

**1959/40**

## THE NAVY REGULATIONS 1958, AMENDMENT NO. 1

COBHAM, Governor-General

### ORDER IN COUNCIL

At the Government Buildings at Wellington this 24th day of March 1959

Present:

THE RIGHT HON. W. NASH PRESIDING IN COUNCIL

PURSUANT to the Navy Act 1954, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

### REGULATIONS

1. These regulations may be cited as the Navy Regulations 1958, Amendment No. 1, and shall be read together with and deemed part of the Navy Regulations 1958\* (hereinafter referred to as the principal regulations).

2. (1) Regulation 5 of the principal regulations is hereby amended by omitting from subclause (2) the words "Naval Discipline Act 1866", and substituting the words "Naval Discipline Act 1957".

(2) The principal regulations are hereby amended by revoking the First Schedule, and substituting the First Schedule set out in the Schedule to these regulations.

(3) This regulation shall come into force on the date of the commencement of section 2 of the Navy Amendment Act 1958.

3. (1) Regulation 37 of the principal regulations is hereby amended by inserting in subclause (1), after the definition of the term "Naval Officer in Charge", the following definition:

"'Person in the employ of the Crown' means any person employed by the Crown and engaged in his duties as such or going to or returning from his duties as such; but does not include any such person entering or leaving a naval defence installation or prohibited area otherwise than in the course of his duties or for the purpose of going to or returning from his duties:'"

(2) Regulation 37 of the principal regulations is hereby further amended by revoking subclause (13), and substituting the following subclauses:

"(13) The Naval Officer in Charge may prescribe terms or conditions upon or subject to which persons may be permitted to enter a naval defence installation or prohibited area.

“(13A) The Naval Officer in Charge may cause all or any persons entering or leaving, or about to enter or leave, a naval defence installation or prohibited area to be searched—

“(a) In the case of persons other than persons in the employ of the Crown, both as to their persons and also as to ships, boats, craft, vehicles, receptacles, or parcels belonging to them or in their possession or under their control:

“(b) In the case of persons in the employ of the Crown, as to ships, boats, craft, vehicles, receptacles, or parcels belonging to them or in their possession or under their control.

“(13B) Any person entering or leaving, or attempting to enter or leave, a naval defence installation or prohibited area who refuses to submit to or permit any search under the powers conferred by subclause (13A) of this regulation commits an offence, and may be subjected to such force as may be reasonably necessary to carry out an effective search.

“(13c) Any person authorised to carry out any such search may, if he considers that he has reasonable grounds for so doing, detain any person (whether or not a person in the employ of the Crown) entering or leaving, or attempting to enter or leave, the naval defence installation or prohibited area for such time as may reasonably be necessary to enable him to deliver the last-mentioned person to a constable for search or arrest pursuant to the powers conferred on the constable by any enactment.

“(13d) The person intending to carry out any such search as aforesaid shall first produce to the person to be searched, or, as the case may be, the owner or person in possession or control of the ship, boat, craft, vehicle, receptacle, or parcel to be searched, his authority in writing in that behalf signed by the Naval Officer in Charge.

“(13E) Any such authority may be a general one authorising the person named therein to search at any time all or any ships, boats, craft, vehicles, receptacles, or parcels belonging to or in the possession or under the control of all or any persons entering or leaving, or about to enter or leave, the naval defence installation or prohibited area, and also to search the persons of all or any of those persons who are not in the employ of the Crown, or it may be a special one authorising the person named therein to carry out a specified search, and in either case its production shall be sufficient evidence of the authority of the person named therein to carry out the search and also to detain any person under the powers conferred by subclause (13c) of this regulation.”

4. Regulation 37 of the principal regulations is hereby further amended by adding the following subclause:

“(19) Every person who commits an offence against this regulation is liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding fifty pounds.”

---

## SCHEDULE

## "FIRST SCHEDULE

## MODIFICATION OF NAVAL DISCIPLINE ACT IN APPLICATION TO NAVAL FORCES

## PART I

*Naval Discipline Act, Regulations, and Queen's Regulations and Admiralty Instructions*

1. Except in sections 58 and 79 of the Naval Discipline Act 1957, and except as provided in clause 5 of this Part of this Schedule, by substituting a reference to the Naval Board for every reference to the Admiralty, or to the Lords of the Admiralty, or to the Lords Commissioners of the Admiralty.
2. By substituting a reference to the Navy Secretary for every reference to the Secretary of the Admiralty, or to one of the Secretaries of the Admiralty, or to the Director of Navy Accounts.
3. By substituting a reference to New Zealand for every reference to England or to the United Kingdom or to the United Kingdom of Great Britain and Ireland.
4. Except as provided in section 53 (1) of the Naval Discipline Act 1957, by substituting a reference to the Royal New Zealand Navy for every reference to the Royal Navy.
5. Except in sections 50 and 79 of the Naval Discipline Act 1957, by substituting a reference to Navy Instructions for every reference to regulations made by the Admiralty or to regulations made by the Admiralty by statutory instrument.
6. By substituting a reference to the Supreme Court of New Zealand for every reference to the Court of Admiralty or to the Admiralty Court or to the High Court in England.
7. By substituting a reference to a Crown Solicitor or other barrister or solicitor assigned by the Attorney-General for every reference to a Treasury Solicitor.
8. By substituting a reference to the New Zealand Army Act 1950 for every reference to the Army Act 1955.
9. By substituting a reference to the Army Board for every reference to the Army Council.
10. By substituting a reference to the Royal New Zealand Air Force Act 1950 for every reference to the Air Force Act 1955.
11. By substituting a reference to the Air Board for every reference to the Air Council.

## PART II

*Naval Discipline Act 1957*

## Section 32—

By omitting this section.

## Section 33—

By omitting this section.

## Section 42—

By omitting subsection (1) of this section, and substituting the following subsection:

(1) If any person subject to this Act is guilty of any offence which when committed in New Zealand is punishable by the law of New Zealand, he shall be liable, whether the offence is committed in New Zealand or elsewhere, to suffer any punishment that could be imposed on him if he were duly convicted of the offence before a Court in New Zealand other than a Court Martial, or (except in the case of murder or treason) to suffer any punishment that could be imposed on him for an offence under section forty-three of this Act.

## Section 44—

By omitting from subsection (2) the words "air force or civil service", and substituting the words "or air force".

By adding the following subsection:

(8) Forfeitures under this section shall not apply to any retiring allowance to which the offender is entitled under subsection four of section sixty-eight of the Superannuation Act 1956.

SCHEDULE—*continued*

## Section 53—

By inserting in subsection (1), after the words "Royal Navy", the words "or of the Royal New Zealand Navy".

## Section 54—

By adding the following subsection:

(9) This section shall be read subject to the provisions of section thirty of the Navy Act 1954.

## Section 58—

By omitting the words "section seven of the Bankers' Books Evidence Act 1879", and substituting the words "section twenty-one of the Banking Act 1908".

## Section 63—

By omitting this section, and substituting the following section:

63. Where persons are insane at the time of offence or trial—(1) Where it appears on the trial by Court Martial of a person charged with an offence that he is by reason of insanity unfit to take his trial, the Court shall find specially that fact; and he shall be kept in custody in the prescribed manner until the pleasure of the Minister of Justice is known, or until any earlier time at which the person charged is fit to take his trial; and, if he is in New Zealand or is brought to New Zealand, the provisions of sections thirty-four, thirty-five, and thirty-six of the Mental Health Act 1911 shall, so far as they are applicable and with any necessary modifications, apply as if he had been found to be insane upon arraignment for an indictable offence under section thirty-two of that Act.

(2) Where, on the trial by Court Martial of a person charged with an offence, it appears that he did the act or made the omission with which he is charged, but that he was insane at the time when he did or made the same, the Court shall find specially those facts, and shall find that he is acquitted on account of his insanity; and he shall be kept in custody in the prescribed manner until the pleasure of the Minister of Justice is known; and, if he is in New Zealand or is brought to New Zealand, the provisions of sections thirty-four and thirty-six of the Mental Health Act 1911 shall apply as if he had been acquitted on a charge of an indictable offence on the ground of insanity under section thirty-one of that Act.

(3) If in either of the above-mentioned cases the person charged is in New Zealand, the Minister of Justice may give orders for the safe custody of that person during the Minister's pleasure, in such place and in such manner as the Minister thinks fit.

## Section 70—

By omitting subsection 3, and substituting the following subsection:

(3) If an application for leave to appeal against a conviction by Court Martial under this Part of this Act is received by the Registrar of the Courts Martial Appeal Court, or if the said Registrar receives particulars of such an application furnished in pursuance of paragraph (b) of subsection three of section seven of the Courts Martial Appeals Act 1953, so much of subsection one of this section as requires the Naval Board to review the finding of a Court Martial shall cease to have effect in relation to that conviction.

## Section 73—

By omitting the words "Her Majesty's", and substituting the word "the".

## Section 77—

By omitting from paragraph (a) of subsection (1) the words "Part I of the Courts-Martial (Appeals) Act 1951", and substituting the words "section seven of the Courts Martial Appeals Act 1953".

By omitting from subsection (3) the figures "1951", and substituting the figures "1953".

## Section 78—

By omitting this section.

## Section 80—

By omitting from subsection (2) the words "The Capital Punishment Amendment Act 1868 and any rules made under section seven of that Act", and substituting the words "The Capital Punishment Act 1950 and any regulations thereunder".

SCHEDULE—*continued*

## Section 81—

By omitting paragraph (b) of subsection (1), and substituting the following paragraph:

- (b) in any military prison or detention barrack established under the New Zealand Army Act 1950 or any air force prison or detention barrack established under the Royal New Zealand Air Force Act 1950;

## Section 82—

By omitting this section and substituting the following section:

**82. Naval detention barracks and prisons—**(1) The Governor-General may from time to time set apart any building or part of a building as a detention barrack or naval prison.

(2) Subject to the provisions of this section, the Naval Board may from time to time issue Navy Instructions for all or any of the following purposes:

- (a) For the government, management, and regulation of detention barracks;
- (b) For the appointment and removal and powers of Inspectors, Visitors, Superintendents, and officers thereof;
- (c) For the labour of naval or other prisoners and personnel undergoing detention therein, and for enabling any such prisoners or personnel to earn, by special industry and good conduct, a remission of portion of their sentence;
- (d) For the safe custody of those prisoners or personnel and the maintenance of discipline among them, and the punishment by personal correction, restraint, or otherwise of offences committed by any such prisoners or personnel.

(3) The powers conferred on the Naval Board by subsection two of this section may be exercised in relation to naval prisons in the event of naval prisons being established in New Zealand.

(4) No Navy Instructions issued for the purposes of this section shall authorise corporal punishment to be inflicted for any offence, or render the detention or imprisonment more severe than it is under the law in force for the time being in any prison in New Zealand subject to the Penal Institutions Act 1954.

(5) All the provisions of the regulations made under the Penal Institutions Act 1954 as to the duties of Superintendents and medical officers, and all the provisions of that Act and of the Coroners Act 1951, and of any regulations made under those Acts as to the duties of Coroners with respect to inquests in prisons, shall be contained in the Navy Instructions, so far as they can be made applicable.

(6) Where any person has been temporarily released from a detention barracks or naval prison in accordance with Navy Instructions issued for the purposes of this section and fails to comply with any of the conditions subject to which he was released or to return at the expiration of the period for which he was released, he may be arrested without warrant by any constable or taken into custody, whether civil or naval, until he is taken back to the detention barracks or prison.

## Section 83—

By adding the following subsection as subsection (2) thereof:

(2) Notwithstanding anything in section thirty-one of the Penal Institutions Act 1954 or in subsection one of this section, good-conduct remission of sentences of imprisonment in lieu of detention and of sentences of detention shall be as prescribed from time to time by the Naval Board.

## Section 84—

By omitting from subsection (5) the words "the Prison Act 1952, the Prisons (Scotland) Act 1952, or the Prison Act (Northern Ireland) 1953", and substituting the words "the Penal Institutions Act 1954".

By adding the following subsections:

(6) Section thirty-eight of the Mental Health Act 1911 is hereby extended to apply with respect to naval prisoners and ratings under sentence of detention who are undergoing their sentences in New Zealand.

SCHEDULE—*continued*

(7) If a naval prisoner or rating under sentence of detention or imprisonment who is undergoing his sentence outside New Zealand becomes insane, then, without prejudice to any other provision for dealing with the insane person, the Minister of Justice may, upon a certificate of the insanity by two qualified medical practitioners, order the removal of that person to a mental hospital, there to remain for the unexpired term of his imprisonment or detention, and, upon that person being certified in the like manner to be again of sound mind, may order his removal to any prison or detention barrack in which he might have been confined if he had not become insane, there to undergo the remainder of his punishment.

## Section 85—

By omitting from subsection (1) the words “subsection seven of section four of the Courts-Martial (Appeals) Act 1951”, and substituting the words “subsection five of section seven of the Courts Martial Appeals Act 1953”.

## Section 87—

By omitting the words “Naval Detention Quarters Rules, or Imprisonment and Detention Rules made under the Army Act 1955 or the Air Force Act 1955”, and substituting the words “Navy Instructions issued under section eighty-two of this Act, or Army Orders issued under section seventy-three of the New Zealand Army Act 1950, or Air Board Orders issued under section seventy-three of the Royal New Zealand Air Force Act 1950”.

## Section 88—

By omitting from the proviso to subsection (1) the words “Imprisonment and Detention Rules made for the purpose of paragraph (b) of the proviso to subsection (2) of section one hundred and nineteen of the Army Act 1955 or the Air Force Act 1955”, and substituting the words “Army Orders issued under subsection two of section seventy-three of the New Zealand Army Act 1950 or Air Board Orders issued under subsection two of section seventy-three of the Royal New Zealand Air Force Act 1950”.

By omitting subsections (3) and (4), and substituting the following subsections:

(3) In this section “the appropriate rules” means—

(a) in relation to a person serving a sentence in naval detention quarters, Navy Instructions issued under section eighty-two of the Navy Act 1954;

(b) in relation to a person serving a sentence in military or air force custody, Army Orders issued under subsection two of section seventy-three of the New Zealand Army Act 1950 or Air Board Orders issued under subsection two of section seventy-three of the Royal New Zealand Air Force Act 1950, as the case may be;

(c) in relation to a person serving a sentence in civil custody, regulations made under section forty-five of the Penal Institutions Act 1954, or (in the case of a person serving a sentence outside New Zealand) any corresponding provision of the law of the country or territory in which he is serving his sentence;—

and “civil authority” means a civil authority (whether of New Zealand or of any country or territory outside New Zealand) authorised by law to detain persons; and includes a constable.

(4) In relation to any person committed or transferred to a civil prison in New Zealand, this section shall have effect in substitution for section thirty of the Penal Institutions Act 1954.

## Section 95—

By omitting subsection (2), and substituting the following subsections:

(2) Any such offence in New Zealand shall be tried and punished by the civil Courts in New Zealand.

(3) Any such offence out of New Zealand may be tried and punished by court martial under Part II of this Act; and the provisions of the said Part II (except the provisions relating to summary trial and to disciplinary courts) shall apply accordingly as they apply in relation to offences under Part I of this Act.

## Section 96—

By omitting this section.

## Section 97—

By omitting this section.

## Section 98—

By omitting this section.

SCHEDULE—*continued*

## Section 99—

By omitting this section.

## Section 100—

By omitting this section.

## Section 101—

By omitting from subsection (5) the words "Maintenance Orders (Facilities for Enforcement) Act 1920", and substituting the words "Maintenance Orders (Facilities for Enforcement) Act 1921".

By omitting from subsection (5) the words "Affiliation Orders Act 1914", and substituting the words "Destitute Persons Act 1910".

## Section 102—

By omitting this section.

## Section 106—

By omitting this section.

## Section 107—

By omitting from subsection (1) and also from subsection (2) the word "governor", and substituting in each case the word "superintendent".

## Section 109—

By omitting from subsection (4) the words "Magistrates' Courts Act 1952", and substituting the words "Summary Proceedings Act 1957".

## Section 111—

By omitting subsection (3) and substituting the following subsection:

(3) Any officer or rating of any of the Reserve Forces is subject to this Act in the circumstances prescribed in section thirty-one of the Navy Act 1954, and when called, recalled or required to re-enter into actual service under any enactment or regulations, and is so subject from the time appointed for him to report or attend for any such purpose until he is duly released or discharged.

By omitting subsection (4).

By omitting paragraph (a) of subsection (5), and substituting the following paragraph:

(a) A member of the Women's Royal New Zealand Naval Service or the Royal New Zealand Nursing Corps or of any reserve of that service or that corps;

## Section 113—

By omitting this section.

## Section 114—

By inserting in subsection (1) and also in subsection (2), after the words "Commonwealth country", the words "other than New Zealand".

By omitting from subsection (1) the words "Visiting Forces (British Commonwealth) Act 1933", and substituting the words "Visiting Forces Act 1939".

By omitting from subsection (2) the words "Her Majesty", and substituting the words "the Governor-General".

## Section 118—

By omitting from subsection (4) the words "section two hundred and nine of the Army Act 1955 or the Air Force Act 1955", and substituting the words "paragraph (f) of subsection two of section two of the New Zealand Army Act 1950 or paragraph (f) of subsection one of section four of the Royal New Zealand Air Force Act 1950".

## Section 120—

By omitting this section.

## Section 121—

By omitting this section, and substituting the following section:

**121. Naval officers and seamen in ships of other Commonwealth countries—**  
Any person in or belonging to the New Zealand Naval Forces who, by order of the Naval Board or of the Commander in Chief or the senior naval officer present on a foreign station, is serving in a ship of or belonging to the naval forces of any Commonwealth country other than New Zealand (if the ship is not at the time placed at the disposal of the Naval Board) or in a naval establishment of any such country, or who is on board any such ship or in any such establishment as aforesaid awaiting passage or conveyance to any destination shall, for all purposes of command and discipline, be subject to the laws and customs for the time being applicable to the ships and naval forces of that country.

SCHEDULE—*continued*

## Section 122—

By omitting this section.

## Section 123—

By omitting this section.

## Section 124—

By omitting this section.

## Section 125—

By omitting this section.

## Section 126—

By omitting this section.

## Section 127—

By omitting this section.

## Section 128—

By omitting the words "Ireland Act 1949", and substituting the words "Republic of Ireland Act 1949".

## Section 132—

By inserting in subsection (1), after the words "Commonwealth Country", the words "other than New Zealand".

By inserting in subsection (4), after the words "Commonwealth Country", the words "other than New Zealand".

By inserting in subsection (5), after the words "Commonwealth Country", the words "other than New Zealand".

By omitting subsection (6), and substituting the following subsection:

(6) In this Act "Her Majesty's military forces" means the New Zealand Army and the Royal New Zealand Air Force.

By omitting subsection (8), and substituting the following subsection:

(8) In this Act "naval reserve forces" means the Reserve Forces specified in section six of the Navy Act 1954.

## Section 133—

By omitting from subsection (5) the words "may be declared by Queen's Regulations and Admiralty Instructions for the time being in force", and substituting the words "are declared by the Armed Forces Equivalent Ranks Order 1954, or any order made in amendment thereof or substitution thereof".

## Section 135—

By inserting in the definition of "Commonwealth" in subsection (1), before the word "Canada", the words "the United Kingdom".

By omitting from the definition of "naval detention quarters" in subsection (1) the words "the Admiralty", and substituting the words "the Governor-General".

By omitting the definition of "prize court" in subsection (1), and substituting the following definition:

"Prize court" means the Supreme Court of New Zealand.

By omitting the definition of "steals" in subsection (1), and substituting the following definition:

"Steals" has a meaning corresponding to the meaning of "theft" as defined in section two hundred and forty of the Crimes Act 1908.

By inserting in subsection (5), after the words "regulations made", the words "or Navy Instructions issued".

## First Schedule—

By omitting from clause 3 the words "section two hundred and one of the Army Act 1955", and substituting the words "the New Zealand Army Act 1950".

## Second Schedule—

By omitting from clause 6 the words "section two hundred and one of the Army Act 1955 or the Air Force Act 1955", and substituting the words "the New Zealand Army Act 1950 or the Royal New Zealand Air Force Act 1950".

T. J. SHERRARD,  
Clerk of the Executive Council.



## EXPLANATORY NOTE

*This note is not part of the regulations, but is intended to indicate their general effect.*

Regulation 2 of these regulations makes the necessary modifications to the Naval Discipline Act 1957 (U.K.) and Queen's Regulations and Admiralty Instructions in their application to the New Zealand Naval Forces. These modifications replace those made by the principal regulations, which were related to the provisions of the Naval Discipline Act 1866 (U.K.).

Regulation 37 of the principal regulations includes provisions authorising constables to carry out the orders of the Naval Officer in Charge of a naval defence installation or prohibited area as to detaining and searching persons entering or leaving the installation or area and vessels, vehicles, etc., in their possession. The effect of regulation 3 of these regulations is to authorise the Naval Officer in Charge to appoint in addition other persons having powers of detention and search.

Persons so appointed are authorised, subject to production of their warrant of authority,—

- (a) To search vessels, vehicles, receptacles, or parcels belonging to or in the possession of all persons entering or leaving the installation or area;
- (b) To search the person of all persons entering or leaving the installation or area, except persons in the employ of the Crown entering or leaving in the course of their duties;
- (c) Where there are reasonable grounds for so doing, to detain persons entering or leaving the area (including persons employed by the Crown) and deliver them to a constable for search or arrest under the powers conferred on the constable by regulation 37 of the principal regulations or by any other enactment.

Regulation 4 provides that the maximum penalty for an offence against regulation 37 of the principal regulations (relating to the security of naval installations) is imprisonment for a term of three months or a fine of £50.

---

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 25 March 1959.

These regulations are administered in the Navy Office.