



ANALYSIS

<p>Title</p> <p>1. Short Title and commencement</p> <p>2. Interpretation</p> <p>3. The Armed Forces of New Zealand</p> <p>4. Joint forces</p> <p>5. Services acting together</p> <p>6. Chief of Defence Staff</p> <p>7. Secretary of Defence</p> <p>8. Chiefs of Staff</p> <p>9. Enlistment of minors</p>	<p>10. Liability of minors for overseas service</p> <p>11. Defence Council Orders fixing certain terms and conditions of service</p> <p>12. Return of service obligation</p> <p>13. Offences and penalties, etc.</p> <p>14. Powers of Minister and Auckland Harbour Board in relation to dockyard at Auckland</p> <p>15. Regulations Schedule</p>
---	---

1988, No. 88

An Act to amend the Defence Act 1971

[29 April 1988]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the Defence Amendment Act (No. 2) 1988, and shall be read together with and deemed part of the Defence Act 1971 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 28th day after the date on which it receives the Governor-General's assent.

2. Interpretation—(1) Section 2 (1) of the principal Act is hereby amended by repealing paragraph (a) of the definition of the term “defence area”.

(2) Section 2 (1) of the principal Act is hereby further amended by inserting, after the definition of the term “enemy”, the following definitions:

“‘Joint force’ means a joint force established under section 5A (1) (a) of this Act:

“‘Joint force commander’, in relation to a joint force, means the officer appointed under section 5A (1) (a) of this Act to command that force:”.

(3) Section 2 (1) of the principal Act is hereby further amended by omitting from paragraph (b) of the definition of the term “warrant officer” (as amended by section 2 (8) of the

Defence Amendment Act 1985) the expressions “class I” and “class II”, and substituting the expressions “class one” and “class two” respectively.

3. The Armed Forces of New Zealand—(1) Section 5 of the principal Act is hereby amended by adding the following subsection:

“(5) The New Zealand Naval Forces, the New Zealand Army, and the Royal New Zealand 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.”

(2) Sections 6 (3), 7 (3), and 8 (2) of the principal Act are hereby repealed.

4. Joint forces—The principal Act is hereby amended by inserting, after section 5, the following section:

“5A. (1) The Chief of Defence Staff may from time to time, under the Defence Council,—

“(a) Establish a joint force comprising parts of 2 or more services, and appoint an officer of one of the services to command that force:

“(b) Place a joint force under the command of the Chief of Staff of any service.

“(2) Where a joint force is established under this section, this Act and the Armed Forces Discipline Act 1971 shall apply to those parts of any service that comprise the joint force, and to any serviceman serving in the joint force, subject to the following modifications:

“(a) Anything required or authorised by or under 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 the part belongs, or to which the serviceman belongs or is attached, may be done by, to, or before the Chief of Defence Staff or, where the Chief of Defence Staff has placed the joint force under the command of a Chief of Staff, that Chief of Staff:

“(b) Such other necessary modifications as may be prescribed.”

5. Services acting together—Section 13 of the principal Act is hereby repealed.

6. Chief of Defence Staff—Section 24 (3) of the principal Act is hereby amended by inserting, after paragraph (a), the following paragraph:

“(aa) Under the Defence Council, command any joint force either directly through the joint force commander or through the Chief of Staff of any service.”.

7. Secretary of Defence—Section 25 (5) of the principal Act (as added by section 4 of the Defence Amendment Act 1985) is hereby amended by repealing paragraph (b), and substituting the following paragraphs:

“(b) Purchase, take on lease, or otherwise acquire any land or interest in land; and

“(c) Sell or otherwise dispose of, or grant any lease, licence, or easement over, any land or interest in land under the control of the Ministry of Defence.”

8. Chiefs of Staff—Section 27 of the principal Act is hereby amended by inserting, after subsection (3), the following subsection:

“(3A) Where the Chief of Defence Staff places a joint force under the command of a Chief of Staff pursuant to section 5A (1) (b) of this Act, that Chief of Staff shall, under the Chief of Defence Staff, command that force through the joint force commander, and nothing in subsections (1) to (3) of this section authorises a Chief of Staff to exercise command over a joint force, or any part of a joint force, unless the Chief of Defence Staff has placed that joint force under the command of that Chief of Staff.”

9. Enlistment of minors—(1) Section 39 (1) of the principal Act is hereby amended by omitting the word “minor”, and substituting the words “person under 18 years of age (in this section referred to as a minor)”.

(2) Section 39 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsections:

“(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) A consent in writing obtained—

“(i) If both parents of the minor are alive, are guardians of the minor, and are not under a disability, from one of those parents:

“(ii) 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:

“(iii) 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:

“(iv) 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:

“(v) 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:

“(vi) 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 District Court Judge:

“(vii) If the minor is for the time being placed under the guardianship of the High Court, from that Court; and

“(b) A written acknowledgement by the person giving the consent that he or she is aware that the person enlisting will be liable for active service outside New Zealand at any time after that person attains the age of—

“(i) 18 years, in the case of a person enlisting in the Army or the Air Force:

“(ii) 16 years and 6 months, in the case of a person enlisting in the Navy.

“(3A) An acknowledgement referred to in subsection (3) (b) of this section need not be given or signified separately from the written consent if the consent is given on a form that contains a conspicuous statement to the effect that the person enlisting will be liable for active service outside New Zealand at any time after attaining the relevant (specified) age.”

(3) Section 39 (6) of the principal Act is hereby amended by omitting the words “and of section 40 of this Act”, and also the words “or of the said section 40”.

10. Liability of minors for overseas service—(1) The principal Act is hereby amended by repealing sections 40 and 41, and substituting the following section:

“40. (1) No person serving in the Army or the Air Force shall be liable for active service outside New Zealand while that person is under 18 years of age.

“(2) No person serving in the Navy shall be liable for active service outside New Zealand while that person is under 16 years and 6 months of age.”

(2) Section 17 (4) (b) of the Volunteers Employment Protection Act 1973 is hereby consequentially repealed.

11. Defence Council Orders fixing certain terms and conditions of service—Section 48 of the principal Act is hereby amended by repealing paragraph (fa) (as inserted by section 7 of the Defence Amendment Act 1985), and substituting the following paragraph:

“(fa) Prescribing the nature, extent, terms, and conditions of return of service obligations to be fulfilled by servicemen in respect of any prescribed training or overseas service.”.

12. Return of service obligation—Section 54A of the principal Act (as inserted by section 5 of the Defence Amendment Act 1980) is hereby amended by omitting the words “exchange service”, and substituting the words “overseas service”.

13. Offences and penalties, etc.—(1) The principal Act is hereby amended in the manner indicated in the Schedule to this Act.

(2) The principal Act is hereby further amended by repealing sections 65, 69, and 71.

14. Powers of Minister and Auckland Harbour Board in relation to dockyard at Auckland—Section 78 of the principal Act is hereby repealed.

15. Regulations—Section 88 (1) of the principal Act is hereby amended by inserting, after paragraph (f), the following paragraph:

“(fa) Providing that any specified regulations of the Civil Aviation Regulations 1953, being—
 “(i) Regulations which relate to obstructions to air navigation and lights; or
 “(ii) General regulations relating to the administration or enforcement of regulations which so relate,—
 shall, with any necessary modifications, apply in respect of any military aerodrome and aircraft using such aerodromes.”

SCHEDULE

Section 13 (1)

AMENDMENTS TO PRINCIPAL ACT

Provision amended	Amendment
Section 66	By omitting the expression “\$400”, and substituting the expression “\$2,000”.
Section 67	By omitting the words “6 months or to a fine not exceeding \$400”, and substituting the words “3 months or to a fine not exceeding \$1,000”.
Section 68	By omitting the expression “\$100”, and substituting the expression “\$1,000”.
Section 70	By omitting the words “or parade”.
Section 72 (1) ..	By omitting the expression “\$400”, and substituting the expression “\$2,000”.
Section 72 (1) ..	By omitting the words “12 months or to a fine not exceeding \$500”, and substituting the words “6 months or to a fine not exceeding \$2,000”.
Section 73	By omitting from subsections (2) and (3) the expression “\$200”, and substituting in each case the expression “\$1,000”.
Section 74	By repealing paragraphs (a) and (b) of subsection (3).
Section 74	By omitting the words “6 months or to a fine not exceeding \$200”, and substituting the words “3 months or to a fine not exceeding \$1,000”.
Section 75 (1) ..	By omitting the expression “\$100”, and substituting the expression “\$500”.
Section 75 (3) ..	By omitting the word “constable”, and substituting the words “member of the Police”.

SCHEDULE—*continued*AMENDMENTS TO PRINCIPAL ACT—*continued*

Provision amended	Amendment
Section 81 (2) . .	<p>By omitting from paragraph (c) (i), in both places where it occurs, and also from paragraph (e), the word “constable”, and substituting in each case the words “member of the Police”.</p> <p>By omitting from paragraph (g) the expression “\$200”, and substituting the expression “\$1,000”.</p>

This Act is administered in the Ministry of Defence.