

## New Zealand.



### ANALYSIS.

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| <p><b>Title.</b></p> <p>1. Short Title.</p> <p style="text-align: center;"><i>Military Custody.</i></p> <p>2. Person failing to pay fine imposed under principal Act may in certain cases be committed to military custody.</p> <p>3. Arrest and detention in pursuance of warrant of military custody.</p> <p>4. Minister may discharge person detained in military custody.</p> <p>5. Detention in military custody need not be continuous.</p> <p>6. Escape from or failure to return to military custody.</p> <p>7. Mode of computing period of military custody.</p> <p>8. Person detained in military custody to be subject to military discipline, &amp;c.</p> <p>9. Effect of detention on liability to pay fine.</p> <p>10. Foregoing provisions as to military custody not to affect other lawful methods of enforcing fine.</p> <p style="text-align: center;"><i>Attachment-orders.</i></p> <p>11. Fines under principal Act may be recovered by way of attachment of wages. Procedure as to attachment-orders under this section.</p> <p style="text-align: center;"><i>Courts-martial.</i></p> <p>12. Repeal.</p> <p>13. Powers of Governor with respect to Courts-martial.</p> <p>14. In time of war Defence Forces to be subject to military law.</p> <p>15. Certain persons subject to military law in time of peace.</p> <p>16. Territorial Force to be subject to military law when called out for active service.</p> <p>17. Army Act to apply to persons subject to military law.</p> <p>18. Limitation of term of imprisonment to which offender may be sentenced by Court-martial.</p> <p>19. Detention in pursuance of sentence by Court-martial.</p> <p>20. Court-martial may sentence to imprisonment with or without hard labour.</p> <p>21. Court-martial may impose fine in lieu of imprisonment.</p> <p>22. Imprisonment for default in payment of fine. Recovery of fines.</p> | <p>23. Other penalties may be imposed by Court martial.</p> <p>24. Army Act applicable notwithstanding that offence also punishable by civil law.</p> <p>25. Proceedings of Courts-martial to be in open Court.</p> <p>26. Person on trial may be assisted by counsel.</p> <p>27. Proceedings not invalid for want of form.</p> <p>28. Contempt of Court.</p> <p>29. Procedure in cases of contempt.</p> <p>30. Penalties for contempt.</p> <p>31. Evidence before Court-martial.</p> <p style="text-align: center;"><i>Amendments of Principal Act.</i></p> <p>32. Section 2 of principal Act amended.</p> <p>33. Section 4 of principal Act amended.</p> <p>34. Oath of allegiance. Repeal.</p> <p>35. Repeal.</p> <p>36. Section 19 of principal Act amended.</p> <p>37. Repeal.</p> <p>38. Transfer from Territorial Force to Reserve.</p> <p>39. Transfer of Volunteers from General Training Section to Territorial Force.</p> <p>40. Repeal.</p> <p>41. Section 23 of principal Act amended. Repeal.</p> <p>42. Transfer of Senior Cadets and others directly into the Territorial Force.</p> <p>43. Section 25 of principal Act amended.</p> <p>44. Section 35 of principal Act amended. Repeals.</p> <p>45. Section 40 of principal Act amended.</p> <p>46. Repeal.</p> <p>47. Section 41 of principal Act amended.</p> <p>48. Section 41 of principal Act further amended. Repeal.</p> <p>49. Repeal.</p> <p>50. Repeal.</p> <p>51. Section 45 of principal Act amended.</p> <p>52. Repeal.</p> <p>53. Section 47 of principal Act amended.</p> <p>54. Repeal.</p> <p>55. Section 51 of principal Act amended.</p> <p>56. Certain offenders to be deprived of civil rights.</p> <p>57. Employers not to prevent military service. Repeal.</p> <p>58. Section 53 of principal Act amended.</p> <p>59. Section 56 of principal Act amended.</p> <p>60. Section 60 of principal Act amended.</p> <p>61. Section 62 of principal Act amended.</p> <p>62. Recovery of fines. Repeal.</p> |
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## 1912, No. 20.

Title.

AN ACT to amend the Defence Act, 1909.

[7th November, 1912.]

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

Short Title.

1. This Act may be cited as the Defence Amendment Act, 1912, and shall be read together with and deemed to form part of the Defence Act, 1909 (hereinafter referred to as the principal Act).

*Military Custody.*

Person failing to pay fine imposed under principal Act may in certain cases be committed to military custody.

2. Every person who is convicted of any offence under the provisions of section fifty or section fifty-one of the principal Act, or who, being a member of the Defence Forces or liable to be trained under Part VI of the principal Act, is convicted of any other offence against the principal Act or any amendment thereof or any regulations made thereunder, may, if he makes default in the payment of any fine or costs imposed upon him by such conviction, by a warrant issued by the convicting Magistrate or Justices, or by any other Magistrate, in the prescribed form or to the like effect, be committed to military custody for such period as the Magistrate or Justices think fit, not exceeding twenty-eight days.

Arrest and detention in pursuance of warrant of military custody.

3. On the issue of any such warrant of military custody any constable may (whether such warrant has been delivered to him or not) arrest the offender against whom the warrant has been so issued, and such offender shall thereupon be detained for the period specified in the warrant at such place or places (other than a prison or police-gaol), and in the custody of such officer or officers of the Defence Forces, as may from time to time be appointed in that behalf by the Commandant of the Defence Forces, either generally or in respect of any particular case or classes of cases.

Minister may discharge person detained in military custody.

4. The Minister may at any time, by warrant under his hand, discharge from military custody any person so detained.

Detention in military custody need not be continuous.

5. (1.) Subject to regulations the detention of an offender in military custody at the place or places so appointed need not be continuous, but the offender may from time to time, at the discretion of any officer to whose custody he has been committed as aforesaid, be temporarily released from custody, to the intent that he may follow his usual occupation, or for other just or necessary purpose.

(2.) Every person so released from custody shall return thereto at the time and place appointed in that behalf by the officer by whom he is so released.

(3.) The period of any such temporary release shall in no case exceed forty-eight hours at any one time.

6. (1.) If any person so in military custody escapes therefrom, or fails to return thereto at the time and place appointed after any period of temporary release, he may be arrested without warrant by any constable, and shall thereupon be returned to the place of custody from which he so escaped or to which he so failed to return.

Escape from or failure to return to military custody.

(2.) Every person who so escapes or so fails to return shall be guilty of an offence punishable on summary conviction before a Magistrate, and may on such conviction be sentenced to a further period of military custody not exceeding twenty-eight days.

(3.) If at the time of such conviction any former period of military custody is still unexpired, the said further period shall commence on the expiry of the former period.

(4.) On any such conviction the convicting Magistrate shall issue his warrant of military custody in the prescribed form, or to the like effect, and every such warrant shall have the same force and effect as a warrant issued in pursuance of the foregoing provisions of this Act on default in the payment of a fine.

(5.) In any prosecution under this section an appeal shall lie in the same manner as if military custody was imprisonment within the meaning of the Justices of the Peace Act, 1908, and all the provisions of that Act as to appeals shall apply accordingly.

7. Except where otherwise provided, the period of military custody as specified in any warrant of military custody shall commence on the day on which the offender is arrested under the warrant, and shall include any period or periods of temporary release, but shall not include any period during which the offender has been free from actual custody because of his escape therefrom, or because of his failure to return thereto after a period of temporary release, or because of any appeal against his conviction.

Mode of computing period of military custody.

8. (1.) Every person who is in military custody as aforesaid shall be subject to such military training, discipline, and duties as the Commandant of the Defence Forces with the approval of the Minister from time to time prescribes or appoints, either generally or in any particular case or classes of cases, and shall obey all lawful orders received by him in respect of such training, discipline, and duties from any officer or non-commissioned officer of the Defence Forces.

Person detained in military custody to be subject to military discipline, &c.

(2.) Every person who while in military custody as aforesaid fails or refuses to submit to or perform such military training, discipline, or duties, or to render obedience to any such orders, or is guilty of insolent, disorderly, or insubordinate conduct, shall be guilty of an offence punishable on summary conviction before a Magistrate, and may on such conviction be sentenced to a further term of military custody not exceeding twenty-eight days.

(3.) The provisions of subsections three, four, and five of section six of this Act shall extend and apply to any such prosecution or conviction.

(4.) In this section the term "military training" includes physical training, drill, and exercises.

Effect of detention on liability to pay fine.

9. (1.) If a person is arrested under a warrant of military custody in respect of default in the payment of the whole of or any part of a fine and costs, or of a fine, or of costs, the Minister may, as a condition of exercising his power of discharging such person from custody hereinbefore vested in him, require such person to pay the whole or such part of such fine and costs, or such fine, or such costs, as the Minister defines.

(2.) If such person is so discharged from custody by warrant of the Minister, he shall, notwithstanding his arrest, and notwithstanding that he may have been detained in military custody, continue to be liable for the payment of such fine and costs, or such fine, or such costs, to the extent so defined by the Minister, and payment may accordingly be thereafter enforced by attachment-order or otherwise.

(3.) If a person arrested as aforesaid is detained in military custody for the full period specified in the warrant of military custody, he shall be discharged from all liability to pay such fine and costs, or such fine, or such costs.

Foregoing provisions as to military custody not to affect other lawful methods of enforcing fine.

10. Nothing in this Act shall be so construed as to prevent any fine from being recovered or enforced in any manner which would have been competent or lawful if this Act was not in force.

#### Attachment-orders.

Fines under principal Act may be recovered by way of attachment of wages.

11. (1.) When any person is convicted after the commencement of this Act of any offence against the principal Act or any amendment thereof, or against any regulation made thereunder (whether such offence is committed before or after the commencement of this Act), and is sentenced to pay a fine, the convicting Magistrate or Justices or any other Magistrate may at the same or any subsequent time, and from time to time, on the application of any person, make an attachment-order in pursuance of this section.

(2.) Any such attachment-order may be made against any person who is proved to the satisfaction of the Magistrate or Justices making the same to be an employer of the offender so convicted.

(3.) When the person convicted enters the service of any other employer a further attachment-order may be made against such other employer.

Procedure as to attachment-orders under this section.

(4.) Any such attachment-order may be made *ex parte* without notice to the said offender or his employer, but a duplicate thereof shall be served upon the employer either personally or by leaving the same at his place of abode, or at his place of business, or at any of his places of business. Where the employer is a body corporate, service of the duplicate order may be effected by leaving the same at any office or place of business of the body corporate.

(5.) Any such attachment-order may declare that the said fine shall, by way of weekly payments of such amount as the Magistrate or Justices think fit and specify in the attachment-order, be a charge on any salary or wages which from time to time, and at any time while the attachment-order remains in force, become due and payable by the employer to the offender.

(6.) The charge so created shall be deemed to accrue from week to week, and on such day of the week as is specified in that behalf in the attachment-order.

(7.) The charge so imposed shall attach to all wages or salary which becomes due by the employer to the offender at any time while the fine or any part thereof remains unpaid, whether the contract of employment in respect of which the wages or salary so becomes due existed at the date of the attachment-order or not.

(8.) Any such attachment-order may be at any time varied, suspended, or cancelled, on the application *ex parte* of any person, by the Magistrate or Justices making the same, or by any other Magistrate, on good cause being shown to the satisfaction of the Magistrate or Justices why the order should be so varied, suspended, or cancelled; and every such variation, suspension, or cancellation shall take effect on notice thereof being served on the employer in manner aforesaid.

(9.) Every such attachment-order shall take effect on the service of a duplicate thereof on the employer in manner hereinbefore provided.

(10.) So long as the attachment-order remains in force the employer shall from time to time, so often as any moneys become due and payable by him to the offender by way of salary or wages, deduct therefrom such sum as is sufficient to satisfy the charge thereon, so far as the same has accrued on or before the day on which the said wages or salary so becomes due and payable, and shall pay the amount so deducted to the person specified in that behalf in the attachment-order, who may, as the Magistrate or Justices by whom the order is made think fit, be either the Clerk for the time being of a Magistrate's Court or any other person.

(11.) All sums so deducted and paid shall be deemed to the extent thereof to have been paid by the employer in satisfaction of the wages or salary payable by him to the offender, and to have been paid by the offender in satisfaction of the said fine.

(12.) If and as often as the employer makes default in the payment of any money in satisfaction of any such charge, that money shall become a debt due by him to the Crown and recoverable by action accordingly in any Court of competent jurisdiction.

(13.) The charge created by any such attachment-order shall prevail over and have priority to any assignment made or charge created by the offender, whether before or after the making of the attachment-order, and the order shall have the same effect as if no such assignment or charge had been so made or created.

(14.) Section twenty-seven of the Wages Protection and Contractors' Liens Act, 1908, shall have no application to any attachment under this section.

(15.) The employer in making any deduction or payment in pursuance of the attachment-order and in accordance with the terms thereof shall not be concerned to make inquiry as to whether any moneys are due or payable in respect of the fine, or be affected by any notice to the contrary.

(16.) In this section the term "fine" includes costs payable by the offender under any such conviction as aforesaid.

(17.) An attachment-order under this section may be in the form prescribed by regulations or to the like effect, with such modification (if any) as the circumstances may require.

(18.) The making of an attachment-order under this section shall not so operate as to exclude any other remedy which would otherwise be available for the enforcement or recovery of the fine payable by the offender.

(19.) Where the offender is employed in the service of the Crown an attachment-order may be made under this section, and in such case any order under this section shall be deemed to be served on the Crown if it is served in manner aforesaid on any officer of the Public Service having the control of the offender.

#### *Courts-martial.*

Repeal.

12. Section thirteen of the Defence Amendment Act, 1910 (relating to Courts-martial), is hereby repealed.

Powers of Governor with respect to Courts-martial.

13. (1.) The Governor may from time to time, by warrant under his hand,—

- (a.) Convene, or authorize any qualified officer to convene, a General Court-martial for the trial, under this Act, of any person subject to military law; and
- (b.) Give a general authority to any qualified officer to convene General or District Courts-martial for the trial, under this Act, of such persons subject to military law as are for the time being under or within the territorial limits of his command; and
- (c.) Empower any qualified officer to delegate to any officer under his command, not below the degree of field officer of the Permanent Force or Permanent Staff, a general authority to convene General or District Courts-martial for the trial, under this Act, of such persons subject to military law as are for the time being under or within the territorial limits of his command; and
- (d.) Reserve for confirmation by himself, or empower any qualified officer to confirm, the findings and sentences of General or District Courts-martial; and
- (e.) Empower any officer for the time being authorized to confirm the findings and sentences of General or District Courts-martial to reserve for confirmation such findings and sentences; and
- (f.) Make regulations for the convening, composition, and procedure of Courts-martial, and for securing, whether through the assistance of the civil authorities or otherwise, the presence before a Court-martial of persons liable to be tried thereby.

(2.) For the purposes of this section “qualified officer” means the Commandant of the Defence Forces, the Officer Commanding the Permanent Force, and an Officer Commanding a District.

In time of war Defence Forces to be subject to military law.

14. In time of war all members of the Defence Forces shall be at all times subject to military law as established by the Army Act, save so far as that Act is inconsistent with the principal Act, or any amendment thereof, or with any regulations made thereunder.

15. In time of peace the following persons shall be subject to military law as established by the Army Act, save so far as that Act is inconsistent with the principal Act, or any amendment thereof, or with any regulations made thereunder :—

Certain persons subject to military law in time of peace.

(a.) As officers—

(i.) All officers of the Defence Forces :

(b.) As soldiers—

(ii.) All non-commissioned officers and men of the Permanent Staff and Permanent Force :

(iii.) All non-commissioned officers and men of the Defence Forces or of the General Training Section on all occasions when performing military duties, or serving in any camp of training or military exercise, or absent on leave from any such camp, or going to or from the place of parade, exercise, training, or military duty.

16. When the Territorial Force or any part thereof has been called out for active service in New Zealand in accordance with the provisions of this Act in that behalf, every member of the said Force or of that part thereof shall at all times while he remains under the obligation of active service be subject to military law as established by the Army Act, save so far as that Act is inconsistent with the principal Act, or any amendment thereof, or with any regulation made thereunder.

Territorial Force to be subject to military law when called out for active service.

17. Save so far as inconsistent with the principal Act, or any amendment thereof, or with any regulations made under any such Act, the provisions of the Army Act and of all rules or regulations made thereunder with respect to military offences and the punishment thereof and the composition, powers, and procedure of Courts-martial in the trial of such offences shall, so far as applicable and with all necessary modifications, apply to all persons who are subject to military law at the time of the commission of any such offence in the same manner as if the Defence Forces were part of His Majesty's Forces within the meaning of the Army Act, and as if a Court-martial under this Act was a Court-martial under the Army Act.

Army Act to apply to persons subject to military law.

18. Notwithstanding anything hereinbefore or in the Army Act contained, no Court-martial shall, in respect of any offence against military law committed in time of peace, have power to sentence the offender to any longer term of imprisonment than three months ; and the Army Act shall be read and construed accordingly as if imprisonment for a period not exceeding three months was substituted in that Act for any greater punishment therein provided.

Limitation of term of imprisonment to which offender may be sentenced by Court-martial.

19. Any person sentenced to imprisonment by a Court-martial may be detained in pursuance of that sentence either in any prison or police-gaol in accordance with the provisions of the Prisons Act, 1908, or in any other place (not being a prison or police-gaol) which the Governor may, by warrant under his hand, appoint for that purpose, either generally or in any particular case or classes of cases.

Detention in pursuance of sentence by Court-martial.

20. Imprisonment by a Court-martial may be with or without hard labour, as the Court directs.

Court-martial may sentence to imprisonment with or without hard labour.

21. Notwithstanding anything hereinbefore or in the Army Act contained, a Court-martial, in lieu of sentencing any offender against military law to imprisonment, may sentence him to pay

Court-martial may impose fine in lieu of imprisonment.

a fine not exceeding, in the case of an officer, the sum of fifty pounds, or, in the case of any other person, the sum of ten pounds.

Imprisonment for default in payment of fine.

22. (1.) Any person making default in the payment of any fine imposed by a Court-martial may be imprisoned for such period, not exceeding one month, as the Court-martial, when imposing the fine, appoints in that behalf; and the provisions of this Act and of the Army Act with respect to sentences of imprisonment shall apply accordingly.

Recovery of fines.

(2.) Any fine so imposed by a Court-martial may be enforced and recovered by way of an attachment-order under the provisions of section eleven of this Act in the same manner with all necessary modifications as if the fine had been imposed on summary conviction before a Magistrate.

(3.) On application being made to a Magistrate for any such attachment-order by any officer of the Defence Forces the applicant shall produce to the Magistrate a certificate, under the hand of the Commandant of the Defence Forces, the Officer Commanding the Permanent Force, or an Officer Commanding a District, stating that the fine has been lawfully imposed by a Court-martial and that default has been made in payment thereof, and such certificate shall be received by the Magistrate (without proof of the signature or of the official position of the person signing the same) as sufficient proof of the facts so certified unless the contrary is proved.

Other penalties may be imposed by Court-martial.

23. A Court-martial may, in addition to or in lieu of any other punishment provided by law for any military offence, dismiss or discharge the offender from the Defence Forces, or forfeit his seniority of rank, or reduce his grade or rank, and it shall not be necessary in any such case to hold any Court of Inquiry under Part VIII of the principal Act.

Army Act applicable notwithstanding that offence also punishable by civil law

24. The provisions of the Army Act with respect to offences against military law and with respect to Courts-martial shall be applicable notwithstanding the fact that any such offence may be also an offence within the jurisdiction of a civil Court, and the jurisdiction of a Court-martial shall not be thereby excluded or limited.

Proceedings of Courts-martial to be in open Court.

25. The proceedings of every Court-martial shall be conducted in open Court, except when the Court is dealing with matters of procedure or is deliberating.

Person on trial may be assisted by counsel.

26. Every person who is tried by Court-martial may be assisted in his defence by counsel.

Proceedings not invalid for want of form.

27. No proceedings of any Court-martial shall be set aside or deemed void for want of form, or be removed by *certiorari* or otherwise into any civil Court.

Contempt of Court.

28. Any person who wilfully interrupts or disturbs the proceedings of a Court-martial, or uses insulting language or behaviour towards the Court or any member thereof, or who by writing or speech uses words calculated to improperly influence the Court or any member thereof or any witness before the Court, shall be guilty of contempt of Court, whether the act was committed in the Court or outside the Court.

Procedure in cases of contempt.

29. (1.) No person other than a member of the Defence Forces shall be proceeded against before a Court-martial for contempt, but if a person other than a member of the Defence Forces commits any

act amounting to contempt of Court within the view or hearing of a Court-martial, he may forthwith be arrested pursuant to the order of the President of the Court-martial and taken before the Supreme Court or any Judge thereof or a Magistrate, to be there dealt with according to law for the offence so committed.

(2.) A Court-martial may in a summary manner convict any member of the Defence Forces guilty of contempt of Court within the view or hearing of the Court.

30. Contempt of a Court-martial shall be punishable as follows:— Penalties for contempt.

(a.) On summary conviction before a Court-martial in manner aforesaid, or on summary conviction before a Magistrate, by a fine not exceeding ten pounds, or by imprisonment for a term not exceeding one month.

(b.) On conviction before the Supreme Court or any Judge thereof in accordance with the law and procedure as to contempt of the Supreme Court, by fine or imprisonment in the discretion of the Court.

31. (1.) Members of the Permanent Staff or Permanent Force may be ordered to attend any Court-martial to give evidence and produce documents. Evidence before Court-martial.

(2.) A Court-martial, or the President thereof, may summon witnesses to give evidence and produce documents, or may require any person other than the accused to give evidence and produce documents.

(3.) Every person who has been lawfully ordered or summoned to attend a Court-martial to give evidence or produce documents and who, not being a member of the Permanent Staff or Permanent Force, has been paid or tendered the reasonable expenses of his attendance, or who is before the Court, and who without just cause (proof whereof shall lie upon him)—

(a.) Disobeys the order or summons to so appear; or

(b.) Refuses to be sworn as a witness; or

(c.) Refuses or fails to answer any question which he is required by the Court to answer; or

(d.) Refuses or fails to produce any document which he is required by the Court to produce,—

shall be liable on summary conviction before a Magistrate to a fine not exceeding fifty pounds.

#### *Amendments of Principal Act.*

32. Section two of the principal Act is hereby amended as from the coming of that Act into operation— Section 2 of principal Act amended.

(a.) By inserting the words “the Permanent Staff” after the words “Permanent Force” in the definition of “Defence Forces”:

(b.) By adding thereto the following words:—

“‘Non-commissioned officer’ includes a warrant officer”:

(c.) By adding thereto the following words:—

“‘Military orders’ means orders issued by the Commandant of the Defence Forces or issued by any officer of the Defence Forces with the authority of the Commandant.”

(d.) By repealing the definition of "unit," and substituting the following:—

"'Unit' means a regiment of mounted rifles, a battery of field artillery, a company of garrison artillery, a battalion of infantry, a company of engineers, a company of the army service corps, a company of the medical corps, a company or depot of the veterinary corps, a brigade signal company, or a company of senior cadets":

(e.) By repealing the definition of "commanding officer":

(f.) By repealing the definition of "commanding officer of corps":

(g.) By repealing the definition of "corps":

(h.) By repealing the definitions of "school" and "attending school," and substituting the following definitions:—

"'School' means a public school under the control of an Education Board, but includes in the case of a district high school the primary department of such school only, and includes any other school or department thereof recognized by the Minister of Defence as a school for the purposes of this Act.

"'Secondary school' means a secondary school as defined by section eighty-nine of the Education Act, 1908, and includes the secondary department of a district high school, a day technical school under the said Act, and any other school or department thereof recognized by the Minister of Defence as a secondary school for the purposes of this Act."

Section 4 of  
principal Act  
amended.

33. (1.) Section four of the principal Act is hereby amended by adding the following paragraphs to subsection one thereof:—

"(k.) The organization, training, discipline, control, arms, appointments, and clothing of the Senior Cadets or General Training Section, and the pay and allowances of the General Training Section:

"(l.) Prescribing fines not exceeding ten pounds for the breach of any such regulation by any member of the Defence Forces, Senior Cadets, or General Training Section, and recoverable on summary conviction:

"(m.) Empowering officers of the Defence Forces to impose fines not exceeding two pounds for a breach of any such regulation committed by any member of the Defence Forces under the command of any such officer, and prescribing the procedure by which such fines shall be imposed:

"(n.) The grant of complete or partial exemption from the personal service required by Part III or Part VI of this Act in cases in which undue hardship may be caused by the requirement of such service."

(2.) Section four of the principal Act is hereby further amended by omitting from paragraph (c) thereof the word "punishment."

Oath of allegiance.

34. (1.) Every person on becoming a member of the Senior Cadets or the Defence Forces, or as soon thereafter as may be, shall

take the oath of allegiance before a Justice of the Peace or a prescribed officer in the form set out in the Schedule hereto, or to the like effect.

(2.) No person who has, whether before or after the passing of this Act, taken an oath of allegiance in respect of his service as a Senior Cadet shall be required again to take any such oath on becoming a member of the Defence Forces.

(3.) This section is substituted for section eleven of the principal Act, which section is hereby repealed accordingly. Repeal.

35. Section eighteen of the principal Act (relating to the estates of deceased members of the Permanent Force) is hereby repealed. Repeal.

36. Section nineteen of the principal Act is hereby amended as from the coming of that Act into operation by omitting all words after the words "consisting of," and substituting the words "thirty thousand men, or such smaller number of men as the Governor from time to time deems sufficient." Section 19 of principal Act amended.

37. Section twenty of the principal Act is hereby amended by repealing subsection two thereof and the proviso. Repeal.

38. Every member of the Territorial Force who became such by virtue of section twenty of the principal Act (relating to the Volunteer Force) and who had attained the age of twenty-one years before the second day of November, nineteen hundred and ten (being the date of the coming into operation of the Defence Amendment Act, 1910), shall be entitled on application made by him at any time to the Commandant of the Defence Forces to be transferred from the Territorial Force to the Reserve. Transfer from Territorial Force to Reserve.

39. Every member of the Territorial Force who became such by virtue of section twenty of the principal Act (relating to the Volunteer Force), and who became on the commencement of the principal Act or has since become liable to be trained in the General Training Section, shall be deemed to have been lawfully transferred from the General Training Section to the Territorial Force within the meaning and for the purposes of the principal Act and its amendments. Transfer of Volunteers from General Training Section to Territorial Force.

40. Section twenty-one of the principal Act is hereby repealed as from the coming of that Act into operation. Repeal.

41. (1.) Section twenty-three of the principal Act is hereby amended as from the coming of that Act into operation— Section 23 of principal Act amended.

(a.) By omitting from subsection one thereof the words "or any part thereof, is below that provided for by Parliament," and substituting the words "is below that provided for by section nineteen of this Act"; and

(b.) By repealing subsection two thereof, and substituting therefor the following:—

“(2.) The men so transferred shall thereupon become members of the Territorial Force.”

(2.) Subsection three of section four of the Defence Amendment Act, 1910, is hereby repealed. Repeal.

42. (1.) When any person becomes liable to be drafted from the Senior Cadets into the General Training Section or otherwise becomes liable to be trained in the General Training Section, he may at any time while the establishment of the Territorial Force is below Transfer of Senior Cadets and others directly into the Territorial Force.

that provided for by section nineteen of the principal Act, be drafted directly into the Territorial Force instead of into the General Training Section, and shall thereupon become a member of the Territorial Force accordingly, and shall be deemed for the purposes and within the meaning of the principal Act to have been transferred from the General Training Section to the Territorial Force.

(2.) This section shall be deemed to have been included in the principal Act as from the date of the coming of that Act into operation.

Section 25 of principal Act amended.

43. Section twenty-five of the principal Act is hereby amended as from the coming of that Act into operation by omitting the word "February," and substituting the word "May."

Section 35 of principal Act amended.  
Repeals.

44. (1.) Section thirty-five of the principal Act is hereby amended by repealing paragraph (a) thereof.

(2.) Sections thirty-six and thirty-seven of the principal Act are hereby repealed.

(3.) Section seven of the Defence Amendment Act, 1910, is hereby repealed.

Section 40 of principal Act amended.

45. Section forty of the principal Act is hereby amended as from the coming of that Act into operation—

(a.) By omitting from subsection one thereof the words "in the case of those who are drafted into it from the Junior Cadets as aforesaid, shall begin as from the date of their being so drafted, and in all other cases":

(b.) By inserting after the words "attain the age of fourteen years" the words "or on any later date on which they cease to attend school":

(c.) By substituting the word "June" for the word "March" wherever that word occurs in subsection one:

(d.) By omitting from subsection seven thereof the words "in the manner prescribed."

Repeal.

46. Section eight of the Defence Amendment Act, 1910, is hereby repealed.

Section 41 of principal Act amended.

47. Section forty-one of the principal Act is hereby amended as from the coming of that Act into operation—

(a.) By substituting the word "June" for the word "March" wherever that word occurs in subsection one:

(b.) By omitting from subsection five thereof the words "in the prescribed manner."

Section 41 of principal Act further amended.

48. (1.) Section forty-one of the principal Act is hereby further amended by repealing subsection two thereof, and substituting the following:—

"(2) The training in the General Training Section shall be as prescribed."

Repeal.

(2.) Section nine of the Defence Amendment Act, 1910, is hereby amended by repealing paragraph (a) thereof.

Repeal.

49. Section forty-three of the principal Act is hereby amended by repealing the proviso to subsection two thereof, and by adding the following subsection:—

"(3.) No member of the Territorial Force shall be capable of becoming or remaining a member of a Defence rifle club."

Repeal.

50. Section forty-four of the principal Act is hereby repealed.

51. Section forty-five of the principal Act is hereby amended—
- (a.) By omitting the words “in the month of January in the year in which,” and substituting the words “so soon as”:
- (b.) By adding thereto the following words:—  
 “Provided also that such application or registration shall not be a condition precedent to the enrolment, drafting, or transfer of any person in or to the Senior Cadets, General Training Section, or Territorial Force.”
52. Section forty-six of the principal Act is hereby repealed.
53. Section forty-seven of the principal Act is hereby amended by omitting the words “Junior Cadets or.”
54. Section forty-eight of the principal Act is hereby repealed.
55. Section fifty-one of the principal Act is hereby amended as from the date of the coming of that Act into operation—
- (a.) By omitting all the words of subsection one thereof after the words “not exceeding five pounds”:
- (b.) By omitting the words “that Part,” and substituting the words “Part III or Part VI of this Act”:
- (c.) By adding thereto the following subsections:—  
 “(3.) Every person shall be deemed to have failed to render the personal service required of him by Part III or Part VI of this Act, as the case may be, if and as often as he fails to be present at any camp, parade, or drill, or on any other lawful occasion of military training or exercise, with his prescribed arms, uniform, and equipment, at the place prescribed, and at and during the time prescribed, and there and then to undergo and perform with due diligence and subordination all military training, exercise, and duties lawfully required of him.  
 “(4.) A failure to make application for registration as aforesaid shall constitute a continuing offence.”
56. (1.) When any person is convicted under subsection one of section fifty-one of the principal Act of any offence committed after the passing of this Act the convicting Magistrate or Justices may, in his or their discretion, in addition to imposing a fine under that section, order as part of the conviction that the offender shall be deprived of civil rights for any period not exceeding ten years.
- (2.) Any person so deprived of civil rights shall during the period of deprivation be incapable of being appointed to any office or employment, whether permanent or temporary, in the Public Service, and shall not be entitled to be or remain registered on any electoral roll under the Legislature Act, 1908.
- (3.) Any Magistrate or Justices making any such order of deprivation of civil rights shall forthwith transmit a minute of the order to the Under-Secretary of Internal Affairs, and to the Chief Electoral Officer under the Legislature Act, 1908.
- (4.) The name of any person so deprived of civil rights shall be erased from any electoral roll in which it appears.
- (5.) No such deprivation of civil rights shall affect the obligation of the offender to render personal service under the principal Act, and the Act shall continue to apply to him in all respects as if no such order of deprivation had been made.

Section 45 of principal Act amended.

Repeal.

Section 47 of principal Act amended.

Repeal.

Section 51 of principal Act amended.

Certain offenders to be deprived of civil rights.

Employers not to prevent military service.

57. (1.) Every person is liable to a fine not exceeding twenty pounds who prevents or attempts to prevent any person in his employment and required to serve in the Senior Cadets or General Training Section or Territorial Force from registering or taking the oath of allegiance or rendering the personal service required of him by Part III or Part VI of the principal Act, or in any way penalizes such last-mentioned person for registering or taking the oath of allegiance or rendering such service, whether by reducing his wages or deducting therefrom any money, or by dismissing him from the employment, or in any other manner whatsoever :

Provided that this section shall not be so construed as to require any person to pay any person in his employment any wages for the time when he is absent from work for the purpose of rendering such personal service as aforesaid.

(2.) In any proceedings for a breach of this section it shall lie on the employer to show that any employee who is proved to have been penalized as aforesaid was so penalized for some reason other than for having registered, or taken the oath of allegiance, or rendered the personal service required of him as aforesaid.

Repeal.

(3.) This section is substituted for section fifty-two of the principal Act, which section is hereby repealed accordingly.

Section 53 of principal Act amended.

58. Section fifty-three of the principal Act is hereby amended by inserting in subsection one thereof, after the word "Militia," the words "General Training Section, Territorial Force, or Senior Cadets"; and by substituting the words "Part VI" for the words "Part V."

Section 56 of principal Act amended.

59. Section fifty-six of the principal Act is hereby amended by omitting from paragraph (a) the words "Junior or."

Section 60 of principal Act amended.

60. Section sixty of the principal Act is hereby amended—

(a.) By omitting from subsection one thereof the words "or in the Junior Cadets, or for any honorary member of a Volunteer Corps":

(b.) By omitting from subsection three thereof the words "or in the Junior Cadets."

Section 62 of principal Act amended.

61. Section sixty-two of the principal Act is hereby amended by omitting the words "or by regulations hereunder."

Recovery of fines.

62. (1.) Except where otherwise provided, all fines under the principal Act, or any amendment thereof, or any regulation thereunder, may be recovered on summary conviction before a Magistrate or two or more Justices.

Repeal.

(2.) Section sixty-four of the principal Act is hereby repealed.

Repeal.

63. Section sixty-five of the principal Act is hereby repealed.

Section 70 of principal Act amended.

64. Section seventy of the principal Act is hereby amended by omitting the words "commanding officer," and substituting the word "Commandant."

Repeal.

65. (1.) Section ninety-two of the principal Act is hereby repealed.

Exemption from military service on the ground of religious belief.

(2.) On the application of any person a Magistrate may grant to the applicant a certificate of exemption from military training and service if the Magistrate is satisfied that the applicant objects in good faith to such training and service on the ground that it is contrary to his religious belief.

(3.) So long as any such certificate of exemption remains in force the holder thereof shall be exempt from the obligations of military training and service imposed by the principal Act, but shall be liable to perform in lieu thereof such non-military services as the Governor in Council may from time to time prescribe as equivalent thereto.

(4.) If any person so exempted fails without lawful excuse to perform any service so prescribed, he shall be deemed to have failed without lawful excuse to render the personal service required of him by Part III or Part VI of the principal Act, and shall be liable to be convicted under section fifty-one of the principal Act accordingly.

(5.) On any such conviction the certificate of exemption granted to the offender shall become null and void, and he shall be disqualified from receiving any further such certificate.

(6.) No certificate of exemption under this section shall exempt the holder thereof from the obligation to register under the principal Act.

(7.) This section shall apply to all persons, whether or not they are already members of the Senior Cadets, General Training Section, or Defence Forces at the commencement of this Act.

66. Section ninety-four of the principal Act is hereby amended—

Section 94 of principal Act amended.

(a.) By omitting the words "or prosecution" from subsection one thereof:

(b.) By repealing subsection two thereof.

67. Section one hundred and one of the principal Act is hereby amended by inserting, after the words "Defence rifle clubs," the words "or of the Reserve."

Section 101 of principal Act amended.

68. No regulation made under the principal Act, or under any amendment thereof, creating any offence or imposing any penalty therefor shall be invalid merely because the said offence is otherwise punishable under the principal Act or under any other Act.

Regulations not invalid merely because subject-matter dealt with by Act.

69. In any prosecution for an offence against the principal Act, or any amendment thereof, or against any regulation made thereunder, a certificate under the hand of an officer of the Defence Forces stating that the accused or any other person is or was a member of the Territorial Force, or of the General Training Section, or of the Reserve, or of the Senior Cadets, and stating the date on which he so became a member thereof, shall be received in all Courts (without proof of the signature or of the official position of the person signing the same) as sufficient proof of the facts so certified, unless the contrary is proved by the accused.

Certificate of officer of Defence Forces to be accepted in evidence in certain cases.

70. (1.) The Governor may, by Order in Council, from time to time—

Governor may exempt persons residing in specified areas from training under principal Act.

(a.) Exempt from the training required by Part VI of the principal Act all persons residing within any area specified in the Order in Council;

(b.) Vary, extend, or restrict any area so specified; or

(c.) Withdraw any exemption so granted.

(2.) This section shall be deemed to have been included in the principal Act from the date of the coming of that Act into operation.

71. (1.) The Governor may by Proclamation call out the Territorial Force or any part thereof for active service.

Territorial Force may be called out for active service in New Zealand.

(2.) The Territorial Force, or any part thereof, shall be liable to be employed on active service in New Zealand from the time of the publication of the Proclamation so calling out that Force, or that part thereof, until the publication of a Proclamation notifying that the active service of that Force, or of that part thereof, is no longer required.

Officers of Imperial Forces to be officers of New Zealand Defence Forces without further commission.

72. All officers and non-commissioned officers of the Imperial Forces who are for the time being employed in the Defence Forces of New Zealand shall, so long as they are so employed, be deemed to be, without further commission or appointment, officers or non-commissioned officers respectively of the said Defence Forces.

Enforcement of fines imposed by commanding officers.

73. (1.) Whenever pursuant to regulations in that behalf a fine has been imposed by an officer of the Defence Forces upon a member of the Defence Forces under his command for the breach of any regulation, the offender shall within fourteen days thereafter pay the amount of the fine to the officer by whom it was so imposed, or as he may direct; and if default is made in such payment the person so in default shall be liable on summary conviction to a fine not exceeding five pounds.

(2.) In any prosecution for an offence against this section a certificate under the hand of the Commandant of the Defence Forces, the Officer Commanding the Permanent Force, or an officer commanding a district, stating that the fine has been lawfully imposed by an officer of the Defence Forces and that default has been made in payment thereof, shall be received by the Court (without proof of the signature or of the official position of the person signing the same) as sufficient proof of the facts so certified, unless the contrary is proved.

(3.) Section fourteen of the Defence Amendment Act, 1910, is hereby repealed.

Repeals.

74. (1.) Sections fifty-six to one hundred and two of the Defence Act, 1908 (relating to the Volunteer Force), are hereby repealed.

(2.) Sections eleven and twelve of the Defence Amendment Act, 1910, are hereby repealed.

Property and liabilities of Volunteer Force transferred to the Crown.

75. (1.) All drill-sheds, rifle ranges, lands, and other property, whether real or personal, which at the passing of this Act are held by or in trust for any body of Volunteers under the Defence Act, 1908, or for Volunteer purposes under that Act, or which would have been so held if the Defence Act, 1908, was still in full force and effect, unaffected by the Defence Act, 1909, are hereby vested in His Majesty the King for the estate or interest for which they are or would have been so held, subject, however, to all charges, incumbrances, or other estates or interests affecting the same; and all trustees in whom any such property is vested shall vacate their office on the passing of this Act.

(2.) All drill-sheds, rifle ranges, and lands so vested in the Crown shall be deemed to be public reserves for the purposes of the principal Act, and shall be subject to the provisions of the Public Reserves and Domains Act, 1908, accordingly.

(3.) When the title to any such property is subject to the provisions of the Land Transfer Act, 1908, the District Land

Registrar shall, on the application of the Minister of Defence, register His Majesty the King as the proprietor thereof for the estate and interest aforesaid, and for this purpose the certificate of the said Minister that any property is vested in the Crown by virtue of this section may be accepted by the District Land Registrar as sufficient evidence of the fact so certified.

(4.) All charges or incumbrances affecting any such property, and all debts and liabilities lawfully incurred in respect of any such property by the trustees thereof or lawfully incurred by or on behalf of any body of Volunteers and existing at the passing of this Act, shall by virtue of this Act become charges, incumbrances, debts, and liabilities payable by the Crown, and shall be payable accordingly out of moneys appropriated by Parliament.

(5.) The Governor may from time to time in respect of any drill-shed, rifle range, or land vested in the Crown under this section appoint such persons as he thinks fit as a Board of Management thereof, to hold office during his pleasure, and to exercise in respect thereof such powers of management and control as may from time to time be prescribed by regulations made by the Governor in Council in that behalf.

(6.) The Governor may sell any drill-shed, rifle range, or land vested in the Crown under this section, but the proceeds of any such sale shall be expended in manner following, and not otherwise:—

- (a.) In the purchase of land or the erection of buildings for the purposes of the Territorial Force in the locality in which the property so sold was situated; or
- (b.) In refunding to the Public Account any sums expended out of that account after the commencement of this Act in respect of any such purchase of land or erection of buildings in the said locality; or
- (c.) In refunding to the Public Account any sums advanced out of that account before the commencement of this Act to the trustees of the property so sold; or
- (d.) In discharging any liabilities transferred to the Crown under this section and charged upon or incurred in respect of the property so sold or any other property vested in the same trustees.

(7.) Nothing in this section shall apply to any property which is or has been held in trust for any body of Volunteers under any testamentary or other disposition whereby that property is subject to any limitation in favour of any other persons or in trust for any other purpose in the event of such body of Volunteers ceasing to exist, nor shall anything in this section apply to any charges or incumbrances on any such property, or to any debts or liabilities incurred in respect thereof.

(8.) The provisions of this section shall apply notwithstanding the provisions of any other Act whereby any such property as aforesaid is vested in trustees or whereby the powers or duties of the trustees of any such property are prescribed, and every such Act is hereby repealed so far as it so vests any such property in trustees or confers or imposes upon trustees any powers or duties in respect of

such property or is inconsistent with the foregoing provisions of this section.

Construction of retrospective amendments of principal Act.

76. Wherever it is provided by this Act that the principal Act is hereby amended as from the coming of that Act into operation, the amendment shall for all purposes be deemed to have been made immediately after the commencement of the principal Act, and the operation of that Act, and the validity and effect of all things done thereunder since the commencement thereof, shall be determined accordingly.

Method of transfer to Senior Cadets, Territorial Force, &c.

77. The enrolment, drafting, or transfer of any person in or to the Senior Cadets, the General Training Section, the Territorial Force, or the Reserve, in pursuance of the principal Act, or any amendment thereof, shall be effected by or under the direction or authority of the Commandant of the Defence Forces in such manner as he thinks fit.

Transfers heretofore made not to be invalidated by defects of procedure.

78. All persons who before the commencement of this Act have been in any manner enrolled, drafted, or transferred in or to the Senior Cadets, the General Training Section, the Territorial Force, or the Reserve, at a time when they were liable by law to be so enrolled, drafted, or transferred, shall for all purposes be deemed to have been lawfully so enrolled, drafted, or transferred notwithstanding any error or irregularity of procedure.

Schedule.

## SCHEDULE.

### OATH OF ALLEGIANCE.

I, A. B., do sincerely promise and swear that I will be faithful and bear true allegiance to our Sovereign Lord the King, his heirs and successors, and that I will faithfully serve in the New Zealand Military Forces, according to my liability under the Defence Act, and that I will observe and obey all orders of His Majesty, his heirs and successors, and of the generals and officers set over me, until I shall be lawfully discharged. So help me God.