

Reprint
as at 1 July 2009

**Armed Forces Discipline
(Exemptions and Modifications)
Order 1983**

(SR 1983/234)

Armed Forces Discipline (Exemptions and Modifications) Order 1983:
revoked, on 1 July 2009, by section 80 of the Armed Forces Discipline
Amendment Act (No 2) 2007 (2007 No 98).

PURSUANT to section 7 of the Armed Forces Discipline Act 1971,
His Excellency the Governor-General, acting by and with the advice
and consent of the Executive Council, hereby makes the following
order.

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Note

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

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

This order is administered in the Ministry of Defence.

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1 Title and commencement

- (1) This order may be cited as the Armed Forces Discipline (Exemptions and Modifications) Order 1983.
- (2) This order shall come into force on the 1st day of December 1983.

2 Interpretation

In this order **the Act** means the Armed Forces Discipline Act 1971.

3 Application

This order shall apply in respect of every chaplain, every servicewoman, every serviceman under the age of 18 years, every midshipman, and every officer cadet, whether he or she is within New Zealand or overseas.

Regulation 3 was amended, as from 1 January 1986, by regulation 2 Armed Forces Discipline (Exemptions and Modifications) Order 1983, Amendment No 1 (SR 1985/344) by substituting the words “every serviceman under the age of 18 years, every midshipman, and every officer cadet” for the words “and every serviceman under the age of 18 Years”.

Chaplains

4 Restrictions on punishment

- (1) A chaplain who is convicted by a court-martial of an offence against the Act may be punished only by the imposition of a sentence of death, imprisonment, dismissal from Her Majesty’s Service, a fine, a severe reprimand, or a reprimand.

- (2) Notwithstanding subclause (1) of this clause, a chaplain may be ordered to pay compensation or make restitution under the provisions of the Act.

5 Courts of inquiry and courts-martial

- (1) A chaplain may not assemble a court of inquiry.
- (2) A chaplain may not be appointed as a member of a court of inquiry unless the subject-matter of the inquiry concerns the service conduct of a chaplain, and the Principal Defence Chaplain or the Principal Chaplain of the service concerned requests the appointment.
- (3) A chaplain may not be appointed as a member of a court-martial unless the accused is a chaplain, and the Principal Defence Chaplain or the Principal Chaplain of the service concerned requests the appointment.

6 Exemptions and modifications

- (1) A chaplain shall not hold any of the following appointments under the Act, nor be authorised to act in any of the following capacities under the Act:
- (a) Commanding officer:
 - (b) Competent service authority:
 - (c) Detachment commander:
 - (d) Officer exercising summary powers:
 - (e) Provost officer:
 - (f) Reviewing authority or reconsidering authority:
 - (g) Superior commander.
- (2) A chaplain is not a “superior officer” for the purposes of section 38 of the Act.
- (3) A chaplain shall not exercise the powers of arrest conferred by section 88 or section 90 of the Act, or issue or execute a warrant for arrest pursuant to section 89 of the Act; nor shall a chaplain be ordered under any of those sections to arrest a person subject to the Act.
- (4) A chaplain may not be authorised or ordered by a commanding officer to exercise any of the powers conferred on a commanding officer by section 95(1) of the Act; nor shall he be ordered

to carry out a search under section 96 of the Act or directed to search any arrested person under section 98 of the Act.

Servicewomen

7 Detention

[Revoked]

This clause was revoked, as from 2 April 1999, by clause 2 Armed Forces Discipline (Exemptions and Modifications) Amendment Order 1999 (SR 1999/36). Pursuant to clause 5 of that Order, the amendment applies only to proceedings in relation to an offence committed after the commencement of that Order.

Members of the Armed Forces under 18 years of age

The above heading was amended, as from 2 April 1999, by clause 3 Armed Forces Discipline (Exemptions and Modifications) Amendment Order 1999 (SR 1999/36) by substituting the words “Members of the Armed Forces” for the word “Servicemen”. Pursuant to clause 5 of that Order, the amendment applies only to proceedings in relation to an offence committed after the commencement of that Order.

8 Detention

- (1) No member of the Armed Forces who is under the age of 17 years shall be sentenced to detention by an officer exercising summary powers, or by a court-martial, under the Act.
- (2) A member of the Armed Forces who has attained the age of 17 years but is under the age of 18 years shall not be sentenced to detention by an officer exercising summary powers under the Act except with the prior approval of a superior commander.

Subclauses (1) and 8(2) were amended, as from 2 April 1999, by clause 4 Armed Forces Discipline (Exemptions and Modifications) Amendment Order 1999 (SR 1999/36) by substituting the words “member of the Armed Forces” for the word “serviceman”. Pursuant to clause 5 of that Order, the amendment applies only to proceedings in relation to an offence committed after the commencement of that Order.

Midshipmen and officer cadets

Heading and regulations 9 to 12 were inserted, as from 1 January 1986, by regulation 3 Armed Forces Discipline (Exemptions and Modifications) Order 1983, Amendment No 1 (SR 1985/344).

9 Investigation and summary disposal of charges

- (1) Subject to subclause (2) of this clause, a charge against a midshipman or an officer cadet shall be investigated and tried summarily, or dealt summarily with, by an officer exercising summary powers as if the midshipman or officer cadet were a rating of able rank, a private, or a leading aircraftman, and not otherwise.
- (2) An officer exercising summary powers may not impose detention on a midshipman or an officer cadet.

Heading and regulations 9 to 12 were inserted, as from 1 January 1986, by regulation 3 Armed Forces Discipline (Exemptions and Modifications) Order 1985, Amendment No 1 (SR 1985/344).

10 Courts-martial

- (1) A midshipman or an officer cadet may be tried by restricted court-martial.
- (2) A midshipman or an officer cadet may not be appointed as a member of a court-martial.

Heading and regulations 9 to 12 were inserted, as from 1 January 1986, by regulation 3 Armed Forces Discipline (Exemptions and Modifications) Order 1983, Amendment No 1 (SR 1985/344).

11 Courts of Inquiry

- (1) A midshipman or an officer cadet may not assemble a court-martial.
- (2) A midshipman or an officer cadet may not be appointed as a member of a court of inquiry.

Heading and regulations 9 to 12 were inserted, as from 1 January 1986, by regulation 3 Armed Forces Discipline (Exemptions and Modifications) Order 1983, Amendment No 1 (SR 1985/344).

12 Further exemptions and modifications

- (1) No midshipman and no officer cadet may hold any of the following appointments under the Act:
 - (a) Commanding officer:
 - (b) Detachment commander:
 - (c) Provost officer.
- (2) No midshipman and no officer cadet is a “superior officer” for the purposes of section 35 or section 38 of the Act except

where, in the course and for the purposes of the training he is undergoing or the instruction he is receiving, he is—

- (a) Posted to a naval ship; or
 - (b) He is authorised in writing by his commanding officer to exercise powers of command.
- (3) No midshipman and no officer cadet shall exercise the powers of arrest conferred by section 88 or section 90 of the Act, or issue or execute a warrant for arrest pursuant to section 89 of the Act.
- (4) No commanding officer may, pursuant to section 115 of the Act, delegate to any midshipman or any officer cadet any of his powers to investigate and try charges summarily or deal summarily with charges.

Heading and regulations 9 to 12 were inserted, as from 1 January 1986, by regulation 3 Armed Forces Discipline (Exemptions and Modifications) Order 1983, Amendment No 1 (SR 1985/344).

P G MILLEN,
Clerk of the Executive Council

Explanatory note

This note is not part of the order, but is intended to indicate its general effect.

This order is made pursuant to section 7 of the Armed Forces Discipline Act 1971. It excludes some provisions of that Act, and modifies others, in respect of serving chaplains, servicewomen, and servicemen under 18 years of age.

In relation to chaplains, this order reflects the special status conferred on them by the Geneva Conventions.

Issued under the authority of the Regulations Act 1936.
Date of notification in *Gazette*: 10 November 1983.

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Notes

1 *General*

This is an eprint of the Armed Forces Discipline (Exemptions and Modifications) Order 1983. It incorporates all the amendments to the order as at 1 July 2009. The list of amendments at the end of these notes specifies all the amendments incorporated into this eprint since 3 September 2007. Relevant provisions of any amending enactments that contain transitional, savings, or application provisions are also included, after the Principal enactment, in chronological order.

2 *About this eprint*

This eprint has not been officialised. For more information about officialisation, please see “Making online legislation official” under “Status of legislation on this site” in the About section of this website.

3 *List of amendments incorporated in this eprint (most recent first)*

Armed Forces Discipline Amendment Act (No 2) 2007 (2007 No 98): section 80
