

House of Representatives
**Supplementary
Order Paper**

Thursday, 3 July 2014

Defence Amendment Bill

*Proposed amendments for the consideration
of the Committee of the whole House*

Key:

- **this is inserted text**
- **this is deleted text**

Note: This Supplementary Order Paper shows amendments to the Bill that are being proposed by the Minister for the purposes of consideration in Committee of the whole House. This document does—

- **NOT have official status in terms of unamended text**
 - **NOT have the status of an as-reported version of the Bill.**
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Explanatory note

This Supplementary Order Paper amends the Defence Amendment Bill to make changes to the provisions relating to the Chief of Defence Force, the Vice Chief of Defence Force, and the Chiefs of Service, and to make other minor or editorial amendments.

Clause 2 is amended to provide for the Act to come into force on 1 October 2014.

Clause 6 is amended to delete provisions relating to the appointment and removal of the Chief of Defence Force. Appointment of the Chief of Defence Force is now dealt with in *new section 24A*, and removal of the Chief of Defence Force is now dealt with in *new section 25C*.

Clause 8 is amended to clarify that a member of a joint force is under the command of a joint force commander.

A new clause 15A inserts a *new section 24A*, which relates to the appointment of the Chief of Defence Force. *New section 24A* provides for the appointment of the Chief of Defence Force by the Governor-General, on the recommendation of the Minister of Defence, for a 3-year term, following an appointment process managed by the State Services Commissioner.

Clause 17 is amended to provide for the remuneration of the Chief of Defence Force, to revise the provisions relating to the review of the Chief of Defence Force's performance, and to provide for the removal from office of a Chief of Defence Force. *Clause 17* is also amended to delete provisions relating to the appointment process for, and reappointment of, a Chief of Defence Force because these are dealt with in *new section 24A*.

Clause 18 is amended to revise the provisions relating to the appointment and reappointment of the Vice Chief of Defence Force. The Vice Chief of Defence Force is to be appointed by the Governor-General, on the recommendation of the Minister of Defence, for a 3-year term, following an appointment process managed by the State Services Commissioner. *Clause 18* is also amended to provide for the remuneration and removal from office of a Vice Chief of Defence Force.

Clause 19 is amended to insert a new function of the Chiefs of Service, providing for the Chiefs of Service to be responsible to the Chief of Defence Force for the management of the relevant service

**Proposed amendments to the
Defence Amendment Bill**

branch and its contribution to the performance of the New Zealand Defence Force. *Clause 19* is also amended to insert a *new section 28(8)*, which re-enacts existing section 28(6) of the principal Act, to allow the Chiefs of Service to make direct representations to the Minister of Defence.

Clause 37 is amended to make changes to *new section 68A*, which restricts compensation for technical redundancy of Civil Staff, in light of the repeal of section 30E of the State Sector Act 1988 and to apply *new section 68A* to transfers to Crown entities (in addition to transfers to government departments).

The *Schedule* is amended to delete amendments to the Remuneration Authority Act 1977 that would have removed the Chiefs of Service from the list of officials whose remuneration is determined by the Remuneration Authority.

Departmental disclosure statement

The Ministry of Defence and the New Zealand Defence Force are required to prepare a disclosure statement to assist with the scrutiny of this Supplementary Order Paper. The disclosure statement provides access to information about any material policy changes to the Bill and identifies any new significant or unusual legislative features of the Bill as amended.

A copy of the statement can be found at:

[http://legislation.govt.nz/disclosure.aspx?type=sop
&subtype=government&year=2014&no=477&](http://legislation.govt.nz/disclosure.aspx?type=sop&subtype=government&year=2014&no=477&).

**The Honourable Dr Jonathan Coleman, in Committee, to
propose the amendments shown in the following document.**

Hon Dr Jonathan Coleman

Defence Amendment Bill

Government Bill

Contents

		Page
1	Title	7
2	Commencement	7
3	Principal Act amended	7
Part 1		
Amendments to Defence Act 1990		
4	Long Title amended	8
5	Interpretation	8
6	Chief of Defence Force	9
7	Constitution of Defence Force	10
8	New section 12 substituted	10
	12 Joint forces	10
9	New section 13 substituted	11
	13 Members of regular forces	11
10	New sections 15 and 16 substituted	11
	15 Members of active reserve	11
	16 Members of inactive reserve	12
11	Circumstances in which members of one Service are deemed attached to another Service	12
12	Transfer for employment with other forces	12
13	Attachment of members of New Zealand Armed Forces to other armed forces	12
14	Heading to Part 3 amended	12
15	Secretary of Defence	12
15A	New section 24A inserted	13
	24A Appointment of Chief of Defence Force	13

**Proposed amendments to the
Defence Amendment Bill**

16	Chief of Defence Force	13
17	New sections 25A to 25C inserted	13
	25A Remuneration of Chief of Defence Force	14
	25B Review of Chief of Defence Force's performance	14
	25C Removal from office of Chief of Defence Force	15
18	New sections 27A to 27G inserted	15
	27A Defence Force Orders may prescribe rank, authority, and seniority of officers and non-commissioned officers	15
	27B Vice Chief of Defence Force	16
	27C Vice Chief of Defence Force may be acting Chief of Defence Force	16
	27D Appointment of Vice Chief of Defence Force	17
	27E Remuneration of Vice Chief of Defence Force	17
	27F Conditions of appointment of Vice Chief of Defence Force	17
	27G Removal from office of Vice Chief of Defence Force	18
19	New section 28 substituted	18
	28 Chiefs of Service	18
20	Chiefs of Service Committee	20
21	Delegation of functions, duties, and powers	20
22	New section 31A inserted	21
	31A Sharing of information and documents between Ministry of Defence and New Zealand Defence Force	21
23	New Part 3A inserted	22
	Part 3A	
	Military capability management	
	31B Interpretation in this Part	22
	31C Role of Secretary of Defence in respect of capability life cycle	22
	31D Role of Chief of Defence Force in respect of capability life cycle	23
24	Appointment, promotion, and discharge of officers	23
25	Section 39 repealed	23
26	Liability for service in reserve forces	23
27	Further provisions relating to Proclamations	23
28	Protection of employment when Proclamation made	24
29	Discretion to waive or postpone requirement for continuous service	24
30	Conditions of service in Armed Forces	24

**Proposed amendments to the
Defence Amendment Bill**

cl 3

31	Special service	24
32	Power to declare situation of national interest in relation to special service	24
33	Protection of employment when situation of national interest declared	24
34	Heading above section 58 amended	25
35	Unit and other non-public funds	25
36	Appointment of members of Civil Staff	25
37	New sections 68A and 68B inserted	25
	68A Restriction of compensation for technical redundancy of Civil Staff arising from reorganisations	25
	68B Transfer of functions from Armed Forces to Civil Staff	26
38	Territorial Forces Employer Support Council	26
39	New sections 91B and 91C inserted	27
	91B Defence Advisory Board	27
	91C Honorary ranks	27
40	Regulations	28

Part 2

Consequential amendments

41	Consequential amendments	28
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Schedule

Consequential amendments

29

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Defence Amendment Act **2011**.

2 Commencement

This Act comes into force on ~~1 July 2012~~ 1 October 2014.

3 Principal Act amended

This Act amends the Defence Act 1990.

Part 1

Amendments to Defence Act 1990

4 Long Title amended

The Long Title is amended by repealing paragraph (e) and substituting the following paragraph:

- “(e) **to define the relationship of the Chief of Defence Force to the Vice Chief of Defence Force and to the Chiefs of Service; and**”.

5 Interpretation

- (1) Section 2(1) is amended by inserting the following definitions in their appropriate alphabetical order:

“**active reserve** means the Royal New Zealand Naval Reserve, the New Zealand Army Reserve, and the Royal New Zealand Air Force Reserve

“**Crown entity** means a Crown entity within the meaning of section 7 of the Crown Entities Act 2004

“**government department** means a department named in Schedule 1 of the State Sector Act 1988

“**inactive reserve** means the Inactive Naval Reserve, the Inactive Army Reserve, and the Inactive Air Force Reserve

“**leading aircraftwoman** includes an aircraftwoman, a general service hand, or an air force cadet”.

- (2) Section 2(1) is amended by repealing the definition of **airman** and substituting the following definition:

“**airman or airwoman**—

“(a) means any man or woman (as the case may be) 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 and a soldier of the Army attached to the Air Force; but

“(c) does not include an officer”.

- (3) Section 2(1) is amended by repealing the definition of **component** and substituting the following definition:

“**component**, in relation to the Navy, the Army, or the Air Force, means the regular force or a reserve force of that Service”.

- (4) Paragraph (a) of the definition of **member of the Defence Force** in section 2(1) is amended by omitting “or an airman” and substituting “an airman, or an airwoman”.
- (5) Paragraph (c) of the definition of **non-commissioned officer** in section 2(1) is amended by omitting “an airman above the rank of leading aircraftman” and substituting “an airman or airwoman above the rank of leading aircraftman or leading aircraftwoman”.
- (6) The definition of **rank** in section 2(1) is amended by omitting “acting, or honorary” and substituting “or acting”.
- (7) Paragraph (b) of the definition of **rating** in section 2(1) is amended by inserting “or airwoman” after “airman”.
- (8) Section 2(1) is amended by repealing the definition of **reserve forces** and substituting the following definition:
“**reserve forces** means the active reserve and the inactive reserve collectively”.
- (9) Paragraph (b) of the definition of **soldier** in section 2(1) is amended by inserting “or airwoman” after “airman”.
- (10) Section 2(1) is amended by repealing the definition of **territorial forces**.
- (11) Section 2 is amended by repealing subsection (3) and substituting the following subsection:
“(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 he or she is serving when the member, or the component, or the part of the component in which the member is serving, is transferred to another component of that Service.”

6 Chief of Defence Force

Section 8 is amended by repealing subsection (3) and substituting the following subsections:

- “(3) The Chief of Defence Force shall command the Armed Forces.

- “(4) The Chief of Defence Force may be appointed for a term of no more than 5 years but may be reappointed for further terms in accordance with **section 25AB**.”
- “(5) The Governor-General in Council may at any time remove the Chief of Defence Force from office for just cause or excuse.”
- “(6) To avoid doubt, section 2(2) of this Act and section 2(3) of the Armed Forces Discipline Act 1971 apply in respect of references to the Chief of Defence Force.”

7 Constitution of Defence Force

- (1) Section 11(3) is amended by repealing paragraphs (c) and (d) and substituting the following paragraph:
- “(c) the Inactive Naval Reserve.”
- (2) Section 11(4) is amended by repealing paragraphs (b) and (c) and substituting the following paragraphs:
- “(b) the New Zealand Army Reserve:
“(c) the Inactive Army Reserve.”
- (3) Section 11(5) is amended by repealing paragraphs (b) and (c) and substituting the following paragraphs:
- “(b) the Royal New Zealand Air Force Reserve:
“(c) the Inactive Air Force Reserve.”

8 New section 12 substituted

Section 12 is repealed and the following section substituted:

“12 Joint forces

- “(1) The Chief of Defence Force may—
- “(a) establish a joint force comprising members of 2 or more Services; and
- “(b) appoint an officer of one of those Services to command that force (**a joint force commander**).
- “(2) If a joint force is established under this section, this Act and the Armed Forces Discipline Act 1971 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—

- “(i) the Chief of Defence Force; or
- “(ii) if a superior commander has been appointed by the Chief of Defence Force to command the joint force, that officer:

“(b) any other necessary modifications as may be prescribed.

“(2A) Under the Chief of Defence Force, a joint force commander commands the joint force to the extent prescribed or directed by the Chief of Defence Force.

“(2B) **Section 28(2)(b) and (d), (3)(b) and (d), and (4)(b) and (d) is subject to subclause (2A).**

“(3) In **subsection (2)(a)(ii), superior commander** has the meaning given to it in section 2(1) of the Armed Forces Discipline Act 1971.”

9 New section 13 substituted

Section 13 is repealed and the following section substituted:

“13 Members of regular forces

“(1) The regular forces of the Armed Forces consist of the officers, ratings, soldiers, airmen, and airwomen who 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 Force of the Army, or the Regular Air Force.

“(2) The maximum numbers of officers, ratings, soldiers, airmen, and airwomen in the regular forces are the numbers that the Minister authorises.

“(3) **Subsection (1)** is subject to Part 4.”

10 New sections 15 and 16 substituted

Sections 15 and 16 are repealed and the following sections substituted:

“15 Members of active reserve

“(1) The active reserve of the Armed Forces consists of the officers, ratings, soldiers, airmen, and airwomen who 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 New Zealand Army Reserve, or the Royal New Zealand Air Force Reserve.

“(2) The maximum numbers of officers, ratings, soldiers, airmen, and airwomen in the active reserve are the numbers that the Minister authorises.

“(3) **Subsection (1)** is subject to Part 4.

“16 Members of inactive reserve

“(1) The inactive reserve of the Armed Forces consists of the officers, ratings, soldiers, airmen, and airwomen who are for the time being and from time to time transferred for service in the Inactive Naval Reserve, the Inactive Army Reserve, or the Inactive Air Force Reserve.

“(2) **Subsection (1)** is subject to Part 4.”

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

(1) Section 19(1) and (3) are amended by omitting “or airman” and substituting in each case “, airman, or airwoman”.

(2) Section 19(2) and (4) are amended by omitting “or airman” and substituting in each case “airman, or airwoman”.

12 Transfer for employment with other forces

(1) Section 22(4)(b) is amended by omitting “territorial or”.

(2) Section 22(4)(b)(i) is amended by omitting “section 39 or”.

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

(1) Section 23(2)(b) is amended by omitting “territorial or”.

(2) Section 23(2)(b)(i) is amended by omitting “section 39 or”.

14 Heading to Part 3 amended

The heading to Part 3 is amended by inserting “**Vice Chief of Defence Force,**” after “**Chief of Defence Force,**”.

15 Secretary of Defence

Section 24(2) is amended by repealing paragraph (d) and substituting the following paragraph:

- “(d) to perform the duties and exercise the powers conferred or imposed on him or her under **Part 3A** (which relates to military capability management).”

15A New section 24A inserted

The following section is inserted after section 24:

“24A Appointment of Chief of Defence Force

- “(1) The Chief of Defence Force is to be appointed for a term not exceeding 3 years, and may be reappointed.
- “(2) The State Services Commissioner—
- “(a) is responsible for managing the process for the appointment of the Chief of Defence Force; and
- “(b) must provide advice to the Minister on the nominations for Chief of Defence Force.”

16 Chief of Defence Force

Section 25 is amended by inserting the following subsection after subsection (2):

- “(2A) The Minister may seek the advice of the State Services Commissioner on any of the terms and conditions of appointment referred to in subsection (2).”

17 New sections 25A to 25B 25C inserted

The following sections are inserted after section 25:

“25A Appointment of Chief of Defence Force

- “(1) If there is a vacancy or an impending vacancy in the position of Chief of Defence Force, the Minister must inform the State Services Commissioner of the matters that the Minister wishes the State Services Commissioner to take into account in recommending a person for the position.
- “(2) The Commissioner must notify the vacancy or impending vacancy in any manner that the Commissioner thinks sufficient to enable suitably qualified persons to apply for the position.
- “(3) The Commissioner must invite any persons that the Commissioner thinks fit to assist in examining applicants and making a recommendation to the Minister on a person to be appointed to the position.

- “(4) The Commissioner must forward to the Minister the name of the person recommended for the position together with full particulars of that person’s qualifications.
- “(5) The Minister must refer the Commissioner’s recommendations to the Governor-General in Council and the Governor-General in Council must decide whether the Commissioner’s recommendation is to be accepted or declined.
- “(6) If the Commissioner’s recommendation is accepted, the Minister must—
- “(a) appoint the person recommended; and
 - “(b) publicly announce that the appointment has been made.
- “(7) If the Commissioner’s recommendation is declined,—
- “(a) the Governor-General in Council may appoint another person to the position; and
 - “(b) the Governor-General in Council is not required to comply with the preceding subsections of this section; and
 - “(c) the Minister must publicly announce that the appointment has been made.
- “Compare: 1988 No 20 s 35

“25AB Reappointment of Chief of Defence Force

- “(1) The State Services Commissioner may recommend that the existing Chief of Defence Force be reappointed under **section 25A(4)** for a further term.
- “(2) The State Services Commissioner may make the recommendation under **subsection (1)** without complying with **section 25A(2) or (3)**.

“25A Remuneration of Chief of Defence Force

The Chief of Defence Force is paid the remuneration and allowances determined by the Remuneration Authority.

“25B Review of Chief of Defence Force’s performance

- “(1) The Minister may appoint the State Services Commissioner or another suitable person to review the Chief of Defence Force’s performance.
- “(2) The review may be a general review or a review in respect of a particular matter.

~~“(3) In carrying out the review, the appointed person must report to the Minister on the manner and extent to which the Chief of Defence Force is fulfilling the requirements imposed under this Act or otherwise imposed.~~

“(3) The person conducting a review under **subsection (1)** must report to the Minister on the manner and extent to which the Chief of Defence Force is fulfilling all of the requirements imposed on the Chief of Defence Force under this Act or any other enactment.

“Compare: 1988 No 20 s 43; 2003 No 9 s 9D

“25C Removal from office of Chief of Defence Force

“(1) The Governor-General in Council may, for just cause, on the recommendation of the Minister, remove the Chief of Defence Force from office.

“(2) The removal must be made by Order in Council with prior written notice to the Chief of Defence Force.

“(3) The notice must—

“(a) state the date on which it is proposed that the removal will take effect, which must not be earlier than the date on which the notice is received; and

“(b) state the reasons for the removal.

“(4) The State Services Commissioner is responsible for advising the Minister on any proposal to remove the Chief of Defence Force from office.

“(5) In this section, **just cause** includes misconduct, inability to perform the functions of office, and neglect of duty.

“Compare: 2003 No 9 s 9C”.

18 New sections 27A to ~~27E~~ 27G inserted

The following sections are inserted after section 27:

“27A Defence Force Orders may prescribe rank, authority, and seniority of officers and non-commissioned officers

“(1) The Chief of Defence Force may, by Defence Force Order, prescribe—

“(a) the rank and authority of officers and non-commissioned officers; and

“(b) the seniority of officers and non-commissioned officers in their respective ranks.

“(2) This section does not limit section 27.

“27B Vice Chief of Defence Force

“(1) The Governor-General in Council may, on the recommendation of the Minister, appoint an officer of the Armed Forces to be the Vice Chief of Defence Force.

“(1A) ~~The Vice Chief of Defence Force may be appointed for a term of no more than 3 years but may be reappointed for further terms in accordance with section 27E.~~

“(2) The Vice Chief of Defence Force holds the rank that the Governor-General in Council may determine.

“(3) ~~The Chief of Defence Force must give to the Vice 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 Vice Chief of Defence Force.~~

“(4) ~~The Vice Chief of Defence Force must perform the functions and exercise the powers of his or her appointment as Vice Chief of Defence Force in accordance with those terms of reference.~~

“(5) ~~The Governor-General in Council may at any time remove the Vice Chief of Defence Force from office for just cause and excuse.~~

“(6) To avoid doubt, section 2(2) of this Act and section 2(3) of the Armed Forces Discipline Act 1971 apply in respect of references to the Vice Chief of Defence Force.

“27C Vice Chief of Defence Force may be acting Chief of Defence Force

“(1) In the event of the Chief of Defence Force’s incapacity, the Vice Chief of Defence Force is deemed to be appointed acting Chief of Defence Force.

“(2) If **subsection (1)** applies, the Vice Chief of Defence Force has all the functions, duties, and powers of the Chief of Defence Force.

“(3) No act done by the Vice Chief of Defence Force in the purported performance or exercise of functions, duties, or powers

under **subsection (2)** may be questioned on the ground that the occasion for his or her appointment under **subsection (1)** had not arisen or had ceased.

“(4) This section does not limit **section 8(6)**.

“27D Appointment of Vice Chief of Defence Force

“(1) If there is a vacancy or an impending vacancy in the position of Vice Chief of Defence Force, the Minister must inform the State Services Commissioner of the matters that the Minister wishes the State Services Commissioner to take into account in recommending a person for the position.

“(2) **Section 25A(2) to (7)** apply to the appointment.

“27E Reappointment of Vice Chief of Defence Force

“(1) The State Services Commissioner may recommend that the existing Vice Chief of Defence Force be reappointed under **section 27D** for a further term.

“(2) The State Services Commissioner may make a recommendation under **subsection (1)** without complying with **section 25A(2) or (3)**.

“27D Appointment of Vice Chief of Defence Force

“(1) The Vice Chief of Defence Force is to be appointed for a term not exceeding 3 years, and may be reappointed.

“(2) The State Services Commissioner—

“(a) is responsible for managing the process for the appointment of the Vice Chief of Defence Force; and

“(b) must provide advice on the nominations for Vice Chief of Defence Force to the Minister.

“Compare: 2003 No 9 ss 9, 9A

“27E Remuneration of Vice Chief of Defence Force

The Vice Chief of Defence Force is paid the remuneration and allowances determined by the Remuneration Authority.

“27F Conditions of appointment of Vice Chief of Defence Force

“(1) The Chief of Defence Force must give to the Vice 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 Vice Chief of Defence Force.

“(2) The Vice Chief of Defence Force must perform the functions and exercise the powers of his or her appointment as Vice Chief of Defence Force in accordance with those terms of reference.

“27G Removal from office of Vice Chief of Defence Force

“(1) The Governor-General may, for just cause, on the recommendation of the Minister, remove the Vice Chief of Defence Force from office.

“(2) The removal must be made by Order in Council with prior written notice to the Vice Chief of Defence Force.

“(3) The notice must—

“(a) state the date on which it is proposed that the removal will take effect, which must not be earlier than the date on which the notice is received; and

“(b) state the reasons for the removal.

“(4) The State Services Commissioner is responsible for advising the Minister on any proposal to remove the Vice Chief of Defence Force from office.

“(5) In this section, **just cause** includes misconduct, inability to perform the functions of office, and neglect of duty.

“Compare: 2003 No 9 s 9C”.

19 New section 28 substituted

Section 28 is repealed and the following section substituted:

“28 Chiefs of Service

“(1) The Chief of Defence Force may, after consultation with Governor-General in Council may, on the recommendation of the Minister, appoint—

“(a) an officer of the Navy to be Chief of Navy:

“(b) an officer of the Army to be Chief of Army:

“(c) an officer of the Air Force to be Chief of Air Force.

“(2) The Chief of Navy—

“(a) holds the rank that the Chief of Defence Force may determine; and

- “(b) under the Chief of Defence Force, commands the Navy; and
 - “(c) is responsible for advising the Chief of Defence Force on any matter relating to the Navy; and
 - “~~(d) is 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.~~
 - “(d) is responsible to the Chief of Defence Force for—
 - “(i) the implementation of policies, plans, and programmes prescribed or approved in accordance with this Act in relation to the Navy; and
 - “(ii) the management of the Navy and its contribution to the performance of the New Zealand Defence Force (including its future capabilities and sustainability).
- “(3) The Chief of Army—
- “(a) holds the rank that the Chief of Defence Force may determine; and
 - “(b) under the Chief of Defence Force, commands the Army; and
 - “(c) is responsible for advising the Chief of Defence Force on any matter relating to the Army; and
 - “~~(d) is 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.~~
 - “(d) is responsible to the Chief of Defence Force for—
 - “(i) the implementation of policies, plans, and programmes prescribed or approved in accordance with this Act in relation to the Army; and
 - “(ii) the management of the Army and its contribution to the performance of the New Zealand Defence Force (including its future capabilities and sustainability).
- “(4) The Chief of Air Force—
- “(a) holds the rank that the Chief of Defence Force may determine; and

- “(b) under the Chief of Defence Force, commands the Air Force; and
- “(c) is responsible for advising the Chief of Defence Force on any matter relating to the Air Force; and
- ~~“(d) is 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.~~
- “(d) is responsible to the Chief of Defence Force for—
- “(i) the implementation of policies, plans, and programmes prescribed or approved in accordance with this Act in relation to the Air Force; and
- “(ii) the management of the Air Force and its contribution to the performance of the New Zealand Defence Force (including its future capabilities and sustainability).
- “(5) The Chief of Defence Force must 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.
- “(6) Each Chief of Service must perform the functions and exercise the powers of his or her appointment as a Chief of Service in accordance with those terms of reference.
- “(7) Each Chief of Service must be paid the remuneration and allowances determined by the Remuneration Authority.
- “(8) In the exercise of command, and in the performance 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 any representations to the Minister as the Chief of Service considers necessary or desirable.”

20 Chiefs of Service Committee

Section 29 is repealed.

21 Delegation of functions, duties, and powers

Section 30 is amended by inserting the following subsection after subsection (2):

“(2A) The Vice Chief of Defence Force may 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 Vice Chief of Defence Force, including functions, duties, and powers delegated to the Vice Chief of Defence Force by the Chief of Defence Force.”

22 New section 31A inserted

The following section is inserted after section 31:

“31A Sharing of information and documents between Ministry of Defence and New Zealand Defence Force

“(1) The Secretary of Defence must, on request, provide to the Chief of Defence Force any information, or a copy of any document, ~~that—~~

“(a) that the Ministry of Defence holds in relation to the exercise of the Ministry’s powers or the performance of its duties or obligations; and

“(b) that is reasonably necessary in order to assist the Defence Force in the exercise of its powers or the performance of its duties or obligations.

“(2) The Chief of Defence Force must, on request, provide to the Secretary of Defence any information, or a copy of any document, ~~that—~~

“(a) that the Defence Force holds in relation to the exercise of the Defence Force’s powers or the performance of its duties or obligations; and

“(b) that is reasonably necessary in order to assist the Ministry of Defence in the exercise of its powers or the performance of its duties or obligations.

“(3) The Defence Force and the Ministry may use any information, or a copy of any document, provided to them under this section in the exercise of their powers or the performance of their duties or obligations.

“(4) The Defence Force and the Ministry must provide reasonable assistance to each other in order to facilitate their respective abilities to make a request under this section.

“(4A) Personal information may only be disclosed under this section in accordance with the Privacy Act 1993.

“(5) This section applies despite anything to the contrary in any enactment, contract, deed, or document.”

23 New Part 3A inserted

The following Part is inserted after Part 3:

“Part 3A

“Military capability management

“31B Interpretation in this Part

In this Part, unless the context otherwise requires,—

“**defence assets** means ships, vehicles, aircraft, equipment, and intangible property used or intended for use by the Defence Force

“**military capability** means the military capability of the Armed Forces involving defence assets and the members of the Defence Force who use those assets.

“31C Role of Secretary of Defence in respect of capability life cycle

“(1) The Secretary of Defence is, in consultation with the Chief of Defence Force, responsible to the Minister—

“(a) for formulating advice on policy in respect of military capability; and

“(b) for the following matters where the procurement, replacement, or repair (as the case may be) has major significance for military capability:

“(i) defining and advising on the selection of defence assets to be procured:

“(ii) procuring or replacing defence assets and delivering those assets to the Defence Force:

“(iii) repairing defence assets and returning those assets to the Defence Force.

“(2) Despite **subsection (1)(b)**, the Minister may determine that the Chief of Defence Force is responsible to him or her for the procurement or repair of a particular defence asset or defence assets of a particular class.

“31D Role of Chief of Defence Force in respect of capability life cycle

- “(1) The Chief of Defence Force is, in consultation with the Secretary of Defence, responsible to the Minister for the following matters in relation to the defence assets referred to in **section 31C(1)(b)**:
- “(a) introduction into service:
 - “(b) use in service:
 - “(c) disposal.
- “(2) Despite **subsection (1)(c)**, the Minister may determine that the Secretary of Defence is responsible to him or her for the disposal of a particular defence asset or defence assets of a particular class.”

24 Appointment, promotion, and discharge of officers

- (1) The heading to section 32 is amended by inserting “**reduction in rank,**” after “**promotion,**”.
- (2) Section 32(1) is amended by inserting the following paragraph after paragraph (c):
- “(ca) reduce officers in rank:”.
- (3) Section 32(1A) is amended by inserting “**(ca)**,” after “(c),”.

25 Section 39 repealed

Section 39 is repealed.

26 Liability for service in reserve forces

- (1) Section 40(1) is amended by adding “(and different matters may be prescribed in relation to the active reserve, the inactive reserve, or any part of those reserve forces)”.
- (2) Section 40(2) and (3) are amended by omitting “or the territorial forces”.

27 Further provisions relating to Proclamations

Section 41(1) and (4) are amended by omitting “section 39(3) or”.

28 Protection of employment when Proclamation made

- (1) Section 42(a)(i) and (b)(i) are amended by omitting “the territorial forces or”.
- (2) Section 42(a)(ii) is amended by omitting “section 39(2) or”.
- (3) Section 42(b)(ii) is amended by omitting “section 39(3) or”.

29 Discretion to waive or postpone requirement for continuous service

- (1) Section 43(1) is amended by omitting “or section 39”.
- (2) Section 43(1) and (2) are amended by omitting “of the territorial forces or”.

30 Conditions of service in Armed Forces

Section 45 is amended by repealing subsection (4) and substituting the following subsection:

- “(4) The Remuneration Authority must determine the remuneration of members holding the positions of—
- “(a) Chief of Defence Force; and
 - “(b) Vice Chief of Defence Force.”

31 Special service

Section 50 is amended by repealing subsection (1) and substituting the following subsections:

- “(1) The Governor-General may accept the offer of any member of the reserve forces or any other person (not being a minor) for special service, either in New Zealand or elsewhere.
- “(1A) **Subsection (1)**—
- “(a) does not limit section 40(2); but
 - “(b) is subject to sections 36 and 37.”

32 Power to declare situation of national interest in relation to special service

Section 50A is amended by omitting “territorial forces or”.

33 Protection of employment when situation of national interest declared

Section 50B(a)(i) is amended by omitting “the territorial forces or”.

34 Heading above section 58 amended

The heading above section 58 is amended by omitting “*funds, messes, etc*” and substituting “*and other non-public funds*”.

35 Unit and other non-public funds

Section 58 is amended by inserting the following subsection after subsection (9):

“(9A) A contract entered into involving the application of money forming part of a fund established under this section is entered into by Her Majesty the Queen for the purposes of this section (and, accordingly, is not a contract involving the use of public money within the meaning of the Public Finance Act 1989).”

36 Appointment of members of Civil Staff

Section 61A(1)(a) is amended by omitting “or airmen” and substituting “airmen, or airwomen”.

37 New sections 68A and 68B inserted

The following sections are inserted after section 68:

“68A Restriction of compensation for technical redundancy of Civil Staff arising from reorganisations

“(1) If a position held by a member of the Civil Staff ceases to exist as the result of a transfer of functions from the Civil Staff to a government department, the provisions of section 30E of the State Sector Act 1988 will apply as if the member of the Civil Staff had been an employee of a government department.

“(2) In this section, **government department** means a department named in Schedule 1 of the State Sector Act 1988.

“(1) If a position held by a member of the Civil Staff ceases to exist as the result of a transfer of functions from the Civil Staff to a government department or Crown entity (**department or entity**), that person is not entitled to receive any payment or other benefit on the ground that his or her position in the Civil Staff has ceased to exist if, in connection with that transfer of functions,—

“(a) the person is offered equivalent employment in the department or entity (whether or not the employee accepts the offer); or

“(b) the employee is offered, and accepts, other employment in the department or entity.

“(2) In **subsection (1), equivalent employment** means employment—

“(a) in substantially the same position; and

“(b) in the same general locality; and

“(c) on terms and conditions of employment that are no less favourable than the terms and conditions of service that applied to the person immediately before the offer of equivalent employment (including any redundancy or superannuation conditions); and

“(d) on terms that treat the period of service with the Civil Staff (and any other period of service recognised by the Civil Staff as continuous service) as if it were continuous service with the department or entity.

“Compare: 1988 No 20, s 30E

“68B Transfer of functions from Armed Forces to Civil Staff

“(1) This section applies where the Chief of Defence Force transfers functions from the Armed Forces to the Civil Staff.

“(2) The Chief of Defence Force may, without complying with sections 62 and 63, appoint a person to a position in the Civil Staff who—

“(a) has appropriate skills and experience for the position; and

“(b) has been discharged from the regular forces within the preceding 12 months because his or her position ceased to exist as a result of a transfer of functions to the Civil Staff.

“(3) Section 67 does not apply in relation to an appointment made under **subsection (2)**.

“(4) A person who is appointed under **subsection (2)** is not an employee for the purposes of sections 67A and 67B of the Employment Relations Act 2000 (which relate to trial periods).”

38 Territorial Forces Employer Support Council

(1) The heading to section 91A is amended by omitting “**Territorial Forces**” and substituting “**Defence**”.

- (2) Section 91A(1) is amended by omitting “Territorial Forces” and substituting “Defence”.
- (3) Section 91A(2)(a) is amended by omitting “territorial forces” and substituting “active reserve”.
- (4) Section 91A(2)(b) is amended by omitting “territorial” and substituting “reserve”.

39 New sections 91B and 91C inserted

The following sections are inserted after section 91A:

“91B Defence Advisory Board

- “(1) The Minister may appoint a board of suitable persons to be called the Defence Advisory Board (the **Board**).
- “(2) The function of the Board is to provide independent and specialist advice to the Minister on matters relating to defence that the Minister from time to time refers to the Board.
- “(3) Members of the Board must be paid, in accordance with the fees framework referred to in section 10 of the Crown Entities Act 2004,—
 - “(a) remuneration for services as a member at a rate and of a kind determined by the Minister:
 - “(b) reimbursement for actual and reasonable travelling and other expenses incurred in performing functions and duties as a member.
- “(4) Subject to the provisions of this Act and of any regulations made under this Act, the Board may regulate its own procedure.

“91C Honorary ranks

- “(1) The Governor-General may grant an honorary rank to any person.
- “(2) An honorary rank does not confer or imply membership in the Armed Forces.
- “(3) The Governor-General may delegate the power in **subsection (1)** to the Chief of Defence Force and section 30(4) to (9) apply, with any necessary modifications, to the delegation.
- “(4) The Chief of Defence Force must cause notice of every honorary rank granted under this section to be promulgated by Defence Force Orders.”

40 Regulations

Section 101(1) is amended by inserting the following paragraph after paragraph (gc):

“(gd) regulating the procedure of the Defence Advisory Board.”.

Part 2

Consequential amendments

41 Consequential amendments

The enactments specified in the Schedule are amended in the manner specified in that schedule.

Schedule

s 41

Consequential amendments

Armed Forces Discipline Act 1971 (1971 No 53)

Definition of **airman** in section 2(1): repeal and substitute:

“**airman** or **airwoman** has the same meaning as in section 2(1) of the Defence Act 1990”.

Definition of **leading aircraftman** in section 2(1): repeal and substitute:

“**leading aircraftman** or **leading aircraftwoman** includes an aircraftman, an aircraftwoman, a general service hand, or an air force cadet”.

Section 6(1)(a): omit “the Royal New Zealand Naval Volunteer Reserve, or the Naval Reserves” and substitute “or the Inactive Naval Reserve”.

Section 6(1)(c): omit “, the Royal New Zealand Naval Volunteer Reserve, or the Naval Reserves” and substitute “or the Inactive Naval Reserve”.

Section 6(2)(a): omit “the Territorial Force, the Army Reserve” and substitute “the New Zealand Army Reserve, the Inactive Army Reserve”.

Section 6(2)(c): omit “the Territorial Force and the Army Reserve” and substitute “the New Zealand Army Reserve and the Inactive Army Reserve”.

Section 6(3)(a): omit “the Territorial Air Force, or the Air Force Reserve” and substitute “the Royal New Zealand Air Force Reserve, or the Inactive Air Force Reserve”.

Section 6(3)(b): insert “or airwomen” after “airmen”.

Section 6(3)(c): omit “airmen of the Territorial Air Force or the Air Force Reserve” and substitute “airmen and airwomen of the Royal New Zealand Air Force Reserve or the Inactive Air Force Reserve”.

Section 6(3)(d): insert “or airwomen” after “airmen”.

Section 10(2)(b): add “or a leading aircraftwoman”.

Section 11(2)(b): add “or a leading aircraftwoman”.

Section 16(1): omit “or airman” and substitute “airman, or airwoman”.

Armed Forces Discipline Act 1971 (1971 No 53)—*continued*

Section 16(3): omit “or airman” and substitute “airman, or airwoman”.

Section 19(c): omit “airman holding the rank of leading aircraftman” and substitute “airman or airwoman holding the rank of leading aircraftman or leading aircraftwoman”.

Section 82(2): omit “or airman” and substitute “airman, or airwoman”.

Section 88(2)(a)(i): omit “or airman” and substitute “airman, or airwoman”.

Section 88(2)(b): repeal and substitute:

- “(b) a non-commissioned officer is empowered to arrest—
 - “(i) a rating, soldier, airman, or airwoman who is not his or her superior officer; or
 - “(ii) any rating, soldier, airman, or airwoman (though of higher rank) if the offence or suspected offence is mutiny, or the rating, soldier, airman, or airwoman is behaving in a disorderly or violent manner:”.

Section 117ZJ(1)(b) and (2): insert “or leading aircraftwoman” after “leading aircraftman”.

Section 168(3)(c): insert “or airwoman” after “airman”.

Item 4 in Schedule 4: omit “or a leading aircraftman, or a rating, soldier, or airman” and substitute “a leading aircraftman or leading aircraftwoman, or a rating, soldier, airman, or airwoman”.

Court Martial Act 2007 (2007 No 101)

Section 24(2): omit “or airman” and substitute “airman, or airwoman”.

Section 72(2): omit “or airman” and substitute “airman, or airwoman”.

Remuneration Authority Act 1977 (1977 No 110)

Items relating to the Chief of Navy, the Chief of Army, and the Chief of Air Force in Schedule 4: omit and substitute: “The Vice Chief of Defence Force”.

Remuneration Authority Act 1977 (1977 No 110)—continued

Schedule 4: insert in its appropriate alphabetical order:
“The Vice Chief of Defence Force”.

**Reserves and other Lands Disposal and Public Bodies
Empowering Act 1913 (1913 No 67)**

Heading to section 88: omit “**Territorial Forces**” and substitute “**Re-
serve Forces**”.

Section 88: omit “Territorial Force” and substitute “reserve forces
(within the meaning of the Defence Act 1990)”.

**Reserves and other Lands Disposal and Public Bodies
Empowering Act 1920 (1920 No 75)**

Section 50(2): omit “Defence Department as a drill-shed for the
training of members of the New Zealand Territorial Forces” and sub-
stitute “New Zealand Defence Force as a drill-shed for the training
of members of the reserve forces (within the meaning of the Defence
Act 1990)”.

Volunteers Employment Protection Act 1973 (1973 No 25)

Definition of **territorial forces** in section 2(1): repeal.

Section 14A(a)(i): omit “the territorial forces or”.

Section 14A(a)(ii): omit “section 39(2) or”.

Section 14A(b)(i): omit “the territorial forces or”.

Section 14A(b)(ii): omit “section 39(3) or”.

Section 14B(b): omit “section 39 or”.

Section 14C(a): omit “section 39 or”.

Section 14D(1): omit “section 39 or”.

Section 14U(1): omit “section 39 or”.

Section 14Y(1)(b) and (c): omit “the territorial forces or”.

Section 14ZO(1)(a): omit “section 39 or”.

**Proposed amendments to the
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