

## NAVY BILL

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### EXPLANATORY NOTE

THIS Bill consolidates and amends the Naval Defence Act 1913 and its amendments.

The main provisions are on the same lines as those of the New Zealand Army Act 1950 and the Royal New Zealand Air Force Act 1950, but this Bill does not contain the whole of the statutory law relating to the New Zealand Naval Forces, as the Naval Discipline Act of the United Kingdom Parliament is still to apply, except as modified by the new Act or by regulations.

The comparative table at the end of this note shows where each repealed enactment appears in the Bill.

The following notes indicate all important changes.

*Clause 1: Commencement.*—The new Act is to come into force on a day to be appointed by Proclamation.

*Clause 2: Interpretation.*—Various new definitions have been inserted, several of them following similar definitions in the Army Act and the Air Force Act. Words have been added to the definition of the term "Navy Secretary" so as to enable his functions to be exercised by any person acting in his place in case of his absence from duty or during any vacancy in the office of Secretary.

### PART I

#### CONSTITUTION OF THE NEW ZEALAND NAVAL FORCES

*Clause 3* empowers the Governor-General to raise and maintain naval forces for the defence of New Zealand, including the defence of Commonwealth interests and the fulfilment of obligations undertaken by New Zealand in the Charter of the United Nations. The clause is similar to section 3 of the Army Act and section 5 of the Air Force Act.

*Clauses 4 to 7* set out the constitution of the various New Zealand Naval Forces.

### PART II

#### ADMINISTRATION

*Clause 8* provides for the powers of the Governor-General as Commander-in-Chief of the Naval Forces, and is similar to section 15 of the Army Act and section 14 of the Air Force Act.

*Clause 9* establishes the Navy Department, to consist, as at present, of the Naval Forces, and the Navy Secretary and other persons appointed under the Public Service Act 1912. That Act is not to apply to the Naval Forces. The clause is similar to section 19 of the Army Act.

*Clause 10* provides for the appointment of an Assistant Navy Secretary, to assist the Secretary, and to exercise the Secretary's powers in case of his absence or during any vacancy in the office of Secretary. This clause is new.

*Clause 11* establishes the New Zealand Naval Board, to consist, as at present, of the Minister of Defence as Chairman, three naval officers appointed by the Governor-General, and the Navy Secretary. *Subclauses (4) and (5)* are new. They enable the Board to act by memorandum signed by three members instead of holding a meeting, but provide that the Minister is to be one of the signatories (or one of the quorum at a meeting) when important matters of principle or policy are to be decided.

*Clause 12* sets out the functions of the Naval Board.

*Clause 13* enables the Naval Board to issue Navy Instructions, and orders.

*Clause 14* enables the Naval Board to delegate any of its powers to any of its members. This clause is new.

*Clause 15* provides, as at present, that the Naval Discipline Act of the United Kingdom Parliament, and the Queen's Regulations and Admiralty Instructions relating to the Royal Navy are to apply to the Naval Forces, subject to the provisions of the new Act and to any modifications made by regulations under the Act. The United Kingdom provisions are to apply to the Women's Royal New Zealand Naval Service only so far as they are expressly applied by regulations.

*Clause 16* provides for the making of regulations, and is similar to section 17 of the Army Act, with the addition of paragraph (e), enabling regulations to be made for prohibiting or restricting access to any area of land or water or any place, so far as deemed necessary for the purposes of the Naval Forces.

### PART III

#### SERVICE OF OFFICERS AND RATINGS

*Clause 17* prescribes the liability for service of officers and ratings of the Royal New Zealand Navy and of the Reserve Forces. The Reserve Forces are to be liable for service outside New Zealand if they consent, or if they are called up by Proclamation in time of war or other like emergency. Similar proclamations are provided for by section 9 (3) of the Army Act and section 7 (2) of the Air Force Act.

*Clause 18* empowers the Governor-General to appoint, promote, and discharge officers, subject to the Act and any regulations made under the Act. The clause is similar to section 16 of the Army Act.

*Clauses 19, 20, and 21* relate to the rights of officers as to resignation, their rank and seniority, and the period of service of officers of the Royal New Zealand Navy.

*Clauses 22 and 23* relate to the engagement and period of service of ratings of the R.N.Z.N., and to the discharge of ratings at their own request.

*Clause 24* enables the conditions of service in the Reserve Forces and the Sea Cadet Corps to be prescribed by regulations.

*Clause 25* provides that persons under the age of twenty-one years may be enlisted if the consent in writing of one or both of the parents or the guardian is obtained, or with the approval of the Naval Board where a statement is received of the reasons why that consent has not been obtained. No minor is to be enlisted if either of the parents or the guardian objects. The clause is similar to section 8 of the Air Force Act.

*Clause 26* prescribes the oath of allegiance to be taken by all officers and ratings. It is similar to section 14 of the Army Act and section 13 of the Air Force Act.

*Clause 27* enables aliens to be enlisted with the approval of the Naval Board. It is similar to section 152 of the Army Act and section 152 of the Air Force Act.

## PART IV

### DISCIPLINE

This Part supplements the provisions of the Naval Discipline Act, which are applied to the New Zealand Naval Forces by *clause 15*.

*Clause 28* provides that an officer or rating is not to be tried for the same offence twice, either in a civil Court or under the Naval Discipline Act, but he may be tried for a civil offence in any civil Court if he has not been previously tried for the same offence under the Naval Discipline Act. The clause is similar to sections 63 and 130 of the Army Act.

*Clause 29* provides that no sentence of death passed by a Court-martial is to be carried into effect unless it is approved by the Governor-General. The Naval Board is given the following powers in respect of findings and sentences under the Naval Discipline Act:

- (a) To substitute a valid sentence (not more severe than the original sentence) for an invalid sentence:
- (b) To quash a conviction either wholly or in respect of one or more of several offences:
- (c) To substitute a new sentence (not more severe than the original sentence) when a conviction is partially quashed:
- (d) To substitute a finding of guilty of a less serious offence, or a finding of guilty of the same offence in circumstances involving a less degree of punishment, being in either case a finding that could have been given at the trial, and substitute a more appropriate sentence (not more severe than the original sentence).

*Subclauses (1) and (6)* are similar to sections 122 (2) and 124 of the Army Act, and under rules 100 to 103 of the Army Rules of Procedure 1951 (Serial No. 1951/256) a confirming authority has similar powers to those given to the Naval Board by this clause.

*Clause 30* relates to the officers who are qualified to sit on a Court-martial. Officers of the Women's Royal New Zealand Naval Service are not eligible.

*Clause 31* prescribes when officers and ratings of the Reserve Forces are to be subject to the Act and the Naval Discipline Act.

*Clause 32* makes officers and other ranks of the Army and the Air Force subject to the Naval Discipline Act when embarked on any naval ship.

## PART V

## CIVIL OFFENCES

This Part deals with offences committed by civilians or members of the forces in New Zealand or elsewhere in respect of naval service, naval personnel, or naval property, and punishable on summary conviction by a Magistrate's Court. The clauses in this Part are similar to the following sections of Part V of the Army Act: sections 89 to 93, 95 to 100, and 102.

*Clause 33* relates to inducing or assisting officers or ratings to desert, and attempting to induce them to do so.

*Clause 34* relates to interference with naval duties by obstruction or by producing disease or infirmity.

*Clause 35* relates to obstructing parades.

*Clause 36* relates to bringing intoxicating liquor into any naval ship or naval establishment, and incorporates the amendments contained in *clause 14* of the New Zealand Army Amendment Bill now before Parliament.

*Clause 37* relates to aiding escapes from naval prisons or detention quarters.

*Clause 38* relates to misconduct of witnesses at a Court-martial, whether by refusing to obey a summons or to answer questions or produce documents or by contempt of Court.

*Clause 39* relates to improperly purchasing or receiving naval stores.

*Clause 40* relates to the unlawful possession of naval certificates.

*Clause 41* relates to the failure to account for issued property.

*Clause 42* relates to giving false certificates.

*Clause 43* relates to false statements regarding pay or allowances.

*Clause 44* provides for a general penalty of a fine not exceeding £10 for any offence against the Act or regulations where no other penalty is prescribed.

## PART VI

## ATTACHMENTS AND TRANSFERS BETWEEN THE SERVICES AND BETWEEN NEW ZEALAND AND OTHER FORCES

*Clause 45* enables the Governor-General to transfer New Zealand ships for employment with any other naval forces, and to accept the transfer to the New Zealand Naval Forces of any ship of any other naval force. The clause also enables the Naval Board to transfer officers and ratings for employment with any other naval forces, and to accept the transfer to the New Zealand Naval Forces of officers and ratings of any other naval force. This clause is not to extend the liability of officers and ratings of the Reserve Forces for service outside New Zealand, as prescribed under *clause 17*.

*Clause 46* provides for the temporary attachment of officers and ratings to the Army or the Air Force. *Subclauses (1) and (2)* are similar to sections 145 and 146 of the Army Act.

*Clause 47* gives officers and non-commissioned officers of the Army and the Air Force certain powers of command and discipline in relation to bodies of the Naval Forces acting with the Army or Air Force. The clause is similar to subsections (1) and (3) of section 147 of the Army Act.

*Clause 48* provides that the relative ranks of naval, military, and air force officers, petty officers, and non-commissioned officers are to be as prescribed by Order in Council. It is similar to section 147 (4) of the Army Act.

## PART VI

### MISCELLANEOUS

*Clause 49* repeats the existing provisions setting out the powers of the Minister and the Auckland Harbour Board in relation to the Naval Base at Auckland, with the exception of the provisions relating to the transfer of land from the Harbour Board to the Crown, as the transfer has been completed.

*Clause 50* provides that all arms, equipment, and property issued to the Naval Forces shall remain the property of the Crown. It is similar to section 142 of the Army Act.

*Clause 51* provides that arms, equipment, and property used by an officer or rating while serving in the Naval Forces shall be exempt from seizure in execution of any judgment, and from distress. It is similar to section 143 of the Army Act.

*Clause 52* provides for a period of limitation of one year for the commencement of civil proceedings for damages against naval officers and ratings for anything done under the Act. It is similar to section 151 of the Army Act.

*Clause 53* enables any powers vested in the holder of a naval appointment to be exercised by any other person authorized in that behalf according to the custom of the service or according to regulations, Navy Instructions, orders, or Queen's Regulations and Admiralty Instructions. It is similar to section 153 of the Army Act.

*Clause 54* relates to the proof of Proclamations, etc., by production of the *Gazette*. It is similar to section 154 of the Army Act.

*Clause 55* relates to the right of the Crown to recover excess payments of pay or allowances. It is similar to section 158 of the Army Act.

*Clause 56* enables fines awarded summarily by a commanding officer to be enforced in a Magistrate's Court. It is similar to section 156 of the Army Act.

*Clause 57* requires all fines to be paid into the Public Account. It is similar to section 157 of the Army Act.

*Clause 58* requires references to the Naval Board of New Zealand in any document to be read as references to the New Zealand Naval Board.

*Clause 59* repeals the Naval Defence Act 1913 and its amendments, with the usual saving clause preserving the effect of everything done under the repealed enactments.

## TABLE OF CORRESPONDING SECTIONS OF ENACTMENTS REPEALED

## THE NAVAL DEFENCE ACT 1913, No. 45 (REPRINT OF STATUTES, VOL. II, P. 645)

Section of Act	Clause of Bill	Section of Act	Clause of Bill
1	.. .. Short Title	13 (1)	.. .. 21, 22
2	.. .. 2	13 (2)	.. .. 17 (3)
3	.. .. 3	14	.. .. ..
4	.. .. 18 (1) (a), (b), (c)	15	.. .. 17
5	.. .. 16	16	.. .. 16
6	.. .. 18 (1) (d)	17	.. .. 45
7	.. .. 19	18	.. .. 15
8 (1)	.. .. 16	19	.. .. 45
8 (2)	.. .. 20	20	.. .. 45
9	.. .. 21, 22	21	.. .. Repealed
10 (1)	.. .. Repealed	22	.. .. ..
10 (2)	.. .. 22, 24	23	.. .. 16 (1) (c)
10 (3), (4)	.. .. 25	24	.. .. 30
11	.. .. 26	25	.. .. 16
12	.. .. ..	26	.. .. 59
		Schedule	.. .. 26

## THE NAVAL DEFENCE AMENDMENT ACT 1922, No. 6 (REPRINT OF STATUTES, VOL. II, P. 652)

Section of Act	Clause of Bill	Section of Act	Clause of Bill
1	.. .. Short Title	5	.. .. 16
2	.. .. 16, 18, 19	6	.. .. Repeal
3	.. .. 22, 24, 25	7	.. .. 45
4	.. .. Repealed		

## THE NAVAL DEFENCE AMENDMENT ACT 1936, No. 46

Section of Act	Clause of Bill	Section of Act	Clause of Bill
1	.. .. Short Title	6	.. .. 49
2	.. .. 2	Schedule	.. .. Spent
3, 4, 5	.. .. Repealed		

## THE FINANCE ACT (No. 2) 1939, No. 38

Section of Act	Clause of Bill
6	.. .. 16 (2)

## THE FINANCE ACT (No. 2) 1941, No. 27

Section of Act	Clause of Bill
5	.. .. 4

## THE STATUTES AMENDMENT ACT 1945, No. 40

Section of Act	Clause of Bill	Section of Act	Clause of Bill
57 (1)	.. .. Introductory	57 (7), (8)	.. .. 16
57 (2)	.. .. Repealed	57 (9)	.. .. ..
57 (3)	.. .. ..	57 (10)	.. .. Repeal
57 (4), (5)	.. .. Repealed	57 (11)	.. .. Revocation
57 (6)	.. .. 17 (3)		

TABLE OF CORRESPONDING SECTIONS OF ENACTMENTS  
REPEALED—*continued*

THE NAVAL DEFENCE AMENDMENT ACT 1950, No. 63

Section of Act	Clause of Bill	Section of Act	Clause of Bill
1	.. Short Title	7 (2)	.. 15 (2)
2	.. 2	8 (1)	.. 3
3	.. 9 (1)	8 (2)	.. 6
4	.. 11	8 (3)	.. 31
5	.. 12	8 (4)	.. Repeals
6	.. 18	9	.. Repeal
7 (1), (3)	.. 5 (c)		

THE NAVAL DEFENCE AMENDMENT ACT 1951, No. 27

Section of Act	Clause of Bill
1 .. ..	.. Short Title
2 .. ..	.. 31 (b)

Hon. Mr Macdonald

## NAVY

### ANALYSIS

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| Title.<br>1. Short Title and commencement.<br>2. Interpretation.   | 22. Engagement of ratings.<br>23. Ratings may obtain discharge.<br>24. Conditions of service in Reserve Forces and Sea Cadet Corps.<br>25. Enlistment of minors.<br>26. Oath of allegiance.<br>27. Enlistment of aliens.   |
| <b>PART I</b>  |  |
| CONSTITUTION OF THE NEW ZEALAND NAVAL FORCES   |  |
| 3. Power to raise Naval Forces.<br>4. Constitution of the Naval Forces.<br>5. Royal New Zealand Navy.<br>6. Reserve Forces.<br>7. Sea Cadet Corps.   | <b>PART IV</b><br>DISCIPLINE   |
| <b>PART II</b>   |  |
| ADMINISTRATION   |  |
| 8. Commander-in-Chief.<br>9. Navy Department and Navy Secretary.<br>10. Assistant Navy Secretary.<br>11. New Zealand Naval Board.<br>12. Functions of Naval Board.<br>13. Navy Instructions and orders.<br>14. Naval Board may delegate powers to its members.<br>15. Application of Naval Discipline Act and Queen's Regulations.<br>16. Regulations. | 28. Adjustment of naval and civil law.<br>29. Confirmation and revision of findings and sentences under Naval Discipline Act.<br>30. Officers qualified to sit on Court-martial.<br>31. When members of Reserve Forces subject to Act.<br>32. Application of Naval Discipline Act to Army and Air Force when embarked. |
| <b>PART III</b>  |  |
| SERVICE OF OFFICERS AND RATINGS  |  |
| 17. Limits of service.<br>18. Appointment, promotion, and discharge of officers.<br>19. Resignation of commission.<br>20. Rank and seniority of officers.<br>21. Period of service of officers of Royal New Zealand Navy.  | <b>PART V</b><br>CIVIL OFFENCES<br><i>Offences in Respect of Naval Service</i><br>33. Inducing or assisting officers or ratings to desert, etc.<br>34. Interference with naval duties, etc.<br>35. Obstructing parades.<br><br><i>Intoxicating Liquor</i><br>36. Bringing liquor into ships or naval establishments.   |



<p><i>Offences in Relation to Persons in Custody</i></p> <p>37. Aiding escape from naval prison or detention quarters.</p> <p><i>Offences in Relation to Courts-martial</i></p> <p>38. Misconduct of witness at Court-martial, and contempt of Court.</p> <p><i>Offences in Relation to Property</i></p> <p>39. Purchasing naval equipment, stores, etc.</p> <p>40. Unlawful possession of naval certificates, etc.</p> <p>41. Failure to account for issued property.</p> <p>42. Giving false certificate.</p> <p>43. False statements regarding pay or allowances, etc.</p> <p>44. Offences not otherwise punishable.</p> <p style="text-align: center;"><b>PART VI</b></p> <p style="text-align: center;"><b>ATTACHMENTS AND TRANSFERS BETWEEN THE SERVICES AND BETWEEN NEW ZEALAND AND OTHER FORCES</b></p> <p>45. Transfers of ships and personnel between Commonwealth and other naval forces and New Zealand Naval Forces.</p>	<p>46. Attachment of officers and ratings to Army and Air Force.</p> <p>47. Relations between Naval Forces, Army, and Air Force acting together.</p> <p>48. Relative rank of naval, military, and air force officers.</p> <p style="text-align: center;"><b>PART VII</b></p> <p style="text-align: center;"><b>MISCELLANEOUS</b></p> <p>49. Powers of Minister and Auckland Harbour Board in relation to the Naval Base at Auckland.</p> <p>50. Arms, etc., to remain Crown property.</p> <p>51. Arms, etc., not distrainable.</p> <p>52. Limitation of actions.</p> <p>53. Exercise of powers vested in holder of naval appointment.</p> <p>54. Proclamations, etc.</p> <p>55. Recovery of excess payments.</p> <p>56. Enforcement by Magistrate's Court of fines awarded by commanding officer.</p> <p>57. Application of fines.</p> <p>58. References to Naval Board of New Zealand to be read as references to New Zealand Naval Board.</p> <p>59. Repeals and savings. Schedule.</p>
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## A BILL INTITULED

<p>Title.</p> <p style="margin-top: 100px;">Short Title and commencement.</p>	<p><b>AN ACT</b> to provide for the constitution, administration, organization, and discipline of the New Zealand Naval Forces.</p> <p><b>BE IT ENACTED</b> by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:</p> <p>1. (1) This Act may be cited as the Navy Act 1954.</p> <p>(2) This Act shall come into force on a day to be appointed for the commencement thereof by the Governor-General by Proclamation.</p> <p>(3) This Act is divided into Parts, as follows:</p> <p style="padding-left: 40px;">Part I—Constitution of the New Zealand Naval Forces. (Sections 3 to 7.)</p> <p style="padding-left: 40px;">Part II—Administration. (Sections 8 to 16.)</p> <p style="padding-left: 40px;">Part III—Service of Officers and Ratings. (Sections 17 to 27.)</p>	<p>5</p> <p>10</p> <p>15</p>
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Part IV—Discipline. (Sections 28 to 32.)

Part V—Civil Offences. (Sections 33 to 44.)

Part VI—Attachments and Transfers Between  
the Services and Between New  
Zealand and Other Forces. (Sec-  
tions 45 to 48.)

Part VII—Miscellaneous. (Sections 49 to 59.)

2. In this Act, unless the context otherwise requires,— Interpretation.

“Admiralty” means the Commissioners for exe- 1913, No. 45,  
cuting the office of Lord High Admiral of the s. 2  
United Kingdom: 1936, No. 4,  
s. 2

“Air Board” means the Air Board constituted 1950, No. 63  
under the Air Force Act: s. 2 (1)

“Air Force” means the Royal New Zealand Air  
Force:

“Air Force Act” means the Royal New Zealand 1950, No. 40  
Air Force Act 1950:

“Allied force” includes any force, whether a  
Commonwealth force or not, which is co-  
operating with any New Zealand forces:

“Army” means the New Zealand Army:

“Army Act” means the New Zealand Army Act 1950, No. 39  
1950:

“Army Board” means the Army Board constituted  
under the Army Act:

“Commissioned ship” means a naval ship in  
commission:

“Commonwealth” means the British Common-  
wealth of Nations; and includes every terri-  
tory for whose international relations the  
Government of any country of the Common-  
wealth is responsible:

“Commonwealth force” means a naval, military,  
or air force raised in any part of the Common-  
wealth:

“Decoration” means the insignia of any decoration  
or order, or any medal, clasp, or good conduct  
badge; and includes any miniature thereof:

“Minister” means the Minister of Defence:

“Naval Board” means the New Zealand Naval  
Board constituted under this Act:

“Naval Discipline Act” means the Naval Discipline  
Act 1866 and the Naval Discipline (Dominion  
Naval Forces) Act 1911, of the United King-  
dom Parliament:

- “Naval establishment” means any land, building, works, or premises used, constructed, or set aside for the purposes of the Naval Forces:
- “Naval Forces” or “New Zealand Naval Forces” means the Naval Forces constituted under this Act: 5
- “Naval ship” means any of Her Majesty’s ships; and includes any ship used or set aside for the purposes of the Naval Forces:
- “Navy Instruction” means an instruction issued 10 by the Naval Board under this Act:
- “Navy Secretary” means the Navy Secretary appointed for the purposes of this Act; and includes any person for the time being authorized to exercise or perform any of the 15 powers, duties, or functions of the Navy Secretary:
- “Oath” and “swear” and other expressions relating thereto include “affirmation” and “affirm” and other expressions relating to a 20 solemn affirmation under section fifty of the Evidence Act 1908:
- “Officer” means a commissioned officer, subordinate officer, or probationary officer (whether a man or a woman) appointed under 25 this Act to the Naval Forces or to any portion thereof; and, where the context so requires, includes an officer of the Royal Navy or the Royal Marines, or of any other Commonwealth naval force; but does not include a 30 chief petty officer or a petty officer:
- “Prescribed” means prescribed by this Act or by regulations or Navy Instructions made or issued under this Act:
- “Public Property” includes any property of which 35 possession has been taken for public purposes; and also includes any property belonging to the Armed Forces Canteen Council constituted under the Armed Forces Canteens Act 1948, or to any local authority or public body; and 40 also includes any property of any New Zealand or Allied force:

See Reprint  
of Statutes,  
Vol. III, p. 121

1948, No. 51

“Rating” means a person (whether a man or a woman) in the Naval Forces; and includes a Royal Marine in the Naval Forces; but does not include an officer or a sea cadet as defined by this Act:

“Reserve Force” means the Reserve Forces specified in section *six* of this Act:

“Sea cadet” means a person serving in the Sea Cadet Corps, not being an officer as defined by this Act:

“Ship” includes any vessel, boat, or craft:

“Subordinate officer” means an officer holding the rank of acting sub-lieutenant, midshipman, or cadet, whether in the executive or any other branch:

“War material” means all tangible requirements of any New Zealand or Allied force other than personnel and animals.

## PART I

### 20 CONSTITUTION OF THE NEW ZEALAND NAVAL FORCES

3. (1) The Governor-General may, in the name and on behalf of Her Majesty the Queen, raise and maintain naval forces for the defence of New Zealand, including—

Power to raise Naval Forces.  
1913, No. 45,  
s. 3

(a) The contribution of forces for the defence of Commonwealth interests; and

1950, No. 63,  
s. 8 (1)

(b) The fulfilment of the obligations undertaken by New Zealand in the Charter of the United Nations.

(2) All such forces shall be called the New Zealand Naval Forces (hereinafter referred to as the Naval Forces).

4. The Naval Forces shall consist of the Royal New Zealand Navy, the Reserve Forces, the Sea Cadet Corps, and such auxiliary forces as may from time to time be prescribed.

Constitution of the Naval Forces.

5. The Royal New Zealand Navy shall consist of—

(a) Such officers as are from time to time appointed to or duly transferred to the Royal New Zealand Navy, during the period of their service on the Active List:

Royal New Zealand Navy.  
1950, No. 63,  
s. 7 (1), (3)

Reserve  
Forces.  
1950, No. 63,  
s. 8 (2)

Sea Cadet  
Corps.

Commander-  
in-Chief.

- (b) Such ratings as are from time to time engaged in or duly transferred to the Royal New Zealand Navy for continuous service, during the period of their engagements:
- (c) Such officers and ratings as are from time to time appointed to or engaged for continuous service in the Women's Royal New Zealand Naval Service. 5
6. (1) The Reserve Forces shall consist of— 10
- (a) The Retired List of Officers: 10
- (b) The Emergency List of Officers:
- (c) The Retired Lists of Officers of the Reserve Forces:
- (d) The Royal New Zealand Fleet Reserve:
- (e) The Royal New Zealand Naval Reserve: 15
- (f) The Royal New Zealand Naval Volunteer Reserve:
- (g) Such other Reserve Forces as may from time to time be prescribed.
- (2) The Retired Lists of Officers and the Emergency List of Officers shall respectively consist of such officers as are from time to time placed thereon. 20
- (3) Each other Reserve Force shall consist of such officers and ratings as are from time to time appointed to or engaged for service in that Reserve Force, or as are from time to time duly transferred to that Reserve Force. 25
7. The Sea Cadet Corps shall consist of such officers and sea cadets as from time to time are appointed to or serve in the Sea Cadet Corps.

## PART II

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### ADMINISTRATION

8. The Governor-General, by virtue of his appointment as Commander-in-Chief of New Zealand, shall have all the powers and may exercise and discharge all the duties and obligations, in respect of the Naval Forces or any portion thereof, appertaining to the office of Commander-in-Chief. 35

9. (1) For the purposes of this Act there is hereby established a department of State, to be called the Navy Department, which shall consist of the Naval Forces as hereinbefore defined, an officer of the Public Service to be called the Navy Secretary, and such other persons as may from time to time be appointed to the department under the Public Service Act 1912.

Navy  
Department  
and Navy  
Secretary.  
1950, No. 63,  
s. 3

(2) Nothing in the Public Service Act 1912 shall apply to any officer or rating of the Naval Forces as such.

See Reprint  
of Statutes,  
Vol. VII, p. 522

10. (1) There may from time to time be appointed under the Public Service Act 1912 an Assistant Navy Secretary, who, subject to the control of the Navy Secretary, shall have and may exercise all the powers, duties, and functions of the Navy Secretary.

Assistant Navy  
Secretary.

(2) On the occurrence from any cause of a vacancy in the office of Navy Secretary (whether by reason of death, resignation, or otherwise), and in case of the absence from duty of the Navy Secretary (from whatever cause arising), and so long as any such vacancy or absence continues, the Assistant Navy Secretary shall have and may exercise all the powers, duties, and functions of the Navy Secretary.

(3) The fact that the Assistant Navy Secretary exercises any power, duty, or function of the Navy Secretary shall be conclusive evidence of his authority to do so.

11. (1) There is hereby established a Board, to be called the New Zealand Naval Board.

New Zealand  
Naval Board.  
1950, No. 63,  
s. 4

(2) The Board shall consist of—

(a) The Minister, who shall be the Chairman of the Board:

(b) Three persons (being officers of the Naval Forces or of any other Commonwealth naval forces) to be from time to time appointed as members of the Board by the Governor-General and to hold office as such during his pleasure:

(c) The Navy Secretary.

(3) At a meeting of the Board three members shall form a quorum.

(4) Anything that may be done by resolution passed at a meeting of the Board may be done by the Board without a meeting by means of a Board memorandum signed by at least three of its members.

(5) When important matters of principle or policy are to be decided at a meeting or by means of a Board memorandum the Minister shall be one of the members of the quorum or a signatory to the memorandum, as the case may be.

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(6) The powers of the Board shall not be affected by any vacancy in the membership thereof, or by any failure to comply with subsection *five* of this section.

(7) Subject to the provisions of this Act and of any regulations made under this Act, the Board may regulate its procedure in such manner as it thinks fit.

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(8) The New Zealand Naval Board shall be deemed to be the same Board as the Naval Board of New Zealand constituted under the Naval Defence Amendment Act 1950.

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1950, No. 63

Functions of Naval Board. 1950, No. 63, s. 5

12. The Naval Board shall be charged with the administration of the Naval Forces and all matters relating thereto, and shall have such powers, duties, and functions in relation thereto and to the administration of this Act as may from time to time be conferred on it by this or any other Act or by any regulations made under this Act, and, subject to any such Act or regulations, or in so far as they do not extend, shall have all such powers as are reasonably necessary for the effective performance of its functions and duties:

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Provided that the powers, duties, and functions of the Board shall not be so exercised as to be inconsistent with any powers, duties, or functions conferred on any member of the Board by any other Act.

Navy Instructions and orders.

13. In exercise of the powers, duties, and functions conferred upon it as aforesaid, the Naval Board may from time to time issue Navy Instructions and orders, and the production of a document that purports to be a copy of a Navy Instruction or order and to include a copy of the signature of the Navy Secretary thereto shall, in the absence of proof to the contrary, be sufficient evidence of that Instruction or order in all Courts and in all proceedings.

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Naval Board may delegate powers to its members.

14. (1) The Naval Board may from time to time delegate any of its powers to any member of the Board, either as to matters within its jurisdiction generally or in any particular case or matter or particular class of cases or matters.

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(2) Any such delegation may be at any time revoked by the Board, in whole or in part, but any such revocation shall not affect in any way anything previously done under the delegated authority.

5 (3) No such delegation shall prevent the exercise by the Board itself of any of its powers.

10 15. (1) The Naval Discipline Act and the regulations made thereunder, and the Queen's Regulations and Admiralty Instructions for the time being in force in relation to the Royal Navy, shall apply to the Naval Forces, subject to the provisions of this Act and to such modifications as may from time to time be prescribed by regulations made under this Act.

Application  
of Naval  
Discipline  
Act and Queen's  
Regulations.  
1913, No. 45,  
s. 18  
1950, No. 63,  
s. 7 (2)

15 (2) The Naval Discipline Act and the regulations made thereunder and the Queen's Regulations and Admiralty Instructions for the time being in force in relation to the Royal Navy shall apply to the Women's Royal New Zealand Naval Service only in such manner and to such extent as may from time to time be prescribed by regulations made under this Act.

20 16. (1) The Governor-General may from time to time, by Order in Council, make regulations, not inconsistent with this Act, for all or any of the following purposes:

Regulations.  
1913, No. 45,  
ss. 5, 8 (1), 16,  
23, 25  
1922, No. 6,  
ss. 2, 5  
1939, No. 38,  
s. 6  
1945, No. 40,  
s. 57 (7), (8)

25 (a) The appointment, enlistment, promotion, transfer, discipline, training, pay, and allowances of officers and ratings, including provisions as to forfeitures of pay and stoppages from pay:

30 (b) The retirement, resignation, and discharge of officers and ratings:

(c) Prescribing the gratuities (if any) that may be paid to officers and ratings of the Royal New Zealand Navy on their discharge therefrom, and prescribing the conditions upon or subject to which any such gratuities will become payable:

35 (d) The establishment and conduct of messes in naval ships, naval establishments, and other places, and, in particular, making provisions to take effect notwithstanding anything contained in the Licensing Act 1908:

See Reprint  
of Statutes,  
Vol. IV, p. 234;  
reprinted 1951,  
p. 935



- (e) Prohibiting or restricting access to any area of land or water or any place, so far as may be deemed necessary for the purposes of the Naval Forces:
- (f) Providing for the vesting in the Crown of discoveries, inventions, and improvements in processes, apparatus, and machines made by officers or ratings, and for the payment of rewards, expenses, and other money in respect thereof, and prescribing conditions for the vesting and use thereof:
- (g) For any other purpose for which regulations are contemplated or are deemed expedient or necessary for the administration of the Naval Forces or for the purposes of this Act.
- (2) All regulations made under this section shall come into force on a date to be therein prescribed, either before or after the date of their making, or, if no date is so prescribed, shall come into force on the date of their notification in the *Gazette*.
- (3) All regulations made under this Act shall be laid before Parliament within twenty-eight days after the date of the making thereof if Parliament is then in session, or, if not, shall be laid before Parliament within twenty-eight days after the date of the commencement of the next ensuing session.

### PART III

#### SERVICE OF OFFICERS AND RATINGS

Limits of service.

1913, No. 45,  
ss. 13 (2), 15  
1945, No. 40,  
s. 57 (6)

17. (1) All officers and ratings of the Royal New Zealand Navy shall be liable at all times for service within and outside New Zealand.
- (2) Any officer or rating of the Reserve Forces may, with his consent in writing, be appointed, drafted, or attached for service outside New Zealand, and shall be liable for service accordingly.
- (3) In time of war or other like emergency it shall be lawful for the Governor-General, by Proclamation, to declare the Reserve Forces or any specified portion thereof to be liable for continuous service within and outside New Zealand during the continuance of a state of war or other like emergency.

18. (1) Subject to the provisions of this Act and of any regulations made under this Act, the Governor-General may—

Appointment, promotion, and discharge of officers.

(a) Appoint officers to the Naval Forces:

1913, No. 45, ss. 4, 6

(b) In the name and on behalf of Her Majesty, issue commissions under the Public Seal of New Zealand to officers of the Naval Forces in such cases as may be prescribed:

1922, No. 6, s. 2 (a)  
1950, No. 63, s. 6

(c) Promote officers to higher rank:

(d) Cancel or vary the commission of any officer, or annul or vary the appointment of any officer, or place any officer on half pay, or place any officer on the Retired List of Officers or on the Emergency List of Officers.

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

19. Subject to the approval of the Naval Board and to the conditions prescribed, an officer may resign his commission or be placed on the Retired List or Emergency List at his own request.

Resignation of commission.  
1913, No. 45, s. 7

20. The rank and authority of officers, and the seniority of officers in their respective ranks, shall be as prescribed.

Rank and seniority of officers.  
1913, No. 45, s. 8 (2)

21. (1) Subject to the provisions of this section, every officer of the Royal New Zealand Navy shall be liable to serve until he attains the appropriate compulsory retiring age as prescribed, or until the period for which he has been entered expires, whichever happens first:

Period of service of officers of Royal New Zealand Navy.  
1913, No. 45, ss. 9, 13 (1)

Provided that when the date of release occurs in time of war or other like emergency, the officer concerned shall be liable to continue to serve for such period as the Naval Board may require during the continuance of a state of war or other like emergency.

(2) An officer may, with his consent in writing and with the approval of the Naval Board, be re-employed on the Retired List of Officers, so long as this is done without detriment to the promotion of officers on the Active List.

22. Ratings of the Royal New Zealand Navy shall be engaged for such period as may be prescribed, and shall be liable to serve for that period, subject to the conditions prescribed:

Engagement of ratings.  
1913, No. 45, ss. 9, 10 (2), 13 (1)  
1922, No. 6, s. 3 (a)

Provided that when the date of release occurs in time of war or other like emergency the rating concerned shall be liable to continue to serve for such period as the Naval Board may require during the continuance of a state of war or other like emergency.

Ratings may obtain discharge.

Conditions of service in Reserve Forces and Sea Cadet Corps.

1913, No. 45, s. 10 (2)

1922, No. 6, s. 3 (a)

Enlistment of minors.

1913, No. 45, s. 3 (3), (4)

1922, No. 6, s. 3 (b)

Oath of allegiance.

1913, No. 45, s. 11

23. A rating may obtain his discharge at his own request, subject to the approval of the Naval Board and to the conditions prescribed.

24. Subject to the provisions of this Act and of any other Act, the periods and conditions of service and training in the Reserve Forces and in the Sea Cadet Corps shall be as prescribed.

25. (1) No person under the age of twenty-one years shall enlist or be accepted for service in the Naval Forces if either of his parents or his guardian objects thereto.

(2) Every application by a minor for enlistment in the Naval Forces shall be accompanied by the consent in writing of one or both of his parents or of his guardian, or, in the alternative, shall state the reasons why that consent has not been obtained or furnished.

(3) Except as provided in subsection *one* of this section, a minor who has not obtained the prior consent of one or both of his parents or of his guardian to his enlistment in the Naval Forces may be accepted for service therein with the approval of the Naval Board, but not otherwise.

(4) The enlistment of any person pursuant to this section shall be binding on him during his minority and after he has attained the age of twenty-one years.

26. (1) All officers and ratings who are appointed to or engaged in the Naval Forces shall take and subscribe the oath of allegiance before a commissioned officer, or such other person as may be prescribed, in the form set out hereunder or to the like effect:

“I, \_\_\_\_\_, solemnly promise and swear that I will be faithful and bear true allegiance to our Sovereign Lady the Queen, her heirs and successors, and that I will faithfully serve in the New Zealand Naval Forces, and that I will loyally observe and obey all orders of Her Majesty, her heirs and successors, and of the officers set over me, until I shall be lawfully discharged. So help me God.”

(2) The oath of allegiance shall bind the person subscribing it to serve in the Naval Forces in accordance with the tenor of the oath until he is discharged, dismissed, or removed therefrom, or until his resignation is  
5 accepted.

27. (1) Any person who is for the time being an alien may, with the approval of the Naval Board, be enlisted in the Naval Forces. Enlistment of aliens.

(2) The oath to be taken by any alien on his enlistment shall be in such form as may be prescribed or  
10 approved by the Naval Board.

## PART IV

### DISCIPLINE

28. (1) Where a person subject to the Naval Discipline Act has been acquitted or convicted of an offence under that Act, he shall not be liable to be tried in respect of that offence by any civil Court. Adjustment of naval and civil law.

(2) Except as provided in subsection *one* of this section, nothing in this Act shall exempt an officer or  
20 rating from being proceeded against by the ordinary course of law when accused or convicted of any offence punishable in any civil Court.

(3) Where a person subject to the Naval Discipline Act has been acquitted or convicted of an offence by a  
25 competent civil Court, he shall not be liable to be tried in respect of that offence under the Naval Discipline Act.

29. (1) No sentence of death passed by a Court-martial shall be carried into effect unless it is approved by the Governor-General.

(2) Where the sentence passed upon a person convicted under the Naval Discipline Act of any offence is for any reason invalid, the Naval Board may substitute for the sentence so passed such sentence as may be warranted in law for that offence, not being a sentence of  
30 greater severity than the sentence originally passed. Confirmation and revision of findings and sentences under Naval Discipline Act.

(3) Where a person subject to the Naval Discipline Act has been convicted under that Act of an offence or of two or more offences, the Naval Board may quash the conviction in respect of that offence or, as the case may  
35 be, in respect of all or any of those offences.  
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(4) Where the Naval Board quashes the conviction of any person in respect of some but not all of several offences of which he has been convicted, the Board may substitute for the sentence passed on the conviction such sentence as may be warranted in law for the offence or offences of which the conviction has not been quashed, not being a sentence of greater severity than the sentence originally passed. 5

(5) Where a person subject to the Naval Discipline Act has been found guilty under that Act of an offence and he could on the charge have been found guilty of some other offence, or of the same offence under circumstances involving a less degree of punishment, the Naval Board may substitute for the original finding a finding of guilty of that other offence, or of the same offence under circumstances involving a less degree of punishment, if it appears to the Naval Board that the evidence establishes the offence specified or involved in the substituted finding, and may impose such sentence in substitution for the original sentence as may be warranted in law for the offence specified or involved in the substituted finding, not being a sentence of greater severity than the original sentence. 10 15 20

(6) For the purposes of this Act and of the Naval Discipline Act, any finding or sentence substituted in accordance with this section for the finding or sentence of a Court-martial or any other authority, and any sentence imposed for an offence specified or involved in any such substituted finding, shall have effect as if it were a finding or sentence of the Court-martial or other authority, as the case may be. 25 30

Officers  
qualified to  
sit on Court-  
martial.

1913, No. 45,  
s. 24

30. The officers qualified to sit as members of a Court-martial or of a Disciplinary Court shall be as prescribed in the Naval Discipline Act:

Provided that officers with the prescribed qualifications of any Commonwealth naval force shall also be qualified to sit: 35

Provided also that officers of the Women's Royal New Zealand Naval Service shall not be qualified to sit.

When members  
of Reserve  
Forces subject  
to Act.

1950, No. 63,  
s. 8 (3)

1951, No. 27,  
s. 2

31. Every person belonging to any of the Reserve Forces shall be subject to this Act and the Naval Discipline Act when he is— 40

(a) In or on any naval ship, naval establishment, or naval aircraft or vehicle; or

- (b) Undergoing or required to undergo training, or absent on leave or without leave from any naval ship, naval establishment, or naval aircraft or vehicle, or going to or from any place of parade, exercise, training, or naval duty; or
- (c) Borne on the books of any of Her Majesty's commissioned ships; or
- (d) In uniform.

32. Officers, non-commissioned officers, and soldiers of the Army and officers, non-commissioned officers, and airmen of the Air Force, when embarked on board any naval ship, shall be subject to the Naval Discipline Act and to any regulations made thereunder:

Application of Naval Discipline Act to Army and Air Force when embarked.

Provided that, in relation to women, this section shall be subject to the proviso to section one hundred and forty-nine of the Army Act and to the proviso to section one hundred and forty-nine of the Air Force Act.

## PART V

### CIVIL OFFENCES

#### 20 *Offences in Respect of Naval Service*

33. Every person who in New Zealand or elsewhere, by any means whatsoever,—

Inducing or assisting officers or ratings to desert, etc.

- (a) Procures or persuades any officer or rating to desert or absent himself without leave, or attempts to procure or persuade any officer or rating to desert or absent himself without leave; or
- (b) Knowing that an officer or rating is about to desert or absent himself without leave, aids or assists him in deserting or absenting himself without leave; or
- (c) Knowing any officer or rating to be a deserter or absentee without leave, conceals him, or aids or assists him in concealing himself, or aids or assists in his rescue,—

35 shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding fifty pounds.

Interference  
with naval  
duties, etc.

34. Every person who in New Zealand or elsewhere—
- (a) Wilfully obstructs, impedes, or otherwise interferes with any officer or rating in the execution of his duties; or
  - (b) Wilfully produces any disease or infirmity in, or maims or injures, any person whom he knows to be an officer or rating with a view to enabling him to avoid naval service; or
  - (c) With the intent of enabling an officer or rating to render himself, or induce the belief that he is, permanently or temporarily unfit for service, supplies to or for the officer or rating any drug or preparation calculated or likely to render him or lead to the belief that he is permanently or temporarily unfit for service,—

shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding one hundred pounds, or to both.

Obstructing  
parades.

35. Every person who in New Zealand or elsewhere—
- (a) Interrupts or obstructs any muster, inspection, or parade of any portion of the Naval Forces; or
  - (b) Goes or remains upon any place where any officers, ratings, or sea cadets are exercising, or at muster, inspection, or parade after being warned by an officer not to go thereon or to depart therefrom,—

shall be liable on summary conviction for every such offence to a fine not exceeding ten pounds, and may be arrested by order of the senior officer present, and kept in custody until the exercising, muster, inspection, or parade is over for the day, and then either taken in custody before a Justice or discharged from custody, as the senior officer present at the conclusion of the parade, muster, or inspection thinks fit.

#### *Intoxicating Liquor*

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Bringing liquor  
into ships or  
naval  
establishments.

36. (1) Every person who in New Zealand or elsewhere—
- (a) Brings or conveys any intoxicating liquor into any naval ship, naval establishment, or other place where any officers, ratings, or sea cadets are quartered, stationed, or serving, or are being exercised or trained, except when duly

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authorized so to do for delivery into any canteen or duly authorized mess lawfully established in any such naval ship, naval establishment, or other place as aforesaid, or for delivery to any premises occupied as married quarters; or

(b) Is in possession of any intoxicating liquor within the bounds of any naval ship, naval establishment, or other place as aforesaid, unless he proves that the liquor is for consumption or sale in any such canteen or duly authorized mess, or is for consumption in any premises occupied as married quarters; or

(c) Approaches or hovers about any such naval ship, naval establishment, or other place as aforesaid (whether in any ship, aircraft, conveyance, or vehicle, or not) for the purpose of bringing any intoxicating liquor to persons engaged, serving, or being exercised or trained therein, except when duly authorized so to do for delivery into any such canteen or duly authorized mess, or for delivery to any premises occupied as married quarters,—

shall be liable on summary conviction to imprisonment for a term not exceeding twelve months or to a fine not exceeding one hundred pounds.

(2) Any officer or petty officer, with or without persons under his command, may—

(a) Enter into or upon and search any ship, aircraft, conveyance, or vehicle of any kind, hovering about or approaching, or that may have hovered about or approached any such naval ship, naval establishment, or other place as aforesaid; and

(b) Detain any person whom he reasonably suspects has committed a breach of any of the provisions of subsection *one* of this section, and search any parcel, package, case, bag, luggage, jar, bottle, vessel, or other container in his possession; and



- (c) If any intoxicating liquor is found as the result of any such search, seize the liquor, together with the vessels containing the liquor, unless it is for delivery to any such canteen or duly authorized mess as aforesaid or for delivery to any premises occupied as married quarters. 5
- (3) Any officer or petty officer or any constable, may, with or without any warrant or other process, apprehend or cause to be apprehended any offender or person acting contrary to this section, and bring him or cause him to be brought before a Justice for the purpose of being dealt with under this section. 10
- (4) Any liquor seized under the authority of this section shall, on the conviction of any person of an offence under this section in respect of that liquor, together with the vessels containing the liquor, be deemed to be forfeited to the Crown, and may be disposed of by public auction or private contract as the Navy Secretary directs, and the proceeds of the sale shall be paid into the Public Account. 15 20

*Offences in Relation to Persons in Custody*

Aiding escape from naval prison or detention quarters.

- 37.** Every person who in New Zealand or elsewhere—
- (a) Rescues or attempts to rescue any person subject to this Act who is lawfully imprisoned or detained in any naval prison or detention quarters, or aids any such person in escaping or attempting to escape from any naval prison or detention quarters; or 25
- (b) With intent to facilitate the escape of any person subject to this Act who is lawfully imprisoned in any naval prison or detention quarters, conveys or causes to be conveyed anything whatever into the naval prison or detention quarters,— 30
- shall be liable on summary conviction to imprisonment for a term not exceeding twelve months or to a fine not exceeding one hundred pounds, or to both. 35

*Offences in Relation to Courts-martial*

38. (1) Every person who has been lawfully ordered or summoned to attend a Court-martial in New Zealand or elsewhere to give evidence or produce documents and  
 5 (in the case of a summons) has been 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 appear; or  
 10 (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,—
- 15 shall be liable on summary conviction before a Magistrate to a fine not exceeding fifty pounds.

Misconduct of witness at Court-martial, and contempt of Court.

- (2) Proceedings before a Court-martial shall be deemed to be judicial proceedings within the meaning of section one hundred and thirty of the Crimes Act  
 20 1908 (which relates to perjury).

See Reprint of Statutes, Vol. II, p. 221

- (3) Every 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 improperly to influence the Court or any member thereof or any witness before the Court, within the view or hearing of the Court, is guilty of contempt of Court  
 25 and may forthwith be arrested pursuant to the order of the President of the Court and taken before a Magistrate, and shall be liable on summary conviction before a  
 30 Magistrate to a fine not exceeding ten pounds, or to imprisonment for a term not exceeding one month.

*Offences in Relation to Property*

39. (1) Every person who in New Zealand or  
 35 elsewhere—
- (a) Buys, exchanges, takes in pawn, detains, or receives from any person, on any pretence whatsoever; or  
 40 (b) Solicits or entices any person to sell, exchange, pawn, or give away; or

Purchasing naval equipment, stores, etc.

(c) Assists or acts for any person in selling, exchanging, pawning, or making away with,—any of the property following—namely, any arms, ammunition, equipment, instruments, or clothing issued for the use of officers or ratings, or any naval or other service decorations of an officer or rating, or any furniture, bedding, blankets, sheets, utensils, and stores in the charge of any portion of the Naval Forces, or any provisions, forage, animal, war material, or public property which has been issued to him for his use or entrusted to his care for naval purposes or of which he has charge shall, unless he proves either that he acted in ignorance of the same being such property as aforesaid, or that the same was sold by order or with the consent of the Naval Board or some competent naval authority, or that the same was the personal property of an officer who had retired or ceased to be an officer, or of a rating who had been discharged, or of the legal personal representatives of an officer or rating who had died, be liable on summary conviction to imprisonment for a term not exceeding three months, or to a fine not exceeding fifty pounds, or to both.

(2) Where any such property as aforesaid is found in the possession or keeping of any person, that person may be taken or summoned before a Court of summary jurisdiction, and if the Court has reasonable ground to believe that the property so found was stolen, or was bought, exchanged, taken in pawn, obtained, or received in contravention of this section, then, if that person does not satisfy the Court that he came by the property so found lawfully and without any contravention of this Act, he shall be liable on summary conviction to the same penalties as are prescribed in the case of a contravention of subsection *one* of this section.

(3) Any person found committing an offence against this section may be apprehended without warrant, and taken, together with the property which is the subject of the offence, before a Court of summary jurisdiction; and any person to whom any such property as aforesaid is offered to be sold, pawned, or delivered, who has reasonable cause to suppose that the same is offered in contravention of this section, may, and if he has the power shall, apprehend the person offering the property, and forthwith take him, together with the property, before a Court of summary jurisdiction.

(4) A Court of summary jurisdiction, if satisfied on oath that there is reasonable cause to suspect that any person has in his possession, or on his premises, any property on or with respect to which any offence in this section mentioned has been committed, may grant a warrant to search for that property, as in the case of stolen goods; and any property found on any such search shall be seized by the officer charged with the execution of the warrant, who shall bring the person in whose possession the same is found before some Court of summary jurisdiction, to be dealt with according to law.

(5) For the purposes of this section, property shall be deemed to be in the possession or keeping of a person if he knowingly has it in the actual possession or keeping of any other person, or in any house, building, lodging, apartment, field, or place, open or enclosed, whether occupied by himself or not, and whether the same is so had for his own use or benefit, or for the use or benefit of another.

40 40. Every person who in New Zealand or elsewhere—

(a) Receives, detains, or has in his possession any identity certificate, life certificate, or other certificate, or official document evidencing or issued in connection with the right of any person to a naval or war pension, or to pay, or to any bounty, allowance, gratuity, relief, benefit, or advantage granted in connection with naval service, as a pledge or security for a debt, or with a view to obtaining payment from the person entitled thereto of a debt due either to himself or to any other person; or

(b) Without lawful authority or excuse (the proof whereof shall lie on the accused) has in his possession any such certificate or document, or any certificate of discharge or any other official document issued in connection with the mobilization or demobilization of the Naval Forces or any member thereof,—

shall be liable on summary conviction to the like penalty as for an offence under subsection *one* of section *thirty-nine* of this Act, and any such certificate or other document shall be deemed to be property within the meaning of that section.

Unlawful  
possession of  
naval  
certificates, etc.

Failure to  
account for  
issued property.

41. (1) Every person who has been issued with any property by or for the purposes of the Naval Forces shall deliver it up upon the demand in writing signed by an officer and delivered to him personally or by being posted by registered post addressed to him at his last known place of abode. 5

(2) If any person in New Zealand or elsewhere designedly makes away with, sells or pawns, or wrongfully destroys or damages, or negligently loses, or wrongfully refuses or neglects to deliver up on demand as aforesaid, any property so issued to him, he shall be liable on summary conviction to a fine not exceeding fifty pounds. 10

1952, No. 41

(3) The provisions of section eight of the Summary Jurisdiction Act 1952 (which relates to the restitution of stolen property or payment of its value), shall, with the necessary modifications, apply with respect to any offence under subsection *two* of this section as if the offence were stealing or dishonestly obtaining the property in respect of which the offence is committed. 15 20

Giving false  
certificate.

42. Every person who in New Zealand or elsewhere knowingly gives any false certificate or makes any false return or statement in writing respecting any matter or thing required by or under this Act shall be liable on summary conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding one hundred pounds, or to both. 25

False  
statements  
regarding pay  
or allowances,  
etc.

43. (1) Every person who in New Zealand or elsewhere knowingly makes a false statement or withholds any required information for the purpose of obtaining payment of any amount by way of pay, allowance, or gratuity under this Act, whether as the dependant of an officer or rating or otherwise, or for the purpose of obtaining any decoration, emblem, or award under this Act, shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding fifty pounds. 30 35

(2) In any prosecution for an offence under this section the burden of proving that any such statement was not false and was not knowingly made or that any such information was not knowingly withheld shall be on the accused. 40

44. Every person who in New Zealand or elsewhere acts in contravention of or fails to comply in any respect with any provision of this Act or of any regulation made under this Act, where no other penalty is prescribed therefor, shall be liable on summary conviction to a fine not exceeding ten pounds for each such offence, but this section shall not prevent his being proceeded against and punished for any greater offence that appears to have been committed.

Offences not otherwise punishable.

## 10 PART VI

### ATTACHMENTS AND TRANSFERS BETWEEN THE SERVICES AND BETWEEN NEW ZEALAND AND OTHER FORCES

45. (1) The Governor-General may from time to time—
- 15 (a) Subject to section *seventeen* of this Act, transfer for employment with any Commonwealth, Allied, or United Nations forces any naval ship of the New Zealand Naval Forces:
- 20 (b) Accept the transfer to the New Zealand Naval Forces of any ship of any Commonwealth, Allied, or United Nations naval force.
- (2) The Naval Board may from time to time,—
- 25 (a) Subject to section *seventeen* of this Act, transfer for employment with any Commonwealth, Allied, or United Nations naval force any officers or ratings of the New Zealand Naval Forces:
- 30 (b) Accept the transfer to the New Zealand Naval Forces of any officers or ratings of any Commonwealth, Allied, or United Nations naval force.
- (3) Any transfer under this section may be for such period and subject to such conditions as may be arranged between the Naval Board and the appropriate naval authority of the United Nations or of the other country, as the case may be.
- 35 (4) Subject to the conditions of transfer as aforesaid, all officers and ratings of any other naval forces transferred under this section to the New Zealand Naval Forces shall, while so transferred, be deemed to be officers and ratings of the New Zealand Naval Forces and shall be subject to this Act and to the regulations made under this Act so far as they are applicable.

Transfers of ships and personnel between Commonwealth and other naval forces and New Zealand Naval Forces.  
1913, No. 45, ss. 17, 19, 20  
1922, No. 6, s. 7

(5) Subject to the conditions of transfer, all officers and ratings of the New Zealand Naval Forces transferred under this section to any other naval force shall, while so transferred, be subject to the laws and regulations governing that other naval force so far as they are applicable. 5

Attachment  
of officers and  
ratings to  
Army and Air  
Force.

46. (1) The Naval Board may from time to time direct that any officer or rating subject to this Act shall, under such conditions as may be prescribed by orders made by the Naval Board and the Army Board, be temporarily attached or lent to or seconded for service with the Army. 10

(2) The Naval Board may from time to time direct that any officer or rating subject to this Act shall, under such conditions as may be prescribed by orders made by the Naval Board and the Air Board, be temporarily attached or lent to or seconded for service with the Air Force. 15

(3) An officer or rating who is for the time being attached, lent, or seconded under this section shall continue to be subject to this Act, notwithstanding that he thereby becomes subject to military law or to the Air Force Act, as the case may be. 20

Relations  
between Naval  
Forces, Army,  
and Air Force  
acting together.

47. (1) Where an officer or non-commissioned officer (not below the rank of sergeant) of the Army or an officer or non-commissioned officer (not below the rank of sergeant) of the Air Force is a member of a body of the Army or of the Air Force, as the case may be, acting with any body of the Naval Forces under such conditions as may be prescribed by orders made by the Naval Board and, as the case may be, the Army Board or the Air Board, then, for the purposes of command and discipline and for the purposes of the provisions of the Naval Discipline Act relating to superior officers, he shall, in relation to that body of the Naval Forces, be treated and have all such powers (other than powers of punishment) as if he were a naval officer or petty officer, as the case may be: 25 30 35

Provided that nothing in this subsection shall give a claim to any officer of the Army or the Air Force to assume command of any unit of the Naval Forces except where the unit has been specially placed under his command. 40

(2) Where any officer or rating is a member of a body of the Naval Forces acting with any body of the Army or of the Air Force under such conditions as may be prescribed by orders made by the Naval Board and, as the case may be, the Army Board or the Air Board, then, for the purposes of command and discipline and for the purposes of the provisions of the Naval Discipline Act relating to superior officers, the officers and non-commissioned officers (not below the rank of sergeant) of that body of the Army or, as the case may be, the officers and non-commissioned officers (not below the rank of sergeant) of that body of the Air Force shall, in relation to him, be treated and have all such powers (other than powers of punishment) as if they were naval officers or petty officers.

48. The relative rank of naval, military, and air force officers, petty officers, and non-commissioned officers shall, for the purposes of this Act, be such as may be provided by the Governor-General by Order in Council.

Relative rank of naval, military, and air force officers.

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## PART VII

## MISCELLANEOUS

49. (1) The Minister (acting on behalf of the Crown) and the Auckland Harbour Board may from time to time make, enforce, and perform such contracts as they think fit with each other and with the Admiralty and any other persons in relation to the Calliope Dock at Auckland and any land adjacent or near thereto, and any real or personal property, works, and services in connection therewith.

Powers of Minister and Auckland Harbour Board in relation to the Naval Base at Auckland. 1936, No. 46, s. 6

(2) Without limiting in any way the general powers hereinbefore conferred, it is hereby expressly declared that contracts may be made under this section for all or any of the following purposes:

(a) Providing for the maintenance, improvement, equipment, and operation of the Calliope Dock, and for the construction, maintenance, improvement, equipment, and operation of other works in connection with the dock:



- (b) Providing for the provision by the Auckland Harbour Board, the Minister, or any other person, of water, electrical energy, compressed air services, crane services, and other services in connection with the Calliope Dock, and for the terms and conditions on which the dock and those services shall be available, and, in particular, for the granting to the Crown and to the Admiralty of a right to the use of the dock and to any such service in priority to any other person: 5
- (c) Providing for the granting to the Crown and to the Admiralty of rights of way, easements, options to purchase, and other rights in respect of the Calliope Dock and of any real or personal property, works, and services in connection therewith belonging to the Auckland Harbour Board or any other person; and, in particular, providing for the assumption by the Minister of possession and control of the dock and of all real or personal property, works, and services of the Auckland Harbour Board in connection therewith in such circumstances and upon such terms and conditions as may be agreed upon: 15
- (d) Providing for the granting to the Admiralty and to the Auckland Harbour Board of rights of way, easements, options to purchase, and other rights in respect of any real or personal property, works, and services belonging to the Crown in relation to the Calliope Dock and any land adjacent or near thereto: 20
- (e) Providing for the payment of monetary compensation by and to any parties to the contracts, whether by way of capital money (payable in one sum or by annual or other instalments), or by way of annual or other periodical payments, or otherwise howsoever: 25
- (f) Generally providing for the administration of the Calliope Dock and all land, real or personal property, works, and services in connection therewith, and for the rights and liabilities in relation thereto of the respective parties to the contracts. 30

50. All arms, equipment, uniforms, and public property of any kind supplied by the Government to the Naval Forces or to any officer or rating or sea cadet shall, in the absence of proof to the contrary, be deemed to remain the property of the Crown.

Arms, etc., to remain Crown property.

51. The animals, vehicles, aircraft, arms, equipment, uniforms, and public property of any kind used by an officer or rating while serving in the Naval Forces in discharge of his duty shall be exempt from seizure in execution, and from distress and assessment of every kind.

Arms, etc., not distrainable.

52. No action against any officer or rating for anything done or purporting to be done in pursuance of this Act, or in respect of any alleged neglect or default in the execution of this Act, shall be commenced after the expiration of one year from the date of the act, neglect, or default.

Limitation of actions.

53. Any power or jurisdiction given to, and any act or thing to be done by, to, or before, any person holding any naval appointment may be exercised by, or done by, to, or before, any other person for the time being authorized in that behalf according to the custom of the service, or according to regulations, Navy Instructions, or orders made or issued under this Act, or according to the Queen's Regulations and Admiralty Instructions for the time being applying to the Naval Forces.

Exercise of powers vested in holder of naval appointment.

54. All Proclamations, Orders in Council, and warrants relating to the Naval Forces shall be deemed to be sufficiently notified to all persons whom they may concern by being gazetted; and the production of a copy of the *Gazette* purporting to contain any such Proclamation, Order in Council, or warrant shall be conclusive evidence of the making, publication, and contents thereof, and of the date of the *Gazette*.

Proclamations, etc.

55. (1) If any amount in respect of pay or allowances or otherwise is paid to any officer or rating in excess of the amount to which he is entitled under any regulations made under this Act, the amount so paid in excess may be recovered from any payments payable or becoming payable to him, or may be recovered as a debt due to the Crown at the suit of the appropriate paying authority.

Recovery of excess payments.

(2) If any amount in respect of pay or allowances or otherwise is paid to a dependant of any officer or rating or to any other person for the time being entitled to

receive the same in excess of the amount to which that dependant or other person is entitled under this Act, the amount so paid in excess or any part thereof may be recovered from the dependant or other person or, if the Minister so directs, from the officer or rating out of any payments payable or becoming payable, or may be recovered as a debt due to the Crown at the suit of the appropriate paying authority. 5

Enforcement by Magistrate's Court of fines awarded by commanding officer.

56. Where a fine has been awarded summarily under this Act by a commanding officer, a certificate purporting to be signed by that officer setting forth the particulars of the award may be filed in a Magistrate's Court without payment of any fee. In every such case the Registrar of the Court shall make an appropriate entry in the Criminal Record Book; and thereupon payment of the amount of the fine may be enforced as if the fine had been adjudged to be paid by a conviction entered by that Court at the time of the filing of the certificate, and all Acts relating to fines imposed on summary conviction shall apply accordingly. 10 15 20

Application of fines.

57. All fines imposed under this Act or under any regulations made under this Act shall, when recovered, be paid into the Public Account.

References to Naval Board of New Zealand to be read as references to New Zealand Naval Board.

58. All references to the Naval Board of New Zealand in any Act, regulation, order, or other enactment or in any agreement, deed, instrument, application, notice, or other document whatsoever shall, unless the context otherwise requires, be read hereafter as references to the New Zealand Naval Board. 25

Repeals and savings.

59. (1) The enactments specified in the Schedule to this Act are hereby repealed. 30

See Reprint of Statutes, Vol. VIII, p. 568

(2) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that the repeal of any provision by this Act shall not affect any document made or any thing whatsoever done under the provision so repealed or under any corresponding former provision, and every such document or thing, so far as it is subsisting or in force at the time of the repeal and could have been made or done under this Act, shall continue and have effect as if it had been made or done under the corresponding provision of this Act and as if that provision had been in force when the document was made or the thing was done. 35 40

## SCHEDULE

Schedule.

## ENACTMENTS REPEALED

Section 59 (1)

- 1913, No. 45—  
The Naval Defence Act 1913. (Reprint of Statutes, Vol. II,  
p. 645.)
- 1922, No. 6—  
The Naval Defence Amendment Act 1922. (Reprint of  
Statutes, Vol. II, p. 652.)
- 1936, No. 46—  
The Naval Defence Amendment Act 1936.
- 1939, No. 38—  
The Finance Act (No. 2) 1939: Section 6.
- 1941, No. 27—  
The Finance Act (No. 2) 1941: Section 5.
- 1945, No. 40—  
The Statutes Amendment Act 1945: Section 57.
- 1950, No. 63—  
The Naval Defence Amendment Act 1950.
- 1951, No. 27—  
The Naval Defence Amendment Act 1951.