

# ROYAL NEW ZEALAND AIR FORCE AMENDMENT BILL

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## EXPLANATORY NOTE

THIS Bill amends the Royal New Zealand Air Force Act 1950.

*Clause 2* re-enacts section 11 of the principal Act, relating to the period of service in the Regular Air Force. The provision that all officers and airmen of the Regular Air 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 15 of the Act.

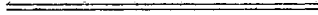
*Clause 3* is intended to meet the position where a person has enlisted in the Regular Air Force and received pay as an airman but has not been duly attested. In such a case he is not an "airman" as defined in section 2 of the principal Act and is not subject to air force law. This clause provides that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

*Clause 4* re-enacts section 15 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* 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 6* 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 15 (such as the cancellation of his commission or his summary dismissal) may make a complaint under section 139. In any such case the Air 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 7:* Section 156 of the principal Act enables fines imposed by certain air force 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 subordinate commanders to whom powers of punishment have been delegated by a commanding officer.



*Hon. Mr Macdonald*

## ROYAL NEW ZEALAND AIR FORCE AMENDMENT

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### ANALYSIS

Title	
1. Short Title	5. Repealing provisions as to hard labour
2. Period of service in Regular Air Force	6. Mode of complaint by officer
3. Persons receiving pay but not duly attested	7. Enforcement by Magistrate's Court of fines awarded by detachment and subordinate commanders
4. Appointment of officers	

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### A BILL INTITULED

#### **An Act to amend the Royal New Zealand Air Force Act 1950**

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

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

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

“11. (1) Every officer and airman of the Regular Air Force shall be liable to serve for the period of his appointment or engagement, subject to such conditions as may be prescribed by regulations;

“Provided that, subject to the approval of the Air Board, any such officer or airman 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 regulations, not exceeding,—

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

“(b) In the case of an airman who, while a member of the Air Force, has undergone a course of training outside New Zealand, two hundred pounds:

“(c) In the case of any other airman, one hundred pounds. 10

“(2) Any amount payable by any officer or airman 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.”

(2) Section five of the Royal New Zealand Air Force 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 eleven, the following section:

“11A. Where a person has received pay (whether before or after the commencement of this section) as an airman of the Regular Air Force without having been duly attested for service in the Regular Air Force, then—

“(a) He shall be deemed to be an airman of the Regular Air Force until discharged: 25

“(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 eleven of this Act, without being under any liability to make any payment in respect of his discharge.” 30

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

“15. (1) The Governor-General may— 35

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

“(b) Promote any such officer to higher rank: 40

“(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 Air Force Reserve.

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

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

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

15 “139. (1) If an officer thinks himself wronged in any matter by a superior officer, or by a superior air force authority, or by the exercise by the Governor-General of any power under section fifteen of this Act, and on application to his commanding officer does not obtain the redress to which he thinks  
20 he is entitled, he may make a complaint with respect to that matter to the Air Board.

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

**7. Enforcement by Magistrate’s Court of fines awarded by detachment and subordinate commanders**—Section one hundred and fifty-six of the principal Act is hereby amended  
30 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”.