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Defence Act 1990

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This Act is administered by the Ministry of Defence.

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An Act—

(a) to continue to authorise the raising and maintaining of armed forces for certain purposes; and

(b) to constitute the New Zealand Defence Force, comprising—

(i) the Armed Forces under the command of the Chief of Defence Force; and

(ii) the Civil Staff under the control of the Chief of Defence Force; and

(c) to reaffirm that the Armed Forces are under Ministerial authority; and

(d) to define the respective roles and relationships of the Minister of Defence, the Secretary of Defence, and the Chief of Defence Force; and

(e) to redefine the relationship of the Chief of Defence Force to the Chiefs of Service; and

(f) to make provision generally in respect of the establishment, control, and activities of the New Zealand Defence Force, and related matters

Title paragraph (e): amended, on 20 September 2007, by section 4 of the Defence Amendment Act 2007 (2007 No 51).

1 Short Title and commencement

(1) This Act may be cited as the Defence Act 1990.

(2) This Act shall come into force on 1 April 1990.

2 Interpretation

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

active service order means an order of the Chief of Defence Force, or of an officer authorised by the Chief of Defence Force, for the purpose of—

(a) posting a part of the Armed Forces or any member of the Armed Forces on active service; or

(b) declaring that a part of the Armed Forces or any member of the Armed Forces 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 non-commissioned officer of the Air Training Corps; but does not include a member of the Armed Forces

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 11(5)

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

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 11(4)

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

aviator—

(a) means any person 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

(b) includes—

(i) a non-commissioned officer of the Air Force; and

(ii) a rating of the Navy attached to the Air Force; and

(iii) a soldier of the Army attached to the Air Force; but

(c) does not include an officer

cadet forces means the Sea Cadet Corps, the New Zealand Cadet Corps, 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

Civil Staff means the persons employed as members of the Defence Force under section 61A

component, in relation to the Navy or the Army or the Air Force, means the regular force or a territorial force or a reserve force of that Service

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, that is set apart, used, or occupied for the purposes of the Defence Force, whether the property is owned by the Crown or is used or occupied by or on behalf of the Defence Force with the consent of the owner or is requisitioned under section 10(2)(b); and more particularly includes—

(a) every naval establishment, army camp, and air force base:

(b) any arsenal and any other place used for the purpose of building, repairing, making, or storing munitions or equipment for or belonging to the Defence Force:

(c) any land, or any building or part of a building, declared by Order in Council (*see* subsection (5)) or Defence Force Order to be a defence area for the purposes of this Act

Defence Force means the New Zealand Defence Force constituted by section 11(1)

enemy means any country, or any armed force, or any authority or 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

intellectual property includes patents, trademarks, designs, copyright, and other intellectual property rights whether enforceable by Act or rule of law

joint force means a joint force established under section 12

joint force commander, in relation to a joint force, means the officer appointed under section 12 to command that force

land includes any estate or interest in land

leading aviator classification includes an aviator classification, a general service hand, and an air force cadet

member of the Defence Force means—

(a) an officer, a rating, a soldier, or an aviator; and

(b) a member of the Civil Staff

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 the powers of the Minister of Defence

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 His Majesty's New Zealand ships; and includes any ship used or set aside for the purposes of the Navy

Navy means the New Zealand Naval Forces constituted under section 11(3)

New Zealand cadet means any person, other than a cadet officer, who is a member of the New Zealand Cadet Corps; and includes an under-officer or any

other non-commissioned officer of the New Zealand Cadet Corps; but does not include a member of the Armed Forces

New Zealand force means a force comprising a part or parts of the Armed Forces or any Service

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 officer cadet; 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 aviator above the rank of leading aviator classification but below the rank of officer cadet; 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 who is of or above the rank of midshipman or is a chaplain 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 who is of or above the rank of officer cadet or is a chaplain 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 who is of or above the rank of officer cadet or is a chaplain 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 Force Orders issued under this Act or under the Armed Forces Discipline Act 1971

private includes a gunner, trooper, sapper, signalman, driver, or craftsman

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 Defence Force or an allied force

rank, in relation to any member of the Armed Forces, means the rank held by that member for the time being, whether substantive, temporary, acting, or honorary

rating means any person 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 aviator 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

relative rank means the appropriate rank prescribed under section 17

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

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 member of the Armed Forces

Service means 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

ship means every description of vessel, boat, barge, or watercraft, however propelled; and includes a machine designed to be supported in the atmosphere,

wholly or partly by air expelled from the machine to form a cushion extending beneath the machine to the surface of any ground, water, or other portion of the earth's surface

soldier means any person 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 aviator 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 Chief of Defence Force 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 one and warrant officer class two; and

(c) in relation to the Air Force, a warrant officer and master aircrew.

(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 that person's 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 that pertains to the office or appointment.

(3) For the purposes of this Act, unless the context otherwise requires, a member of the Armed Forces is released from the component of the Service in which that member is serving when—

(a) that member, or that component or the part of that component in which that member is serving, is transferred to another component of that Service; or

(b) in the case of an officer only, that member is placed on the Retired List of that Service.

(4) For the purposes of this Act, unless the context otherwise requires, a member of any component of a Service is discharged from the Service when, other-

wise than by release, that member leaves that component in accordance with Defence Force Orders.

(5) An Order in Council under paragraph (c) of the definition of defence area in subsection (1) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1971 No 52 s 2; 1980 No 40 s 2; 1985 No 198 s 2; 1988 No 88 s 2

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 2(1) **airman**: repealed, on 27 November 2025, by section 51(1) of the Statutes Amendment Act 2025 (2025 No 74).

Section 2(1) **aviator**: inserted, on 27 November 2025, by section 51(2) of the Statutes Amendment Act 2025 (2025 No 74).

Section 2(1) **Civil Staff**: amended, on 28 July 1997, by section 3(2)(a) of the Defence Amendment Act 1997 (1997 No 41).

Section 2(1) **defence area**: amended, on 28 July 1997, by section 2(1) of the Defence Amendment Act 1997 (1997 No 41).

Section 2(1) **defence area** paragraph (c): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 2(1) **intellectual property**: inserted, on 28 July 1997, by section 2(2) of the Defence Amendment Act 1997 (1997 No 41).

Section 2(1) **leading aircraftman**: repealed, on 27 November 2025, by section 51(1) of the Statutes Amendment Act 2025 (2025 No 74).

Section 2(1) **leading aviator classification**: inserted, on 27 November 2025, by section 51(2) of the Statutes Amendment Act 2025 (2025 No 74).

Section 2(1) **naval ship**: editorial change made by the PCO, on 4 November 2024, under sections 86(1) and 87(d) of the Legislation Act 2019 (2019 No 58).

Section 2(1) **member of the Defence Force** paragraph (a): amended, on 27 November 2025, by section 51(3) of the Statutes Amendment Act 2025 (2025 No 74).

Section 2(1) **New Zealand force**: inserted, on 1 July 2004, by section 26 of the Visiting Forces Act 2004 (2004 No 59).

Section 2(1) **non-commissioned officer** paragraph (c): amended, on 27 November 2025, by section 51(4)(a) of the Statutes Amendment Act 2025 (2025 No 74).

Section 2(1) **non-commissioned officer** paragraph (c): amended, on 27 November 2025, by section 51(4)(b) of the Statutes Amendment Act 2025 (2025 No 74).

Section 2(1) **rating**: amended, on 27 November 2025, by section 51(5) of the Statutes Amendment Act 2025 (2025 No 74).

Section 2(1) **relative rank**: inserted, on 1 July 2004, by section 26 of the Visiting Forces Act 2004 (2004 No 59).

Section 2(1) **ship**: amended, on 1 February 1995, by section 203 of the Maritime Transport Act 1994 (1994 No 104).

Section 2(1) **soldier** paragraph (b): amended, on 27 November 2025, by section 51(6) of the Statutes Amendment Act 2025 (2025 No 74).

Section 2(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

3 Act to bind the Crown

This Act shall bind the Crown.

4 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 members 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.

Compare: 1971 No 52 s 3

Part 1
Constitutional position of armed forces

5 Power to raise armed forces

The Governor-General may from time to time, in the name and on behalf of the Sovereign, continue to raise and maintain armed forces, either in New Zealand or elsewhere, for the following purposes:

(a) the defence of New Zealand, and of any area for the defence of which New Zealand is responsible under any Act:

(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 contribution of forces to, or for any of the purposes of, the United Nations, or in association with other organisations or States and in accordance with the principles of 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:

(f) the provision of any public service.

Compare: 1971 No 52 s 4(1), (2); 1976 No 122 s 3(8)

6 Further powers of Governor-General

(1) 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 any armed forces raised and maintained under section 5 as pertain to the office of Commander-in-Chief.

(2) Nothing in this section or in section 5 shall affect any power vested in the Governor-General apart from this Act.

Compare: 1971 No 52 s 4(3), (4); 1976 No 122 s 3(8)

7 Power of Minister of Defence

For the purposes of the general responsibility of the Minister in relation to the defence of New Zealand, the Minister shall have the power of control of the New Zealand Defence Force, which shall be exercised through the Chief of Defence Force.

8 Chief of Defence Force

(1) The Governor-General in Council may from time to time appoint an officer of the Armed Forces to be the Chief of Defence Force.

(2) The Chief of Defence Force shall hold such rank as the Governor-General in Council may determine.

(3) The Chief of Defence Force shall—

(a) command the Navy through the Chief of Navy, the Army through the Chief of Army, and the Air Force through the Chief of Air Force: and

(b) command any joint force either directly through the joint force commander or through the Chief of any Service.

Section 8(3)(a): substituted, on 17 May 2005, by section 3 of the Defence Amendment Act 2005 (2005 No 49).

Section 8(3)(b): amended, on 20 September 2007, by section 4 of the Defence Amendment Act 2007 (2007 No 51).

9 Use of Armed Forces to provide public service or assist civil power

(1) Subject to the succeeding provisions of this section, the Armed Forces may be used in New Zealand or elsewhere—

(a) to perform any public service; or

(b) to provide assistance to the civil power in time of emergency.

(2) No part of the Armed Forces shall be used to provide any public service in connection with an industrial dispute except in accordance with the written authority of the Minister, and that authority shall specify the part or parts of the Armed Forces that may be used and the public service or public services that may be provided.

(3) No part of the Armed Forces shall be used to provide assistance to the civil power in the circumstances described in paragraphs (a) and (b) of subsection

(4) except in accordance with an authority given by the Prime Minister or another Minister under that subsection.

(4) Where the Prime Minister or, if the Prime Minister is unavailable, the next most senior Minister available is satisfied, on information supplied by the Commissioner of Police or a Deputy Commissioner of Police,—

(a) either—

(i) that there is in New Zealand an emergency in which one or more persons are threatening to kill or seriously injure, or are causing or attempting to cause the death of or serious injury to, any other person, or are causing or attempting to cause the destruction of or serious damage to any property; or

(ii) that such an emergency is imminent; and

(b) that the emergency cannot be dealt with by the Police without the assistance of members of the Armed Forces exercising powers that are available to constables,—

the Prime Minister or the other Minister may authorise any part of the Armed Forces so to assist the Police in dealing with the emergency.

(5) Every part of the Armed Forces that is assisting the Police in accordance with an authority given under subsection (4) shall act at the request of the constable who is in charge of the operations in respect of the emergency.

(6) Every member of any such part of the Armed Forces—

(a) may, for any purpose necessary to assist the Police in dealing with the emergency, exercise any power of a constable; and

(b) shall, for the purposes of civil and criminal liability, have the protections of a constable, in addition to all other protections that the member of the Armed Forces may have.

(7) The Minister of Defence or the Prime Minister or other Minister granting any authority under subsection (2) or subsection (4) shall inform the House of Representatives, forthwith if the House is then sitting or at the earliest practicable time if it is not, that the authority has been given and of the reasons for giving it, and, if the authority was given in writing, shall lay a copy of it before the House.

(8) Any authority given under subsection (2) lapses 30 days after it is given and any authority given under subsection (4) lapses 14 days after it is given unless—

(a) the House of Representatives passes a resolution extending the authority for such period as is specified in the resolution; or

(b) if Parliament was dissolved or had expired before or after the authority was given and has not been summoned to meet before the authority would lapse, the Governor-General, being satisfied that it is necessary to

extend the authority, extends it by Proclamation approved in Executive Council for such period as is specified in the Proclamation.

(9) Despite subsection (8)(a), if the House of Representatives is adjourned before or after an authority is given under subsection (2) and does not or will not reconvene before that authority would otherwise lapse, the authority is automatically extended until the next sitting day of the House.

Compare: 1971 No 52 ss 79, 79A; 1987 No 180 s 2

Section 9(4)(b): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 9(5): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 9(6)(a): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 9(6)(b): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 9(8): amended, on 27 November 2025, by section 4(1) of the Defence (Workforce) Amendment Act 2025 (2025 No 69).

Section 9(8)(b): amended, on 15 November 2000, by section 3 of the Defence Amendment Act 2000 (2000 No 59).

Section 9(9): inserted, on 27 November 2025, by section 4(2) of the Defence (Workforce) Amendment Act 2025 (2025 No 69).

9A Use of Armed Forces to perform work of Civil Staff

(1) No part of the Armed Forces may be used to perform work of the Civil Staff in connection with an industrial dispute except in accordance with the authority of the Minister.

(2) The Minister may grant an authority under subsection (1) if the Minister believes on reasonable grounds that—

(a) the work needs to be performed in order to avoid prejudicing—

(i) national security; or

(ii) the ability or readiness (or both) of the Armed Forces to perform specific operational activities (whether within New Zealand or offshore) that are integral to core defence outputs; or

(b) it is necessary for the work to be performed for reasons of safety or health.

(3) An authority under this section must be in writing and must specify—

(a) the part or parts of the Armed Forces that may be used and the work that may be performed; and

(b) the period for which the authority applies.

(4) Subsection (2)—

(a) is not limited by the scope of section 97 of the Employment Relations Act 2000; and

(b) applies only to work performed by the Civil Staff (*see* section 9(2) in respect of the performance of other public services).

(5) The Chief of Defence Force must inform the Civil Staff whose work is to be performed by the Armed Forces, and their union, that an authority has been given under this section.

(6) The Minister must inform the House of Representatives (immediately if the House is then sitting or at the earliest practicable time if it is not) that an authority has been given under this section and of the reasons for giving it.

(7) The Minister is not required to share any sensitive information relating to the authority as part of the notification required to be given under subsection (6).

(8) The Minister may, by notice in writing, if satisfied that the circumstances under subsection (2) still apply at the end of the period specified under subsection (3)(b), extend the period for which the authority applies for a further specified period.

(9) Subsections (5) to (7) apply to an extension of an authority under subsection (8) as if every reference to an authority were a reference to an extension of the authority.

Section 9A: inserted, on 27 November 2025, by section 5 of the Defence (Workforce) Amendment Act 2025 (2025 No 69).

10 Powers of requisition

(1) Where the Minister is satisfied—

(a) that there is an actual or imminent emergency involving the deployment outside New Zealand of any part of the Armed Forces; and

(b) that it is necessary to requisition—

(i) any ship, vehicle, aircraft, supplies, or equipment for the use of the Armed Forces in connection with the emergency; or

(ii) any land, building, or installation required to enable the use of any ship, vehicle, aircraft, supplies, or equipment by the Armed Forces in connection with that emergency,—

the Minister may authorise the Chief of Defence Force to exercise the powers conferred by subsection (2) in respect of any specified property or type of property referred to in that subsection.

(2) The Chief of Defence Force may, where so authorised by the Minister under subsection (1), requisition—

(a) any ship, vehicle, aircraft, supplies, or equipment necessary for the use of the Armed Forces; or

(b) any land, building, or installation necessary to enable the use of any ship, vehicle, aircraft, supplies, or equipment by the Armed Forces—

in connection with an actual or imminent emergency involving the deployment outside New Zealand of any part of the Armed Forces.

(3) Subject to subsection (4), in exercising the powers conferred by subsection (2), the Chief of Defence Force shall give to the owner or person in control of the requisitioned property a written statement specifying the property and requiring it to be placed forthwith under the control of a member of the Defence Force.

(4) Where the owner or other person in control of the requisitioned property cannot be found immediately, the Chief of Defence Force—

(a) may direct that a member of the Defence Force shall assume forthwith the control of the property; and

(b) shall, on giving any such direction, ensure that as soon as is reasonably practicable, a written statement specifying the requisitioned property is given to the owner or person formerly in control of the property.

(5) Where any requisitioned property has come under the control of any part of the Defence Force under this section, there shall be payable, out of money appropriated by Parliament, to any person having an interest in the property, just compensation for its use, including any loss, injury, or damage suffered by that person and arising out of that control.

(6) Any court of competent jurisdiction may determine any dispute about the liability of the Crown to pay any compensation under this section, or the amount of any such compensation, or the entitlement of any person to all or part of any compensation payable.

Part 2
The New Zealand Defence Force

11 Constitution of Defence Force

(1) There is hereby constituted the New Zealand Defence Force, which shall comprise—

(a) the Armed Forces of New Zealand, being the armed forces raised and maintained under section 5; and

(b) the Civil Staff, being the persons appointed under section 61A.

(2) The armed forces raised and maintained under section 5 shall continue to comprise—

(a) the New Zealand Naval Forces; and

(b) the New Zealand Army; and

(c) the Royal New Zealand Air Force.

(3) The New Zealand Naval Forces shall consist of the following:

(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.

(4) The New Zealand Army shall consist of the following:

(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.

(5) The Royal New Zealand Air Force shall consist of the following:

(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.

(6) 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 Chief of Defence Force determines from time to time.

Compare: 1971 No 52 s 5; 1988 No 88 s 3(1)

Section 11(1)(b): amended, on 28 July 1997, by section 3(2)(b) of the Defence Amendment Act 1997 (1997 No 41).

12 Joint forces

(1) The Chief of Defence Force may from time to time establish a joint force comprising members of 2 or more Services, and—

(a) appoint an officer of one of the Services to command that force; or

(b) place that force under the command of the Chief 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 any member of the Armed Forces 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 the Service to which the member belongs or is attached, may be done by, to, or before the Chief of Defence Force or, where the Chief of Defence Force has placed the joint force under the command of a Chief of Service, that Chief of Service:

(b) such other necessary modifications as may be prescribed.

Compare: 1971 No 52 s 5A; 1988 No 88 s 3(1)

Section 12(1)(b): amended, on 20 September 2007, by section 4 of the Defence Amendment Act 2007 (2007 No 51).

Section 12(2)(a): amended, on 20 September 2007, by section 4 of the Defence Amendment Act 2007 (2007 No 51).

13 Members of regular forces

(1) The regular forces of the Armed Forces shall, subject to Part 4, consist of such officers and of such ratings, soldiers, and aviators as are for the time being and from time to time appointed, engaged, enlisted, or transferred for continuing full-time service in the Royal New Zealand Navy, the Regular Forces of the Army, or the Regular Air Force.

(2) The maximum numbers of officers, ratings, soldiers, and aviators in the regular forces shall be such as the Minister authorises from time to time.

Compare: 1971 No 52 s 6; 1988 No 88 s 3(2)

Section 13(1): amended, on 27 November 2025, by section 52 of the Statutes Amendment Act 2025 (2025 No 74).

Section 13(2): amended, on 27 November 2025, by section 52 of the Statutes Amendment Act 2025 (2025 No 74).

14 Members of Civil Staff

[Repealed]

Section 14: repealed, on 28 July 1997, by section 3(1) of the Defence Amendment Act 1997 (1997 No 41).

15 Members of territorial forces

(1) The territorial forces of the Armed Forces shall, subject to Part 4, consist of such officers and of such ratings, soldiers, and aviators as are for the time being and from time to time appointed, engaged, enlisted, or transferred for service in 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 number of officers, ratings, soldiers, and aviators in the territorial forces shall be such as the Minister authorises from time to time.

Compare: 1971 No 52 s 7; 1988 No 88 s 3(2)

Section 15(1): amended, on 27 November 2025, by section 53 of the Statutes Amendment Act 2025 (2025 No 74).

Section 15(2): amended, on 27 November 2025, by section 53 of the Statutes Amendment Act 2025 (2025 No 74).

16 Members of reserve forces

The reserve forces of the Armed Forces shall, subject to Part 4, consist of such officers and of such ratings, soldiers, and aviators as are for the time being and from time to time appointed, engaged, enlisted, or transferred for service in the Naval Reserves, the Army Reserve, or the Air Force Reserve.

Compare: 1971 No 52 s 8; 1988 No 88 s 3(2)

Section 16: amended, on 27 November 2025, by section 54 of the Statutes Amendment Act 2025 (2025 No 74).

17 Relative ranks

(1) For the purpose of this Act and the Armed Forces Discipline Act 1971, the Chief of Defence Force may prescribe the relative ranks of the Armed Forces and of the armed forces of other States.

(2) Any order made for the purposes of subsection (1) may prescribe the relationship that is to be regarded as existing between relative ranks for the purposes of this Act and the Armed Forces Discipline Act 1971.

Section 17: substituted, on 1 July 2004, by section 26 of the Visiting Forces Act 2004 (2004 No 59).

18 Attachment of members of one Service to another Service

A member of the Armed Forces belonging to one Service may be attached to either of the other 2 Services, subject to such conditions as may be prescribed.

Compare: 1971 No 52 s 10

19 Circumstances in which members of one Service are deemed attached to another Service

(1) Except when provided in orders issued by or under the authority of the Chief of Defence Force, an officer or soldier of the Army or an officer or aviator 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 or she is serving in any naval ship or naval establishment; or

(b) when he or she is lawfully ordered to serve in any naval ship or naval establishment; or

(c) when he or she is serving in a joint service organisation that is primarily a naval responsibility; or

(d) when he or she is lawfully ordered to serve in a joint service organisation that is primarily a naval responsibility, or when he or she is a patient in any hospital, hospital ship, or medical establishment that is such a joint service organisation; or

(e) when he or she is a patient in a naval hospital ship or other naval medical establishment; or

(f) when he or she is in transit in any naval establishment or other establishment administered by the Navy; or

(g) when he or she is serving a sentence of imprisonment or detention in a naval detention quarter.

(2) When any order is given under paragraph (b) or paragraph (d) of subsection (1), the officer, soldier, or aviator 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 Chief of Defence Force, an officer or rating of the Navy or an officer or aviator 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 or she is serving in a unit or formation of the Army; or

(b) when he or she is lawfully ordered to serve in a unit or formation of the Army; or

(c) when he or she is serving in a joint service organisation that is primarily an army responsibility; or

(d) when he or she is lawfully ordered to serve in a joint service organisation that is primarily an army responsibility, or when he or she is a patient in a hospital, hospital ship, or medical establishment that is such a joint service organisation; or

(e) when he or she is a patient in an army hospital, hospital ship, or other army medical establishment; or

(f) when he or she is in transit at a transit camp or other establishment administered by the Army; or

(g) when he or she is serving a sentence of imprisonment or detention in an army detention quarter.

(4) When any order is given under paragraph (b) or paragraph (d) of subsection (3), the officer, rating, or aviator 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.

(5) Except as provided in orders issued by or under the authority of the Chief of Defence Force, 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 or she is serving in a unit or formation of the Air Force; or

(b) when he or she is lawfully ordered to serve in a unit or formation of the Air Force; or

(c) when he or she is serving in a joint service organisation that is primarily an air force responsibility; or

(d) when he or she is lawfully ordered to serve in a joint service organisation that is primarily an air force responsibility, or when he or she is a patient in a hospital, hospital ship, or medical establishment that is such a joint service organisation; or

(e) when he or she is a patient in an air force hospital, hospital ship, or other air force medical establishment; or

(f) when he or she is in transit at a transit camp, staging post, or other establishment administered by the Air Force; or

(g) when he or she is serving a sentence of imprisonment or detention in an air force detention quarter.

(6) When any order is given under paragraph (b) or paragraph (d) of subsection (5), 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.

Compare: 1971 No 52 s 11

Section 19(1): amended, on 27 November 2025, by section 55 of the Statutes Amendment Act 2025 (2025 No 74).

Section 19(2): amended, on 27 November 2025, by section 55 of the Statutes Amendment Act 2025 (2025 No 74).

Section 19(3): amended, on 27 November 2025, by section 55 of the Statutes Amendment Act 2025 (2025 No 74).

Section 19(4): amended, on 27 November 2025, by section 55 of the Statutes Amendment Act 2025 (2025 No 74).

20 Modification of Acts for members of one Service attached or deemed attached to another Service

Where a member of one Service is attached by virtue of section 18, or is deemed to be attached by virtue of section 19, to another Service, this Act and the Armed Forces Discipline Act 1971 shall apply to that member 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 the Service to which that member belongs may, in respect of any such member, be done by, to, or before the Chief of the Service to which that member is attached:

(b) any member shall, in the Service to which that member is attached, have the same powers and be treated as if he or she were a member of that Service holding an equivalent rank:

(c) such other necessary modifications as may be prescribed.

Compare: 1971 No 52 s 12

Section 20(a): amended, on 20 September 2007, by section 4 of the Defence Amendment Act 2007 (2007 No 51).

21 Transfer of members of one Service to another Service

A member of one Service may, with that member's written consent, be transferred from that Service to either of the other 2 Services, subject to such conditions as may be prescribed.

Compare: 1971 No 52 s 14

22 Transfer for employment with other forces

(1) Without prejudice to the provisions of section 23, any member of the Armed Forces may, by order of the Chief of Defence Force, or, in the case of a

member 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, or of any other organisation or association of States in which New Zealand is participating.

(2) A transfer ordered under subsection (1) 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 or the other organisation or association of States, as the case may be.

(3) A member of the Armed Forces transferred for employment under subsection (1) remains subject to this Act and to the Armed Forces Discipline Act 1971, and to the law applicable to the forces to which the member is transferred.

(4) The power conferred by subsection (1) shall be exercised only in respect of—

(a) members of the regular forces; and

(b) members of the territorial or reserve forces who are for the time being—

(i) liable for continuous service pursuant to a Proclamation issued under section 39 or section 40; or

(ii) liable to serve outside New Zealand pursuant to an offer under section 50.

(5) Except in time of war or other like emergency, or in the event of an actual or imminent emergency involving the deployment of members of the Armed Forces outside New Zealand, a member of the Armed Forces shall not be dealt with under subsection (4)(b)(ii) without that member's consent.

Compare: 1971 No 52 s 15; 1985 No 198 s 3

Section 22(1): amended, on 1 July 2004, by section 26 of the Visiting Forces Act 2004 (2004 No 59).

Section 22(3): substituted, on 1 July 2004, by section 26 of the Visiting Forces Act 2004 (2004 No 59).

23 Attachment of members of New Zealand Armed Forces to other armed forces

(1) The Chief of Defence Force may place a specified member, or a specified class of members, of the Armed Forces at the disposal of the service authorities of another State for the purpose of being attached by those authorities to the armed forces of that State.

(2) The power conferred on the Chief of Defence Force by subsection (1) may be exercised only in respect of—

(a) members of the regular forces; and

(b) members of the territorial or reserve forces who are for the time being—

(i) liable for continuous service under a Proclamation issued under section 39 or section 40; or

(ii) liable to serve outside New Zealand under an offer under section 50.

(3) Except in time of war or other like emergency, or in the event of an actual or imminent emergency involving the deployment of members of the Armed Forces outside New Zealand, a member of the Armed Forces may not be dealt with under subsection (2)(b)(ii) without that member's consent.

(4) A member of the Armed Forces attached to the armed forces of another State under subsection (1) remains subject to this Act and the Armed Forces Discipline Act 1971 and to the law applicable to those forces.

Section 23: substituted, on 1 July 2004, by section 26 of the Visiting Forces Act 2004 (2004 No 59).

23A Attachment of members of other armed forces to New Zealand Armed Forces

(1) The Chief of Defence Force may attach to any of the Services a specified member, or a specified class of members, of the armed forces of another State if that member or class of members is placed at the disposal of the Chief of Defence Force for the purpose of being attached to a Service.

(2) If a member of the armed forces of another State is attached to a Service under subsection (1), the member—

(a) has, in the Service to which he or she has been attached, the same powers under this Act and the Armed Forces Discipline Act 1971 as if he or she were a member of that Service holding a relative rank; and

(b) must be treated for the purposes of this Act and the Armed Forces Discipline Act 1971 as if he or she were a member of that Service holding a relative rank.

(3) Subsection (2) applies subject to such other exemptions or modifications as may be prescribed.

Section 23A: inserted, on 1 July 2004, by section 26 of the Visiting Forces Act 2004 (2004 No 59).

23B Mutual powers of command when forces acting together

(1) When a New Zealand force and a force of another State are serving together, whether alone or not, members of the other force—

(a) must be treated as if they were members of the Armed Forces of a relative rank; and

(b) have over members of the New Zealand force the powers of command of a member of the Armed Forces of a relative rank.

(2) For the purpose of subsection (1), a New Zealand force and a force of another State are serving together only if they are declared to be so serving together by order of the Chief of Defence Force.

Section 23B: inserted, on 1 July 2004, by section 26 of the Visiting Forces Act 2004 (2004 No 59).

Part 3
Secretary of Defence, Chief of Defence Force, and Chiefs of Service

Part 3 heading: amended, on 20 September 2007, by section 4 of the Defence Amendment Act 2007 (2007 No 51).

24 Secretary of Defence

(1) The chief executive of the Ministry of Defence shall be known as the Secretary of Defence.

(2) In addition to the functions imposed on the Secretary of Defence by or under this Act or the Public Service Act 2020 or any other enactment, the Secretary shall have the following functions:

(a) to be the principal civilian adviser to the Minister and other Ministers:

(b) to formulate advice, in consultation with the Chief of Defence Force, on defence policy:

(c) to prepare, in consultation with the Chief of Defence Force, and submit to the Minister from time to time a defence assessment, including a review of different options capable of achieving the Government's policy goals:

(d) to procure, replace, or repair ships, vehicles, aircraft, and equipment used or intended for use by the Defence Force, where that procurement, replacement, or repair has major significance to military capability; and to deliver or return such ships, vehicles, aircraft, and equipment to the Defence Force:

(e) to arrange for the assessment and audit of the Defence Force in relation to any function, duty, or project, and of the Ministry of Defence in relation to any function described in paragraph (d), as and when required by the Minister, or in accordance with a programme of audit and assessment approved by the Minister, and in accordance with the following provisions:

(i) the findings of the audit and assessment shall be set out in a report in the name of the person in charge of the audit and assessment, and that person shall give the report to the Secretary of Defence for submission to the Minister:

(ii) on giving the report to the Secretary of Defence, the person in charge of the audit and assessment shall give a copy of the report to the Chief of Defence Force:

(iii) if the Secretary of Defence disagrees with any of the contents of the report, the Secretary shall advise the Minister of the particulars with which the Secretary disagrees:

(iv) the Chief of Defence Force may report to the Minister on any of the contents of the report.

(3) The Secretary shall have all such other powers as may be reasonably necessary to enable the Secretary to perform the functions and duties imposed on the Secretary by or under this Act or any other enactment.

(4) Without limiting the generality of subsection (3), in the performance of any such function or duty the Secretary may, in the name and on behalf of the Crown,—

(a) enter into any contract, agreement, or arrangement with any other person; and

(b) purchase, take on lease, dispose of, or trade in any goods, services, or assets (whether tangible or intangible), including land, buildings, equipment, facilities, stores, operating supplies, investments, and ownership of any part of a body corporate; and

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

Compare: 1971 No 52 s 25; 1985 No 198 s 4; 1988 No 20 s 90(d); 1988 No 88 s 7

Section 24(2): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 24(2)(e)(iv): amended, on 28 July 1997, by section 4 of the Defence Amendment Act 1997 (1997 No 41).

25 Chief of Defence Force

(1) In addition to the functions imposed on the Chief of Defence Force by or under this Act or any other enactment, the Chief of Defence Force shall—

(a) be the principal military adviser to the Minister and other Ministers; and

(b) be responsible to the Minister for—

(i) the carrying out of the functions and duties of the Defence Force (including those imposed by any enactment or by the policies of the Government); and

(ii) the general conduct of the Defence Force; and

(iii) the efficient, effective, and economical management of the activities and resources of the Defence Force; and

(c) be responsible to the appropriate Minister for—

(i) the carrying out of those functions and duties of the Defence Force (including those imposed by any enactment or by the policies of the Government) that relate to that Minister's portfolio; and

(ii) the tendering of advice to that Minister on any matter relating to that Minister's portfolio.

(2) The Minister shall give to the Chief of Defence Force written terms of reference (not being inconsistent with any of the provisions of this Act) setting out

the terms and conditions of appointment as Chief of Defence Force, the duties and obligations of that appointment, and the manner in which the Government expects those duties and obligations to be carried out; and it shall be the duty of the Chief of Defence Force to perform the functions and to exercise the powers of the Chief of Defence Force in accordance with those terms of reference.

(3) In the exercise of command, or in the exercise of the functions imposed on the Chief of Defence Force, the Chief of Defence Force may from time to time make such representations as the Chief of Defence Force considers necessary to the Minister or, if the Chief of Defence Force considers the circumstances to be exceptional, to the Prime Minister.

(4) The Chief of Defence Force shall have all such other powers as may be reasonably necessary to enable the Chief of Defence Force to perform the functions and duties imposed on the Chief of Defence Force by or under this Act or any other enactment.

(5) Without limiting the generality of subsection (4), in the performance of any such function or duty the Chief of Defence Force may, in the name and on behalf of the Crown,—

(a) enter into any contract, agreement, or arrangement with any other person; and

(b) purchase, take on lease, dispose of, or trade in any goods, services, or assets (whether tangible or intangible), including land, buildings, equipment, facilities, stores, operating supplies, investments, and ownership of any part of any body corporate; 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 Defence Force.

Compare: 1971 No 52 s 24; 1988 No 88 s 6

Section 25(1)(b)(iii): amended, on 1 July 1999, by section 8 of the Veterans' Affairs Act 1999 (1999 No 76).

Section 25(1)(c): added, on 1 July 1999, by section 8 of the Veterans' Affairs Act 1999 (1999 No 76).

26 Chief of Defence Force may be relieved of particular responsibilities in time of war or other like emergency

(1) In time of war or other like emergency or in the event of any actual or imminent emergency involving the deployment of members of the Armed Forces outside New Zealand, the Minister of Defence may, at the request of the Chief of Defence Force, relieve the Chief of Defence Force of responsibility for any particular function imposed on the Chief of Defence Force by or under this Act or any other enactment, if the Minister is satisfied that it is necessary or desirable to do so to enable the Chief of Defence Force to perform the principal functions of the Chief of Defence Force in relation to the war or other like emergency or to the actual or imminent emergency, as the case may require.

(2) Where under subsection (1) the Minister relieves the Chief of Defence Force of responsibility for any function, the Minister shall impose that responsibility on some other member of the Defence Force; and that officer shall be and remain responsible to the Minister for the performance of that function until relieved of that responsibility by the Minister.

27 Defence Force Orders

(1) In performing the functions and duties and exercising the powers of the Chief of Defence Force, the Chief of Defence Force may from time to time, for the purposes of this Act, issue Defence Force Orders, not inconsistent with this Act, the Armed Forces Discipline Act 1971, or any other enactment.

(2) Any officer or person duly authorised by the Chief of Defence Force, either by name or appointment, may issue Defence Force Orders.

(3) The production of a document that purports to be a copy of a Defence Force Order and that includes a copy of the signature of the Chief of Defence Force, or of any officer or other person duly authorised by the Chief of Defence Force 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) Subject to subsection (5), every order issued under this section shall come into force on such date as may be specified in the order, being the date of the order or any other date after the date on which it was issued.

(5) Any order issued under this section relating to terms and conditions of service of members of the Armed Forces and conferring benefits on any such members may have effect from a date before the date of the issue of the order.

Compare: 1971 No 32 s 28

Section 27(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 27(2): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

27A Application of Legislation Act 2019 to Defence Force Orders

(1) A Defence Force Order under section 27 is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements), unless the order applies only to 1 or more named persons.

(2) A Defence Force Order that is secondary legislation commences in accordance with section 27(4), even if it is not yet published.

Legislation Act 2019 requirements for secondary legislation referred to in this section		
Publication	It is not required to be published	LA19 s 73(2)
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 27A: inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

28 Chiefs of Service

(1) The Governor-General in Council may from time to time appoint any officer of the Royal New Zealand Navy to be Chief of Navy, who shall hold such rank as the Governor-General in Council may determine, and who shall—

(a) under the Chief of Defence Force, command the Navy; and

(b) be responsible for advising the Minister, through the Chief of Defence Force, on any matter relating to the Navy; and

(c) be responsible to the Chief of Defence Force 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 Army, who shall hold such rank as the Governor-General in Council may determine, and who shall—

(a) under the Chief of Defence Force, command the Army; and

(b) be responsible for advising the Minister, through the Chief of Defence Force, on any matter relating to the Army; and

(c) be responsible to the Chief of Defence Force 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 Force, who shall hold such rank as the Governor-General in Council may determine, and who shall—

(a) under the Chief of Defence Force, command the Air Force; and

(b) be responsible for advising the Minister, through the Chief of Defence Force, on any matter relating to the Air Force; and

(c) be responsible to the Chief of Defence Force for the implementation of policies, plans, and programmes prescribed or approved in accordance with this Act in relation to the Air Force.

(4) Where the Chief of Defence Force places a joint force under the command of a Chief of Service pursuant to section 12(1)(b), that Chief of Service shall, under the Chief of the Defence Force, command that force through the joint force commander; and nothing in subsections (1) to (3) shall authorise a Chief of Service to exercise command over a joint force, or any part of a joint force, unless the Chief of the Defence Force has placed that joint force under the command of that Chief of Service.

(5) The Chief of Defence Force shall give to each Chief of Service written terms of reference (not being inconsistent with any of the provisions of this Act) setting out the terms and conditions of appointment as Chief of Navy or Chief

of Army or Chief of Air Force, as the case may be; and it shall be the duty of each Chief of Service to perform the functions and to exercise the powers of that appointment in accordance with those terms of reference.

(6) In the exercise of command, and in the exercise of the functions imposed by or under this Act or any other enactment, each Chief of Service may, after notifying the Chief of Defence Force in that behalf, make such representations as the Chief of Service considers necessary or desirable to the Minister.

Compare: 1971 No 52 s 27; 1988 No 88 s 8

Section 28 heading: substituted, on 20 September 2007, by section 4 of the Defence Amendment Act 2007 (2007 No 51).

Section 28(1): amended, on 17 May 2005, by section 4(1) of the Defence Amendment Act 2005 (2005 No 49).

Section 28(2): amended, on 17 May 2005, by section 4(2) of the Defence Amendment Act 2005 (2005 No 49).

Section 28(3): amended, on 17 May 2005, by section 4(3) of the Defence Amendment Act 2005 (2005 No 49).

Section 28(4): amended, on 20 September 2007, by section 4 of the Defence Amendment Act 2007 (2007 No 51).

Section 28(5): amended, on 20 September 2007, by section 4 of the Defence Amendment Act 2007 (2007 No 51).

Section 28(5): amended, on 17 May 2005, by section 4(4) of the Defence Amendment Act 2005 (2005 No 49).

Section 28(6): amended, on 20 September 2007, by section 4 of the Defence Amendment Act 2007 (2007 No 51).

29 Chiefs of Service Committee

(1) There shall continue to be a committee known as the Chiefs of Service Committee, which shall consist of the following permanent members:

(a) the Chief of Defence Force:

(b) the Chief of Navy:

(c) the Chief of Army:

(d) the Chief of Air Force.

(2) The Committee shall have such functions, duties, and powers, not inconsistent with this Act, as the Chief of Defence Force may determine.

(3) The Chief of Defence Force shall be the convener of the committee, and shall preside at its meetings. In the absence of the Chief of Defence Force from any meeting of the committee, the Chief of Defence Force shall appoint one of the permanent members to preside at the meeting.

(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), be entitled to participate in the proceedings of the committee in like manner as if he or she were a permanent member.

(6) Where a meeting of the Chiefs of Service Committee has been held, and the members of the Committee have held differing opinions on any matter, a Chief of Service may request that the various opinions be conveyed to the Minister; in which case the Chief of Defence Force shall convey the opinions to the Minister with such advice as the Chief of Defence Force considers appropriate.

(7) Subject to the provisions of this Act, the committee may regulate its procedure in such manner as it thinks fit.

Compare: 1971 No 52 s 31

Section 29 heading: substituted, on 20 September 2007, by section 4 of the Defence Amendment Act 2007 (2007 No 51).

Section 29(1): amended, on 20 September 2007, by section 4 of the Defence Amendment Act 2007 (2007 No 51).

Section 29(1)(b): substituted, on 17 May 2005, by section 5 of the Defence Amendment Act 2005 (2005 No 49).

Section 29(1)(c): substituted, on 17 May 2005, by section 5 of the Defence Amendment Act 2005 (2005 No 49).

Section 29(1)(d): substituted, on 17 May 2005, by section 5 of the Defence Amendment Act 2005 (2005 No 49).

Section 29(6): amended, on 20 September 2007, by section 4 of the Defence Amendment Act 2007 (2007 No 51).

30 Delegation of functions, duties, and powers

(1) The Minister may, from time to time, by writing under the Minister's hand, either generally or particularly, delegate to the Chief of Defence Force any of the Minister's functions, duties, or powers, including functions, duties, or powers delegated to the Minister under this Act or any other enactment.

(2) The Chief of Defence Force may, from time to time, by writing under his or her hand, either generally or particularly, delegate to any member of the Defence Force, any of the functions, duties, and powers of the Chief of Defence Force, including any functions, duties, and powers delegated to the Chief of Defence Force by the Minister.

(3) Any Chief of Service may, from time to time, by writing under his or her hand, either generally or particularly, delegate to any member of the Defence Force any of the functions, duties, or powers of the Chief of Service, including functions, duties, and powers delegated to the Chief of Service by the Chief of Defence Force.

(4) Notwithstanding any of the preceding provisions of this section, no function, duty, or power delegated to any person under this section shall be subdelegated by that person if such subdelegation was prohibited by the delegating authority.

(5) A delegation under this section may be made to a person referred to by name, or to the holder of a specified appointment, or to members of a specified class.

(6) Subject to any general or special directions given or conditions attached by the delegating authority, the person to whom any functions, duties, or powers have been delegated may exercise those functions, duties, or powers in the same manner and to the same extent as if they had been directly conferred on that person by this Act and not by delegation.

(7) 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.

(8) No delegation under this section shall prevent the exercise by the delegating authority of the delegating authority's functions, duties, or powers.

(9) The fact that a 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 person is acting within the scope of the authority conferred by the delegation.

(10) Nothing in this section applies to functions, duties, or powers of command.

Compare: 1971 No 52 s 29; 1974 No 24 s 2

Section 30(3): amended, on 20 September 2007, by section 4 of the Defence Amendment Act 2007 (2007 No 51).

31 Consultation between Secretary of Defence and Chief of Defence Force

(1) The Secretary of Defence and the Chief of Defence Force shall consult with each other on any advice on any major matters of defence policy that is to be given by the Secretary or the Chief of Defence Force to the Minister or other Ministers.

(2) The Minister may from time to time require the Secretary of Defence and the Chief of Defence Force to consult formally with each other on any advice that is to be, or could be, or has been given by the Secretary or the Chief of Defence Force to the Minister.

(3) The Secretary or the Chief of Defence Force may recommend to the Minister that the Minister should issue a requirement to consult under subsection (2), and the Minister shall inform the Secretary and Chief of Defence Force in writing of the Minister's decision on the recommendation.

(4) No requirement to consult under this section shall affect any duty, obligation, or power of the Secretary or the Chief of Defence Force, or the responsibility of the Secretary or the Chief of Defence Force for the performance of any duty or obligation or the exercise of any power.

Compare: 1971 No 52 s 32

Part 4
Terms and conditions of service in the armed forces

Appointments and enlistments

32 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 the Sovereign, issue commissions under the Seal of New Zealand to officers of the Armed Forces:

(c) promote officers to a higher rank:

(d) release an officer or discharge an officer or cancel or vary an officer's commission or vary an officer's appointment.

(1A) The Governor-General may, from time to time, by writing under the Governor-General's hand, delegate to the Chief of Defence Force any of the Governor-General's powers specified in paragraphs (a), (c), and (d) of subsection (1); and section 30(4) to (9), with any necessary modifications, applies to the delegation.

(2) The Chief of Defence Force shall cause notice of all appointments, commissions, and other acts done under this section to be promulgated by Defence Force Orders.

Compare: 1971 No 52 s 35

Section 32(1)(d): substituted, on 28 July 1997, by section 5(1) of the Defence Amendment Act 1997 (1997 No 41).

Section 32(1A): inserted, on 28 July 1997, by section 5(2) of the Defence Amendment Act 1997 (1997 No 41).

Section 32(3): amended, on 28 July 1997, by section 5(3) of the Defence Amendment Act 1997 (1997 No 41).

33 Appointment, enlistment, and engagement

(1) No person who is under 17 years may be appointed to, or enlisted or engaged in, the Navy, the Army, or the Air Force.

(2) Subject to subsection (1), section 36, and Defence Force Orders, the following persons may, in the prescribed manner, be appointed to, or enlisted or engaged in, the Navy, the Army, or the Air Force:

(a) a New Zealand citizen or a citizen of any other Commonwealth country:

(b) any other person with the prior consent of the Chief of Defence Force.

Section 33: substituted, on 27 September 2001, by section 3 of the Defence Amendment Act 2001 (2001 No 62).

33A Age requirements

Nothing in section 22 of the Human Rights Act 1993 shall apply to age requirements relating to recruitment, terms of service, or retirement in respect of service in the Armed Forces, excluding the category of General Service Hands.

Section 33A: inserted, on 1 February 1994, by section 145 of the Human Rights Act 1993 (1993 No 82).

34 Oath of allegiance

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 the Sovereign in such form as may be prescribed from time to time.

Compare: 1971 No 52 s 37

35 Effect of oath of allegiance

An oath of allegiance shall bind the person subscribing it to serve in the Service to which that person is appointed, or in which that person is engaged or enlisted, in accordance with the tenor of the oath until that person is discharged from the Service.

Compare: 1971 No 52 s 38

Provisions relating to minors

36 Enlistment of minors

(1) Subject to section 46 of the Care of Children Act 2004, a person under 18 years of age (in this section referred to as a minor) shall not, unless he or she is or has been married or in a civil union, be eligible to enlist or be accepted for service in the Armed Forces if any of the persons referred to in subsection (2) objects to the enlistment.

(2) Subject to subsection (3), any such objection may be made—

(a) by a parent of the minor; or

(b) by any testamentary or court-appointed guardian of the minor; or

(c) by a court, if the minor is for the time being under the guardianship of that court under the Care of Children Act 2004.

(3) No such objection may be made by any parent or guardian who is for the time being under a disability.

(4) Subject to section 46 of the Care of Children Act 2004, every application by a minor (being a minor who is not and has not been married or in a civil union) 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; or

(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; or

(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; or

(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; or

(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; or

(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; or

(vii) if the minor is for the time being placed under the guardianship of the court under the Care of Children Act 2004, from the court that made the order placing the minor under its guardianship; and

(b) a written acknowledgment by the person giving the consent that he or she is aware that the person enlisting will be liable for active service at any time after that person attains the age of 18 years.

(5) An acknowledgment referred to in subsection (4)(b) 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.

(6) If any such application is not accompanied by the required consent, it shall be accompanied by a statement of the reasons as to why consent has not or cannot be obtained.

(7) The enlistment of any person pursuant to this section shall be binding on that person notwithstanding anything to the contrary in subpart 6 of Part 2 of the Contract and Commercial Law Act 2017 or any other enactment.

(8) For the purposes of this section, a person shall be deemed to be under a disability if, by reason of his or her mental condition, that person 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.

Compare: 1971 No 52 s 39; 1973 No 25 s 17(4)(a); 1988 No 88 s 9

Section 36(1): amended, on 1 July 2005, by section 151 of the Care of Children Act 2004 (2004 No 90).

Section 36(1): amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Section 36(2)(c): substituted, on 3 June 1998, by section 8 of the Guardianship Amendment Act 1998 (1998 No 48).

Section 36(2)(c): amended, on 1 July 2005, by section 151 of the Care of Children Act 2004 (2004 No 90).

Section 36(4): amended, on 1 July 2005, by section 151 of the Care of Children Act 2004 (2004 No 90).

Section 36(4): amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Section 36(4)(a)(vii): substituted, on 3 June 1998, by section 8 of the Guardianship Amendment Act 1998 (1998 No 48).

Section 36(4)(a)(vii): amended, on 1 July 2005, by section 151 of the Care of Children Act 2004 (2004 No 90).

Section 36(4)(b): substituted, on 27 September 2001, by section 4 of the Defence Amendment Act 2001 (2001 No 62).

Section 36(7): amended, on 1 September 2017, by section 347 of the Contract and Commercial Law Act 2017 (2017 No 5).

37 Liability of minors for active service

No person serving in the Armed Forces who is under 18 years is liable for active service.

Section 37: substituted, on 27 September 2001, by section 5 of the Defence Amendment Act 2001 (2001 No 62).

Liability for and duration of service

38 Liability for and duration of service in regular forces

(1) Subject to sections 36 and 37, all members 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) Notwithstanding subsection (1),—

(a) when the period of service of a member of the regular forces has been completed, that member shall be discharged or released from the regular forces without delay, but that member shall be liable to continue serving until that discharge or release is effected; and

(b) in time of war or other like emergency, the Governor-General may, by Proclamation, make an order that members of the regular forces who would, but for the war or emergency, be entitled to be discharged or released shall be liable to continue to serve; and, on the making of any

such Proclamation, those members shall be liable to continue to serve during the continuance of the state of war or emergency for such period as the Minister may determine; and

(c) in the event of an actual or imminent emergency involving the deployment of members of the Armed Forces outside New Zealand, the Governor-General may, by Proclamation, make an order that members of the regular forces who would, but for the emergency, be entitled to be discharged or released shall be liable to continue to serve for such period not exceeding 6 months as may be specified in the Proclamation; and on the making of any such Proclamation, those members shall be liable to continue to serve until the emergency has passed or until the period specified in the Proclamation has expired, whichever is the sooner.

Compare: 1971 No 52 s 42; 1980 No 40 s 4

39 Liability for service in territorial forces

(1) Subject to subsection (2), the terms and conditions of service in the territorial forces shall be such as may be prescribed from time to time.

(2) In time of war or other like emergency or during any state of emergency declared under the Emergency Management Act 2026, 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.

(3) In the event of an actual or imminent emergency involving the deployment of members of the Armed Forces outside New Zealand, 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, for such period not exceeding 3 months as may be specified in the Proclamation or until the emergency has sooner passed.

Compare: 1971 No 52 s 43; 1973 No 25 s 17(4)(c); 1983 No 46 s 83

Section 39(2): amended, on 4 September 2026, by section 235 of the Emergency Management Act 2026 (2026 No 53).

Section 39(2): amended, on 1 December 2002, by section 117 of the Civil Defence Emergency Management Act 2002 (2002 No 33).

40 Liability for service in reserve forces

(1) Subject to subsection (2), 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 or during any state of emergency declared under the Emergency Management Act 2026, 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 Minister may determine.

(3) In the event of an actual or imminent emergency involving the deployment of members of the Armed Forces outside New Zealand, 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 for such period not exceeding 3 months as may be specified in the Proclamation; and on the making of any such Proclamation, the forces so transferred shall be liable for continuous service, either in New Zealand or elsewhere, until the emergency has passed or the period specified in the Proclamation has expired, whichever is the sooner.

Section 40(2): amended, on 4 September 2026, by section 235 of the Emergency Management Act 2026 (2026 No 53).

Section 40(2): amended, on 1 December 2002, by section 117 of the Civil Defence Emergency Management Act 2002 (2002 No 33).

41 Further provisions relating to Proclamations

(1) This section applies to every Proclamation made under section 38(2)(c) or section 39(3) or section 40(3).

(2) Every Proclamation to which this section applies shall have stated in it the reasons for its making.

(3) The period specified in any Proclamation made under section 38(2)(c) may from time to time be extended, by Proclamation, for a further period or periods not exceeding 6 months on any one extension as may be specified in the Proclamation by which it is extended, but so that the total period shall not exceed 12 months.

(4) The period specified in any Proclamation made under section 39(3) or section 40(3) may from time to time be extended, by Proclamation, for a further period or periods not exceeding 3 months on any one extension as may be specified in the Proclamation by which it is extended, but so that the total period shall not exceed 12 months.

(5) On making any Proclamation to which this section applies, or any Proclamation under subsection (3) or subsection (4), the Governor-General shall inform the House of Representatives that the Proclamation has been made, and of the reasons for its making,—

(a) forthwith, if the House of Representatives is then sitting; or

(b) if the House of Representatives is not then sitting, at the earliest practicable opportunity.

42 Protection of employment when Proclamation made

Part 2 of the Volunteers Employment Protection Act 1973 applies to—

(a) every employee—

(i) who is a member of the territorial forces or the reserve forces; and

(ii) who, in time of war or other like emergency or during any state of emergency declared under the Emergency Management Act 2026, is, as a consequence of a Proclamation made under section 39(2) or section 40(2) of this Act, called out for continuous service, either in New Zealand or elsewhere; and

(iii) who was, at the time of the making of the Proclamation, employed by an employer:

(b) every employee—

(i) who is a member of the territorial forces or the reserve forces; and

(ii) who, in the event of an actual or imminent emergency involving the deployment of members of the Armed Forces outside New Zealand, is, as a consequence of a Proclamation made under section 39(3) or section 40(3), called out for continuous service, either in New Zealand or elsewhere; and

(iii) who was, at the time of the making of the Proclamation, employed by an employer.

Section 42: substituted, on 1 April 2004, by section 4(1) of the Defence Amendment Act 2004 (2004 No 13).

Section 42(a)(ii): amended, on 4 September 2026, by section 235 of the Emergency Management Act 2026 (2026 No 53).

43 Discretion to waive or postpone requirement for continuous service

(1) Notwithstanding section 38 or section 39 or section 40, the Chief of Defence Force, or an officer authorised for the purpose by the Chief of Defence Force, may at any time, either generally or in any particular case, waive in whole or in part, or postpone, the period of continuous service that would otherwise be required of any member of the regular forces or of the territorial forces or of the reserve forces by virtue of any Proclamation made under those sections.

(2) A waiver or postponement under subsection (1) may be made on the application of the member or (in the case of a member of the territorial forces or of the reserve forces) the member's employer.

(3) Where the member is to be part of a deployment of the Armed Forces outside New Zealand, an application for a waiver or postponement under this section shall be made not less than 7 days before the date on which the member is due to leave New Zealand as part of that deployment.

Compare: 1971 No 52 s 44; 1983 No 46 s 83

44 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 operation against the enemy; or

(c) it is in armed occupation of any foreign country.

(2) For the purposes of this Act, every member of the Armed Forces is on active service when—

(a) there is for the time being in force an active service order posting that member for active service; or

(b) the part of the Armed Forces with which that member is serving or which that member 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: 1971 No 52 s 45; 1985 No 198 s 6

Pay and allowances, etc

45 Conditions of service in Armed Forces

(1) Except as otherwise provided in this section, the conditions of service of members of the Armed Forces shall be prescribed by the Chief of Defence Force.

(2) In prescribing conditions of service under subsection (1), the Chief of Defence Force shall have regard to the following criteria:

(a) the need to achieve and maintain fair relativity with the levels of remuneration received elsewhere; and

(b) the need to be fair both—

(i) to the persons or group of persons whose remuneration is being determined; and

(ii) to the taxpayer; and

(c) the need to recruit and retain competent persons.

(3) The Chief of Defence Force shall consult with the Public Service Commission when prescribing conditions of service of members of the Armed Forces under this section. The Public Service Commission may at any time, either before or during the prescribing of such conditions of service, indicate to the Chief of Defence Force that it wishes to participate with the Chief of Defence Force in prescribing those conditions of service, and the Chief of Defence Force shall allow the Public Service Commission to participate accordingly.

(4) The remuneration of members holding the positions of—

(a) Chief of Defence Force; or

(b) the Chief of Navy; or

(c) the Chief of Army; or

(d) the Chief of Air Force,—

shall be determined from time to time by the Remuneration Authority.

(5) Nothing in the Employment Relations Act 2000 applies to the conditions of service of members of the Armed Forces.

(5A) *[Repealed]*

(6) Nothing in this section affects any conditions of service in force in respect of members of the Armed Forces immediately before 1 April 1988.

Compare: 1971 No 52 s 46; 1988 No 30 s 2

Section 45(1): amended, on 28 July 1997, by section 7(a) of the Defence Amendment Act 1997 (1997 No 41).

Section 45(2): amended, on 28 July 1997, by section 7(b) of the Defence Amendment Act 1997 (1997 No 41).

Section 45(3): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 45(3): amended, on 28 July 1997, by section 7(b) of the Defence Amendment Act 1997 (1997 No 41).

Section 45(4): amended, on 1 April 2003, by section 4(1) of the Remuneration Authority (Members of Parliament) Amendment Act 2002 (2002 No 54).

Section 45(4)(b): substituted, on 17 May 2005, by section 6 of the Defence Amendment Act 2005 (2005 No 49).

Section 45(4)(c): substituted, on 17 May 2005, by section 6 of the Defence Amendment Act 2005 (2005 No 49).

Section 45(4)(d): substituted, on 17 May 2005, by section 6 of the Defence Amendment Act 2005 (2005 No 49).

Section 45(5): substituted, on 2 October 2000, by section 240 of the Employment Relations Act 2000 (2000 No 24).

Section 45(5A): repealed, on 20 December 2023, by section 7(1) of the Fair Pay Agreements Act Repeal Act 2023 (2023 No 65).

46 Regulations fixing certain terms and conditions of service

Without limiting the power to make regulations under section 101, regulations may be made under that section, not inconsistent with this Act, the Government Superannuation Fund Act 1956, or the Veterans' Support Act 2014, relating to all or any of the following matters:

(a) the making of grants in the amounts and circumstances prescribed by the regulations to—

(i) discharged or retired members of the Armed Forces; or

(ii) dependants of members of the Armed Forces; or

(iii) dependants of deceased, discharged, or retired members of the Armed Forces; or

(iv) the executors or administrators of the estates of deceased members of the Armed Forces (whether or not probate or letters of administration have been granted):

(b) the continuance or withholding of pay and allowances of members of the Armed Forces 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 members of the regular forces) required to attend medical examinations or selection boards or required to act on any matter that concerns the Defence Force:

(d) the payment of compensation for loss of or damage to service kit and personal effects:

(e) providing for injuries suffered by members of the Armed Forces 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 member of the Armed Forces—

(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 that member in the course of or in connection with that member's 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 that member in the course of or in connection with that member's 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 member of the Armed Forces, for that member to enter into a bond or deed of covenant in such form as may be prescribed:

(i) providing for funerals and burials of deceased members of the Armed Forces:

(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: 1971 No 52 s 47

Section 46: amended, on 7 December 2014, by section 278 of the Veterans' Support Act 2014 (2014 No 56).

Section 46(a): substituted, on 22 October 2003, by section 3 of the Defence Amendment Act 2003 (2003 No 69).

47 Defence Force Orders fixing certain terms and conditions of service

[Repealed]

Section 47: repealed, on 28 July 1997, by section 8 of the Defence Amendment Act 1997 (1997 No 41).

48 Determinations and regulations to be notified in Defence Force Orders

[Repealed]

Section 48: repealed, on 28 July 1997, by section 9 of the Defence Amendment Act 1997 (1997 No 41).

Miscellaneous provisions relating to service

49 Redress of complaints

(1) Except in respect of a matter that would properly be the subject of an appeal under the Court Martial Appeals Act 1953 or the Armed Forces Discipline Act 1971, any member of the Armed Forces who considers that he or she has been wronged in any matter may make a complaint as of right to such Service authority and in such manner as may be prescribed in Defence Force Orders.

(2) If the complainant is not satisfied with the decision of the authority to whom the 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: 1971 No 52 s 50

Section 49(1): amended, on 1 July 2009, by section 4(1) of the Defence Amendment Act (No 2) 2007 (2007 No 100).

50 Special service

(1) Without limiting the provisions of sections 39(2) and 40(2), but subject to sections 36 and 37, the Governor-General may accept the offer of any member 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 member or other person shall be accordingly liable to serve whenever required, during the period to which the offer extends.

(3) The Governor-General may, from time to time, by writing under the Governor-General's hand, delegate to the Chief of Defence Force the power that the Governor-General has, under subsection (1), to accept an offer of the kind described in that subsection.

(4) Section 30(4) to (9), with any necessary modifications, applies to a delegation made under subsection (3).

Compare: 1971 No 52 s 52

Section 50(3): added, on 1 April 2004, by section 5 of the Defence Amendment Act 2004 (2004 No 13).

Section 50(4): added, on 1 April 2004, by section 5 of the Defence Amendment Act 2004 (2004 No 13).

50A Power to declare situation of national interest in relation to special service

The Governor-General may from time to time, by Order in Council published in the *Gazette*, declare that the need for members of the territorial forces or reserve forces or other persons to offer themselves, under section 50, for special service is such that it is in the national interest that, for such period as is specified in the order, protection under the Volunteers Employment Protection Act 1973 be given to any such member or other person—

(a) who undertakes special service under section 50; and

(b) whose obligation to undertake that service under section 50 arises from the acceptance, during the period specified in the order, of an offer that was made by the member or other person under section 50; and

(c) who was, at the time of the making of the order, employed by an employer.

Section 50A: inserted, on 1 April 2004, by section 6 of the Defence Amendment Act 2004 (2004 No 13).

50B Protection of employment when situation of national interest declared

Part 3 of the Volunteers Employment Protection Act 1973 applies to—

(a) every employee—

(i) who is a member of the territorial forces or the reserve forces or other person; and

(ii) who undertakes special service under section 50; and

(iii) whose obligation to undertake that service under section 50 arises from the acceptance, during a period specified in an order made under section 50A, of an offer that was made by the member or other person under section 50; and

(b) who was, at the beginning of the period specified in the order made under section 50A, employed by an employer.

Section 50B: inserted, on 1 April 2004, by section 6 of the Defence Amendment Act 2004 (2004 No 13).

51 Persons receiving pay but not properly attested

A person who, without having been properly attested, has accepted pay as a member of a component of the Armed Forces referred to in section 11(3) to (5)—

(a) is a member of that component until discharged; and

(b) must be discharged without delay at any time before being properly attested, if he or she so requests.

Section 51: substituted, on 22 October 2003, by section 4 of the Defence Amendment Act 2003 (2003 No 69).

Discharge or release from regular forces on notice

52 Members may give notice of intention to leave regular forces

(1) Subject to section 38(2)(b) and sections 53 to 57, a member of the regular forces may terminate his or her service in the regular forces at any time by giving notice to the officer in command of the member's ship or unit.

(2) A notice given by a member of the regular forces for the purposes of this section shall be in writing, and the period of the notice shall commence to run on the day on which it is given to the officer in command of the member's ship or unit.

(3) A member who gives notice to terminate his or her service in the regular forces shall be deemed to have completed his or her service on—

(a) the expiry of the notice; or

(b) if the period of notice is less than 3 months, the expiry of the period of 3 months commencing with the day on which the notice is given,—

or on such earlier date as the Chief of Defence Force may from time to time prescribe in Defence Force Orders.

Compare: 1971 No 52 s 54; 1980 No 40 s 5

Section 52(3): amended, on 28 July 1997, by section 10 of the Defence Amendment Act 1997 (1997 No 41).

53 Return of service obligation

Notwithstanding subsection (3) of section 52, but without limiting section 54 or section 55, if a member of the Armed Forces who is subject to a prescribed return of service obligation in respect of any prescribed training or overseas service gives notice under section 52, that member's period of service shall not be deemed to have been completed until that member has fulfilled his or her return of service obligation.

Compare: 1971 No 52 s 54A; 1980 No 40 s 5

Section 53: amended, on 3 June 1998, by section 2 of the Defence Amendment Act 1998 (1998 No 39).

54 State of critical manning

(1) For the purposes of this section, a specified class of members of the Armed Forces is in a state of critical manning if it is declared to be so by the Chief of Defence Force.

(2) Notwithstanding subsection (3) of section 52, but without limiting section 53 or section 55, if a member of a class that is in a state of critical manning gives notice under section 52, that member's period of service shall not be deemed to have been completed until the expiry of a period of 2 years commencing with the day on which the notice is given.

Compare: 1971 No 52 s 54B; 1980 No 40 s 5

Section 54(2): amended, on 3 June 1998, by section 3 of the Defence Amendment Act 1998 (1998 No 39).

55 Notice while serving overseas, etc

Notwithstanding subsection (3) of section 52, but without limiting section 53 or section 54, if a member of the regular forces who is serving overseas, or who is under less than 3 months' notice to serve overseas, gives notice under section 52, that member's period of service shall not be deemed to have been completed until he or she has completed that overseas duty.

Compare: 1971 No 52 s 54C; 1980 No 40 s 5

Section 55: amended, on 3 June 1998, by section 4 of the Defence Amendment Act 1998 (1998 No 39).

56 Discretion to relax requirements

Notwithstanding sections 53 to 55, the Chief of Defence Force, or a Chief of Service authorised for the purpose by the Chief of Defence Force, may at any time, either generally or in any particular case, waive in whole or in part the period of service that would otherwise be required of any member of the regular forces by virtue of any of those sections.

Compare: 1971 No 52 s 54D; 1980 No 40 s 5

Section 56: amended, on 20 September 2007, by section 4 of the Defence Amendment Act 2007 (2007 No 51).

57 Notice while subject to disciplinary proceedings, etc

(1) For the purposes of this section,—

(a) a member of the regular forces is facing disciplinary proceedings if any proceedings (including any proceedings on appeal or review or by way of confirmation) against the member are continuing or pending under the Armed Forces Discipline Act 1971; and

(b) a member of the regular forces is serving a sentence of imprisonment or detention if the member is serving such a sentence imposed under the Armed Forces Discipline Act 1971.

(2) Notwithstanding subsection (3) of section 52, if a member of the regular forces who,—

(a) while facing disciplinary proceedings, gives notice under that section; or

(b) having given notice under that section, subsequently faces disciplinary proceedings,—

that member's period of service shall not be deemed to have been completed until the proceedings have been completed, and the member has served any sentence of imprisonment or detention imposed as a result of those proceedings.

(3) Notwithstanding subsection (3) of section 52 but subject to subsection (2)(b) of this section, if a member of the regular forces who is serving a sentence of imprisonment or detention gives notice under that section, that member's period of service shall not be deemed to have been completed until the member has served that sentence.

Compare: 1971 No 52 s 54E; 1980 No 40 s 5; 1985 No 198 s 8

Section 57(2): amended, on 3 June 1998, by section 5 of the Defence Amendment Act 1998 (1998 No 39).

Section 57(3): amended, on 28 July 1997, by section 11 of the Defence Amendment Act 1997 (1997 No 41).

Discharge or release from services for incompatible behaviour

Heading: inserted, on 1 February 1994, by section 145 of the Human Rights Act 1993 (1993 No 82).

57A Members may be discharged or released for incompatible behaviour

(1) The Chief of Defence Force may institute the discharge or release of a member of the Services if the Chief of Defence Force has reasonable grounds for believing—

(a) that the member has behaved in a manner which is incompatible with the maintenance of good order and discipline within a Service or which tends to bring a Service into disrepute; and

(b) that the discharge or release of the member is necessary—

(i) to maintain good order and discipline; or

(ii) to avoid prejudice to the reputation of that Service.

(2) Subsection (1) applies to behaviour of any kind including, but not limited to, sexual behaviour of a heterosexual, homosexual, lesbian, or bisexual kind.

Section 57A: inserted, on 1 February 1994, by section 145 of the Human Rights Act 1993 (1993 No 82).

Unit funds, messes, etc

58 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), the Chief of Defence Force; or

(b) in relation to funds established pursuant to subsection (3), the Chief of Navy; or

(c) in relation to funds established pursuant to subsection (4), the Chief of Army; or

(d) in relation to funds established pursuant to subsection (5), the Chief of Air Force.

(2) The Chief of Defence Force may from time to time establish, or authorise the establishment of, such funds under such names as the Chief of Defence Force thinks fit for—

(a) the benefit of members of the Armed Forces or discharged members of the Armed Forces generally or of members of the Armed Forces or discharged members of the Armed Forces of 2 or more Services, or of the dependants of members of the Armed Forces or discharged or deceased members of the Armed Forces, or the benefit of visiting members of the Armed Forces; and

(b) any other object of any kind that the Chief of Defence Force considers beneficial to the Armed Forces or to members of the Armed Forces.

(3) The Chief of Navy may from time to time establish, or authorise the establishment of, such funds under such names as the Chief of Navy thinks fit for—

(a) the benefit of any naval ship or naval establishment, or of members or discharged members of the Navy generally or members or discharged members of any part of the Navy, or of the dependants of any such members or discharged or deceased members; and

(b) any other object of any kind that the Chief of Navy considers will be beneficial to the Navy or to members of the Navy.

(4) The Chief of Army may from time to time establish, or authorise the establishment of, such funds under such names as the Chief of Army thinks fit for—

(a) the benefit of any army camp or unit of the Army, or of members or discharged members of the Army generally or members or discharged members of any part of the Army, or of the dependants of any such members or discharged or deceased members; and

(b) any other object of any kind that the Chief of Army considers will be beneficial to the Army or to members of the Army.

(5) The Chief of Air Force may from time to time establish, or authorise the establishment of, such funds under such names as the Chief of Air Force thinks fit for—

(a) the benefit of any Air Force base or unit of the Air Force, or of members or discharged members of the Air Force generally or members or discharged members of any part of the Air Force, or of the dependants of any such members or discharged or deceased members; and

(b) any other object of any kind that the Chief of Air Force considers will be beneficial to the Air Force or to members of the Air Force.

(6) Without limiting the provisions of subsections (2) to (5), 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 the Sovereign 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) by or on behalf of the Crown may be executed by the Chief of Defence Force.

(9) Without limiting the power of the Chief of Defence Force to issue orders under section 27, 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 Finance Act 1989, the assets of any fund established under this section shall be deemed not to be public money within the meaning of that Act, except that the accounts of any such fund may, if considered desirable by the Controller and Auditor-General, be audited by the Auditor-General, who for that purpose has all of the powers that he or she has under the Public Audit Act 2001 for the purposes of exercising or performing his or her functions, duties, or powers.

(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.

(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) 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), 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: 1971 No 52 s 55

Section 58(1)(b): amended, on 17 May 2005, by section 7(1)(a) of the Defence Amendment Act 2005 (2005 No 49).

Section 58(1)(c): amended, on 17 May 2005, by section 7(1)(b) of the Defence Amendment Act 2005 (2005 No 49).

Section 58(1)(d): amended, on 17 May 2005, by section 7(1)(c) of the Defence Amendment Act 2005 (2005 No 49).

Section 58(3): amended, on 20 September 2007, by section 4 of the Defence Amendment Act 2007 (2007 No 51).

Section 58(3): amended, on 17 May 2005, by section 7(2) of the Defence Amendment Act 2005 (2005 No 49).

Section 58(3)(b): amended, on 20 September 2007, by section 4 of the Defence Amendment Act 2007 (2007 No 51).

Section 58(4): amended, on 20 September 2007, by section 4 of the Defence Amendment Act 2007 (2007 No 51).

Section 58(4): amended, on 17 May 2005, by section 7(3) of the Defence Amendment Act 2005 (2005 No 49).

Section 50(4)(b): amended, on 20 September 2007, by section 4 of the Defence Amendment Act 2007 (2007 No 51).

Section 58(5): amended, on 20 September 2007, by section 4 of the Defence Amendment Act 2007 (2007 No 51).

Section 58(5): amended, on 17 May 2005, by section 7(4) of the Defence Amendment Act 2005 (2005 No 49).

Section 58(5)(b): amended, on 20 September 2007, by section 4 of the Defence Amendment Act 2007 (2007 No 51).

Section 58(6): editorial change made by the PCO, on 4 November 2024, under sections 86(1) and 87(a) of the Legislation Act 2019 (2019 No 58).

Section 58(11): amended, on 7 July 2010, by section 4 of the Defence Amendment Act 2010 (2010 No 61).

Section 58(11): amended, on 1 July 2001, pursuant to section 52 of the Public Audit Act 2001 (2001 No 10).

Part 5
Terms and conditions of service in the Civil Staff

59 General principles

(1) The Chief of Defence Force shall, in respect of the members of the Civil Staff, operate a personnel policy that complies with the principle of being a good employer.

(2) For the purposes of this section, a **good employer** is an employer who operates a personnel policy containing provisions generally accepted as necessary for

the fair and proper treatment of employees in all aspects of their employment, including provisions requiring—

(a) good and safe working conditions; and

(b) an equal employment opportunities programme; and

(c) the impartial selection of suitably qualified persons for appointment; and

(d) recognition of—

(i) the aims and aspirations of the Maori people; and

(ii) the employment requirements of the Maori people; and

(iii) the need for greater involvement of the Maori people in the public sector; and

(e) opportunities for the enhancement of the abilities of individual employees; and

(f) recognition of the aims and aspirations, and the cultural differences, of ethnic or minority groups; and

(g) recognition of the employment requirements of women; and

(h) recognition of the employment requirements of persons with disabilities.

(3) In addition to the requirements, specified in subsections (1) and (2), the Chief of Defence Force shall ensure that all members of the Civil Staff maintain proper standards of integrity, conduct, and concern for the public interest.

60 Code of conduct

The Chief of Defence Force may from time to time issue a code of conduct covering the minimum standards of integrity and conduct that are to apply in the Civil Staff.

61 Equal employment opportunities

(1) The Chief of Defence Force—

(a) shall in each year develop and publish an equal employment opportunities programme for the Civil Staff; and

(b) shall ensure in each year that the equal employment opportunities programme for that year is complied with throughout the Civil Staff.

(2) The Chief of Defence Force shall include in the annual report of the Defence Force—

(a) a summary of the equal employment opportunities programme for the year to which the report relates; and

(b) an account of the extent to which the Defence Force was able to meet, during the year to which the report relates, in respect of the Civil Staff the equal employment opportunities programme for that year.

(3) For the purposes of this section and section 59, an equal employment opportunities programme means a programme that is aimed at the identification and elimination of all aspects of policies, procedures, and other institutional barriers that cause or perpetuate, or tend to cause or perpetuate, inequality in respect to the employment of any persons or group of persons.

61A Appointment of members of Civil Staff

(1) Subject to this Part, the Chief of Defence Force—

(a) may from time to time appoint such suitable persons, not being officers, ratings, soldiers, or aviators of the regular forces, to be employees (including acting or temporary or casual employees) of the Defence Force as the Chief of Defence Force thinks necessary for the efficient conduct of the Defence Force; and

(b) may, subject to any conditions of employment included in the employment agreement applying to the employee, at any time remove any such employee from that employee's employment.

(2) Except as provided in sections 70 and 71, the Chief of Defence Force has all the rights, duties, and powers of an employer in respect of members of the Civil Staff.

Section 61A: inserted, on 28 July 1997, by section 12 of the Defence Amendment Act 1997 (1997 No 41).

Section 61A(1)(a): amended, on 27 November 2025, by section 56 of the Statutes Amendment Act 2025 (2025 No 74).

Section 61A(1)(b): amended, on 2 October 2000, by section 240 of the Employment Relations Act 2000 (2000 No 24).

62 Appointments on merit

The Chief of Defence Force, in making an appointment to any position in the Civil Staff under this Act, shall give preference to the person who is best suited to the position.

Section 62: amended, on 28 July 1997, by section 13 of the Defence Amendment Act 1997 (1997 No 41).

63 Obligation to notify vacancies

Where the Chief of Defence Force intends to fill a position that is vacant or is to become vacant in the Civil Staff, the Chief of Defence Force shall, wherever practicable, notify the vacancy or prospective vacancy in a manner sufficient to enable suitably qualified persons to apply for the position.

64 Acting appointments

(1) In the case of absence from duty of any member of the Civil Staff (from whatever cause arising) or on the occurrence from any cause of a vacancy in any position in the Civil Staff (whether by reason of death, resignation, or otherwise) and from time to time while the absence or vacancy continues, all

or any of the powers and duties of the member or pertaining to the position may be exercised and performed by any other member for the time being directed by the Chief of Defence Force to exercise and perform them, whether the direction has been given before the absence or vacancy occurs or while it continues.

(2) No such direction and no acts done by any member of the Civil Staff acting pursuant to any such direction shall in any proceedings be questioned on the ground that the occasion for the direction had not arisen or had ceased, or on the ground that the member has not been appointed to any position to which the direction relates.

65 Evidence of appointments

(1) Any appointment to any position in the Civil Staff shall be made, confirmed, or approved in writing by an instrument or minute by the Chief of Defence Force or by any person to whom the Chief of Defence Force has delegated power in that behalf in accordance with section 30; and, notwithstanding anything to the contrary in any Act, it shall not be necessary for the Chief of Defence Force or any such person to execute any formal warrant or other instrument in special form.

(2) A certificate signed by the Chief of Defence Force that any person named in the certificate was appointed to any position in the Civil Staff from and including a day stated therein shall be sufficient evidence that the person so named was duly so appointed to and continues to hold the position unless the contrary is proved.

Section 65(1): amended, on 28 July 1997, by section 14 of the Defence Amendment Act 1997 (1997 No 41).

Section 65(2): amended, on 28 July 1997, by section 14 of the Defence Amendment Act 1997 (1997 No 41).

66 Obligation to notify appointments

The Chief of Defence Force shall notify to the members of the Civil Staff every appointment (other than that of an acting, temporary, or casual employee) made by the Chief of Defence Force to a position in the Civil Staff.

Section 66: amended, on 28 July 1997, by section 15 of the Defence Amendment Act 1997 (1997 No 41).

67 Review of appointments

(1) The Chief of Defence Force shall put into place for the Civil Staff a procedure for reviewing those appointments made to positions in the Civil Staff that are the subject of any complaint by a member of the Civil Staff.

(2) The procedure shall be approved by the Public Service Commission and shall comply with guidelines prescribed by the Commission for such review procedures.

(3) Nothing in this section relates to an acting appointment.

Section 67(1): amended, on 28 July 1997, by section 16 of the Defence Amendment Act 1997 (1997 No 41).

Section 67(2): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

68 Power to transfer members within Civil Staff

(1) Where the Chief of Defence Force at any time finds in respect of any duties being carried out by the Defence Force through the Civil Staff—

(a) that those duties are no longer to be carried out by the Civil Staff; or

(b) that a greater number of members of the Civil Staff is employed on those duties than is considered by the Chief of Defence Force to be necessary for the carrying out of those duties,—

the Chief of Defence Force may, without complying with sections 62 and 63, but subject to consultation with the employee and to the relevant employment agreement, appoint to other positions in the Civil Staff any or all of those members who are carrying out those duties.

(2) Nothing in section 67 applies in relation to any appointment made under this section.

Section 68(1): amended, on 2 October 2000, by section 240 of the Employment Relations Act 2000 (2000 No 24).

Application of Employment Relations Act 2000

Heading: substituted, on 2 October 2000, by section 240 of the Employment Relations Act 2000 (2000 No 24).

69 Application to Civil Staff of Employment Relations Act 2000

Except as otherwise provided in this Act, the Employment Relations Act 2000 applies in relation to the Civil Staff.

Section 69: substituted, on 2 October 2000, by section 240 of the Employment Relations Act 2000 (2000 No 24).

70 Negotiation of conditions of employment

(1) The Chief of Defence Force is responsible for negotiating, under the Employment Relations Act 2000, every collective agreement applicable to employees in the Civil Staff.

(2) The Chief of Defence Force must consult with the Public Service Commissioner when negotiating any collective agreements under this section.

(3) The Public Service Commissioner may at any time either before or during the negotiation of such collective agreements indicate to the Chief of Defence Force that the Public Service Commissioner wishes to participate with the Chief of Defence Force in negotiating those collective agreements, and the Chief of Defence Force must allow the Public Service Commissioner to participate accordingly.

Section 70: substituted, on 2 October 2000, by section 240 of the Employment Relations Act 2000 (2000 No 24).

Section 70(2): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 70(3): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

71 Personal grievances and disputes

Despite the provisions of sections 61A and 70,—

(a) in relation to a personal grievance, the employer is the Chief of Defence Force; and

(b) in relation to a dispute about the interpretation, application, or operation of any collective agreement, the employer is the Chief of Defence Force acting, if the Public Service Commissioner so requires, together with or in consultation with the Public Service Commissioner.

Section 71: substituted, on 2 October 2000, by section 240 of the Employment Relations Act 2000 (2000 No 24).

Section 71(b): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

72 Compulsory arbitration and agreement not to strike or lock out

[Repealed]

Section 72: repealed, on 15 May 1991, by section 154 of the Employment Contracts Act 1991 (1991 No 22)

73 Contravention of agreement not to strike or lock out

[Repealed]

Section 73: repealed, on 15 May 1991, by section 154 of the Employment Contracts Act 1991 (1991 No 22)

Part 5A
Superannuation

Part 5A: inserted, on 1 July 1992, by section 2 of the Defence Amendment Act 1992 (1992 No 62).

73A Interpretation

For the purposes of sections 73B and 73C,—

superannuation scheme or **scheme** means a retirement scheme within the meaning of section 6(1) of the Financial Markets Conduct Act 2013.

Section 73A: inserted, on 1 July 1992, by section 2 of the Defence Amendment Act 1992 (1992 No 62).

Section 73A: amended, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Section 73A: amended, on 1 May 2011, by section 82 of the Financial Markets Authority Act 2011 (2011 No 5).

73B Chief of Defence Force may establish superannuation schemes for members of Defence Force

The Chief of Defence Force may—

(a) arrange for any superannuation scheme or schemes to be established for members of the Defence Force:

(b) join with any other employer (whether or not in the State services) in arranging for any superannuation scheme or trust arrangement which is part of a superannuation scheme to be established for the purpose of providing, or facilitating the provision of, superannuation for members of the Defence Force:

(c) arrange for members of the Defence Force to become members of any established superannuation scheme:

(d) provide arrangements in respect of the superannuation of any individual member of the Defence Force.

Section 73B: inserted, on 1 July 1992, by section 2 of the Defence Amendment Act 1992 (1992 No 62).

73C Requirements in respect of superannuation schemes for members of Defence Force

Before contributing to any superannuation scheme established or arranged in respect of one or more of the members of the Defence Force pursuant to section 73B, the Chief of Defence Force shall ensure—

(a) *[Repealed]*

(b) that the scheme provides that the sum of all benefits (including any lump sum payments, annuities, and other benefits) payable from the scheme in respect of any member of the scheme will not exceed the sum of—

(i) contributions paid by or on behalf of a member and investment earnings thereon; and

(ii) any allocations to the member from surplus funds held within the scheme; and

(iii) the amount paid in respect of that member from any insurance policy effected for the benefit of members of the scheme; and

(c) that the trust deed of the scheme defines the rates or amounts (if any) of contributions of the Chief of Defence Force or other employers and members of the Defence Force, or the basis on which such contributions are to be made; and

(d) that the trust deed of the scheme entitles the Chief of Defence Force to cease contributing to the scheme on behalf of a person if that person ceases to be a member of the Defence Force; and

(e) that the benefits provided by the scheme are fully funded as they accrue; and

(f) that, if the scheme enables members to withdraw from the scheme, the scheme enables withdrawing members to transfer to other superannuation schemes the value (as determined in accordance with the terms of the scheme) of the benefits attributable to that person's membership of the scheme up to the date of withdrawal; and

(g) that the scheme enables any person who becomes a member of the Defence Force, if the Chief of Defence Force agrees to contribute to the scheme on that person's behalf, to become a member of the scheme and to transfer to the scheme the value of the benefits attributable to that person's membership of other superannuation schemes; and

(h) that the trust deed of the scheme does not permit amendments to be made to the scheme which would result in any provision of paragraphs (a) to (g) ceasing to apply to the scheme.

Section 73C: inserted, on 1 July 1992, by section 2 of the Defence Amendment Act 1992 (1992 No 62).

Section 73C(a): repealed, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

73D Chief of Defence Force to obtain confirmation from Government Actuary that scheme meets requirements of this Act

[Repealed]

Section 73D: repealed, on 1 May 2011, by section 82 of the Financial Markets Authority Act 2011 (2011 No 5).

73E Contributions to superannuation schemes

The Chief of Defence Force may, for the purpose of providing retirement benefits to members of the Defence Force, contribute to any superannuation scheme that complies with the requirements of section 73C.

Section 73E: inserted, on 1 July 1992, by section 2 of the Defence Amendment Act 1992 (1992 No 62).

73F Chief of Defence Force may establish compulsory scheme for members of Armed Forces

The Chief of Defence Force may require that all members of the Armed Forces who are not required to contribute under Part 3A of the Government Superannuation Fund Act 1956, or any class of such members, contribute to any superannuation scheme established or arranged in respect of one or more members of the Armed Forces pursuant to section 73B.

Section 73F: inserted, on 1 July 1992, by section 2 of the Defence Amendment Act 1992 (1992 No 62).

Part 6
Cadet forces

74 Constitution of cadet forces

(1) The Minister may from time to time raise and maintain cadet forces comprising the Sea Cadet Corps, the New Zealand Cadet Corps, and the Air Training Corps.

(1A) The cadet forces referred to in subsection (1) must be maintained under the direction of the Chief of Defence Force.

(2) The Minister may from time to time—

(a) determine the number of units comprising—

(i) the Sea Cadet Corps; or

(ii) the New Zealand Cadet Corps; or

(iii) the Air Training Corps; or

(iv) any combination of those corps; and

(b) authorise and direct the formation of a unit that is a unit of any of those corps or any combination of them, and determine or approve the size of the unit's membership; and

(c) authorise or direct the disbanding of any such unit.

(3) All cadet forces raised and maintained under the Defence Act 1971 and in being immediately before the commencement of this Act shall continue in being as if they had been raised under this section.

Compare: 1971 No 52 s 57; 1985 No 198 s 9(1)

Section 74(1): substituted, on 28 July 1997, by section 17(1) of the Defence Amendment Act 1997 (1997 No 41).

Section 74(1A): inserted, on 28 July 1997, by section 17(1) of the Defence Amendment Act 1997 (1997 No 41).

Section 74(2)(a): substituted, on 22 October 2003, by section 5 of the Defence Amendment Act 2003 (2003 No 69).

Section 74(2)(b): substituted, on 22 October 2003, by section 5 of the Defence Amendment Act 2003 (2003 No 69).

Section 74(2)(c): added, on 28 July 1997, by section 17(2) of the Defence Amendment Act 1997 (1997 No 41).

75 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 New Zealand Cadet Corps shall consist of such cadet officers as are from time to time appointed to, and such New Zealand 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: 1971 No 52 s 58; 1985 No 189 s 9

76 Cadet officers

The Minister may from time to time—

(a) appoint suitably qualified persons to be cadet officers of either the Sea Cadet Corps, the New Zealand Cadet Corps, or the Air Training Corps; and

(b) issue cadet commissions to cadet officers; and

(c) prescribe the ranks that may be held by cadet officers; and

(d) promote cadet officers to a higher rank; and

(e) compulsorily retire a cadet officer or discharge a cadet officer or cancel a cadet officer's commission or vary a cadet officer's appointment; and

(f) cause notice of all such appointments, commissions, and other acts done under this section to be notified to the cadet forces.

Compare: 1971 No 52 s 59; 1985 No 198 s 9(1)

Section 76(a): substituted, on 28 July 1997, by section 18 of the Defence Amendment Act 1997 (1997 No 41).

Section 76(f): amended, on 15 November 2000, by section 4 of the Defence Amendment Act 2000 (2000 No 59).

77 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.

Compare: 1971 No 52 s 60

78 Assistance to cadet forces

(1) The Chief of Defence Force may from time to time, subject to such conditions and limitations as the Chief of Defence Force may decide,—

(a) grant financial assistance out of money appropriated by Parliament to enable the cadet forces to conduct such activities as the Chief of Defence Force may approve; and

(b) 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; and

(c) determine any other terms and conditions of service of cadet officers and other members of the cadet forces; and

(d) provide the cadet forces with clothing, stores and equipment, and accommodation; and

(e) direct or authorise any member or class of members of the Armed 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; and

(f) approve the conducting of training courses or other activities by any unit of the cadet forces within a defence area under the supervision and direction of a member of the Armed Forces.

(2) When a member of the Armed Forces is engaged in directing, supervising, or assisting a unit of the cadet forces under subsection (1)(e), that member shall be deemed to be on duty.

(3) The terms and conditions of service of cadet officers and other members of the cadet forces determined by the Chief of Defence Force under subsection (1) shall be promulgated in such a manner as the Chief of Defence Force directs.

(4) Nothing in Part 4 or Part 5 or in the Armed Forces Discipline Act 1971, the Public Service Act 2020, or the Government Superannuation Fund Act 1956 shall apply in respect of any member of the cadet forces.

Compare: 1971 No 52 s 61

Section 78(1): amended, on 28 July 1997, by section 19(a) of the Defence Amendment Act 1997 (1997 No 41).

Section 78(1): amended, on 28 July 1997, by section 19(b) of the Defence Amendment Act 1997 (1997 No 41).

Section 78(1)(a): amended, on 28 July 1997, by section 19(a) of the Defence Amendment Act 1997 (1997 No 41).

Section 78(1)(e): amended, on 15 November 2000, by section 5(a) of the Defence Amendment Act 2000 (2000 No 59).

Section 78(1)(f): amended, on 15 November 2000, by section 5(a) of the Defence Amendment Act 2000 (2000 No 59).

Section 78(1)(f): amended, on 15 November 2000, by section 5(b) of the Defence Amendment Act 2000 (2000 No 59).

Section 78(2): amended, on 15 November 2000, by section 5(a) of the Defence Amendment Act 2000 (2000 No 59).

Section 78(2): amended, on 15 November 2000, by section 5(c) of the Defence Amendment Act 2000 (2000 No 59).

Section 78(3): amended, on 28 July 1997, by section 19(c) of the Defence Amendment Act 1997 (1997 No 41).

Section 78(4): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

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

If any member of a unit of the cadet forces that 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 member of the Armed Forces directing or supervising, or assisting in the direction or supervision of, the course, programme, or other activity, that member or any other member acting under his or her authority may remove the member of the unit from the area.

Compare: 1971 No 52 s 62

80 Members of cadet forces eligible for war pensions

(1) All the provisions of the Veterans' Support Act 2014, 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 or she is a member as if he or she were a member of the forces 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 or she were a member of the Armed Forces within the meaning of that section, and as if participation by that member in any activity carried on by the unit of which he or she is a member were service in the Armed Forces.

Compare: 1971 No 52 s 63

Section 80(1): amended, on 7 December 2014, by section 278 of the Veterans' Support Act 2014 (2014 No 56).

81 Recognition of civilian organisations

The Minister may from time to time recognise for the purposes of this section any civilian organisation that has as its object or as one of its objects the promotion of the functions or interest 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.

Compare: 1971 No 52 s 64

Part 7
Offences punishable by civil courts

82 Procuring and assisting desertion

Every person commits an offence and is liable on conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding $2,000 who, in New Zealand or elsewhere,—

(a) intentionally or recklessly procures or persuades any member of the Armed Forces to desert or absent himself or herself without leave; or

(b) knowing that any member of the Armed Forces is about to desert or to absent himself or herself without leave, assists that member in doing so; or

(c) knowing any member of the Armed Forces to be a deserter or an absentee without leave from the Armed Forces,—

(i) conceals that member; or

(ii) assists that member in concealing himself or herself; or

(iii) rescues that member from custody or assists in his or her rescue from custody.

Compare: 1971 No 52 s 66; 1988 No 88 s 13(1)

Section 82: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

83 Obstructing members of Armed Forces in execution of duty

Every person commits an offence and is liable on conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding $1,000 who, in New Zealand or elsewhere, intentionally or recklessly obstructs or interferes with any member of the Armed Forces acting in the execution of his or her duty.

Compare: 1971 No 52 s 67; 1988 No 88 s 13(1)

Section 83: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

84 Obstructing parades

Every person commits an offence and is liable on conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding $1,000 who, in New Zealand, intentionally or recklessly interrupts or obstructs any military exercise of any part of the Armed Forces.

Compare: 1971 No 52 s 68; 1988 No 88 s 13(1)

Section 84: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

85 Aiding malingering

Every person commits an offence and is liable on conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding $2,000 who, in New Zealand, or elsewhere,—

(a) produces in a member of the Armed Forces any sickness or disability; or

(b) Supplies to or for any member of the Armed Forces any drug or preparation likely to render that member, or lead to the belief that that member is, permanently or temporarily unfit for service—

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

Compare: 1971 No 52 s 70; 1988 No 88 s 13(1)

Section 85: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

86 False statements regarding pay or allowances, etc

(1) Every person commits an offence and is liable on conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding $2,000 who, in New Zealand or elsewhere, makes any statement knowing it to be false, or knowingly withholds any required information, for the purpose—

(a) of obtaining payment of any amount by way of pay, allowance, or gratuity under this Act, whether as a dependant of a member of the Armed Forces or otherwise; or

(b) 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 member of the Armed Forces, 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 the dependant or other person by the Crown but not yet paid, or out of money to become payable to the dependant or other person by the Crown, or may be recovered as a debt due to the Crown.

Compare: 1971 No 52 s 72; 1988 No 88 s 13(1)

Section 86(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

87 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 that person's permanent retention shall, on being required to do so by a notice in writing purporting to be signed by a member of the Defence Force and delivered to that person personally or posted by registered letter to his or her 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, that person commits an offence and is liable on conviction to a fine not exceeding $1,000.

(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 that person's permanent retention recklessly or negligently loses the property, that person commits an offence and is liable on conviction to a fine not exceeding $1,000.

Compare: 1971 No 52 s 73; 1988 No 88 s 13(1)

Section 87(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 87(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

88 Giving false certificate, etc

Every person commits an offence and is liable on conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding $1,000 who, in New Zealand,—

(a) gives any certificate; or

(b) makes any return or statement in writing—

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

Compare: 1971 No 52 s 74; 1988 No 88 s 13(1)

Section 88: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

89 Bringing alcohol into defence areas, etc

(1) Every person commits an offence and is liable on conviction to a fine not exceeding $500 who, in New Zealand,—

(a) intentionally and without authority brings or conveys any alcohol into any naval ship or defence area, or any other place where members of the Armed Forces 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 members of the Armed Forces are quartered or serving, as the case may be; or

(b) is knowingly and without authority in possession of any alcohol in any naval ship or defence area, or other place where members of the Armed Forces are quartered or serving; or

(c) being in possession of alcohol, approaches or loiters in the vicinity of any naval ship or defence area, or other place where members of the Armed Forces are quartered or serving, with intent to bring alcohol 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) is being or has been committed, with or without persons under that officer's 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 members of the Armed Forces are quartered or serving; and

(b) detain any person whom that officer reasonably suspects is committing or has committed any such offence, and search any parcel, case, bag, luggage, jar, bottle, or other receptacle in that person's possession; and

(c) if any alcohol is found as a result of any such search, seize the alcohol, together with any receptacle holding it, unless the alcohol is for delivery to any canteen or mess or to any premises occupied as married quarters.

(3) Subject to subsection (4), any officer or non-commissioned officer or any constable may, with or without a warrant, apprehend or cause to be apprehended any person whom that officer or that constable has reasonable grounds to suspect is committing or has committed an offence against this section, and bring that person or cause that person to be brought before a District Court Judge to be dealt with for the suspected offence.

(4) If, in any case to which subsection (3) applies, the person is subject to the Armed Forces Discipline Act 1971, that person shall be dealt with in accordance with the corresponding provisions of that Act.

(5) Any alcohol seized under the authority of this section shall, on the conviction of the person from whom the alcohol was seized, together with any receptacles holding the alcohol, be forfeited to the Crown. The alcohol and receptacles so forfeited shall then be sold by public auction and the proceeds of sale shall be paid into an appropriate bank account in accordance with the Public Finance Act 1989.

(5A) In this section, **alcohol** has the meaning given by section 5(1) of the Sale and Supply of Alcohol Act 2012.

(6) 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: 1971 No 52 s 75; 1988 No 88 s 13(1)

Section 89 heading: amended, on 18 December 2013, by section 417(1) of the Sale and Supply of Alcohol Act 2012 (2012 No 120).

Section 89(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 89(1)(a): amended, on 18 December 2013, by section 417(1) of the Sale and Supply of Alcohol Act 2012 (2012 No 120).

Section 89(1)(b): amended, on 18 December 2013, by section 417(1) of the Sale and Supply of Alcohol Act 2012 (2012 No 120).

Section 89(1)(c): amended, on 18 December 2013, by section 417(1) of the Sale and Supply of Alcohol Act 2012 (2012 No 120).

Section 89(2)(c): amended, on 18 December 2013, by section 417(1) of the Sale and Supply of Alcohol Act 2012 (2012 No 120).

Section 89(3): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 89(5): amended, on 18 December 2013, by section 417(1) of the Sale and Supply of Alcohol Act 2012 (2012 No 120).

Section 89(5A): inserted, on 18 December 2013, by section 417(1) of the Sale and Supply of Alcohol Act 2012 (2012 No 120).

90 Evidence

Any document that would be evidence in any proceedings under the Armed Forces Discipline Act 1971 by virtue of sections 71 to 74 of the Court Martial Act 2007 shall, in like manner, be evidence in proceedings under this Part.

Compare: 1971 No 52 s 76

Section 90: amended, on 7 July 2010, by section 5 of the Defence Amendment Act 2010 (2010 No 61).

Part 8
Miscellaneous provisions

90A Locally employed civilians

The Chief of Defence Force may employ persons who are outside New Zealand to undertake work for the Defence Force outside New Zealand on terms and conditions specified or prescribed by the Chief of Defence Force.

Section 90A: inserted, on 27 September 2001, by section 6 of the Defence Amendment Act 2001 (2001 No 62).

91 Annual report

As soon as practicable after the end of each financial year, the Chief of Defence Force must, in accordance with section 43 of the Public Finance Act 1989, prepare a report on—

(a) the operations of the Defence Force for that financial year; and

(b) any other matters that the Chief of Defence Force considers to affect the operations of the Defence Force.

Section 91: substituted, on 25 January 2005, by section 37(1) of the Public Finance Amendment Act 2004 (2004 No 113).

91A Territorial Forces Employer Support Council

(1) The Minister must appoint a council to be called the Territorial Forces Employer Support Council.

(2) The Council has—

(a) the role of promoting service in the territorial forces; and

(b) the duty of advising the Minister on such matters in relation to the territorial forces as are referred to the Council by the Minister; and

(c) such other functions as are from time to time determined by the Minister.

(3) The Council is a statutory Board for the purposes of the Fees and Travelling Allowances Act 1951.

(4) There may be paid out of public money to the members of the Council remuneration by way of fees, salaries, or allowances and travelling allowances and travelling expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act apply accordingly.

(5) Subject to the provisions of this Act and of any regulations made under this Act, the Council may regulate its own procedure.

Section 91A: inserted, on 1 April 2004, by section 7 of the Defence Amendment Act 2004 (2004 No 13).

92 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 member of the Armed Forces shall, unless issued to that member for retention by that member 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 member of the Armed Forces shall be exempt from seizure in execution.

Compare: 1971 No 52 s 80

Section 92(3): amended, on 1 January 2008, by section 364(1) of the Property Law Act 2007 (2007 No 91).

93 Security of defence areas

(1) Without limiting the power to make regulations under section 101, 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, naval ship, or military aircraft, and making such provision as may be necessary or expedient for the control and security of any such area, ship, or aircraft.

(2) Regulations made pursuant to subsection (1) may include provisions for all or any of the following purposes:

(a) authorising the officer in charge of any defence area, naval ship, or military aircraft, or any member of the Defence Force duly authorised by that officer, to search and detain for the purposes of search any person while that person is in or is entering or leaving, or about to enter or leave, the area, ship, or aircraft, as to his or her person and also as to any vehicle, ship, boat, aircraft, receptacle, parcel, or chattel of every description in that person's possession or under that person's control:

(b) authorising any such officer or member of the Defence Force to seize from a person so searched any thing that the officer or member of the Defence Force 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, in the case of a defence area, if it 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 thing on the conviction of the person from whom the thing was seized of any such offence, or, if the person from whom the thing was taken is not proceeded against or not so convicted, for the return of the thing to that person:

(c) authorising any such officer or member of the Defence Force to apprehend and detain any person who is in or entering or leaving, or about to enter or leave, the area, ship, or aircraft 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, in the case of a defence area, if it is situated in a country other than New Zealand, against the law of that country) while that person is in or entering or leaving, or attempting to enter or leave, the area, for the purpose of—

(i) delivering that person to a constable for the purpose of arrest by that constable; or

(ii) if the area, ship, or aircraft is situated outside New Zealand, delivering that person to a constable of the civil power of that country, so that, where appropriate, that person may be arrested pursuant to the powers of that constable; 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 that person to the service authorities of that force:

(d) authorising any such officer, or member of the Defence Force to require any person who is in or entering or leaving, or about to enter or leave, the area, ship, or aircraft to identify himself or herself and give an explanation of his or her presence:

(e) authorising any such officer or member of the Defence Force to remove any person who, without lawful excuse, refuses or fails to comply with any direction to leave the area, ship, or aircraft:

(f) providing for constables to exercise any of the powers conferred by any of the preceding provisions of this subsection:

(g) requiring any member of the Defence Force duly authorised under paragraph (a) to produce such warrant or other evidence of his or her authority as may be prescribed in the regulations when exercising any power under the regulations:

(h) prescribing offences for breaches in New Zealand of any such regulations, and prescribing, on conviction for any offence, a term of imprisonment not exceeding 3 months or a fine not exceeding $1,000.

Compare: 1971 No 52 s 81; 1976 No 14 s 4; 1985 No 198 s 10; 1988 No 88 s 13(1)

Section 93(1): amended, on 3 June 1998, by section 6(a) of the Defence Amendment Act 1998 (1998 No 39).

Section 93(1): amended, on 3 June 1998, by section 6(c) of the Defence Amendment Act 1998 (1998 No 39).

Section 93(2)(a): amended, on 3 June 1998, by section 6(a) of the Defence Amendment Act 1998 (1998 No 39).

Section 93(2)(a): amended, on 3 June 1998, by section 6(c) of the Defence Amendment Act 1998 (1998 No 39).

Section 93(2)(b): amended, on 3 June 1998, by section 6(e) of the Defence Amendment Act 1998 (1998 No 39).

Section 93(2)(c): amended, on 3 June 1998, by section 6(d) of the Defence Amendment Act 1998 (1998 No 39).

Section 93(2)(c): amended, on 3 June 1998, by section 6(e) of the Defence Amendment Act 1998 (1998 No 39).

Section 93(2)(c)(i): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 93(2)(c)(ii): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 93(2)(c)(ii): amended, on 3 June 1998, by section 6(b) of the Defence Amendment Act 1998 (1998 No 39).

Section 93(2)(d): amended, on 3 June 1998, by section 6(b) of the Defence Amendment Act 1998 (1998 No 39).

Section 93(2)(e): amended, on 3 June 1998, by section 6(b) of the Defence Amendment Act 1998 (1998 No 39).

Section 93(2)(f): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 93(2)(h): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

94 Recovery of excess payments

If any amount in respect of pay, allowances, or other emoluments is paid to a member or discharged member of the Armed Forces, or to the dependant of any member, deceased member, or discharged member of the Armed Forces, or to any other person for the time being entitled to receive any pay, allowance, or other emolument on behalf of any such member, discharged member, or any dependant, in excess of the amount to which the member, discharged member, 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 member, discharged member, dependant, or other person.

Compare: 1971 No 52 s 82; 1989 No 44 s 86(1)

95 Apprentices

[Repealed]

Section 95: repealed, on 7 May 1999, by section 2 of the Defence Amendment Act 1999 (1999 No 31).

96 Public Trust to administer Nelson Rifle Prize Fund

[Repealed]

Section 96: repealed, on 15 December 2005, by section 3 of the Defence Amendment Act (No 2) 2005 (2005 No 100).

96A Nelson Rifle Prize Fund abolished

(1) On the repeal of section 96,—

(a) the Nelson Rifle Prize Fund (the **Fund**) is abolished; and

(b) the Public Trust ceases to administer the Fund; and

(c) all money comprising the Fund (including any income arising from the Fund) held by the Public Trust in its common fund immediately before that repeal must be transferred to the cadet forces.

(2) The cadet forces must apply the money so transferred only for any or all of the following purposes:

(a) the promotion of firearm safety in the Nelson region:

(b) the provision of firearm training in the Nelson region:

(c) the provision of monetary or other prizes for national shooting competitions held in the Nelson region.

(3) In this section, **Nelson region** means the area within the boundaries of Nelson City and the Tasman District.

Section 96A: inserted, on 15 December 2005, by section 4 of the Defence Amendment Act (No 2) 2005 (2005 No 100).

97 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 that 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 that 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 or her successor in that office or appointment.

Compare: 1971 No 52 s 84

98 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 the Armed Forces Discipline Act 1971 to be made, given, or executed by a person who is employed in the Defence Force or 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.

Compare: 1971 No 52 s 85

99 Proclamations, etc

(1) All Proclamations, Orders in Council, and warrants relating to the Defence Force shall be deemed to be sufficiently notified to all persons whom they purport to affect by being published in the *Gazette* or, as the case may require, in Defence Force Orders.

(2) However, if the instrument is secondary legislation, it is deemed to be sufficiently notified to all persons whom it purports to affect by being published under the Legislation Act 2019.

Compare: 1971 No 52 s 86

Section 99(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

100 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 Defence Force 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 Defence Force, 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.

(3) This section does not apply to a Defence Force Order that is stated by this Act or any other legislation to be secondary legislation.

Compare: 1971 No 52 s 87

Section 100(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

101 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—

(i) the vesting in the Crown of all intellectual property—

(A) devised or developed or created in the course of the duties of a member of the Defence Force, whether or not the intellectual property might reasonably be expected to result; or

(B) devised or developed or created wholly or principally by or through the use of resources provided by the Crown:

(ii) the management and funding of the development and protection of intellectual property that is vested in the Crown pursuant to any regulations made under subparagraph (i); and

(iii) the payment of any amount by way of bonus or grant appropriate in the circumstances to a member of the Defence Force who devises or develops or creates any intellectual property that is vested in the Crown pursuant to any regulations made under subparagraph (i).

(c) providing for the payment of grants to Defence Force bands, organisations, and affiliated bodies:

(d) authorising civilian persons or organisations to conduct prescribed activities in defence areas:

(e) controlling the packing, marking, handling, carriage, storage, and use in defence areas of hazardous substances as defined in section 2 of the Hazardous Substances and New Organisms Act 1996:

(f) providing for the enlistment of forces under section 11(3)(e), (4)(d), or (5)(d), and providing for the terms and conditions of service of those forces:

(g) providing for such matters as are specified in section 46 or section 93:

(ga) authorising the officer in charge of any defence area to regulate traffic of all classes, whether vehicular, pedestrian, animal, or otherwise, and prohibit traffic or any class of traffic, either absolutely or conditionally, on any specified road or any specified class of road in the area:

(gb) authorising the officer in charge of any defence area to regulate the use of vehicles and specify the conditions upon or subject to which they may be used in the area:

(gc) prescribing offences for the contravention of or non-compliance with any regulations made under paragraph (ga) or paragraph (gb), and providing that the maximum penalty that, on conviction, may be imposed for those offences is a term of imprisonment not exceeding 3 months or a fine not exceeding $1,000:

(h) providing that any specified regulations of the Civil Aviation Regulations 1953, being—

(i) regulations that relate to obstructions to air navigation and lights; or

(ii) general regulations relating to the administration of enforcement of regulations that so relate,—

shall, with any necessary modifications, apply in respect of any military aerodrome and aircraft using such aerodromes:

(i) 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; except that any such regulations that 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 Defence Force generally or to any specified part of the Defence Force.

(4) Regulations under this section—

(a) are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements); but

(b) commence in accordance with subsection (2), even if they are not yet published.

Compare: 1971 No 52 s 99

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 101(1)(b): substituted, on 28 July 1997, by section 21 of the Defence Amendment Act 1997 (1997 No 41).

Section 101(1)(e): substituted, on 2 July 2001, by section 149 of the Hazardous Substances and New Organisms Act 1996 (1996 No 30).

Section 101(1)(f): substituted, on 22 October 2003, by section 6 of the Defence Amendment Act 2003 (2003 No 69).

Section 101(1)(ga): inserted, on 3 June 1998, by section 7 of the Defence Amendment Act 1998 (1998 No 39).

Section 101(1)(gb): inserted, on 3 June 1998, by section 7 of the Defence Amendment Act 1998 (1998 No 39).

Section 101(1)(gc): inserted, on 15 December 2005, by section 5 of the Defence Amendment Act (No 2) 2005 (2005 No 100).

Section 101(1)(gc): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 101(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

102 Transitional provisions

(1) 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 11.

(2) 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, regulation, rule, order, other enactment, agreement, deed, instrument, application, notice, or other document in force immediately before the commencement of this Act shall, unless the context otherwise requires, be read as a reference to the Chief of Defence Force.

(3) 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 in force immediately before the commencement of this Act shall, unless the context otherwise requires, be read as a reference to the Chief of Defence Force.

(4) 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 in force immediately before the commencement of this Act shall, unless the context otherwise requires, be read as a reference to the Chief of Defence Force.

(5) Every reference to the New Zealand Defence Council in any Act, regulation, rule, order, other enactment, agreement, deed, instrument, application, notice, or other document in force immediately before the commencement of this Act shall, unless the context otherwise requires, be read as a reference to the Chief of Defence Force.

(6) 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, or the New Zealand Defence Council, that are in force immediately before the commencement of this Act shall, until revoked by the Chief of Defence Force, continue in force as

if they were Defence Force Orders issued under section 27. Any such orders or instructions may from time to time be amended by the Chief of Defence Force.

(7) Every lease, licence, or other contract or arrangement in force immediately before the commencement of this Act and executed for any of the purposes of the Ministry of Defence shall continue to have effect according to its tenor notwithstanding that it may hereafter be intended that any right, title, privilege, or benefit presently enjoyed by the Ministry of Defence under the contract or arrangement shall be enjoyed by the Defence Force alone, or by the Defence Force and the Ministry of Defence jointly.

(8) All conditions of employment fixed under section 46 of the Defence Act 1971, or under any corresponding former enactment, and in force immediately before the commencement of this Act shall be deemed to have been fixed under section 45 of this Act, and shall continue to have effect until they are revoked or superseded under that section of this Act.

(9) Every member of the regular forces whose service commenced before the commencement of this Act is entitled, on completion of that service, to an Armed Forces Terminal Benefit of an amount prescribed by the Chief of the Defence Force in accordance with criteria applying immediately before that commencement.

(10) Every award or agreement in force in relation to employees of the Ministry of Defence immediately before the commencement of this Act shall be deemed for the purposes of this Act to have been negotiated by the Chief of Defence Force under section 70 in relation to any relevant group of employees in the Civil Staff, and shall continue to apply to any such group until it is superseded by any other award or agreement negotiated by the Chief of Defence Force under that section.

(11) For the purposes of any entitlement under any award or agreement or contract of employment, service with the Ministry of Defence shall be deemed to be service as a member of the Civil Staff.

Section 102(9): substituted, on 15 November 2000, by section 6 of the Defence Amendment Act 2000 (2000 No 59).

103 Application of State Sector Act 1988

Amendment(s) incorporated in the Act(s).

104 Application of Public Finance Act 1989

The provisions of the Public Finance Act 1989, so far as they are applicable and with any necessary modifications, shall apply to the Defence Force as if—

(a) the Defence Force were a department within the meaning of that Act; and

(b) the Chief of Defence Force were the chief executive of the department within the meaning of that Act.

105 Consequential amendments and repeals

(1) The enactments specified in Schedule 1 are hereby amended in the manner specified in that schedule.

(2) The enactments specified in Schedule 2 are hereby repealed.

Schedule 1
Enactments consequentially amended

s 105(1)

Armed Forces Discipline Act 1971 (1971 No 53) (RS Vol 23, p 33)

Amendment(s) incorporated in the Act(s).

Carriage of Goods Act 1979 (1979 No 43)

Amendment(s) incorporated in the Act(s).

Courts Martial Appeals Act 1953 (1953 No 100) (RS Vol 24, p 219)

Amendment(s) incorporated in the Act(s).

Fire Service Act 1975 (1975 No 42)

[Item(s) repealed]

Naval and Victualling Stores Act 1908 (1908 No 127) (RS Vol 10, p 327)

[Item(s) repealed]

Sale of Liquor Act 1989 (1989 No 63)

Amendment(s) incorporated in the Act(s).

Visiting Forces Act 1939 (1939 No 36) (RS Vol 11, p 807)

[Repealed]

Schedule 1 **Fire Service Act 1975**: item(s) repealed, on 1 January 1991, by section 14(2)(b) of the Fire Service Amendment Act 1990 (1990 No 136).

Schedule 1 **Naval and Victualling Stores Act 1908**: item(s) repealed, on 3 June 1998, by section 2(2) of the Naval and Victualling Stores Act Repeal Act 1998 (1998 No 55).

Schedule 1 **Visiting Forces Act 1939**: repealed, on 1 July 2004, by section 25(1) of the Visiting Forces Act 2004 (2004 No 59).

Schedule 2
Enactments repealed

s 105(2)

Defence Act 1971 (1971 No 52) (RS Vol 23, p 297)

Defence Amendment Act 1974 (1974 No 24) (RS Vol 23, p 363)

Defence Amendment Act 1976 (1976 No 14) (RS Vol 23, p 363)

Defence Amendment Act 1980 (1980 No 40) (RS Vol 23, p 364)

Defence Amendment Act 1985 (1985 No 198) (RS Vol 23, p 364)

Defence Amendment Act 1986 (1986 No 54) (RS Vol 23, p 366)

Defence Amendment Act 1987 (1987 No 180) (RS Vol 23, p 366)

Defence Amendment Act 1988 (1988 No 30) (RS Vol 23, p 367)

Defence Amendment Act (No 2) 1988 (1988 No 88)

Defence Amendment Act (No 2) 2007

Public Act	2007 No 100
Date of assent	13 November 2007
Commencement	see section 2

1 Title

This Act is the Defence Amendment Act (No 2) 2007.

2 Commencement

This Act comes into force on a date to be appointed by the Governor-General by Order in Council, and 1 or more orders may be made appointing different dates for different provisions.

Section 2: Defence Amendment Act (No 2) 2007 brought into force, on 1 July 2009, by clause 2 of the Defence Amendment Act (No 2) 2007 Commencement Order 2008 (SR 2008/235).

4 Redress of complaints

(1) *Amendment(s) incorporated in the Act(s)*.

(2) All complaints under section 49 of the principal Act that have been made before the commencement of this section and that have not been finally dealt with before that commencement are to be dealt with as if that section had not been amended by this section.

(3) Every authority referred to in section 49 of the principal Act continues to have and may exercise all its powers, functions, and duties under that section for the purpose of giving effect to subsection (2).

Notes

1 General

This is a consolidation of the Defence Act 1990 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 Legal status

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 Editorial and format changes

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 Amendments incorporated in this consolidation

Emergency Management Act 2026 (2026 No 53): section 235

Statutes Amendment Act 2025 (2025 No 74) Part 14

Defence (Workforce) Amendment Act 2025 (2025 No 69)

Fair Pay Agreements Act Repeal Act 2023 (2023 No 65): section 7(1)

Secondary Legislation Act 2021 (2021 No 7): section 3

Public Service Act 2020 (2020 No 40): section 135

Contract and Commercial Law Act 2017 (2017 No 5): section 347

Veterans' Support Act 2014 (2014 No 56): section 278

Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70): section 150

Sale and Supply of Alcohol Act 2012 (2012 No 120): section 417(1)

Criminal Procedure Act 2011 (2011 No 81): section 413

Financial Markets Authority Act 2011 (2011 No 5): section 82

Defence Amendment Act 2010 (2010 No 61)

Policing Act 2008 (2008 No 72): section 116(a)(ii)

Defence Amendment Act (No 2) 2007 (2007 No 100)

Property Law Act 2007 (2007 No 91): section 364(1)

Defence Amendment Act 2007 (2007 No 51)

Defence Amendment Act (No 2) 2005 (2005 No 100)

Defence Amendment Act 2005 (2005 No 49)

Relationships (Statutory References) Act 2005 (2005 No 3): section 7

Public Finance Amendment Act 2004 (2004 No 113): section 37(1)

Care of Children Act 2004 (2004 No 90): section 151

Visiting Forces Act 2004 (2004 No 59): sections 25(1), 26

Defence Amendment Act 2004 (2004 No 13)

Defence Amendment Act 2003 (2003 No 69)

Remuneration Authority (Members of Parliament) Amendment Act 2002 (2002 No 54): section 4(1)

Civil Defence Emergency Management Act 2002 (2002 No 33): section 117

Defence Amendment Act 2001 (2001 No 62)

Public Audit Act 2001 (2001 No 10): section 52

Defence Amendment Act 2000 (2000 No 59)

Employment Relations Act 2000 (2000 No 24): section 240

Veterans' Affairs Act 1999 (1999 No 76): section 8

Defence Amendment Act 1999 (1999 No 31)

Naval and Victualling Stores Act Repeal Act 1998 (1998 No 55): section 2(2)

Guardianship Amendment Act 1998 (1998 No 48): section 8

Defence Amendment Act 1998 (1998 No 39)

Defence Amendment Act 1997 (1997 No 41)

Hazardous Substances and New Organisms Act 1996 (1996 No 30): section 149

Maritime Transport Act 1994 (1994 No 104): section 203

Human Rights Act 1993 (1993 No 82): section 145

Defence Amendment Act 1992 (1992 No 62)

Employment Contracts Act 1991 (1991 No 22): section 154

Fire Service Amendment Act 1990 (1990 No 136): section 14(2)(b)

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