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1965, No. 54

An Act to amend the New Zealand Army Act 1950

[19 October 1965]

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

1. Short Title—This Act may be cited as the New Zealand Army Amendment Act 1965, and shall be read together with and deemed part of the New Zealand Army Act 1950 (hereinafter referred to as the principal Act).

2. Meaning of "regimental"—Section 2 of the principal Act is hereby amended by repealing the definition of the term "regimental" in subsection (1), and substituting the following definition:

"'Regimental' means connected with or belonging to a unit or to any body of troops:".

3. Age for overseas service—(1) Section 10 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) In no case shall any officer or soldier under the age of nineteen years be liable or accepted for active service outside New Zealand.”

(2) Section 10 of the principal Act is hereby further amended by omitting from subsection (3), and also from subsection (4), the words “twenty-one years”, and substituting in each case the words “twenty years”.

(3) Section 10 of the principal Act is hereby further amended by adding the following subsection:

“(5) In no case shall any officer or soldier who is serving in the Territorial Force or under the provisions of any enactment providing for compulsory military service be liable for active service outside New Zealand while he is under the age of twenty-one years.”

4. Audit of unit funds—(1) Section 23c of the principal Act (as inserted by section 3 (1) of the New Zealand Army Amendment Act 1962) is hereby amended—

(a) By omitting from paragraph (a) of subsection (2) the words “and accounting”, and substituting the words “accounting, and auditing”:

(b) By omitting from subsection (3) the words “but subject to the provisions of subsection (4) of this section”:

(c) By repealing subsection (4).

(2) The said section 23c of the principal Act is hereby further amended by adding to subsection (3) the following proviso:

“Provided that the accounts of any fund established under this section may, if considered desirable by the Controller and Auditor-General, be audited by the Audit Office, which for that purpose shall have all such powers as it has under the Public Revenues Act 1953 in respect of public money and public stores.”

5. Acquisition of land from unit funds—The said section 23c of the principal Act is hereby further amended by inserting, after subsection (1), the following subsections:

“(1A) Without limiting the provisions of subsection (1) of this section, money forming part of any such fund may from time to time, with the prior consent of the Defence Council or of the Army Board acting pursuant to a delegation by the

Council, be expended in the acquisition of any estate or interest in land (whether Crown land or not) to be held for any of the objects of the fund. Notwithstanding anything in any enactment or rule of law, any estate or interest in land so acquired (including any tenure on which Crown land may be acquired under the Land Act 1948) may be vested in and held in the name of Her Majesty the Queen for the purposes of this section.

“(1B) Any estate or interest in land acquired pursuant to subsection (1A) of this section may be disposed of with the prior consent of the Defence Council or of the Army Board acting pursuant to a delegation by the Council, and on that disposal the estate or interest shall cease to be subject to the provisions of this section. The proceeds of any such disposition shall be held for the purposes of the fund from which the money for the acquisition of the estate or interest in the land was expended.

“(1c) All documents which require to be executed for the purposes of subsection (1A) or subsection (1B) of this section by or on behalf of Her Majesty may be executed by the Secretary of Defence or a Deputy Secretary of Defence, and, if so executed, shall be as valid and effectual as if executed by or on behalf of Her Majesty.”

6. Penalty for drunkenness—Section 39 of the principal Act is hereby amended by omitting from subsection (1) the words “five pounds”, and substituting the words “ten pounds”.

7. Penalty for possession of liquor in camp, etc.—Section 40 of the principal Act is hereby amended by omitting from subsection (1) the words “five pounds”, and substituting the words “ten pounds”.

8. Jurisdiction of Court Martial to try civil offences—Section 62 of the principal Act is hereby amended by repealing the proviso, and substituting the following proviso:

“Provided that a person subject to military law shall not be tried by Court Martial for treason, murder, manslaughter, or rape committed in New Zealand.”

9. Scale of punishments by Court Martial—Section 64 of the principal Act is hereby amended by omitting from paragraph (h) of subsection (2) the words “ten pounds”, and substituting the words “twenty pounds”.

10. Imprisonment and detention of members of other Commonwealth forces attached to the Army—(1) The principal Act is hereby further amended by inserting, after section 69, the following section:

“69A. (1) Where—

“(a) Any member of the forces of any part of the Commonwealth other than New Zealand who is attached to the Army pursuant to the provisions of section 6 of the Visiting Forces Act 1939 is sentenced by Court Martial under this Act to imprisonment or detention; and

“(b) An arrangement is for the time being in force with the appropriate authority in that part of the Commonwealth for the return to that part of members of those forces so sentenced, for the purpose of undergoing any such sentence in that part, or for members of those forces to undergo any such sentence in the custody of those forces,—

a competent military authority may give directions for the delivery into the custody of the forces of that part of the Commonwealth (whether in New Zealand or elsewhere) of the member so sentenced and for his removal to that part of the Commonwealth for the purpose of undergoing the sentence or, as the case may require, for his undergoing the sentence in the custody of those forces.

“(2) Any member of the forces of any other part of the Commonwealth in respect of whom any such directions are given by a competent military authority may, until he is delivered into the custody of those forces, be kept in military custody or civil custody, or partly in one description of custody and partly in the other, and may, by order of a competent military authority, from time to time be transferred from military custody to civil custody, and from civil custody to military custody, as occasion may require.

“(3) Any such member may, during his conveyance from place to place, whether on board ship or in any aircraft or otherwise, be subjected to such restraint as is necessary for his safe conduct and removal.”

(2) Section 69 of the principal Act is hereby amended by inserting in subsection (1), after the words “this section”, the words “and of section 69A of this Act”.

11. Imprisonment and detention of officers and soldiers attached to other Commonwealth forces—The principal Act is hereby further amended by inserting, after section 69A

(as inserted by section 10 (1) of this Act), the following section:

“69B. Where—

- “(a) Any officer or soldier who is subject to this Act is attached to the forces of any part of the Commonwealth other than New Zealand pursuant to the provisions of section 6 of the Visiting Forces Act 1939 and is sentenced by Court Martial of those forces to imprisonment or detention; and
- “(b) An arrangement is for the time being in force with the appropriate authority in that part of the Commonwealth for the return to New Zealand of such officers or soldiers so sentenced, for the purpose of undergoing any such sentence in New Zealand, or for such officers and soldiers to undergo any such sentence in a detention barrack or military prison established under this Act (whether in New Zealand or elsewhere); and
- “(c) Pursuant to that arrangement an officer or soldier so sentenced is received into the custody of the Army, the New Zealand Naval Forces, or the Air Force (whether in New Zealand or elsewhere),—

the provisions of this Act shall apply to him in all respects, with any necessary modifications, as if he had been sentenced by Court Martial held under this Act.”

12. Maximum fine by commanding officer on private soldier—Section 76 of the principal Act is hereby amended—

- (a) By omitting from paragraph (c) of subsection (1) the words “five pounds”, and substituting the words “fifteen pounds”;
- (b) By omitting from subsection (2) the words “one pound”, and substituting the words “five pounds”.

13. Minor punishments—Section 77 of the principal Act is hereby amended by omitting from paragraph (b) the words “one pound”, and substituting the words “five pounds”.

14. Maximum fine by commanding officer on non-commissioned officer—(1) Section 78 of the principal Act is hereby amended by repealing paragraph (a) of subsection (1), and substituting the following paragraph:

- “(a) A fine exceeding five pounds but not exceeding fifteen pounds:”.

(2) Section 78 of the principal Act is hereby further amended by omitting from paragraph (a) of subsection (2) the words "one pound", and substituting the words "five pounds".

15. Maximum fine by subordinate commander—Section 81 of the principal Act is hereby amended by omitting from paragraph (b) of the proviso to subsection (1) the words "one pound", and substituting the words "five pounds".

16. Maximum fine when charge against officer or warrant officer dealt with summarily—Section 86 of the principal Act is hereby amended by omitting from paragraph (b) of subsection (2) the words "ten pounds", and substituting the words "fifteen pounds".

17. Bonds and deeds of covenant—The principal Act is hereby further amended by inserting, after section 152, the following section:

"152A. (1) Any officer or soldier to whom money is advanced, or on whose behalf expenditure is incurred, with the approval of the Defence Council or of the Army Board acting pursuant to a delegation by the Council, in connection with transportation, education, training, or sustenance, or for any other special purpose, may be required, as a condition of that advance or expenditure, to sign a bond in a form to be determined by the Defence Council or by the Army Board acting as aforesaid requiring him to pay to the Crown the sum therein specified if he makes default in the performance of any condition of the bond.

"(2) The Defence Council or the Army Board so acting, instead of requiring a bond as aforesaid, may require the officer or soldier to sign a deed of covenant whereby he covenants to repay to the Crown all money so advanced to him or expenditure so incurred on his behalf, up to a maximum amount specified in the deed of covenant, if he fails to render service in accordance with the provisions of the deed of covenant.

"(3) The amount of any such bond or, as the case may be, the maximum amount payable under any such deed of covenant shall be reduced during the currency thereof by an amount equivalent to the proportion that the service rendered by the officer or soldier in accordance with the condition of

the bond or the provisions of the deed of covenant bears to the full period of service required for the discharge of the bond or deed of covenant.

“(4) The Defence Council or the Army Board, as the case may be, may require that such a bond or deed of covenant shall also be signed by a parent or guardian, or by some other person approved by the Council or the Board, as surety; and the parent or guardian or person who signs such a bond or deed of covenant shall be jointly and severally liable thereunder.

“(5) Every such bond or deed of covenant shall be enforceable against the officer or soldier and the surety who signs it, notwithstanding anything in any enactment or rule of law; and the amount of the bond or, as the case may be, the amount payable under the deed of covenant, subject to any deduction pursuant to subsection (3) of this section, shall be recoverable as liquidated damages.”

This Act is administered in the Ministry of Defence.
