

## ROYAL NEW ZEALAND AIR FORCE AMENDMENT BILL

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### EXPLANATORY NOTE

THIS Bill makes miscellaneous amendments to the Royal New Zealand Air Force Act 1950.

*Clause 2: Subclause (1)* defines the term "Air Secretary", and includes any person for the time being authorized to exercise or perform any of the powers or functions of the Air Secretary. For instance, this provision would enable the Assistant Air Secretary and other officers of the Department to act for the Air Secretary during his absence on leave or through sickness or other causes.

*Subclause (2)* defines the term "enemy", and extends the present definition to persons engaged in armed operations against any New Zealand or allied force. This amendment would cover armed persons opposing United Nations Forces where a state of war has not been declared, as in Korea.

*Subclause (3)* amends the definition of the term "superior air force authority" by extending this definition to include the Air Board.

*Clause 3:* The effect of this clause is that dependants of any person subject to air force law who accompanying him on active service outside New Zealand will also be subject to air force law.

*Clause 4:* Her Majesty the Queen has been pleased to approve the change of the name of the Women's Auxiliary Air Force, which will in future be known as the Women's Royal New Zealand Air Force. This clause changes the name of that Force accordingly.

*Clause 5:* Section 11 of the principal Act provides that, subject to the approval of the Air Board, officers and airmen may purchase their discharge on payment of certain prescribed amounts. In some cases officers and airmen enter into special contracts with the Crown (for example, contracts containing an agreement to serve a specified minimum period after completion of a course of instruction overseas). The purpose of this clause is to make it clear that where such a contract has been entered into the money payable under that contract must be paid in addition to the amount specified under section 11 of the principal Act.

*Clause 6* provides that where a person subject to air force law is convicted of being in possession of liquor in camp or other similar offences relating to liquor the liquor is to be forfeited to the Crown and may be disposed of and the proceeds are to be paid into the Public Account.

*Clause 7:* Section 52 (a) of the principal Act makes it an offence to give a false answer to any question set forth in an attestation paper put "by direction of" the attesting officer. This clause makes it an offence to give a false answer to such a question put by the attesting officer himself.

*Clause 8:* Section 60 of the principal Act includes provisions making it an offence for a person subject to air force law to be in charge of any service motor vehicle while in a state of intoxication. This clause substitutes the words "while under the influence of drink or a drug to such an extent as to be incapable of having proper control of the vehicle" for the words "while in a state of intoxication". This amendment brings the wording of the section into conformity with the wording of the corresponding civil offence under the Transport Act 1949 as amended by the Transport Amendment Act 1953.

*Clause 9:* Section 62 (b) of the principal Act provides that where a person subject to air force law is convicted by Court-martial of the offence of murder he shall be liable to suffer death "or such less punishment as is in this Act mentioned". When that Act was passed the death penalty for murder had been abolished in New Zealand, but it has since been revived, and the civil Courts must now impose the death penalty on every conviction for murder. This clause omits the words quoted, so that on conviction by Court-martial of any person for murder the Court must impose the death penalty, subject to any commutation of the sentence under section 123 of the principal Act. (Under section 122 (2) of the principal Act every sentence of death, in addition to confirmation, requires the approval of the Governor-General before it can be carried into effect).

*Clause 10:* The purpose of this clause is to make it clear that where a commanding officer is dealing summarily with a charge he may award one or more of the minor punishments referred to in section 77 of the principal Act, without the offender being entitled to a Court-martial unless the finding involves a forfeiture of pay.

*Clause 11:* Section 78 (1) of the principal Act provides that a commanding officer may inflict on a non-commissioned officer below the rank of warrant officer a fine exceeding £1 but not exceeding £5 and stoppages of pay in accordance with regulations. Under subsection (2) he may, in addition to or without any other punishment inflicted under the principal Act, inflict on such a non-commissioned officer certain minor punishments. The effect of *paragraph (a)* of this clause is that the commanding officer may inflict the minor punishments in addition to or without any other punishment inflicted under section 78. Any other punishment inflicted under other provisions of the Act could be inflicted only by Court-martial, and to allow the commanding officer to award a further minor punishment under section 78 (2) would amount to punishing the offender twice for the same offence.

Section 78 (3) of the principal Act empowers a commanding officer to order any airman (not being a warrant officer) holding any temporary or acting rank to revert to the rank he held at the time of appointment to temporary or acting rank. *Paragraph (b)* of this clause amends this provision, and limits the powers of a commanding officer under the subsection to cases where the airman holds acting rank and not temporary rank.

*Clause 12* similarly provides that a commanding officer may take away only the acting rank of a warrant officer. The proviso to section 79 of the principal Act at present enables him to take away temporary or acting rank.

*Clause 13:* The effect of this clause is that a subordinate commander to whom a commanding officer has delegated power to deal with an offence may award the punishment of admonition.

*Clause 14:* The effect of *paragraph (a)* is to empower the Air Board or a superior officer as defined in section 87 (4) of the principal Act to cancel any punishment awarded by a commanding officer or by an authority dealing summarily with the charge if it appears that the finding, though not illegal, involves substantial injustice to the accused.

*Paragraph (b)* amends the definition of the term "superior officer" in section 87 (4) of the principal Act. The effect of the amendment is that a punishment awarded by an authority dealing summarily with a charge may be reviewed, in the case of charges dealt with in New Zealand, by the Air Member for Personnel, and, in the case of charges dealt with outside New Zealand, by the officer commanding the portion of the Air Force to which the accused belongs.

*Clause 15* re-enacts in an amended form the provisions of section 92 (2) of the principal Act, which confers powers of search in relation to the civil offence of bringing liquor into camp. At present the power of search is limited to the searching of vessels and vehicles, but the new provision gives power to search in addition bags and other containers in the possession of persons reasonably suspected of being in possession of liquor in breach of the section. The clause also provides that any liquor forfeited to the Crown under the section may be sold and the proceeds are to be paid into the Public Account.

*Clause 16:* Section 125 (1) of the principal Act provides that where an airman is sentenced by Court-martial to imprisonment or detention the confirming authority may, after confirming the sentence, suspend the sentence. The effect of *subclause (1)* of this clause is that the power of suspending sentences will in future be exercised by a superior air force authority and not by the confirming authority. When confirming a sentence the confirming authority may direct that the airman be not committed to prison or detention barracks until the orders of a superior air force authority have been obtained.

The effect of *subclause (2)* is that the provisions of section 125 of the principal Act relating to the steps to be taken when a sentence is suspended under that section are also to apply to sentences that have been suspended under section 123 (3) of the principal Act after the airman has commenced to serve the sentence.

*Clause 17:* Section 127 (1) of the principal Act contains a provision that where a person has ceased to be subject to air force law he may not be tried for any offence committed while subject to air force law (with certain exceptions) unless his trial commences within three months after he ceased to be subject to air force law. The effect of this clause is that a person may be tried at any time for an offence committed while subject to air force law if the offence was committed outside New Zealand and is one which if committed in New Zealand would be punishable by the law of New Zealand and the Attorney-General consents to the trial.

*Clause 18:* The purpose of this clause is to enable a joint service Court of Inquiry to be set up where the matter to be investigated concerns the New Zealand Naval Forces or the New Zealand Army as well as the Air Force.

*Clause 19:* Section 147 (4) of the principal Act provides that the relative ranks of naval, military, and air force officers for the purposes of that section is to be prescribed by Order in Council. The table of equivalent ranks prescribed under that subsection has relation to other provisions of the principal Act, and this clause amends the subsection so as to make that table applicable for all the purposes of the Act.

*Clause 20:* Section 150 of the principal Act provides for the attachment of officers and airmen to other Commonwealth forces, but, except in time of war or other like emergency, no officer or airman may be so dealt with without his consent. The effect of this clause is that the consent of the officer or airman is necessary only in the case of officers and airmen of the Territorial Air Force or the Air Force Reserve, and that those of the Regular Air Force may be so attached without their consent.



*Hon. Mr Macdonald*

## ROYAL NEW ZEALAND AIR FORCE AMENDMENT

### ANALYSIS

Title.	11. Punishments for non-commissioned officers.
1. Short Title.	12. Powers of commanding officer in relation to warrant officers.
2. Interpretation.	13. Powers of subordinate commanders.
3. Persons subject to air force law.	14. Revision of summary punishments.
4. Women's Royal New Zealand Air Force.	15. Bringing liquor into camp.
5. Purchase of discharge.	16. Suspension of sentences.
6. Forfeiture of intoxicating liquor on conviction.	17. Trial of persons who have ceased to be subject to air force law.
7. Answers to questions on attestation paper.	18. Courts of Inquiry.
8. Being in charge of motor vehicle while under the influence of drink or a drug.	19. Relative rank of naval, military, and air force officers.
9. Penalties for offences.	20. Attachment of officers and airmen to other Commonwealth forces.
10. Summary disposal of charges.	

### A BILL INTITULED

AN ACT to amend the Royal New Zealand Air Force Act 1950. Title.

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

1. This Act may be cited as the Royal New Zealand Air Force Amendment Act 1954, and shall be read together with and deemed part of the Royal New Zealand Air Force Act 1950 (hereinafter referred to as the principal Act). Short Title.  
1950, No. 40

No. 39—1

2 *Royal New Zealand Air Force Amendment*

Interpretation.

2. (1) Section two of the principal Act is hereby amended by inserting, after the definition of the term “air officer”, the following definition:

“‘Air Secretary’ means the Air Secretary appointed for the purposes of this Act; and includes any person for the time being authorized to exercise or perform any of the powers or functions of the Air Secretary:”.

(2) Section two of the principal Act is hereby further amended by repealing the definition of the term “enemy”, and substituting the following definition:

“‘Enemy’ includes all persons engaged in armed operations against any New Zealand or allied force; and also includes all armed mutineers, armed rebels, armed rioters, and pirates:”.

(3) Section two of the principal Act is hereby further amended by inserting in the definition of the term “superior air force authority”, after the word “means”, the words “the Air Board or”.

(4) Section one hundred and twenty-three of the principal Act is hereby consequentially amended by inserting in the second proviso to subsection two, after the words “superior air force authority”, the words “other than the Air Board”.

Persons subject to air force law.

3. Section four of the principal Act is hereby amended by repealing paragraph (f) of subsection one, and substituting the following paragraph:

“(f) All persons not otherwise subject to this Act who—

“(i) Are attached to or employed by or carry out duties which necessitate their accompanying the Air Force or any portion thereof when on active service; or

“(ii) Are dependants of any person who is subject to this Act and accompany that person when he is on active service outside New Zealand.”

Women’s Royal New Zealand Air Force.

4. (1) The principal Act is hereby amended as follows:

(a) By omitting from paragraph (a) of subsection one of section four the words “Women’s Auxiliary Air Force”, and substituting the words “Women’s Royal New Zealand Air Force”:

- (b) By omitting from paragraph (d) of the same subsection the words "Women's Auxiliary Air Force", and substituting the words "Women's Royal New Zealand Air Force":
- 5 (c) By omitting from subsection one of section six the words "Women's Auxiliary Air Force", and substituting the words "Women's Royal New Zealand Air Force":
- 10 (d) By omitting from subsection six of section six the words "Women's Auxiliary Air Force", and substituting the words "Women's Royal New Zealand Air Force":
- 15 (e) By omitting from subsection two of section nine the words "Women's Auxiliary Air Force", and substituting the words "Women's Royal New Zealand Air Force":
- 20 (f) By omitting from section ten the words "Women's Auxiliary Air Force", and substituting the words "Women's Royal New Zealand Air Force":
- 25 (g) By omitting from section twelve the words "Women's Auxiliary Air Force", and substituting the words "Women's Royal New Zealand Air Force".
- 30 (2) All references to the Women's Auxiliary Air Force in any other Act or in any regulations, rules, order, or other enactment, or in any Air Board Order, commission, appointment, agreement, deed, instrument, application, notice, or other document shall hereafter be read as references to the Women's Royal New Zealand Air Force.

5. Section eleven of the principal Act is hereby amended by adding the following subsection as subsection two thereof: Purchase of discharge.

- 35 "(2) Any amount payable by any officer or airman under subsection one of this section shall be in addition to any amount payable by him to the Crown under any bond, agreement, or contract for any special purpose."

Forfeiture of  
intoxicating  
liquor on  
conviction.

6. Section forty of the principal Act is hereby amended by adding the following subsection as subsection two thereof:

“(2) Where any person is convicted of an offence under subsection one of this section, the liquor in respect of which the offence was committed, together with the vessels containing the liquor, shall be deemed to be forfeited to the Crown, and may be disposed of by public auction or private contract as the Air Secretary directs, and the proceeds of the sale shall be paid into the Public Account.”

Answers to  
questions on  
attestation  
paper.

7. Section fifty-two of the principal Act is hereby amended by inserting in paragraph (a), after the words “put to him”, the words “by or”.

Being in charge  
of motor vehicle  
while under the  
influence of  
drink or a drug.

8. Section sixty of the principal Act is hereby amended by omitting from paragraph (b) the words “while in a state of intoxication”, and substituting the words “while under the influence of drink or a drug to such an extent as to be incapable of having proper control of the motor vehicle”.

Penalties for  
offences.

9. (1) Section sixty-two of the principal Act is hereby amended by omitting from paragraph (b) the words “or such less punishment as is in this Act mentioned”.

(2) Section one hundred and twenty-three of the principal Act is hereby amended as follows:

(a) By inserting in subsection one, after the words “by the said Court-martial”, the words “or, if that punishment is death awarded for the offence of murder, then for such less punishment as is in this Act mentioned”:

(b) By inserting in subsection two, after the words “by the said Court-martial”, the words “or, if that punishment is death awarded for the offence of murder, then for such less punishment as is in this Act mentioned”.

Summary  
disposal of  
charges.

10. Section seventy-five of the principal Act is hereby amended by omitting from subsection five the words “one of the minor punishments”, and substituting the words “one or more of the minor punishments”.



11. Section seventy-eight of the principal Act is hereby amended as follows:

Punishments for non-commissioned officers.

(a) By omitting from subsection two the words "this Act", and substituting the words "this section":

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(b) By omitting from subsection three the words "temporary or" wherever those words occur.

12. Section seventy-nine of the principal Act is hereby amended by repealing the proviso, and substituting the following proviso:

Powers of commanding officer in relation to warrant officers.

"Provided that an airman who holds the acting rank of warrant officer may be ordered by his commanding officer (for an offence or for any other reason) to revert to the rank (whether substantive or temporary) which he was holding at the time of his appointment to acting rank."

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13. Section eighty-one of the principal Act is hereby amended by adding to the proviso to subsection one the following paragraph:

Powers of subordinate commanders.

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"(d) Admonition."

14. Section eighty-seven of the principal Act is hereby amended as follows:

Revision of summary punishments.

(a) By inserting in subsection one, after the word "illegal", the words "or if the finding involved in the award appears to the Air Board or to such a superior officer to involve substantial injustice to the accused":

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(b) By omitting from subsection four the words "on active service", and substituting the words "the Air Member for Personnel where the charge is dealt with in New Zealand and, where the charge is dealt with outside New Zealand,":

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(c) By omitting from subsection four the words "in the field", and substituting the words "to which the accused for the time being belongs".

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15. (1) Section ninety-two of the principal Act is hereby amended by repealing subsection two, and substituting the following subsection:

Bringing liquor into camp.

“(2) Any officer or non-commissioned officer, with or without persons under his command, may—

“(a) Enter into or upon and search any ship, boat, vessel, aircraft, conveyance, or vehicle of any kind, hovering about or approaching, or that may have hovered about or approached any such camp, barrack, station, or other place as aforesaid; and 5

“(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 10

“(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.” 15 20

(2) Section ninety-two of the principal Act is hereby further amended by adding the following subsection:

“(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 Air Secretary directs, and the proceeds of the sale shall be paid into the Public Account.” 25 30

Suspension  
of sentences.

16. (1) Section one hundred and twenty-five of the principal Act is hereby amended by repealing subsection one, and substituting the following subsections:

“(1) Where an airman is sentenced to imprisonment or detention, the confirming authority to whom the sentence is submitted for confirmation may, when confirming the sentence, direct that the airman be not committed to prison or detention barracks until the orders of a superior air force authority have been obtained. 35 40

“(1A) A superior air force authority may in the case of an airman so sentenced—

5 “(a) Direct that the airman shall not be committed to prison or detention barracks until the orders of the superior air force authority have been obtained; or

“(b) Suspend the sentence, whether or not the airman has already been committed to prison or detention barracks.”

10 (2) Section one hundred and twenty-five of the principal Act is hereby further amended as follows:

15 (a) By inserting in subsection three, after the words “this section”, the words “or under subsection three of section one hundred and twenty-three of this Act”:

(b) By inserting in subsection four, after the words “this section”, the words “or under subsection three of section one hundred and twenty-three of this Act”:

20 (c) By inserting in subsection five, after the words “this section”, the words “or under subsection three of section one hundred and twenty-three of this Act”:

25 (d) By inserting in subsection six, after the words “this section”, the words “or under subsection three of section one hundred and twenty-three of this Act”.

30 17. Section one hundred and twenty-seven of the principal Act is hereby amended by inserting in the proviso to subsection one, after the words “after he has ceased to be subject to this Act”, the words “or unless the offence was committed outside New Zealand and is punishable by the law of New Zealand and the Attorney-  
35 General consents to the trial”.

Trial of persons who have ceased to be subject to air force law.

18. Section one hundred and thirty-seven of the principal Act is hereby amended by adding to subsection two the following proviso:

Courts of Inquiry.

40 “Provided that, where in the opinion of the authority assembling the Court any of the matters to be referred to it concerns any part of the Naval Forces or the Army, that authority may, with the consent of the proper naval

or army authority, appoint one or more naval officers or one or more army officers, as the case may require, to be members of the Court, but in any such case an air force officer shall be the President."

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

19. Section one hundred and forty-seven of the principal Act is hereby amended by omitting from subsection four the words "this section", and substituting the words "this Act". 5

Attachment of  
officers and  
airmen to other  
Commonwealth  
forces.

20. Section one hundred and fifty of the principal Act is hereby amended by inserting in subsection two, after the word "airman", the words "of the Territorial Air Force or the Air Force Reserve". 10