

NEW ZEALAND ARMY AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the New Zealand Army Act 1950.

Clause 2 re-enacts section 12 of the principal Act, relating to the period of service in the Regular Force. The provision that all officers and soldiers of the Regular Force shall be appointed or enlisted for a specified period has been omitted, because the regulations provide for temporary commissions as well as permanent and short service commissions, and also because a doubt has been raised as to whether the express requirement for appointments to be for a specified period is inconsistent with the power of the Governor-General to cancel a commission under section 16 of the Act.

Clause 3 is intended to meet the position where a person has enlisted in the Regular Force and received pay as a soldier but has not been duly attested. In such a case he is not a "soldier" as defined in section 2 of the principal Act and is not subject to military law. This clause provides that in such a case he shall be deemed to be a soldier of the Regular Force until discharged, but he may claim his discharge at any time.

Clause 4 re-enacts section 16 of the principal Act, relating to the appointment of officers, so as to make it clear that the powers given to the Governor-General are not restricted by other provisions in the Act or in the regulations. The words "Subject to the provisions of this Act and of any regulations made under this Act" have been omitted. In addition, words have been added to paragraph (c) to make it clear that the Governor-General may compulsorily transfer any officer to the Reserve.

Clause 5 amends the constitution of the Army Board by including as the Second Military Member the officer for the time being holding the newly created appointment of Vice Chief of the General Staff. The quorum of the Board is raised from three to four.

Clause 6 extends the definition of the offence of fraudulent enlistment so as to include members of an emergency force who enlist in any New Zealand force without obtaining a discharge from the emergency force. At present the offence only relates to members of the Regular Force or the Territorial Force who enlist in another New Zealand force.

Clause 7 repeals section 64 (6) of the principal Act, which provides that a sentence of imprisonment imposed by a Court-martial may be with or without hard labour, as the Court-martial directs, but in the absence of such a direction the imprisonment shall be deemed to be with hard labour. The distinction between imprisonment with hard labour and imprisonment without hard labour was abolished by section 40 of the Criminal Justice Act 1954.

Clause 8 re-enacts section 139 of the principal Act, so as to make it clear that an officer who considers himself wronged by the exercise of any power of the Governor-General under section 16 (such as the cancellation of his commission or his summary dismissal) may make a complaint under section 139. In any such case the Army Board will inquire into the matter and consider the grounds of the complaint and any submissions made by the officer in support of it, and shall grant any redress within its jurisdiction which it considers necessary, or (if required by the officer) report the whole matter to the Governor-General, so that he may give directions as to the granting of any redress that may be considered to be justified.

Clause 9: Section 156 of the principal Act enables fines imposed by certain military authorities to be recovered through a Magistrate's Court. This section extends this provision, and permits the recovery through a Magistrate's Court of fines imposed under section 80 by detachment commanders dealing summarily with charges or imposed under section 81 by company, squadron, or battery commanders to whom powers of punishment have been delegated by a commanding officer.

Hon. Mr Macdonald

NEW ZEALAND ARMY AMENDMENT

ANALYSIS

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A BILL INTITULED

An Act to amend the New Zealand Army Act 1950

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

1. Short Title—This Act may be cited as the New Zealand Army Amendment Act 1957, and shall be read together with and deemed part of the New Zealand Army Act 1950 (hereinafter referred to as the principal Act).

10 **2. Period of service in Regular Force**—(1) The principal Act is hereby amended by repealing section twelve, and substituting the following section:

15 “12. (1) Every officer and soldier of the Regular Force shall be liable to serve for the period of his appointment or engagement, subject to such conditions as may be prescribed by Army Orders:

“Provided that, subject to the approval of the Army Board, any such officer or soldier may obtain his discharge at any time during the period of his appointment or engagement on payment of such amount as may be prescribed by Army Orders, not exceeding,—

“(a) In the case of an officer, two hundred pounds, or (if a woman) one hundred pounds: 5

“(b) In the case of a soldier, one hundred pounds, or (if a woman) fifty pounds.

“(2) Any amount payable by any officer or soldier under subsection one of this section shall be in addition to any amount payable by him to the Crown under any bond, agreement, or contract for any special purpose.” 10

(2) Section four of the New Zealand Army Amendment Act 1954 is hereby repealed. 15

3. Persons receiving pay but not duly attested—The principal Act is hereby amended by inserting, after section twelve, the following section—

“12A. Where a person has received pay (whether before or after the commencement of this section) as a soldier of the Regular Force without having been duly attested for service in the Regular Force, then— 20

“(a) He shall be deemed to be a soldier of the Regular Force until discharged:

“(b) He may claim his discharge at any time, and if he does so he shall be discharged with all convenient speed, and, notwithstanding anything in section twelve of this Act, without being under any liability to make any payment in respect of his discharge.” 25 30

4. Appointment of officers—The principal Act is hereby amended by repealing section sixteen, and substituting the following section:

“16. (1) The Governor-General may—

“(a) In the name and on behalf of Her Majesty, by commission under the Public Seal of New Zealand, appoint to the Army or any portion thereof such officers as seem to him to be necessary: 35

“(b) Promote any such officer to higher rank:

5 “(c) Cancel any such commission, or summarily dismiss any such officer, or annul or vary any such appointment, or discontinue the services of any such officer in any capacity wherein he is no longer required, or compulsorily transfer any such officer to the Army Reserve.

“(2) Notice of all appointments and other acts under this section shall be published in the *Gazette*.”

10 **5. Constitution and quorum of Army Board**—Section twenty of the principal Act is hereby amended by repealing subsections two and three, and substituting the following subsections:

“(2) The Board shall consist of—

15 “(a) The Minister, who shall be the President of the Board:

“(b) The Chief of the General Staff, who shall be the First Military Member:

“(c) The Vice Chief of the General Staff, who shall be the Second Military Member:

20 “(d) The Adjutant-General, who shall be the Third Military Member:

“(e) The Quartermaster-General, who shall be the Fourth Military Member:

“(f) The Army Secretary:

25 “(g) One associate member (being an officer of the Territorial Force) to be from time to time appointed by the Governor-General and to hold office during his pleasure.

“(3) Four members of the Board (other than the associate member) shall form a quorum.”

30 **6. Fraudulent enlistment**—(1) Section thirty-three of the principal Act is hereby amended by inserting in subsection one, after the words “Territorial Force”, the words “or an emergency force”.

35 (2) Section two of the principal Act is hereby amended by inserting in subsection one, after the definition of the term “detention barrack”, the following definition:

40 “‘Emergency force’ means any military force forming part of the Army that is for the time being declared by the Governor-General, by Order in Council, to be an emergency force.”

7. Repealing provisions as to hard labour—Section sixty-four of the principal Act is hereby amended by repealing subsection six.

8. Mode of complaint by officer—The principal Act is hereby amended by repealing section one hundred and thirty-nine, and substituting the following section: 5

“139. (1) If an officer thinks himself wronged in any matter by a superior officer, or by a superior military authority, or by the exercise by the Governor-General of any power under section sixteen of this Act, and on application to his commanding officer does not obtain the redress to which he thinks he is entitled, he may make a complaint with respect to that matter to the Army Board. 10

“(2) The Army Board shall inquire into every such complaint and grant any redress within its jurisdiction which appears to it to be necessary, or (if so required by the officer) shall through the Minister make a report to the Governor-General in order to receive the directions of the Governor-General thereon.” 15

9. Enforcement by Magistrate's Court of fines awarded by detachment and other commanders—Section one hundred and fifty-six of the principal Act is hereby amended by inserting, after the words “commanding officer”, the words “or by an officer dealing with a charge under section eighty or section eighty-one of this Act”. 20 25