

**Reprint  
as at 15 September 2000**



**Pardon for Soldiers of the Great  
War Act 2000**

Public Act    2000 No 29  
Date of assent    14 September 2000  
Commencement    see section 2

**Contents**

	Page
Preamble	2
1 Title	2
2 Commencement	2
3 Act to bind the Crown	2
4 Purpose	2
5 Pardon of Private Braithwaite	3
6 Pardon of Private Hughes	3
7 Pardon of Private King	3
8 Pardon of Private Spencer	4
9 Pardon of Private Sweeney	4
10 Effect of pardons	5
11 Restoration of memory	5
12 Act not to create right to compensation	5
13 Scope of Act	5

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**Note**

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

**This Act is administered by the New Zealand Defence Force.**

**Preamble**

- (1) In the Great War, 5 soldiers of the New Zealand Expeditionary Force were executed, after trial by court martial, for certain offences:
- (2) They were all volunteers:
- (3) One was executed for the offence of mutiny:
- (4) The other 4 were executed for the offence of desertion:
- (5) Their execution was not a fate that they deserved but was one that resulted from—
  - (a) the harsh discipline that was believed at the time to be required; and
  - (b) the application of the death penalty for military offences being seen at that time as an essential part of maintaining military discipline:
- (6) The execution of those 5 soldiers brought dishonour to both the soldiers themselves and New Zealand:
- (7) It is now desired to remove, so far as practicable, the dishonour that the execution of those 5 soldiers brought to those soldiers and their families.

**1 Title**

This Act is the Pardon for Soldiers of the Great War Act 2000.

**2 Commencement**

This Act comes into force on the day after the date on which it receives the Royal assent.

**3 Act to bind the Crown**

This Act binds the Crown.

**4 Purpose**

The purpose of this Act is—

- (a) to pardon 5 soldiers of the New Zealand Expeditionary Force who served as volunteers in the Great War and who were executed in 1 case for mutiny and in the other 4 cases for desertion; and

- (b) to remove, so far as practicable, the dishonour that the execution of those 5 soldiers brought to those soldiers and their families.

## **5 Pardon of Private Braithwaite**

- (1) Private John Braithwaite, regimental number 24/1521, a member of the 2nd Battalion, Otago Regiment,—
  - (a) who was charged with having committed on 28 August 1916 the offence of mutiny; and
  - (b) who, by a General Court Martial held on 11 October 1916, was convicted of that offence and sentenced to death; and
  - (c) who was, after the sentence of death had been confirmed, executed by firing squad in accordance with that sentence on 29 October 1916,—is, by this Act, granted a pardon for that offence of mutiny.
- (2) The soldier to whom subsection (1) relates (who originally enlisted as a volunteer under the name of Jack Braithwaite on 29 May 1915 and was then given the regimental number of 24/58) was re-attested under the name of John Braithwaite on 10 November 1915 and was then given the regimental number 24/1521.

## **6 Pardon of Private Hughes**

- Private Frank Hughes, regimental number 24/2008, a member of the 2nd Battalion, Canterbury Regiment,—
- (a) who was charged with having committed on 29 July 1916 the offence of desertion; and
  - (b) who was, by a Field General Court Martial held on 12 August 1916, convicted of that offence and sentenced to death; and
  - (c) who was, after the sentence of death had been confirmed, executed by firing squad in accordance with that sentence on 25 August 1916,—
- is, by this Act, granted a pardon for that offence of desertion.

## **7 Pardon of Private King**

- Private John King, regimental number 6/1598, a member of the 1st Battalion, Canterbury Regiment,—

- (a) who was charged with having committed on 30 May 1917 the offence of desertion; and
  - (b) who was, by a Field General Court Martial held on 5 August 1917, convicted of that offence and sentenced to death; and
  - (c) who was, after the sentence of death had been confirmed, executed by firing squad in accordance with that sentence on 19 August 1917,—
- is, by this Act, granted a pardon for that offence of desertion.

### **8 Pardon of Private Spencer**

Private Victor Manson Spencer, regimental number 8/2733, a member of the 1st Battalion, Otago Regiment,—

- (a) who was charged with having committed on 13 August 1917 the offence of desertion; and
- (b) who was, by a Field General Court Martial held on 17 January 1918, convicted of that offence and sentenced to death; and
- (c) who was again sentenced to death on 29 January 1918 after the Field General Court Martial had revised its finding and had convicted him of having committed the offence of desertion not on 13 August 1917 but on 25 August 1917; and
- (d) who was, after the sentence of death imposed on him on 29 January 1918 had been confirmed, executed by firing squad in accordance with that sentence on 24 February 1918,—

is, by this Act, granted a pardon for that offence of desertion.

### **9 Pardon of Private Sweeney**

Private John Joseph Sweeney, regimental number 5/1384, a member of the 1st Battalion, Otago Regiment,—

- (a) who was charged with having committed on 25 July 1916 the offence of desertion; and
- (b) who was, by a Field General Court Martial held on 13 September 1916, convicted of that offence and sentenced to death; and

- (c) who was, after the sentence of death had been confirmed, executed by firing squad in accordance with that sentence on 2 October 1916,—  
is, by this Act, granted a pardon for that offence of desertion.

#### **10 Effect of pardons**

The pardons effected by sections 5 to 9 recognise that the execution of the 5 soldiers to whom those pardons are granted was not a fate that they deserved but was one that resulted from—

- (a) the harsh discipline that was believed at the time to be required; and
- (b) the application of the death penalty for military offences being seen at that time as an essential part of maintaining military discipline.

#### **11 Restoration of memory**

The Government of New Zealand must, in relation to each soldier granted a pardon by this Act,—

- (a) note in its official records and, in particular, on the personal file of the soldier, the pardon granted to him and its effect; and
- (b) notify the Commonwealth War Graves Commission of the pardon granted to the soldier by this Act; and
- (c) take such other steps as, in its opinion, are reasonable or desirable to restore the memory of the soldiers granted pardons by this Act.

#### **12 Act not to create right to compensation**

Nothing in this Act—

- (a) confers any right to compensation; or
- (b) is to be relied on in any proceedings as a basis for any claim to compensation,—
  - (i) for harm caused by; or
  - (ii) losses claimed to have flowed from the consequences of—  
any of the convictions specified in sections 5 to 9.

#### **13 Scope of Act**

This Act—

- (a) has effect only in relation to the offences and convictions specified in sections 5 to 9; and
  - (b) is not to be regarded as having effect in relation to any other offence or any other conviction.
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## **Contents**

- 1 General
  - 2 Status of reprints
  - 3 How reprints are prepared
  - 4 Changes made under section 17C of the Acts and Regulations Publication Act 1989
  - 5 List of amendments incorporated in this reprint (most recent first)
- 

## **Notes**

### **1 *General***

This is a reprint of the Pardon for Soldiers of the Great War Act 2000. The reprint incorporates all the amendments to the Act as at 15 September 2000, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that have yet to come into force or that contain relevant transitional or savings provisions are also included, after the principal enactment, in chronological order.

### **2 *Status of reprints***

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

### **3 *How reprints are prepared***

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked are omitted.

For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

#### **4 Changes made under section 17C of the Acts and Regulations Publication Act 1989**

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
  - indentation
  - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
  - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
  - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

**5** *List of amendments incorporated in this reprint  
(most recent first)*

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