount prescribed.
- (3) Notwithstanding anything in subsection (2) of this section, the serviceman shall be required to complete any obligatory period of service, being a condition imposed before an overseas posting or any specially designated training.
- (4) The amount that may be prescribed under subsection (2) of this section shall not exceed—
 - (a) In the case of an officer who is a man, \$500; or
 - (b) In the case of an officer who is a woman, \$200; or

- (c) In the case of a rating, soldier, or airman who is a man, \$250; or
 - (d) In the case of a rating, soldier, or airman who is a woman, \$100.
- (5) Any amount payable by a serviceman under subsection (2) of this section shall be in addition to any amount payable by him to the Crown under any bond, agreement, or contract entered into for any special purpose.
 - (6) Every amount paid by a serviceman on his discharge under this section shall be paid into the Consolidated Revenue Account.

Compare: 1950, No. 39, s. 12; 1950, No. 40, s. 11; 1954, No. 53, s. 23

Unit Funds, Messes, etc.

55 Unit and other non-public funds

- (1) For the purposes of this section, the term “service authority” means—
 - (a) In relation to funds established pursuant to subsection (2) of this section, the Defence Council:
 - (b) In relation to funds established pursuant to subsection (3) of this section, the Chief of Naval Staff:
 - (c) In relation to funds established pursuant to subsection (4) of this section, the Chief of General Staff:
 - (d) In relation to funds established pursuant to subsection (5) of this section, the Chief of Air Staff.
- (2) The Defence Council may from time to time establish, or authorise the establishment of, such funds under such names as it thinks fit for—
 - (a) The benefit of servicemen or discharged servicemen generally or of servicemen or discharged servicemen of two or more services, or of the dependants of servicemen or discharged or deceased servicemen, or the benefit of visiting servicemen; and
 - (b) Any other object of any kind whatsoever that the Council considers beneficial to the Armed Forces or to servicemen of the Armed Forces.
- (3) The Chief of Naval Staff may from time to time establish, or authorise the establishment of, such funds under such names as he thinks fit for—
 - (a) The benefit of any naval ship or naval establishment, or of servicemen or discharged servicemen of the Navy generally or servicemen or discharged servicemen of any part of the Navy, or of the dependants of any such servicemen or discharged or deceased servicemen; and
 - (b) Any other object of any kind whatsoever that he considers will be beneficial to the Navy or to servicemen of the Navy.
- (4) The Chief of General Staff may from time to time establish, or authorise the establishment of, such funds under such names as he thinks fit for—

- (a) The benefit of any army camp or unit of the Army, or of servicemen or discharged servicemen of the Army generally or servicemen or discharged servicemen of any part of the Army, or of the dependants of any such servicemen or discharged or deceased servicemen; and
 - (b) Any other object of any kind whatsoever that he considers will be beneficial to the Army or to servicemen of the Army.
- (5) The Chief of Air Staff may from time to time establish, or authorise the establishment of, such funds under such names as he thinks fit for—
 - (a) The benefit of any air force base or unit of the Air Force, or of servicemen or discharged servicemen of the Air Force generally or servicemen or discharged servicemen of any part of the Air Force, or of the dependants of any such servicemen or discharged or deceased servicemen; and
 - (b) Any other object of any kind whatsoever that he considers will be beneficial to the Air Force or to servicemen of the Air Force.
- (6) Without limiting the provisions of subsections (2) to (5) of this section, money forming part of any fund established under this section may from time to time, with the prior consent of the appropriate service authority, be spent on the acquisition of any land (whether Crown land or otherwise) to be held for any of the objects of the fund. Notwithstanding anything in any enactment or rule of law, any land so acquired may be vested in and held in the name of Her Majesty the Queen for the purposes of this section.
- (7) Any land so acquired may, with the prior consent of the appropriate service authority, be disposed of for valuable consideration, and on any such disposal, the land shall cease to be subject to this section. The proceeds of any such disposition shall be held for the purposes of the fund from which the money for the acquisition of the land was expended.
- (8) All documents required to be executed for the purposes of subsection (6) or subsection (7) of this section by or on behalf of the Crown may be executed by the Secretary of Defence or the Chief of Defence Staff.
- (9) Without limiting the power of the Defence Council to issue orders under section 28 of this Act, orders may be issued under that section prescribing rules for the administration, supervision, accounting, and auditing of any fund established under this section.
- (10) The appropriate service authority may from time to time vary the objects of any such fund, or abolish any such fund and transfer its assets to any other such fund, having due regard to the purposes for which the varied or abolished fund was established and to any conditions specifically imposed by any person from whom any money in the fund was received.

- (11) Notwithstanding anything in the Public Revenues Act 1953, the assets of any fund established under this section shall be deemed not to be public money or public stores within the meaning of that Act:

Provided that the accounts of any such fund may, if considered desirable by the Controller and Auditor-General, be audited by the Audit Office, which for that purpose shall have all such powers as it has under the Public Revenues Act 1953 in respect of public money and public stores.

- (12) The Crown shall not be liable in respect of any loss sustained by any fund established under this section, whether arising out of any act or omission of an employee of the Crown or by reason of any other cause whatsoever.
- (13) The provisions of this section shall apply with respect to all funds established before the passing of this Act for any of the purposes specified in subsections (2) to (5) of this section and in existence at the passing of this Act as if they had been established under this section. If any question arises as to whether any fund is a fund to which this subsection applies, it shall be decided by the Minister, and that decision shall be final.
- (14) Where any part of any service of the Armed Forces has been abolished, altered, or reconstituted, whether before or after the commencement of this Act, its non-public funds and all of its other property shall be disposed of, transferred, or held by the appropriate service authority for such purposes as are authorised by subsections (2) to (5) of this section, as the authority may determine, having due regard to the purposes for which the funds were established or the property was given or acquired, as the case may be, and to any conditions specifically imposed by any person from whom any property or any money in the funds was received.

Compare: 1950, No. 39, s. 23c; 1950, No. 40, s. 23b; 1954, No. 53, s. 13b; 1962, No. 88, s. 3(1); 1963, No. 113, s. 2(1); 1967, No. 28, s. 3

56 Sale of Liquor Act not to apply to messes, etc.

Nothing in the Sale of Liquor Act 1962 shall prohibit or restrict the sale, keeping for sale, exposing for sale, offering for sale, supply, possession, control, or consumption of liquor in any canteen or mess where consumption and possession of liquor is authorised by any enactment or by or under the authority of the Defence Council, or in any other place within a naval ship or defence area where consumption and possession of liquor is authorised by any enactment or by or under the authority of the Defence Council or by the officer commanding the ship or area, as the case may be.

Compare: 1950, No. 40, s. 23c; 1968, No. 58, s. 6

Part III Cadet Forces

57 Constitution of cadet forces

- (1) There may from time to time be raised and maintained under the direction of the Defence Council cadet forces, comprising the Sea Cadet Corps, the School Cadet Corps, and the Air Training Corps.
- (2) The Minister may from time to time—
 - (a) Determine the number of units of which the Sea Cadet Corps, the School Cadet Corps, and the Air Training Corps are to comprise:
 - (b) Authorise and direct the formation of any unit of any such corps and determine or approve the size of its membership:
 - (c) Authorise or direct the disbanding of any such unit.
- (3) All cadet forces raised and maintained under any enactment repealed by this Act and in being immediately before the commencement of this Act shall continue in being as if they had been raised under this section, except that the Cadet Corps constituted under section 8 of the New Zealand Army Act 1950 shall hereafter be referred to as the School Cadet Corps.

Compare: 1950, No. 39, s. 4; 1950, No. 40, s. 6(1); 1954, No. 53, s. 4

58 Personnel of cadet forces

- (1) The Sea Cadet Corps shall consist of such cadet officers as are from time to time appointed to, and such sea cadets as from time to time become members of, the Corps.
- (2) The School Cadet Corps shall consist of such cadet officers as are from time to time appointed to, and such school cadets as from time to time become members of, the Corps.
- (3) The Air Training Corps shall consist of such cadet officers as are from time to time appointed to, and such air cadets as from time to time become members of, the Corps.

Compare: 1950, No. 39, s. 8; 1950, No. 40, s. 6(5); 1954, No. 53, s. 7

59 Cadet officers

The Minister may from time to time—

- (a) Appoint persons whom he considers to be suitably qualified to be cadet officers and to be members of either the Sea Cadet Corps, the School Cadet Corps, or the Air Training Corps:
- (b) Issue cadet commissions to cadet officers:
- (c) Prescribe the ranks that may be held by cadet officers:
- (d) Promote cadet officers to a higher rank:

- (e) Compulsorily retire a cadet officer or discharge him or cancel his commission or vary his appointment:
- (f) Cause notice of all such appointments, commissions, and other acts done under this section to be notified in the *Gazette*.

60 Functions of cadet forces

The cadet forces shall have the following functions:

- (a) The conduct of training courses or training programmes similar to those undertaken by the Armed Forces:
- (b) The promotion of an appreciation among members of the cadet forces of the functions and operation of the Armed Forces:
- (c) The development of good citizenship among members of the cadet forces.

61 Assistance to cadet forces

- (1) The Minister of Defence may from time to time, subject to such conditions and limitations as he may decide—
 - (a) With the concurrence of the Minister of Finance, grant financial assistance out of money appropriated by Parliament to enable the cadet forces to conduct such activities as the Minister of Defence may approve:
 - (b) With the concurrence of the Minister of Finance, determine the pay, allowances, expenses, grants, gratuities, and other emoluments (if any) to be paid out of money appropriated by Parliament to cadet officers and other members of the cadet forces:
 - (c) Determine any other terms and conditions of service of cadet officers and other members of the cadet forces:
 - (d) Provide the cadet forces with clothing, stores and equipment, and accommodation:
 - (e) Direct or authorise any serviceman or class of servicemen of the regular forces to direct, supervise, or assist any unit of the cadet forces when it is conducting any of its activities, either within or outside a defence area:
 - (f) Approve the conducting of training courses or programmes or other activities by any unit of the cadet forces within a defence area under the supervision and direction of a serviceman of the regular forces.
- (2) When a serviceman is engaged in directing, supervising, or assisting a unit of the cadet forces, he shall be deemed to be on duty.
- (3) The terms and conditions of services of cadet officers and other members of the cadet forces determined by the Minister under subsection (1) of this section shall be promulgated in such a manner as the Minister directs.
- (4) Nothing in Part II of this Act or in the Armed Forces Discipline Act 1971, the State Services Remuneration and Conditions of Employment Act 1969, or the

Superannuation Act 1956 shall apply in respect of any member of the cadet forces.

62 Member of cadet forces may be removed from defence area in certain cases

If any member of a unit of the cadet forces which is conducting a training course or training programme or any other activity within a defence area refuses or fails to comply with the lawful orders or instructions of any serviceman directing or supervising, or assisting in the direction or supervision of, the course, programme, or other activity, that serviceman or any other serviceman acting under his authority may remove the member of the unit from the area.

63 Members of cadet forces eligible for war pensions

- (1) All the provisions of the War Pensions Act 1954, so far as they are applicable and with any necessary modifications, shall apply to every member of the cadet forces for the time being participating in any activity being carried on by the unit of which he is a member as if he were a member of the farces as defined in section 2 of that Act.
- (2) Section 9 of the Crown Proceedings Act 1950 shall apply to every member of the cadet forces as if he were a member of the New Zealand armed forces within the meaning of that section, and as if participation by him in any activity carried on by the unit of which he is a member were service in the forces.

64 Recognition of civilian organisations

The Minister may from time to time recognise for the purposes of this section any civilian organisation which has as its object or as one of its objects the promotion of the functions or interests of any corps or unit of the cadet forces for the purpose of permitting that organisation to assist the corps or unit to carry out its functions or activities.

Part IV

Offences Punishable by Civil Courts

Offences Relating to Military Service

65 Pretending to be a deserter

Every person commits an offence and is liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$200, or to both, who, in New Zealand or elsewhere, falsely represents himself to any naval, army, air force, or civil authority to be a deserter from the Armed Forces of New Zealand.

Compare: 1950, No. 39, s. 88; 1950, No. 40, s. 88; Army Act 1955, s. 191 (U.K.); Air Force Act 1955, s. 191 (U.K.)

66 Procuring and assisting desertion

Every person commits an offence, and is liable on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding \$400, or to both, who, in New Zealand or elsewhere,—

- (a) Intentionally or recklessly procures or persuades any serviceman to desert or absent himself without leave; or
- (b) Knowing that any serviceman is about to desert or to absent himself without leave, assists him in so doing; or
- (c) Knowing any serviceman to be a deserter or absentee without leave from the Armed Forces,—
 - (i) Conceals him; or
 - (ii) Assists him in concealing himself; or
 - (iii) Rescues him from custody or assists in his rescue from custody.

Compare: 1950, No. 39, s. 89; 1950, No. 40, s. 89; 1954, No. 53, s. 33; Army Act 1955, s. 192 (U.K.); Air Force Act 1955, s. 192 (U.K.)

67 Obstructing members of Armed Forces in execution of duty

Every person commits an offence, and is liable on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding \$400, or to both, who, in New Zealand or elsewhere, intentionally or recklessly obstructs or interferes with any serviceman acting in the execution of his duty.

Compare: 1950, No. 39, s. 90; 1950, No. 40, s. 90; 1954, No. 53, s. 34; Army Act 1955, s. 193 (U.K.); Air Force Act 1955, s. 193 (U.K.)

68 Obstructing parades

Every person commits an offence, and is liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$100, or to both, who, in New Zealand, intentionally or recklessly interrupts or obstructs any military exercise or parade of any part of the Armed Forces.

Compare: 1950, No. 39, s. 91; 1950, No. 40, s. 91; 1954, No. 53, s. 35

69 Aiding escape from a service penal establishment

- (1) Every person commits an offence, and is liable on summary conviction to imprisonment for a term not exceeding 12 months or to a fine not exceeding \$500, or to both, who, in New Zealand or elsewhere,—
 - (a) Rescues any serviceman or other person who is lawfully imprisoned or detained in a service penal establishment, or aids any such person in escaping or attempting to escape from any such establishment; or
 - (b) With intent to facilitate the escape of any serviceman or other person who is lawfully imprisoned in a service penal establishment, conveys or causes to be conveyed anything whatever into that establishment.

- (2) For the purposes of subsection (1) of this section, the term “service penal establishment” includes any prison, naval detention quarters, military or air force prison, detention barrack, corrective training centre, prisoner of war camp, detention room, cell, or similar establishment set aside by the Defence Council either in New Zealand or elsewhere for the confinement of persons subject to the Armed Forces Discipline Act 1971 or for the confinement of members of an allied force.

Compare: 1950, No. 39, s. 93; 1950, No. 40, s. 93; 1954, No. 53, s. 37

70 Aiding malingering

Every person commits an offence, and is liable on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding \$400, or to both, who, in New Zealand or elsewhere,—

- (a) Produces in a serviceman any sickness or disability; or
- (b) Supplies to or for any serviceman any drug or preparation likely to render him, or lead to the belief that he is, permanently or temporarily unfit for service—

with intent to enable him, either permanently or temporarily, to avoid service in the Armed Forces.

Compare: 1950, No. 39, s. 90; 1950, No. 40, s. 90; 1954, No. 53, s. 34; Army Act 1955, s. 194 (U.K.); Air Force Act 1955, s. 194 (U.K.)

Offences Involving Service Property, etc.

71 Unlawful purchase, etc., of service stores

- (1) Every person commits an offence and is liable on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding \$400, or to both, who, in New Zealand or elsewhere,—
- (a) Unlawfully acquires any service stores; or
 - (b) Solicits or procures any person to dispose unlawfully of any service stores; or
 - (c) Acts for any person in the unlawful disposal of any service stores.
- (2) In any proceedings for an offence against subsection (1) of this section, it is a defence if the defendant proves that he did not know that the chattels in question were service stores.
- (3) A constable in New Zealand may seize any property which he has reasonable grounds for suspecting of having been the subject of the offence.
- (4) In this section,—
- (a) The term “acquire” includes buy, take in exchange, take in pawn, or otherwise receive (whether, apart from this section, the receiving is lawful or not):

- (b) The term “dispose” includes sell, give in exchange, pledge, or otherwise hand over (whether, apart from this section, the handing over is lawful or not):
- (c) The term “service stores” means any chattel of any description belonging to the Crown, which has been issued for use for service purposes or is held in store for the purpose of being so issued when required.

Compare: 1950, No. 39, s. 96; 1950, No. 40, s. 96; 1954, No. 53, s. 39; Army Act 1955, s. 195 (U.K.); Air Force Act 1955, s. 195 (U.K.)

72 False statements regarding pay or allowances, etc.

- (1) Every person commits an offence, and is liable on summary conviction to imprisonment for a term not exceeding 12 months or to a fine not exceeding \$500, or to both, who, in New Zealand or elsewhere, makes any statement knowing it to be false, or knowingly withholds any required information, for the purposes of obtaining payment of any amount by way of pay, allowance, or gratuity under this Act, whether as a dependant of a serviceman or otherwise, or for the purpose of obtaining any decoration, emblem, or award issued for gallantry or service in the Armed Forces.
- (2) If, as a consequence of the commission of an offence against this section, any amount is paid to a dependant of a serviceman, or to any other person for the time being entitled to receive it, in excess of the amount to which the dependant or other person is entitled, the amount paid in excess, or any part of the amount, may be recovered from the dependant or other person out of money payable to him by the Crown but not yet paid, or out of money to become payable to him by the Crown, or may be recovered as a debt due to the Crown.

Compare: 1950, No. 39, s. 100; 1950, No. 40, s. 100; 1954, No. 53, s. 43

73 Failure to account for issued property

- (1) Every person in New Zealand to whom any property has been issued by or for the purposes of the Armed Forces otherwise than for his permanent retention shall, on being required to do so by a notice in writing purporting to be signed by a person employed in the Ministry of Defence and delivered to him personally or posted by registered letter to his place of residence, return the property to such person and within such reasonable time as may be specified in the notice.
- (2) If any person to whom any such notice has been delivered fails, without lawful excuse, to return any such property as required by the notice, he commits an offence and is liable on summary conviction to a fine not exceeding \$200.
- (3) If any person in New Zealand to whom any property has been issued by or for the purposes of the Armed Forces otherwise than for his permanent retention—
 - (a) Fraudulently makes away with, sells, or pawns; or
 - (b) Intentionally and without authority destroys or damages; or

(c) Recklessly or negligently loses—
the property, he commits an offence, and is liable on summary conviction to a fine, not exceeding \$200.

Compare: 1950, No. 39, s. 98; 1950, No. 40, s. 98; 1954, No. 53, s. 41

74 Giving false certificate, etc.

Every person commits an offence, and is liable on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding \$200, or to both, who in New Zealand—

(a) Gives any certificate; or

(b) Makes any return or statement in writing—

that he knows to be false concerning any matter in respect of which he is required by or under this Act to render any such certificate, return, or statement.

Compare: 1950, No. 39, s. 99; 1950, No. 40, s. 99; 1954, No. 53, s. 42

Offences Involving Liquor

75 Bringing liquor into defence areas, etc.

(1) Every person commits an offence, and is liable on summary conviction to a fine not exceeding \$100, who, in New Zealand,—

(a) Intentionally and without authority brings or conveys any alcoholic liquor into any naval ship or defence area, or any other place where servicemen are quartered or serving, otherwise than for delivery into any canteen or mess or to any premises occupied as married quarters, with the knowledge that the ship is a naval ship, the area is a defence area, or the place is one where servicemen are quartered or serving, as the case may be; or

(b) Is knowingly and without authority in possession of any alcoholic liquor in any naval ship or defence area, or other place where servicemen are quartered or serving; or

(c) Being in possession of alcoholic liquor, approaches or loiters in the vicinity of any naval ship or defence area, or other place where servicemen are quartered or serving, with intent to bring liquor into the ship or area otherwise than for delivery to a mess or canteen or to premises occupied as married quarters.

(2) Any officer or non-commissioned officer who has reasonable grounds to suspect that an offence against subsection (1) of this section is being or has been committed, with or without persons under his command, may—

(a) Enter into or on and search any ship, aircraft, conveyance, or vehicle of any kind that is entering or is within a defence area or any place where servicemen are quartered or serving; and

- (b) Detain any person whom he reasonably suspects is committing or has committed any such offence, and search any parcel, case, bag, luggage, jar, bottle, or other receptacle in his possession; and
 - (c) If any liquor is found as a result of any such search, seize the liquor, together with any receptacle holding it, unless the liquor is for delivery to any canteen or mess or to any premises occupied as married quarters.
- (3) Any officer or non-commissioned officer or any constable may, with or without a warrant, apprehend or cause to be apprehended any person whom he has reasonable grounds to suspect is committing or has committed an offence against this section, and bring him or cause him to be brought before a Magistrate to be dealt with for the suspected offence:

Provided that if any such person is subject to the Armed Forces Discipline Act 1971, he shall be dealt with in accordance with the corresponding provisions of that Act.

- (4) Any liquor seized under the authority of this section shall, on the conviction of the person from whom the liquor was seized, together with any receptacles holding the liquor, be forfeited to the Crown. The liquor and receptacles so forfeited shall then be sold by public auction and the proceeds of sale shall be paid into the Consolidated Revenue Account.
- (5) For the purposes of this section, the term “defence area” does not include any road, street, or other thoroughfare through which members of the general public are authorised to pass.

Compare: 1950, No. 39, s. 92; 1950, No. 40, s. 92; 1954, No. 53, s. 36

Evidential Provision

76 Evidence

Any document which would be evidence in any proceedings under the Armed Forces Discipline Act 1971 by virtue of subsection (2) of section 147 of that Act shall, in like manner, be evidence in proceedings under this Part of this Act.

Part V Miscellaneous Provisions

Annual Report

77 Annual report

- (1) As soon as practicable after the end of the period of 12 months ending with the 31st day of March in each year, the Minister shall cause to be prepared a report of the operations of the Ministry of Defence during that period.

- (2) A copy of the report shall be laid before Parliament within 28 days after the completion of its preparation and printing or, if Parliament is not then in session, within 28 days after the commencement of the next ensuing session.

Compare: 1964, No. 67, s. 24

Calliope Dock

78 Powers of Minister and Auckland Harbour Board in relation to dockyard at Auckland

- (1) The Minister (acting in the name and on behalf of Her Majesty the Queen) and the Auckland Harbour Board may from time to time make, enforce, and perform such contracts as they think fit with each other and any other persons in relation to the Calliope Dock at Auckland and any land adjacent or near to the dock, and any real or personal property, works, and services in connection with the dock.
- (2) Without limiting in any way the powers conferred by subsection (1) of this section, contracts may be made under this section for all or any of the following purposes:
- (a) Providing for the maintenance, improvement, equipment, and operation of the Calliope Dock, and for the construction, maintenance, improvement, equipment, and operation of other works in connection with the dock:
 - (b) Providing for the supply by the Auckland Harbour Board, the Minister, or any other person, of water, electrical energy, compressed air services, crane services, and other services in connection with the Calliope Dock, and for the terms and conditions on which the dock and those services shall be available, and, in particular, for the granting to the Crown of a right to the use of the dock and to any such service in priority to any other person:
 - (c) Providing for the granting to the Crown of easements, options to purchase, and other rights in respect of the Calliope Dock and of any real or personal property, works, and services in connection with the dock belonging to the Auckland Harbour Board or any other person; and, in particular, providing for the assumption by the Minister of possession and control of the dock and of all real or personal property, works, and services of the Auckland Harbour Board in connection with the dock in such circumstances and upon such terms and conditions as may be agreed on:
 - (d) Providing for the granting to the Auckland Harbour Board or to other persons of easements, options to purchase, and Other rights in respect of any real or personal property, works, and services belonging to the Crown in relation to the Calliope Dock and any land adjacent or near to the dock:

- (e) Providing for the payment of monetary compensation by and to any parties to the contracts, whether by way of capital money (payable in one sum or by annual or other instalments), or by way of annual or other periodical payments, or otherwise:
- (f) Generally providing for the administration of the Calliope Dock and all land, real or personal property, works, and services in connection with the dock, and for the rights and liabilities in relation to the dock of the respective parties to the contracts.

Compare: 1954, No. 53, s. 49

Public Services, etc.

79 Provision of public services by Armed Forces

- (1) If the Minister considers that it is in the public interest to do so, he may authorise any part of the Armed Forces to perform any public service capable of being performed by the Armed Forces, either in New Zealand or elsewhere, subject to such terms and conditions (including payment) as he may specify.
- (2) The Minister shall not authorise any part of the Armed Forces to perform any public service in New Zealand pursuant to subsection (1) of this section in circumstances such that a Proclamation of Emergency could lawfully be issued under the Public Safety Conservation Act 1932, unless such a Proclamation is for the time being in force.
- (3) Any authority given under subsection (1) of this section may authorise any ships, aircraft, vehicles, or equipment of the Armed Forces to be operated in connection with the performance of any such public service.
- (4) If any such ship, aircraft, vehicle, or equipment is operated for payment otherwise than for or on behalf of the military authorities of any other State, it shall, for the purposes of any other Act relating to the carriage of passengers or goods, be deemed not to be in use for military purposes.
- (5) Any payment made for the performance of any public service under this section shall be paid into the Consolidated Revenue Account.
- (6) Subject to subsection (4) of this section, the conveyance of passengers or goods under this section for payment shall be subject to the Carriers Act 1948, the Sea Carriage of Goods Act 1940, and the Carriage by Air Act 1967, and, so far as those Acts make no provision, the common law.

Compare: 1950, No. 40, s. 144

Crown Property

80 Arms, etc., to remain property of the Crown

- (1) All arms, equipment, uniforms, and other public property of any kind supplied by the Crown to the Armed Forces shall be presumed to remain the property of the Crown in the absence of proof to the contrary.

- (2) All arms, equipment, uniforms, and other public property of any kind supplied by the Crown to any serviceman shall, unless issued to him for retention by him permanently, be presumed to remain the property of the Crown in the absence of proof to the contrary.
- (3) All property of the Crown of any kind for the time being in the possession of a serviceman shall be exempt from distress and from seizure in execution.

Compare: 1950, No. 39, ss. 142, 143; 1950, No. 40, ss. 142, 143; 1954, No. 53, ss. 50, 51

Security

81 Security of defence areas

- (1) Without limiting the power to make regulations under section 88 of this Act, regulations may be made under that section prohibiting access or restricting access, on such conditions as may be prescribed, of any person to any defence area, and making such provision as may be necessary or expedient for the control and security of any such area.
- (2) Regulations made pursuant to subsection (1) of this section may include provisions—
 - (a) Authorising the officer in charge of any defence area, or any serviceman duly authorised by him, to search and detain for the purposes of search any person while he is in or is entering or leaving, or about to enter or leave, the area both as to his person and also as to any vehicle, ship, boat, aircraft, receptacle, parcel, or chattel of every description in his possession or under his control:
 - (b) Authorising any such officer or serviceman to seize from a person so searched any property which the officer or serviceman has reasonable grounds to believe has been used or is being used in the commission of an offence (either against the law of New Zealand or, if the defence area is situated in a country other than New Zealand, against the law of that country), and providing for the sale or disposal of any such property on the conviction of the person from whom the property was seized of any such offence, or, if the person from whom the property was taken is not proceeded against or not so convicted, for the return of the property to him:
 - (c) Authorising any such officer or serviceman to apprehend and detain any person who is in or entering or leaving, or about to enter or leave, the area in any case where the person is found committing or is suspected on reasonable grounds of having committed an offence (either against the law of New Zealand or, if the defence area is situated in a country other than New Zealand, against the law of that country) while he is in or entering or leaving, or attempting to enter or leave, the area, for the purpose of—

- (i) Delivering him to a constable for the purpose of arrest by that constable; or
 - (ii) If the area is situated outside New Zealand, delivering him to a member of the police of the civil power of that country, so that, where appropriate, he may be arrested pursuant to the powers of that member; or
 - (iii) If the person apprehended or detained is a member of an allied force (whether that force is in New Zealand or elsewhere), delivering him to the service authorities of that force:
- (d) Authorising any such officer or serviceman to require any person who is in or entering or leaving, or about to enter or leave, the area to identify himself and give an explanation of his presence:
 - (e) Providing for constables to exercise any of the aforesaid powers:
 - (f) Requiring any serviceman duly authorised as aforesaid to produce such warrant or other evidence of his authority as may be prescribed in the regulations when exercising any power under the regulations:
 - (g) Prescribing offences for breaches in New Zealand of any such regulations, and prescribing, on summary conviction for any such offence, a term of imprisonment not exceeding 3 months or a fine not exceeding \$200, or both.

Compare: 1950, No. 39, s. 17; 1950, No. 40, s. 16; 1954, No. 53, s. 16; 1958, No. 22, ss. 3 and 4; 1960, No. 78, s. 2; 1968, No. 58, s. 3

Financial Provisions

82 Recovery of excess payments

If any amount in respect of pay, allowances, or other emoluments is paid to a serviceman or discharged serviceman, or to the dependant of any serviceman or any deceased or discharged serviceman, or to any other person for the time being entitled to receive any pay, allowance, or other emolument on behalf of any such serviceman or discharged serviceman or any such dependant, in excess of the amount to which the serviceman, discharged serviceman, dependant, or other person is entitled under this Act, the amount so paid in excess or any part of it may be recovered from the serviceman, discharged serviceman, dependant, or other person, as the case may be, in accordance with instructions issued under the authority of section 119 of the Public Revenues Act 1953.

Compare: 1950, No. 39, s. 158; 1950, No. 40, s. 158; 1954, No. 53, s. 55

83 Public Trustee to administer the Nelson Rifle Prize Fund

- (1) All money comprising the Nelson Rifle Prize Fund (in this section referred to as the “fund”) held in trust by the Public Trustee pursuant to section 34 of the Finance Act 1954 immediately before the commencement of this Act shall continue to be held and invested by the Public Trustee in the Common Fund

of the Public Trust Office in perpetuity; and the Public Trustee shall continue to apply the income arising from the fund in accordance with the provisions of this section.

- (2) The Public Trustee shall continue to apply the income arising from the fund from time to time in such sums and in such manner as the Secretary of Defence from time to time in writing directs for all or any of the following purposes:
 - (a) Providing monetary or other prizes for rifle or other small arms shooting;
 - (b) Generally encouraging efficiency in rifle or other small arms training in any army formation, army unit, rifle club, or rifle association, for the time being in the area comprised in the Provincial District of Nelson.
- (3) The Public Trustee shall not be liable at law or in equity for acting on any such direction of the Secretary of Defence.
- (4) Notwithstanding anything to the contrary in any other enactment or in any rule of law, any income arising from the fund, whether before or after the commencement of this Act, and not for the time being applied for any of the purposes specified in subsection (2) of this section, and the resulting income thereof, shall be accumulated and added to the capital of the fund, of which it shall thereafter form part, and shall be subject to the provisions of this section relating to the capital of the fund:

Provided that any such income may from time to time be applied under this section as if it were income arising from the fund in the year in which it is so applied.

- (5) The receipt of—
 - (a) The officer for the time being commanding any army formation or army unit referred to in subsection (2) of this section; or
 - (b) The secretary or treasurer of any rifle club or rifle association referred to in that subsection; or
 - (c) Any person appearing to the Public Trustee to be entitled to receive money on behalf of that formation, unit, club, or association, as the case may be—

shall be a good and sufficient discharge to the Public Trustee for any money expended under this section for or in respect of that formation, unit, club, or association, as the case may be, or for or in respect of any member of any such formation, unit, club, or association; and the Public Trustee shall not be liable either at law or in equity to ensure that any such money is expended for the purpose for which it is intended to be applied.

- (6) In this section, the term “rifle club” and “rifle association” mean respectively a rifle club and a rifle association recognised by the Secretary of Defence.

Compare: 1954, No. 90, s. 34

*Delegations and Documents***84 Delegations not to lapse**

- (1) Where the holder of an office or appointment, having delegated (either before or after the commencement of this Act) a function, duty, or power pursuant to this Act or the Armed Forces Discipline Act 1971 or any enactment repealed by this Act or the said Armed Forces Discipline Act and not having revoked that delegation, ceases to hold that office or appointment, the delegation—
 - (a) Shall be deemed not to have lapsed by reason of the fact that the holder of the office or appointment has ceased to hold that office or appointment; and
 - (b) Shall continue to have full force and effect until revoked by a successor in the office or appointment.
- (2) Where a function, duty, or power has been delegated (either before or after the commencement of this Act) to the holder of an office or appointment pursuant to this Act or the Armed Forces Discipline Act 1971 or any enactment repealed by this Act or the said Armed Forces Discipline Act and the delegation has not been revoked, the delegation shall be deemed not to have lapsed by reason only of the fact that the holder of the office or appointment has ceased to hold that office or appointment, and shall continue in force as if it had been made to his successor in that office or appointment.

85 Execution of instruments, etc.

Except as may be prescribed from time to time, any order, direction, instruction, or decision required or authorised by or under this Act or by or under the Armed Forces Discipline Act 1971 to be made, given, or executed by a person who is employed in the Ministry of Defence may be made, given, or executed by any person authorised by or under this Act for the purpose; and any instrument containing any such order, direction, instruction, or decision and purporting to be signed by a person stated in the instrument to be so authorised shall, in the absence of proof to the contrary, be evidence in all courts and proceedings and for all other purposes that the person who signed it had the necessary authority to do so.

86 Proclamations, etc.

All Proclamations, Orders in Council, and warrants relating to the Armed Forces shall be deemed to be sufficiently notified to all persons whom they purport to affect by being published in the *Gazette*.

Compare: 1950, No. 39, s. 154; 1950, No. 40, s. 154; 1954, No. 53, s. 54

87 Promulgation of orders

- (1) All orders given under the authority of or in execution of this Act or under the Armed Forces Discipline Act 1971 by any officer of the Armed Forces

shall be valid and effectual if given orally, or by advertisement in a newspaper circulating in the locality, or by a printed or written notice affixed at a place previously appointed for the purpose, or issued in any other manner customary in the Armed Forces, except in cases where this Act or the Armed Forces Discipline Act 1971 specially requires any such order to be in writing.

- (2) An order deviating from the prescribed form, if otherwise valid, shall not be rendered invalid by reason only of any such deviation.

Compare: 1950, No. 39, s. 155(1) and (4); 1950, No. 40, s. 155(1) and (4)

Regulations

88 Regulations

- (1) The Governor-General may from time to time, by Order in Council, make regulations, not inconsistent with this Act, for all or any of the following purposes:

- (a) Providing for the establishment and conduct of messes in naval ships and defence areas:
- (b) Providing for the vesting in the Crown of discoveries, inventions, and improvements made by servicemen in processes, apparatus, and machines used for the purposes of the Armed Forces, and for the payment of rewards, expenses, and other money in respect of them:
- (c) Providing for the payment of grants to Armed Forces bands, organisations, and affiliated bodies:
- (d) Authorising civilian persons or organisations to conduct prescribed activities in defence areas:
- (e) Providing for the enlistment of forces pursuant to paragraph (e) of subsection (2), paragraph (d) of subsection (3), and paragraph (d) of subsection (4) of section 5 of this Act, and providing for the terms and conditions of service of any such forces:
- (f) Providing for such matters as are specified in section 47 or section 81 of this Act:
- (g) Providing for such matters as are contemplated by or necessary for giving full effect to this Act and for its due administration.

- (2) All regulations made under this section shall come into force on such date as may be specified in the regulations, being the date of the regulations or on any other date after the date on which they were made:

Provided that any such regulations which confer a benefit on any person may have effect from a date before the date on which the regulations were made.

- (3) Any such regulations may relate to the Armed Forces generally or to any specified part of the Armed Forces.

Compare: 1950, No. 39, s. 17; 1950, No. 40, s. 16; 1954, No. 53, s. 16; 1964, No. 67, s. 25; 1968, No. 58, s. 3

*Repeals, etc.***89 Consequential amendments, repeals, savings, and transitional provisions**

- (1) The enactments specified in the Second Schedule to this Act are hereby amended in the manner indicated in that Schedule.
- (2) The enactments specified in the Third Schedule to this Act are hereby repealed.
- (3) Every reference in any Act to the New Zealand Naval Forces or the Naval Forces, or to the New Zealand Army or the Army, or to the Royal New Zealand Air Force or the Air Force means the New Zealand Naval Forces, the New Zealand Army, or the Royal New Zealand Air Force, as the case may be, constituted under section 5 of this Act.
- (4) Every reference to the New Zealand Naval Board, the New Zealand Navy Board, the Naval Board of New Zealand, or the Naval Board of the New Zealand Defence Council in any Act, regulations, rule, order, other enactment, agreement, deed, instrument, application, notice, or other document whatsoever in force at the commencement of this Act shall, unless the context otherwise requires, be read as a reference to the New Zealand Defence Council.
- (5) Every reference to the Army Board or the Army Board of the New Zealand Defence Council in any Act, regulation, rule, order, other enactment, agreement, deed, instrument, application, notice, or other document whatsoever in force at the commencement of this Act shall, unless the context otherwise requires, be read as a reference to the New Zealand Defence Council.
- (6) Every reference to the Air Board or the Air Board of the New Zealand Defence Council in any Act, regulation, rule, order, other enactment, agreement, deed, instrument, application, notice, or other document whatsoever in force at the commencement of this Act shall, unless the context otherwise requires, be read as a reference to the New Zealand Defence Council.
- (7) All orders or instructions issued by or under the authority of the Naval Board or the Naval Board of the New Zealand Defence Council, the Army Board or the Army Board of the New Zealand Defence Council, or the Air Board or the Air Board of the New Zealand Defence Council which are in force immediately before the commencement of this Act shall, until revoked by the Defence Council, continue in force as if they were Defence Council Orders issued under section 28 of this Act. Any such orders or instructions may from time to time be amended by the Defence Council.
- (8) Notwithstanding the repeal of section 16 of the Navy Act 1954, all the provisions of Parts I, III, IV, V, VI, VII, VIII, and IX of, and the First Schedule to, the Navy Regulations 1958 (S.R. 1958/3) shall, until revoked, continue in force as if they had been authorised by and made under this Act.
- (9) Notwithstanding the repeal of section 17 of the New Zealand Army Act 1950, all the provisions of Parts I, VI, VII, VIII, and X, and Part XI (except regulations 131 to 135) of the Army Regulations 1951 (S.R. 1951/272) shall, until

- revoked, continue in force as if they had been authorised by and made under this Act.
- (10) Notwithstanding the repeal of section 16 of the Royal New Zealand Air Force Act 1950, all the provisions of the Royal New Zealand Air Force Regulations 1968 (S.R. 1968/233), except the provisions of Part I, shall, until revoked, continue in force as if they had been authorised by and made under this Act.
- (11) The regulations continued in force by subsections (8), (9), and (10) of this section may from time to time be amended in the same manner as if they had been authorised by and made under this Act.
- (12) All matters and proceedings commenced under any enactment repealed by this section and pending or in progress at the commencement of this Act may, for the purpose of completing the matter or proceedings, be continued under the said enactment as if the enactment had not been repealed.
- (13) Every reference in this Act to the Armed Forces Discipline Act 1971 shall, until the commencement of that Act, be construed as a reference to the corresponding provision or provisions (if any) in the Navy Act 1954, the Naval Discipline Act 1957 of the Parliament of the United Kingdom, the New Zealand Army Act 1950, or the Royal New Zealand Air Force Act 1950, as the case may require.
- (14) On the commencement of this Act—
- (a) The Women's Royal New Zealand Naval Service shall continue to form part of the Royal New Zealand Navy:
 - (b) The Women's Royal New Zealand Army Corps and the Royal New Zealand Nursing Corps shall continue to form part of the Regular Force of the Army:
 - (c) The Women's Royal New Zealand Air Force shall become part of the Regular Air Force.
- (15) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that the repeal of the Defence Act 1964 shall not affect the amendments to the Parliamentary Commissioner (Ombudsman) Act 1962 and the State Services Act 1962 made by subsection (1) of section 26 of the Defence Act 1964.

SCHEDULES

FIRST SCHEDULE

Acts Administered in the Ministry of Defence

Section 17(2)

The Armed Forces Canteens Act 1948.

The Armed Forces Discipline Act 1971.

The Defence Act 1971.

The Military Decorations and Distinctive Badges Act 1918.

The Military Manoeuvres Act 1915.

The Naval and Victualling Stores Act 1908.

SECOND SCHEDULE

Enactments Amended

Section 89(1)

Enactment Amended	Amendment
1908, No. 127—The Naval and Victualling Stores Act 1908	<p>By repealing the definition of “Admiralty” in section 2.</p> <p>By repealing the definition of “His Majesty’s Service” in section 2.</p> <p>By omitting from subsection (2) of section 3 the word “Admiralty”, and substituting the words “Defence Council”.</p> <p>By omitting from subsection (2) of section 5 the words “in His Majesty’s Service” and substituting the words “employed in the Ministry of Defence”.</p> <p>By repealing section 6, and substituting the following section:</p> <div style="background-color: #f0f0f0; padding: 10px; margin: 10px 0;"> <p>“6 Effect of conviction of dealer in old metals</p> <p>Every conviction of a dealer in old metals for an offence against this Act expressed to be an indictable offence shall, for the purposes of section 17 of the Secondhand Dealers Act 1963, be deemed to be a conviction under Part X of the Crimes Act 1961 other than an offence under sections 293 to 305 of that Act.”</p> </div> <p>By omitting from paragraph (a) of subsection (1) of section 7 the words “Her Majesty’s Service”, and substituting the words “employed in the Ministry of Defence”.</p> <p>By omitting from section 7 wherever it occurs the word “Justice” and substituting in each case the word “Magistrate”.</p> <p>By omitting from subsection (1) of section 9 the word “Admiralty” in both places where it occurs, and substituting in each case the words “Defence Council”.</p> <p>By omitting from subsection (2) of section 9 the word “Justice”, and substituting the word “Magistrate”.</p> <p>By omitting from section 10 the word “Admiralty” in both places where it occurs, and substituting in each case the words “Defence Council”.</p>

Enactment Amended	Amendment
1950, No. 39—The New Zealand Army Act 1950	By omitting from the definition of the term “Army” in subsection (1) of section 2 the words “under this Act”, and substituting the words “under section 5 of the Defence Act 1971”.
1954, No. 53—The Navy Act 1954	By omitting from the definition of the term “Naval Forces or New Zealand Naval Forces” in section 2 the words “under this Act”, and substituting the words “under section 5 of the Defence Act 1971”.
1954, No. 67—The Land and Income Tax Act 1954	<p>By repealing paragraph (hh) of subsection (1) of section 86 (as substituted by section 6 of the Land and Income Tax Amendment Act (No. 2) 1965), and substituting the following paragraph:</p> <p>“(hh) Income derived by any person from any gratuity granted or paid to him pursuant to the Defence Act 1971 on completion of a specified period of service as a member of the territorial forces of New Zealand or the Air Force Reserve or as a cadet officer of the Air Training Corps:</p> <p>“Provided that the amount of the exemption under this paragraph in any income year shall not exceed \$120 of that income:”.</p> <p>By omitting from paragraph (c) of subsection (6) of section 88b (as inserted by section 9 of the Land and Income Tax Amendment Act 1968) the words “or the Regular Section of the Women’s Royal New Zealand Air Force”.</p>
1955, No. 94—The Wills Amendment Act 1955	<p>By omitting from paragraph (a) of subsection (1) of section 6a (as inserted by section 3 of the Wills Amendment Act 1962) the words “Royal New Zealand Navy”, and substituting the words “New Zealand Naval Forces”.</p> <p>By omitting from the same paragraph the words “that Navy”, and substituting the words “those forces”.</p> <p>By omitting from subsection (2) of section 10 the words “Naval Board of the New Zealand Defence Council”, and substituting the words “Secretary of Defence”; and by omitting from that subsection the words “Naval Authority”, and substituting the words “the Crown in respect of his service in the Naval Forces”.</p>
1956, No. 47—The Superannuation Act 1956	<p>By repealing the definition of “Service Board” in section 62.</p> <p>By omitting from paragraph (a) of subsection (3) of section 63, subsection (1) of section 64, subsections (2) and (4) of section 68, subsection (2) of section 69, and subsections (3) and (4) of section 71 the words “Service Board” wherever they occur, and substituting in each case the words “New Zealand Defence Council”.</p>

Enactment Amended	Amendment
1957, No. 20—The Dangerous Goods Act 1957	By repealing paragraphs (b) to (d) of subsection (2) of section 22, and substituting the following paragraph:
	“(b) A representative of the New Zealand Defence Council.”
1957, No. 88—The Oaths and Declarations Act 1957	By omitting from the Fourth Schedule references to the New Zealand Army Act 1950, the Royal New Zealand Air Force Act 1950, the Navy Act 1954, and substituting the following reference:
	“1971, No. 52—The Defence Act 1971.”
1961, No. 116—The National Military Service Act 1961	By omitting from paragraph (a) of subsection (2) of section 12 the word “Army”, and substituting the words “Armed Forces”.
1962, No. 10—The Parliamentary Commissioner (Ombudsman) Act 1962	By omitting from Part II of the Schedule (as amended by section 26(4) of the Defence Act 1964) the words “The Air Board of the New Zealand Defence Council”.
	By omitting from Part II of the Schedule (as amended by section 26(3) of the Defence Act 1964) the words “The Army Board of the New Zealand Defence Council”.
	By omitting from Part II of the Schedule (as amended by section 26(2) of the Defence Act 1964) the words “The Naval Board of the New Zealand Defence Council”.
1962, No. 36—The Civil Defence Act 1962	By repealing paragraphs (e), (f), and (g) of section 3, and substituting the following paragraph:
	“(e) The Defence Act 1971; or”.
1962, No. 132—The State Services Act 1962	By omitting the item relating to “Defence” in the Third Schedule, and substituting the following:
	“Defence Secretary of Defence Deputy Secretary of Defence.”
1968, No. 4—The Land and Income Tax Amendment Act 1968	By repealing paragraph (b) of subsection (2) of section 9.
1969, No. 64—The State Services Remuneration and Conditions of Employment Act 1969	By omitting from the definitions of the expressions “branch”, “employing authority”, and “State services” in section 2 and from section 4 the words “Defence Forces” wherever they appear, and substituting in each case the words “Armed Forces”.

THIRD SCHEDULE

Enactments Repealed

Section 89(2)

Part I

Repeal of Enactments Relating to the Ministry of Defence

- 1915, No. 44—The Expeditionary Forces Act 1915.
1916, No. 8—The Military Service Act 1916.
1917, No. 14—The Military Service Amendment Act 1917.
1918, No. 9—The Expeditionary Forces Amendment Act 1918.
1920, No. 25—The Military Service Amendment Act 1920.
1922, No. 51—The Finance Act 1922: Section 15.
1964, No. 67—The Defence Act 1964.

Part II

Repeal of Enactments Relating to the Navy

- 1909, No. 9—The Naval Defence Act 1909.
1929, No. 29—The Finance Act 1929: Paragraph (d) of section 5.
1954, No. 53—The Navy Act 1954: Sections 3 to 7, section 8, section 12, sections 13a to 13c, sections 16 to 27, sections 33 to 37, sections 39 to 44, section 45, sections 49 to 51, sections 53 to 55. (1957 Reprint, Vol. 10, p. 897.)
1958, No. 22—The Navy Amendment Act 1958: Sections 3 and 4.
1962, No. 87—The Navy Amendment Act 1962.
1967, No. 28—The Navy Amendment Act 1967: Sections 3, 4, and 5.

Part III

Repeal of Enactments Relating to the Army

- 1921–22, No. 59—The Reserves and Other Lands Disposal and Public Bodies Empowering Act 1921–22: Section 53. (1957 Reprint, Vol. 11, pp. 99 and 109.)
1937, No. 38—The Statutes Amendment Act 1938: Section 8. (1957 Reprint, Vol. 11, pp. 99 and 110, Vol. 15, p. 132.)
1950, No. 39—The New Zealand Army Act 1950: Sections 3 to 14, sections 15 to 17, section 21, sections 23, 23a, 23b, and 23c, sections 88 to 94, sections 96 to 102, sections 139 and 140, sections 142 to 144, sections 151 to 154, and sections 158 and 159.
1954, No. 20—The New Zealand Army Amendment Act 1954: Section 14. (1957 Reprint, Vol. 11, pp. 61 and 111.)

1957, No. 33—The New Zealand Army Amendment Act 1957: Sections 2 to 4 and section 8. (1957 Reprint, Vol. 11, pp. 12, 13, 14, 112, and 113.)

1959, No. 26—The New Zealand Army Amendment Act 1959: Sections 3 and 12.

1960, No. 78—The New Zealand Army Amendment Act 1960.

1962, No. 88—The New Zealand Army Amendment Act 1962.

1965, No. 54—The New Zealand Army Amendment Act 1965: Sections 3 to 5 and section 17.

1967, No. 26—The New Zealand Army Amendment Act 1967: Section 3.

1967, No. 100—The New Zealand Army Amendment Act (No. 2) 1967.

1969, No. 99—The New Zealand Army Amendment Act 1969.

Part IV

Repeal of Enactments Relating to the Air Force

1950, No. 40—The Royal New Zealand Air Force Act 1950: Sections 5 to 13, sections 14 to 16, section 20, sections 23, 23a, 23b, and 23c, sections 88 to 94, sections 96 to 102, sections 139 and 140, sections 142 to 144, sections 151 to 154, and section 158. (1957 Reprint, Vol. 13, p. 455.)

1954, No. 21—The Royal New Zealand Air Force Amendment Act 1954: Sections 15 and 20. (1957 Reprint, Vol. 13, pp. 554, 556, 562, and 563.)

1957, No. 34—The Royal New Zealand Air Force Amendment Act 1957: Sections 2 to 4 and section 6. (1957 Reprint, Vol. 13, pp. 467, 468, and 563.)

1959, No. 27—The Royal New Zealand Air Force Amendment Act 1959: Section 3.

1962, No. 99—The Royal New Zealand Air Force Amendment Act 1962.

1963, No. 113—The Royal New Zealand Air Force Amendment Act 1963.

1965, No. 55—The Royal New Zealand Air Force Amendment Act 1965: Sections 2 and 13.

1967, No. 27—The Royal New Zealand Air Force Act 1967: Section 3.

1967, No. 151—The Carriage by Air Act 1967: Subsection (3) of section 45.

1968, No. 58—The Royal New Zealand Air Force Amendment Act 1968: Sections 3, 4, 6, and 7.

Part V

Repeal of Miscellaneous Enactments

1918, No. 10—The War Legislation and Statute Law Amendment Act 1918. (1931 Reprint, Vol. VIII, p. 1078.)

1918, No. 14—The Repatriation Act 1918. (1931 Reprint, Vol. VIII, p. 1080.)

1919, No. 52—The Finance Act 1919: Sections 16 to 18, and section 24. (1931 Reprint, Vol. VIII, p. 1083; 1957 Reprint, Vol. 5, p. 44.)

1920, No. 83—The Finance Act 1920: Section 54. (1931 Reprint, Vol. VIII, p. 1085; 1957 Reprint, Vol. 5, p. 48.)

1922, No. 23—The War Disabilities Removal Act 1922. (1931 Reprint, Vol. VIII, p. 1087.)

1952, No. 81—The Finance Act (No. 2) 1952: Section 12. (1957 Reprint, Vol. 5, p. 166.)

1954, No. 90—The Finance Act 1954: Section 34. (1957 Reprint, Vol. 5, p. 171, and Vol. 11, pp. 100 and 112.) 1965, No. 125—The Land and Income Tax Amendment Act (No. 2) 1965: Section 6.

1969, No. 64—The State Services Remuneration and Conditions of Employment Act 1969: Section 60.

This Act is administered in the Ministry of Defence.