Version
as at 13 September 2014

Defence Regulations 1990

(SR 1990/78)

Paul Reeves, Governor-General

Order in Council

At Wellington this 2nd day of April 1990

Present:
His Excellency the Governor-General in Council

Pursuant to section 93 and section 101 of the Defence Act 1990, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

Enacting statement: amended, on 21 April 2005, by regulation 3 of the Defence Amendment Regulations 2005 (SR 2005/73).

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.

Note 4 at the end of this reprint provides a list of the amendments incorporated.

These regulations are administered by the Ministry of Defence.

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Regulations

1 Title and commencement

(1) These regulations may be cited as the Defence Regulations 1990.

(2) These regulations shall come into force on the day after the date of their notification in the *Gazette*.

2 Interpretation

In these regulations, unless the context otherwise requires,—

Act means the Defence Act 1990

appointed member means a member of the Armed Forces appointed under section 93 of the Act by the Chief of Defence Force to enter into indentures of apprenticeship

authorised person means any member of the Defence Force duly authorised under regulation 31 by the officer in charge of any defence area

basic pay, in relation to a member of the Armed Forces, means the daily amount payable to the member as determined by the Chief of Defence Force, but excluding allowances

constable means a constable of the New Zealand Police

gross pay or **pay** means all pay and allowances that a member of the Armed Forces is eligible to receive

invention means any invention, discovery, or improvement in a process, apparatus, or machine used for the purposes of the Armed Forces

officer in charge, in relation to a defence area, means—

(a) the officer commanding the area; or

(b) if there is no officer commanding the area, the officer commanding the major unit occupying the area; or

(c) any other person declared by the Chief of Defence Force to be the officer in charge

Orders means Defence Force Orders issued under section 28 of the Act; and includes any orders and instructions that, by virtue of section 100(6) of the Act, are in force as if they were Defence Force Orders

ordinary risks of service means risks that arise solely out of and in the course of duty of a member of the Armed Forces from situations that are—

(a) peculiar to conditions in the Armed Forces; or

(b) common to conditions in the Armed Forces and in civilian life, if the Crown would be liable under any rule of law other than regulation 8 for loss or damage suffered by the member arising out of any such risk

personal effects means any effects (other than service kit) that a member of the Armed Forces has in his or her possession

regular member means a member of the regular forces

reserve member means a member of the reserve forces

restricted place means any defence area or part of a defence area that is declared to be a restricted place under regulation 37

service kit includes all items of uniform, regulation kit, and special clothing that are purchased by or issued to or on loan to a member of the Armed Forces and are required by the member in the proper performance of his or her duty, and all items of arms, personal equipment, instructional publications, tools, and other stores that are on individual issue or loan to a member of the Armed Forces

superior authority has the same meaning as the term superior commander has in section 2(1) of the Armed Forces Discipline Act 1971

territorial member means a member of the territorial forces.

Section 2 **constable**: amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Part 1
Terms and conditions of service

3 Oath of allegiance

(1) For the purpose of section 35 of the Act, the oath of allegiance shall be in the following form, or in a form to the like effect:

"I, [*name*], solemnly promise and swear that I will be faithful and bear true allegiance to His Majesty King Charles III, his heirs and successors, and that I will faithfully serve in the New Zealand Naval Forces/the New Zealand

Army/the Royal New Zealand Air Force [*delete the Services that are not appropriate*], and that I will loyally observe and obey all orders of His Majesty, his heirs and successors, and of the officers set over me, until I shall be lawfully discharged. So help me God."

(2) This regulation does not derogate from section 4 of the Oaths and Declarations Act 1957, which entitles a person to make an affirmation instead of taking an oath.

Regulation 3(1): editorial changes made by the PCO, on 4 November 2024, under sections 86(1), 87(d) and (q) of the Legislation Act 2019 (2019 No 58).

4 Grants on death of regular members

(1) Where a regular member dies during service, the Chief of Defence Force may authorise the making of a grant—

(a) to any dependant or dependants of the member; or

(b) in any case where it appears to the Chief of Defence Force that the member has no dependants, to his or her estate,—

not exceeding in the aggregate the amount that, if the member had taken the leave (other than leave granted as a terminal benefit) that the member had accrued at the date of his or her death, the member would have received in gross pay in respect of that leave.

(2) Where a regular member dies during service, the Chief of Defence Force may also,—

(a) if death is not attributable to service in the Armed Forces, authorise the making of a grant to any dependant or dependants of the member, not exceeding in the aggregate an amount equal to one-sixtieth of the gross annual pay of the member at the date of his or her death for each whole year of service that the member has completed; or

(b) if death is attributable to service in the Armed Forces, authorise the making of a grant to any dependant or dependants of the member, not exceeding in the aggregate either—

(i) an amount equal to the gross pay that the member would have received in terminal benefits if the member had completed his or her engagement on the date of his or her death; or

(ii) an amount equal to one-sixtieth of the gross annual pay of the member at the date of his or her death for each whole year of service that the member has completed,—

whichever amount is the greater.

(3) At any time before finally authorising the making of any grant under subclause (1) or subclause (2) in respect of any member to whom the subclause applies, the Chief of Defence Force may authorise the making of an immediate interim advance, not exceeding $500 in the aggregate, to any dependant or dependants

of the member. The interim advance shall be deducted from any grants that may be made to that dependant or those dependants under either of those subclauses.

(4) Where a regular member dies during service, the Chief of Defence Force may also authorise a grant to the widow, widower, surviving civil union partner, or surviving de facto partner of the member or, if there is no widow, widower, surviving civil union partner, or surviving de facto partner, to any dependent child or children of the member, not exceeding the member's gross pay during any long service leave for which the member has qualified, being leave that the member has not taken and has not forfeited.

Regulation 4(4): amended, on 26 April 2005, by section 12 of the Relationships (Statutory References) Act 2005 (2005 No 3).

5 Grant on death of territorial member

Where a territorial member dies and his or her death is attributable to service in the Armed Forces, the Chief of Defence Force may, if it appears desirable to do so on grounds of financial hardship, authorise the making of an immediate grant to any dependant or dependants of the member, not exceeding in the aggregate $500.

6 Continuation of pay of missing or captured member

(1) Subject to subclause (2), a member of the Armed Forces shall, during any period that the member is missing on active service or a captive of the enemy, continue to receive his or her basic pay and any allowances that are paid on a continuing basis with his or her basic pay, but the Chief of Defence Force may from time to time determine the manner in which the pay and allowances shall be paid out.

(2) Where a court of inquiry finds that, by reason of his or her own wrongful conduct or neglect, a member of the Armed Forces is or was for any period missing on active service or a captive of the enemy, the pay that is due to the member and unpaid in respect of that period may be withheld from payment to the member or to his or her order.

(3) Notwithstanding subclause (2), the Chief of Defence Force may authorise such allotments as the Chief of Defence Force specifies to be paid from the pay of the member to the member's dependants, and to meet contractual obligations for mortgage repayments, rent, superannuation contributions, insurance premiums, and other obligations.

7 Expenses for attending selection boards or medical examinations

(1) A person (other than a regular member) who is required to attend a selection board or interview, or a medical examination in respect of an application for an appointment or for enlistment in the Armed Forces or for appointment as an officer in the Cadet Forces, or a medical examination arranged for depend-

ants who are to accompany members of the Armed Forces overseas, shall be entitled—

(a) to be provided at public expense with return transport between the person's place of residence and the place where the selection board, interview, or medical examination is held; and

(b) to be provided at public expense with accommodation and meals while the person so attends or, at the discretion of the Chief of Defence Force, to be reimbursed for the actual and reasonable costs of any accommodation and meals paid for by the person while so attending.

(2) An applicant for appointment or enlistment as a member of the territorial forces or the reserve forces (other than a regular member) who is required to attend during normal working hours a selection board or interview, or a medical examination, may at the discretion of the Chief of Defence Force be reimbursed for any salary or wages lost by the applicant in respect of the time that the applicant is absent from the member's place of employment for the purpose of that attendance.

8 Compensation for loss of or damage to kit

(1) Where a member of the Armed Forces suffers any loss of or damage to the member's service kit, the following provisions shall apply:

(a) in the case of loss, or of damage that is of such a nature as to render the total or partial replacement of the kit necessary, the member shall be entitled to have the kit or the part replaced or, at the discretion of the Chief of Defence Force, to be reimbursed for the actual and reasonable cost of replacement:

(b) in the case of damage that is not of such a nature as to render the total or partial replacement of the kit necessary, the member may be paid such amount as the Chief of Defence Force thinks fit in compensation for the damage.

(2) A member of the Armed Forces who suffers any loss of or damage to the member's personal effects may be paid such amount as the Chief of Defence Force thinks fit in compensation for the loss or damage.

(3) *[Revoked]*

(4) Where, under this regulation, a member of the Armed Forces has had any part of the member's service kit replaced or has been reimbursed for the cost of replacement, or has received compensation for damage to any part of the member's service kit or loss of or damage to any of the member's personal effects, and the article that has been replaced or in respect of which the member has been reimbursed or has received compensation is subsequently recovered, the member shall—

(a) either return to the Defence Force the article that was issued by way of replacement, or pay to the Crown the value of the article so issued; or

(b) refund to the Crown the money paid to the member by way of reimbursement or compensation,—

as the case may be; but if the article so recovered is in a damaged condition, the member may claim compensation under this regulation in respect of that damage.

(5) Where, under this regulation, a member of the Armed Forces has had any part of the member's service kit replaced or has been reimbursed for the cost of replacement, or has received compensation for damage to any part of the member's service kit or loss of or damage to any of the member's personal effects, the member shall, if required by the Chief of Defence Force to do so, pay to the Crown—

(a) any amount recovered by the member under any insurance policy for the loss or damage, less the amount of any premium required to restore the policy to its original cover value; and

(b) any amount recovered by the member from any other person in respect of the loss or damage,—

but the total amount that the member may be required to pay under this subclause shall not exceed the value of the article issued to the member by way of replacement or, as the case may be, the amount that the member has received under this regulation by way of reimbursement or compensation.

(6) Any money payable by a member of the Armed Forces to the Crown under subclause (4) or subclause (5) shall, without prejudice to any other mode of recovery, be recoverable as a debt due to the Crown.

Regulation 8(3): revoked, on 20 October 2011, by regulation 4 of the Defence Amendment Regulations 2011 (SR 2011/322).

9 Injuries suffered by members of Armed Forces in organised sport

(1) For the purposes of this regulation, a member of the Armed Forces is participating in an authorised sport if—

(a) the member has been lawfully ordered to participate in that sport by any person who is entitled to exercise powers of command over the member; or

(b) the member's commanding officer has expressly or impliedly permitted the member to participate in that sport in the interests of the member's efficiency.

(2) Subject to such conditions as may from time to time be prescribed by Orders, any injury suffered by a member of the Armed Forces while the member is participating in an authorised sport shall be deemed to be an injury that is attributable to the member's service in the Armed Forces.

10 Visits by next of kin to sick or wounded member of Armed Forces

Where a member of the Armed Forces in receipt of pay is seriously ill or is undergoing prolonged treatment in hospital, the Chief of Defence Force may, for the purpose of enabling any of the next of kin of the member to visit him or her, provide them with return travel at public expense between their places of residence and the place where the member is being treated, and may authorise the reimbursement to them of the actual and reasonable costs paid by them for any necessary accommodation incidental to such visits.

11 Travel privileges for next of kin attending Investitures

Where any order, decoration, or medal issued under Royal Warrant is to be conferred on or in respect of any person with regard to that person's service in the Armed Forces, the Chief of Defence Force may provide any of that person's next of kin with return travel at public expense between their places of residence and the place where the ceremony is to take place.

12 Withholding of pay, etc, of members of Armed Forces absent without leave or in desertion

(1) Where any member of the Armed Forces is absent from duty without leave, or in desertion, all pay to which the member would otherwise be entitled in respect of any period during which the absence or desertion continues shall be withheld from the member.

(2) All pay withheld under subclause (1) shall be credited to the member as soon as practicable after the member's return to duty, except where—

(a) the member is to be charged with an offence against the Armed Forces Discipline Act 1971 in respect of the member's absence from duty without leave or desertion; or

(b) the member signs a written confession under section 110 of that Act that he or she has been guilty of desertion; or

(c) the member has been declared by a court of inquiry under section 201 of that Act to be an absentee, and, in accordance with subsection (3) of that section, the record of that declaration has acquired the legal effect of a conviction by court-martial for desertion before the member's return to duty.

13 Stoppages to pay in respect of loss or damage

(1) Where, after an investigation has been held in accordance with Orders, it is found that any loss or destruction of or damage to public or other property has resulted directly or indirectly from the wrongful conduct or negligence of a member of the Armed Forces in the course of or in connection with the member's duties (whether or not the member was the sole cause of the loss, destruction, or damage), the Chief of Staff of the Service to which the member belongs or, in the case of a member who is for the time being attached to

another Service, the Chief of Staff of that other Service, may order that such sum as the Chief of Staff specifies shall be stopped from the basic pay due or to become due to the member to make good wholly or partly the loss, destruction, or damage.

(2) Where, after an investigation has been held in accordance with Orders, it is found that any loss has resulted from the unlawful retention by a member of the Armed Forces of any pay of another member, a superior authority may order that the sum required to make good that loss shall be stopped from the basic pay due or to become due to the first member.

(3) No stoppage shall be ordered under this regulation that is greater than a sum sufficient to make good the loss or destruction of or damage to property, or the loss of the money, as the case may be, in respect of which the order is made.

(4) Any stoppage ordered under this regulation may, without prejudice to any other mode of recovery, be deducted from the basic pay or any sums due or to become due to the member, but the rate of deduction shall not exceed such sum as will allow the member to draw a minimum of 20% of his or her basic pay per week.

(5) Every stoppage under this regulation shall be applied for the purpose for which it is ordered.

(6) No stoppage shall be ordered under this regulation unless the member concerned has been—

(a) notified of the proposal to order the stoppage and of the reasons for it; and

(b) given an opportunity to make representations to the Chief of Staff concerned as to why such a stoppage should not be ordered or as to the amount of the stoppage.

14 Bonds

(1) Where any public money is to be specially advanced to or specially expended on behalf of a member of the Armed Forces with the approval of the Chief of Defence Force, in connection with transportation, education, training, sustenance, or any other purpose, the Chief of Defence Force may require the member as a condition of that advance or expenditure to sign a bond in a form to be determined by the Chief of Defence Force, requiring the member to repay to the Crown the sum specified if the member makes default in the performance of any condition of the bond.

(2) The amount payable under the bond shall be reduced progressively during the currency of the bond by a proportion that is for the time being equivalent to that which the service rendered by the member in accordance with the condition of the bond bears to the full period of service required for the discharge of the bond.

(3) The Chief of Defence Force may require that the bond shall also be signed as surety by a parent or guardian of the member, or by any other person approved by the Chief of Defence Force; and the parent or guardian or other person who signs the bond shall be jointly and severally liable under the bond with the member.

(4) Every bond shall be enforceable by the Crown against the member, and against every surety who signs it.

15 Funerals

(1) Subject to such conditions as may from time to time be prescribed by Orders, a Chief of Staff may order that a funeral be provided at public expense for a regular member who dies while serving in his or her Service, or for any other member in that Service who dies while in receipt of Service pay or whose death is attributable to service in the Armed Forces.

(2) Where a funeral is provided for a member of the Armed Forces under this regulation, no liability shall be incurred by the Crown or the Chief of Defence Force or any Chief of Staff by reason of any instructions given by any relative or friend of the deceased.

16 Educational, training, and entertainment funds

(1) The Minister, with the concurrence of the Minister of Finance, may from time to time authorise on such conditions as the Minister may specify the establishment, out of money appropriated by Parliament for the purpose, of funds for all or any of the following purposes:

(a) a fund for the provision and development in any Armed Forces establishment of educational activities and hobbies for members of the Armed Forces:

(b) a fund for the welfare and benefit of members of the Territorial Force of the New Zealand Army:

(c) a Training Service Fund in any naval training establishment:

(d) a Ship's Improvement Fund for any naval ship or establishment:

(e) to provide allowances for seagoing naval ships in commission for the entertainment of official guests.

(2) Every existing Training Service Fund, and every existing educational and hobbies fund, and every existing Ship's Improvement Fund, established under regulation 15 of the Defence Regulations 1972 (SR 1972/117), or deemed by subclause (2) of that regulation to have been established under that regulation, shall be deemed to have been established under this regulation.

17 Establishment of messes

(1) The commanding officer of any naval ship, unit, or defence area, or of any other place where any part of the Armed Forces is situated, may establish and

name messes and make rules for the conduct and membership of such messes in accordance with the appropriate Service usage.

(2) The commanding officer may authorise a mess to purchase intoxicating liquor and other commodities, articles, and amenities from the Armed Forces Canteen Council or any other lawful source, for sale and supply in the mess to members, and may also authorise members and their guests to possess and consume such liquor in the mess.

(3) All profits derived from a mess shall belong to the mess funds of that mess, and shall not be part of any unit funds.

(4) If any part or parts of the Armed Forces having an established mess are at any time abolished, altered, amalgamated, or reconstituted, any mess funds and mess property belonging to that part or parts of the Armed Forces shall be disposed of in accordance with the directions of the Chief of Staff of the Service concerned.

(5) Every established mess that is conducted in accordance with the Defence Regulations 1972 (SR 1972/117) shall be deemed to have been established under this regulation.

18 Grants to bands

(1) The Minister, with the concurrence of the Minister of Finance, may authorise on such conditions as the Minister may specify the payment, out of money appropriated by Parliament for the purpose, of an annual grant to each band of the territorial or reserve forces approved by the Chief of Defence Force.

(2) Every grant shall be made as soon as possible after 1 April in each year and shall be applied for the upkeep and maintenance of the band in respect of which it is made.

19 Social welfare organisations

(1) The Minister may authorise any social welfare organisation to provide welfare amenities for members of the Armed Forces on such conditions, if any, as the Minister may from time to time specify.

(2) The Minister may at any time revoke any such authority.

20 Apprentices

(1) For the purpose of binding any member of the Armed Forces as an apprentice, an indenture of apprenticeship in the form or to the effect prescribed in Schedule 1 may be executed by the member of the one part and by an appointed officer of the other part. If the member is under 18 years of age, the indenture shall also be executed by his or her parent or guardian. If the member has no parent or guardian living or residing in New Zealand, a District Court Judge or 2 Justices of the Peace shall join with the member in executing the indenture.

(2) Except as otherwise provided in any other enactment, or in any agreement made between the parties to an indenture, every apprenticed member of the Armed Forces shall be bound by the terms of the indenture during its currency.

(3) A parent or guardian who is a party to an indenture shall be bound by its terms until the member reaches the age of 18 years; and when the member reaches that age, the indenture shall cease to apply to the parent or guardian.

(4) Any appointed officer may from time to time, in the interests of the efficiency of the Armed Forces,—

(a) with the consent of the other parties, vary the terms of any indenture; or

(b) discharge any indenture.

(5) When the appointed officer is satisfied that the member has duly completed his or her apprenticeship, the appointed officer shall award a certificate to the member certifying that the member has duly completed the apprenticeship.

(6) If for any reason the member does not complete the apprenticeship, the appointed officer shall, on the completion of the member's service in the Armed Forces, supply the Commissioner of Apprenticeship under the Apprentices Act 1983 with a statement in writing setting out the period of apprenticeship completed by the member.

(7) For the purpose of supplementing the trade training of any apprenticed member of the Armed Forces, an appointed officer may temporarily transfer the member to any other employer.

(8) Notwithstanding anything to the contrary in any other Act, every member temporarily transferred under subclause (7) shall remain subject to the Act and the Armed Forces Discipline Act 1971.

Part 2
Inventions and patents

21 Application of Part 2

This Part shall apply to—

(a) regular members; and

(b) territorial members and reserve members who are for the time being liable for continuous service under section 40 or section 41 of the Act.

22 Restrictions on applications for patents

(1) No member of the Armed Forces may apply for or obtain a patent for any invention except in accordance with this Part and Orders.

(2) Every invention made by a member of the Armed Forces shall be deemed to belong to and be held in trust for the Crown until such time as a decision in respect of the invention has been given by the Chief of Defence Force. Pending that decision, an inventor shall not disclose to unauthorised persons the subject

matter of the invention, or permit any information relating to the invention to be published.

23 Restrictions on trials of inventions

(1) Every invention shall in the first instance be referred to the Chief of Defence Force or to such person as the Chief of Defence Force may direct.

(2) No member of the Armed Forces shall authorise the trial of any invention unless the member has first obtained the authority of the Chief of Defence Force.

24 Employment of agents

(1) Any inventor who desires to obtain patent protection shall be permitted, without prior authority, to file with the Commissioner of Patents an application for a patent accompanied by a provisional specification; but the inventor shall not, without the prior written authority of the Chief of Defence Force, employ an agent or any other person in connection with the preparation of the specifications and the filing of the application with the Commissioner of Patents.

(2) The Chief of Defence Force shall not withhold authority under subclause (1) if the title of the invention and the name of the proposed agent is disclosed, and the Chief of Defence Force is satisfied that no disclosure of information that may be detrimental to the interests of the State would be involved by the employment of that agent or other person.

Regulation 24(1): amended, on 13 September 2014, by section 249 of the Patents Act 2013 (2013 No 68).

25 Compulsory applications for patents

(1) An inventor who does not wish to apply for the grant of a patent shall nevertheless, if required to do so by the Chief of Defence Force, at public expense do all necessary acts in order to obtain the grant of letters patent in New Zealand or in any other specified country to secure protection of the invention for government purposes.

(2) In all other circumstances, the expenses in connection with an application for and the grant of letters patent shall be borne by the inventor.

26 Agreements to be entered into

An inventor shall, as soon as practicable after filing an application with the Commissioner of Patents, send 2 copies of the provisional specification to the inventor's commanding officer through the normal channels, together with 3 completed and signed copies of an agreement in the form or to the effect prescribed in Schedule 2.

Regulation 26: amended, on 13 September 2014, by section 249 of the Patents Act 2013 (2013 No 68).

27 Powers of Chief of Defence Force

Without restricting the general powers of the Chief of Defence Force in that behalf, the Chief of Defence Force may do any of the following:

(a) where the Chief of Defence Force wishes to retain complete control of any invention, order the assignment of the invention, and any letters patent granted in respect of the invention, to the Crown or such government department or person on behalf of the Crown as the Minister may direct, in either of which cases the inventor shall not dispose of any commercial uses of the invention except as provided in the succeeding provisions of this regulation:

(b) where the Chief of Defence Force is satisfied with an agreement giving to the New Zealand Government, and, if the Chief of Defence Force considers it is necessary, the Government of any other Commonwealth country, and any persons authorised by any such Government, a right to use any invention for the services of the State without legal obligation, give leave to the inventor to dispose of the invention for commercial purposes:

(c) where the Chief of Defence Force does not consider that the Crown has any interest in any invention, authorise the inventor to deal with the invention as he or she thinks fit, in which case the inventor shall be deemed to be thereby released from the obligations into which the inventor has entered pursuant to regulation 26.

28 Royalties and rewards

(1) Where an invention having an industrial application has been assigned to the Crown or to any person on behalf of the Crown, the Chief of Defence Force may—

(a) deal with the commercial rights, in which case the inventor shall be granted an appropriate share of any royalties or other money received from those rights; or

(b) grant to the inventor the right to deal with the commercial rights subject to such conditions as the Chief of Defence Force may impose.

(2) Notwithstanding anything in subclause (1), an inventor shall be entitled to apply to the Minister for an *ex gratia* reward in respect of the use of the invention by the Crown.

29 Appeals

(1) An inventor may appeal to an Inventions Appeal Committee constituted under this regulation in the following circumstances:

(a) in the case of an invention dealt with under regulation 28(1)(a), if the inventor considers that the share of royalties or commercial proceeds

offered by the Chief of Defence Force is inadequate, or if no such share is offered to the inventor:

(b) in the case of an invention dealt with under regulation 28(1)(b), if the inventor considers that any share of royalties or commercial proceeds that the inventor is called upon by the Chief of Defence Force to pay is excessive:

(c) in the case of a reward offered to the inventor by the Minister under regulation 28(2), if the inventor considers that the reward is inadequate.

(2) Every Inventions Appeal Committee shall consist of a District Court Judge and 2 assessors, of whom one shall be appointed by the Chief of Defence Force and one by the inventor.

(3) Any inventor wishing to appeal under subclause (1) shall give written notice of appeal to the Chief of Defence Force, specifying the name of the person whom the inventor appoints to act as assessor at the hearing of the appeal. The assessor shall give written assent to act.

(4) Within 21 days after receipt of the notice of appeal, the Chief of Defence Force shall inform the inventor of the names of the Judge before whom the appeal will be heard and the assessor appointed by the Chief of Defence Force, and shall at the same time forward to the Judge a copy of the decision appealed against and of the notice of appeal, together with a notice of the appointment of an assessor by the Chief of Defence Force.

(5) The Inventions Appeal Committee shall hear and determine the appeal at such convenient time and place as the Judge shall decide. The date shall not be more than 42 days after the receipt by the Chief of Defence Force of the notice of appeal.

(6) The Judge shall cause at least 5 days' notice of the time and place of the hearing to be given to each assessor, the Chief of Defence Force, and the inventor.

(7) At the hearing of the appeal the inventor may appear in person or be represented by some other person. The Chief of Defence Force may be represented by any person appointed by the Chief of Defence Force.

(8) The Judge may from time to time adjourn the hearing or consideration or determination of the appeal as the Judge thinks fit.

(9) If the inventor or his or her representative fails to appear at the hearing, the appeal may be determined in his or her absence on such evidence as is available. If the inventor appears, the evidence shall be taken in his or her presence or in the presence of his or her representative or both.

(10) The Inventions Appeal Committee shall not be bound to follow any formal procedure, but shall comply with the rules of natural justice. It may, in its discretion, receive such evidence as it thinks fit (whether on oath or otherwise), and may act on any statement, document, information, or matter, that in the

opinion of the Committee may assist it to deal with the matter before it, whether or not the same would be legally admissible in a court of law.

(11) The determination in respect of the appeal shall be made in writing by the Judge and at least 1 of the assessors, together with their reasons for the determination, and shall be signed by them. A copy shall be forwarded by the Judge to the inventor and to the Chief of Defence Force, and the Chief of Defence Force shall forthwith give effect to the determination.

(12) If for any reason the Judge named in accordance with subclause (4) is unable to perform his or her functions under this regulation, any other Judge may perform those functions in place of that Judge.

(13) If for any reason the Judge so named is not present at the time and place fixed for the hearing of the appeal, and no other Judge is available, the assessors may from time to time adjourn the hearing of the appeal for such period, not exceeding 14 days, as they think fit.

(14) If for any reason any assessor is unable to be present at the time and place fixed for the hearing of the appeal, the Chief of Defence Force or the inventor, as the case may be, shall make a fresh appointment of an assessor, and shall forthwith give written notice of the appointment to the Judge and to the other party. The Judge may adjourn the hearing of the appeal for such period, not exceeding 14 days, as the Judge thinks fit.

(15) Any notice to be given or document to be served under this regulation may be given or served personally, or by registered letter addressed to the person to whom the notice is to be given, or the document is to be served, at that person's last known place of residence or business. In the latter case, it shall be deemed to be given or served at the time when it would be delivered in the ordinary course of post.

(16) Subject to the other provisions of this regulation, the Inventions Appeal Committee shall determine its own procedure.

Part 3
Control and security of defence areas, naval ships, and military aircraft

Part 3 heading: substituted, on 21 April 2005, by regulation 4 of the Defence Amendment Regulations 2005 (SR 2005/73).

30 Warning notices

The officer in charge of every defence area shall cause notices in the form or to the effect prescribed in Schedule 3 to be erected at the entrances to and the limits of—

(a) the defence area; and

(b) every restricted place within the defence area—

for the purpose of giving reasonable notice to the public of the existence of the area and places, and of the requirements of this Part in respect of the area and places.

31 General powers of officer in charge

The officer in charge of a defence area, naval ship, or military aircraft may—

(a) for the purpose of controlling, or maintaining the security of, the area, ship, or aircraft—

(i) prohibit or restrict the entry of all or any persons, vehicles, ships, boats, and aircraft to the area; or

(ii) prohibit or restrict the entry of all or any persons on board the ship or aircraft; or

(iii) prohibit or restrict the movements and activities of all or any persons, vehicles, ships, boats, and aircraft within the area; or

(iv) prohibit or restrict the movements and activities of all or any persons on board the ship or aircraft; or

(v) direct any person or persons within the area or on board the ship or aircraft to leave the area, ship, or aircraft or any part of it, either immediately or within the time that the officer in charge specifies; or

(vi) direct any person owning or in possession or control of or driving a vehicle, ship, boat, or aircraft within the area or any part of it to remove it from the area or that part, either immediately or within the time that the officer in charge specifies; or

(b) authorise any person in writing for the purposes of all or any of the provisions of this Part.

Regulation 31: substituted, on 21 April 2005, by regulation 5 of the Defence Amendment Regulations 2005 (SR 2005/73).

32 Powers of search

(1) The officer in charge of a defence area, naval ship, or military aircraft or any authorised person may, for the purpose of maintaining the security of the area, ship, or aircraft, detain and search any person who is in, or is entering or leaving, or is about to enter or leave, the area, ship, or aircraft, both as to—

(a) his or her person; and

(b) any vehicle, ship, boat, aircraft, receptacle, parcel, or chattel of any description in his or her possession or under his or her control.

(2) The officer or authorised person intending to exercise any power of detention or search under subclause (1) shall, if requested to do so by the person to be detained or searched, show his or her written authorisation to that person.

(3) No person shall be searched as to the person by or in the presence of a person of the opposite sex.

(4) If any person without lawful excuse refuses to be detained, or refuses to permit or submit to, or resists, any search under subclause (1), any authorised person may use such force as may be reasonably necessary against that person to effect the detention or search.

(5) The officer or authorised person conducting any search under this regulation may seize from the person searched any thing that the officer or authorised person has reasonable grounds to believe has been used or is being used in the commission of an offence (either against the law of New Zealand or, if the defence area, naval ship, or military aircraft is situated in a country other than New Zealand, against the law of that country).

(6) Where the person from whom any thing is seized under subclause (5) is convicted, the court may, instead of or in addition to imposing any other penalty, order that the thing be forfeited to the Crown, in which case it shall be sold or otherwise disposed of as the Minister may direct.

(7) If no proceedings are brought or the person is acquitted, the thing shall be returned to the person.

Regulation 32(1): substituted, on 21 April 2005, by regulation 6(1) of the Defence Amendment Regulations 2005 (SR 2005/73).

Regulation 32(5): amended, on 21 April 2005, by regulation 6(2) of the Defence Amendment Regulations 2005 (SR 2005/73).

33 Person may be required to supply information

The officer in charge of a defence area, naval ship, or military aircraft, or any authorised person, or any constable may require any person who is in the area or on board the ship or aircraft, or who is entering or leaving it, or who is about to enter or leave it, to supply to the officer, authorised person, or constable the following information:

(a) his or her true name; and

(b) his or her residential address; and

(c) an explanation of his or her presence or intended presence in the area, or on board the ship or aircraft.

Regulation 33: substituted, on 21 April 2005, by regulation 7 of the Defence Amendment Regulations 2005 (SR 2005/73).

Regulation 33: amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

34 Removal of persons

(1) An authorised person may remove a person (**A**) from a defence area, naval ship, or military aircraft or any part of a defence area, naval ship, or military aircraft if A, without lawful excuse, refuses or fails to comply with a direction

given to A under regulation 31 to leave the area, ship, or aircraft or part of the area, ship, or aircraft.

(2) The authorised person may use the force that is reasonably necessary for removing A.

Regulation 34: substituted, on 21 April 2005, by regulation 7 of the Defence Amendment Regulations 2005 (SR 2005/73).

35 Apprehension and detention of persons committing offences

(1) This regulation applies to a person (**A**) who is found committing, or is suspected on reasonable grounds of having committed, an offence against the law of the country in which a defence area, naval ship, or military aircraft is situated (whether New Zealand or elsewhere) while A is—

(a) in the area or on board the ship or aircraft; or

(b) entering or leaving the area, ship, or aircraft; or

(c) attempting to enter or leave the area, ship, or aircraft.

(2) The officer in charge of the area, ship, or aircraft, or any authorised person, may, for the purposes of subclauses (4) or (5), apprehend and detain A if A is—

(a) in the area or on board the ship or aircraft; or

(b) entering or leaving the area, ship, or aircraft; or

(c) attempting to enter or leave the area, ship, or aircraft.

(3) The officer or the authorised person may use the force that is reasonably necessary for apprehending and detaining A.

(4) Subject to subclause (5), every officer or authorised person who detains a person under subclause (2) (not being a person subject to the Armed Forces Discipline Act 1971) must as soon as possible deliver that person to a member of the Police of the civil power of the country in which the area, ship, or aircraft is situated for the purpose of that person's arrest under the powers of that member of the Police.

(5) Every officer or authorised person who detains a member of an allied force under subclause (2) must as soon as possible deliver that person to the officer commanding that force, or any member of that force acting under the authority of the commanding officer, for the purpose of that person's arrest under the powers of that officer or member.

Regulation 35: substituted, on 21 April 2005, by regulation 7 of the Defence Amendment Regulations 2005 (SR 2005/73).

36 Constables may exercise powers

Any power that may be exercised in a defence area or on board a naval ship or military aircraft by an authorised person under this Part may, at the request of the officer in charge of the area, ship, or aircraft, be exercised by a constable.

Regulation 36: substituted, on 21 April 2005, by regulation 7 of the Defence Amendment Regulations 2005 (SR 2005/73).

Regulation 36 heading: amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Regulation 36: amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

37 Restricted places

(1) The officer in charge of a defence area, naval ship, or military aircraft may at any time declare the area, ship, or aircraft or any part of the area, ship, or aircraft to be a restricted place.

(2) In the case of a defence area or part of it, the officer must cause the restricted place to be clearly delineated or otherwise defined. The requirements of this subclause are in addition to the requirements of regulation 30.

(3) A person must not enter or remain in a restricted place except with the permission of the officer in charge of it and in accordance with any conditions that the officer may impose.

Regulation 37: substituted, on 21 April 2005, by regulation 7 of the Defence Amendment Regulations 2005 (SR 2005/73).

38 Offences in respect of defence areas, naval ships, and military aircraft

(1) Every person commits an offence against this Part who, without lawful excuse,—

(a) enters or remains in a defence area or any part of it in contravention of a prohibition or restriction imposed under regulation 31 by the officer in charge of the area; or

(b) boards or remains on board a naval ship or military aircraft or part of a naval ship or military aircraft in contravention of a prohibition or restriction imposed under regulation 31 by the officer in charge of the ship or aircraft; or

(c) contravenes or fails to comply with any direction given to that person under regulation 31 by the officer in charge of the defence area, naval ship, or military air craft; or

(d) refuses to permit, or submit to, or resists, any detention or search that he or she is required to undergo under regulation 32; or

(e) contravenes regulation 33 or regulation 37(3); or

(f) wilfully obstructs any of the following persons in the exercise of any powers under this Part:

(i) the officer in charge of a defence area, naval ship, or military aircraft:

(ii) an authorised person:

(iii) a constable.

(2) Every person commits an offence against this Part who, without the permission of the officer in charge of the defence area, naval ship, or military aircraft—

(a) injures, weakens, breaks down, or destroys—

(i) any structure or equipment, or any earthworks, road, drain, tree, or vegetation, in or on the defence area; or

(ii) any structure or equipment on board the ship or aircraft; or

(b) defaces, obliterates, removes, or destroys any printed or written notice, direction, or regulation posted, attached, or affixed to or upon any building, erection, post, fence, gate, or other structure, or to or upon any other public property, in or on the defence area; or

(c) defaces, or attaches or affixes anything to or upon,—

(i) any building, erection, post, fence, gate, or other structure, or any other public property, in or on the defence area; or

(ii) the ship or aircraft.

Regulation 38: substituted, on 21 April 2005, by regulation 7 of the Defence Amendment Regulations 2005 (SR 2005/73).

Regulation 38(1)(f)(iii): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

39 Penalties

Every person who commits an offence against this Part is liable on conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding $1,000 or both.

Regulation 39: substituted, on 21 April 2005, by regulation 7 of the Defence Amendment Regulations 2005 (SR 2005/73).

Regulation 39: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

40 Application of Part 3 to other countries

Nothing in this Part authorises any act in a defence area, or on board a naval ship or military aircraft, situated in a country other than New Zealand if the act would be contrary to the law of that country.

Regulation 40: substituted, on 21 April 2005, by regulation 7 of the Defence Amendment Regulations 2005 (SR 2005/73).

Part 4
Revocations

41 Revocation

The regulations specified in Schedule 4 are hereby revoked.

Schedule 1
Indenture of apprenticeship

r 20

This indenture made in pursuance of the Defence Act 1990 this [*date*], between [*apprentice*] (hereinafter called **the apprentice**) of the first part; [*appointed officer*], who with his (*or* her) successors in office is hereinafter included in the expression "the master", of the second part; [and [*parent, guardian, District Court Judge, or 2 Justices of the Peace*], of the third part;]* Witnesses that, in consideration of the covenants hereinafter mentioned on the part of the apprentice to be observed and performed, the master hereby covenants, promises, and agrees with and to the apprentice [and the party of the third part]* to accept the apprentice as his (*or* her) apprentice during the term of [*specify term of apprenticeship*] years in the following manner:

1 The master will, according to the best of his (*or* her) power, skill, and knowledge, and so long as the apprentice well behaves and performs the convenants on his (*or* her) part contained in this indenture, teach the apprentice in the trade of [*specify trade*], and all and everything relating to it according to the best of the power, skill, and knowledge under the master's command.

2 The master will so long as the apprentice performs and observes the covenants on his (*or* her) part contained in this indenture cause to be paid to the apprentice during the period of his (*or* her) apprenticeship in the [*specify Service concerned*], on the usual pay days from time to time fixed by the Chief of Defence Force, pay at the rates determined by the Chief of Defence Force.

3 The apprentice for his (*or* her) part [and the party of the third part for himself (*or* herself) and his (*or* her) executors and administrators do and each of them] † does hereby promise and agree with and to the master that the apprentice, from the date of this indenture during the period of the apprenticeship, will faithfully perform his (*or* her) duties as an apprentice, and diligently attend to the said trade, and at all times keep the secrets of the Crown and the Government of New Zealand, and obey the lawful commands of the master and every officer or non-commissioned officer acting under the master's direction; and will not absent himself (*or* herself) from the service of the Crown without leave, and will not do or knowingly suffer any damage to be done to any goods, money, or other things that shall be delivered or put into his (*or* her) custody or care or under his (*or* her) control, but will in all things conduct himself (*or* herself) in a proper manner, and will at all times obey and conform to the Defence Act 1990 and all or any regulations that are for the time being in force under that Act.

4 **It is hereby agreed and declared** by the apprentice [and by the party of the third part]* that the apprentice, while he (*or* she) is in the [*specify Service concerned*], is subject to military law and the obligations created by that law

and that he (*or* she) is liable to be punished for any offence committed under that law notwithstanding anything contained in this indenture.

*Delete where inapplicable.

†Delete if there is no third part or the third party is not parent or guardian.

In witness whereof the said parties have hereunto set their hands the day and year above written.

[*Name*], apprentice:

[*Name*], appointed officer, as master:

[*Name(s)*], [parent, guardian, Magistrate, *or* 2 Justices of the Peace]:

Schedule 2
Agreement with respect to invention

r 26

Address:

I (We) have applied (am (are) about to apply) to the Commissioner of Patents for a patent for [*describe nature of invention*].

Date:

I (We) will act in accordance with the Defence Regulations 1990 and Defence Force Orders and as directed by the Chief of Defence Force and agree to be bound by the following conditions:

(a) I (we) have not left a complete specification with the application nor will I (we) subsequently leave a complete specification or take any further steps in the matter after applying for provisional protection without the direction or permission of the Chief of Defence Force:

(b) I (we) will supply to my (our) commanding officer 2 copies of the provisional specification as soon as the application has been filed with the Commissioner of Patents, and any further information and particulars regarding my (our) invention as may be required by the Chief of Defence Force:

(c) I (we) will, if so ordered, assign to the Crown, or to such Department or person on behalf of the Crown as the Minister of Defence may direct, the benefit of the invention and of any patent that may be granted, or will enter into such agreement for its use by the Government of any Commonwealth country and their contractors and other persons authorised by them, as may be directed by the Chief of Defence Force:

(d) I (we) will not assign or deal with the invention or patent, or grant any licences or rights for the use of the invention or patent, to anyone except with the previous authority of the Chief of Defence Force, or under the terms of any agreement with the Minister of Defence:

(e) I (we) agree that the terms of payment (if any) for any assignment of the invention or patent directed by the Chief of Defence Force or for its use in His Majesty's service, will, subject to regulation 29 of the Defence Regulations 1990, be decided by the Chief of Defence Force and that regard will be paid to any facilities in originating, working out, and perfecting the invention that I (we) may have enjoyed by reason of my (our) official position(s), and to all other factors that may be relevant:

(f) I (we) will not apply for a patent in any other country than New Zealand without the authority of the Chief of Defence Force:

(g) I (we) will if so required by the Chief of Defence Force do all acts necessary for obtaining a patent in New Zealand or in any other specified country at the

expense of the Crown and under such conditions as may be prescribed by the Chief of Defence Force.

Inventor's signature:

Rank:

Certificate to be signed by commanding officer

I certify that to the best of my belief the applicant is the true originator of the invention referred to. I have furnished the applicant with a copy of this agreement.

Date:

Signature:

Rank:

Schedule 2 form: editorial change made by the PCO, on 4 November 2024, under sections 86(1) and 87(d) of the Legislation Act 2019 (2019 No 58).

Schedule 2 form: amended, on 13 September 2014, by section 249 of the Patents Act 2013 (2013 No 68).

Schedule 3
Notices to be erected in defence areas and restricted places

r 30

DEFENCE AREA
NO ADMISSION EXCEPT ON BUSINESS

Any person proceeding beyond this notice or remaining in this defence area is subject to restrictions imposed under Part 3 of the Defence Regulations 1990 and may, at the discretion of the [*specify the designation of the officer in charge of the area*] or of any authorised person be detained and searched both as to his or her person, and as to any vehicle, ship, boat, aircraft, receptacle, parcel, or chattel in his or her possession or under his or her control.

By order of

[*Signature*]
Minister of Defence

RESTRICTED PLACE
NO ADMISSION EXCEPT BY AUTHORITY

It is an offence punishable by imprisonment for a term not exceeding 3 months and a fine not exceeding $1,000 to proceed beyond this notice without the permission of [*specify the designation of the officer in charge of the defence area*].

By order of

[*Signature*]
Minister of Defence

Schedule 4
Regulations revoked

r 41

Defence Regulations 1972 (SR 1972/117)

Defence Regulations 1972, Amendment No 1 (SR 1977/77)

Defence Regulations 1972, Amendment No 2 (SR 1978/315)

Defence Regulations 1972, Amendment No 3 (SR 1983/238)

Defence Regulations 1972, Amendment No 4 (SR 1985/87)

C J Hill,
for Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 5 April 1990.

Reprints notes

1 General

This is a reprint of the Defence Regulations 1990 that incorporates all the amendments to those regulations as at the date of the last amendment to them.

2 Legal status

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 Editorial and format changes

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also http://www.pco.parliament.govt.nz/editorial-conventions/.

4 Amendments incorporated in this reprint

Patents Act 2013 (2013 No 68): section 249

Criminal Procedure Act 2011 (2011 No 81): section 413

Defence Amendment Regulations 2011 (SR 2011/322)

Policing Act 2008 (2008 No 72): section 116(a)(ii)

Relationships (Statutory References) Act 2005 (2005 No 3): section 12

Defence Amendment Regulations 2005 (SR 2005/73)

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