



# Defence Amendment Act 2004

Public Act 2004 No 13  
Date of assent 30 March 2004  
Commencement see section 2

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## The Parliament of New Zealand enacts as follows:

### 1 Title

- (1) This Act is the Defence Amendment Act 2004.
- (2) In this Act, the Defence Act 1990 is called “the principal Act”.

### 2 Commencement

This Act comes into force on 1 April 2004.

### 3 Purpose

The purpose of this Act is to amend the principal Act—

- (a) to provide for protection under the Volunteers Employment Protection Act 1973 for the employment of members of the territorial forces or the reserve forces—
  - (i) who, in time of war or other like emergency or during any state of emergency declared under the Civil Defence Emergency Management Act

- 2002, are, as a consequence of a Proclamation made under section 39(2) or section 40(2) of the Defence Act 1990, called out for continuous service, either in New Zealand or elsewhere; and
- (ii) who were, at the time of the making of the Proclamation, employed by an employer:
- (b) to improve the protection that is provided under this Act and the Volunteers Employment Protection Act 1973 for the employment of members of the territorial forces or the reserve forces—
    - (i) who, in the event of an actual or imminent emergency involving the deployment of members of the Armed Forces outside New Zealand, are, as a consequence of a Proclamation made under section 39(3) or section 40(3) of the Defence Act 1990, called out for continuous service, either in New Zealand or elsewhere; and
    - (ii) who were, at the time of the making of the Proclamation, employed by an employer:
  - (c) to authorise the Governor-General to make in the national interest an Order in Council that will enable any member of the territorial forces or the reserve forces and any other person to receive protection under the Volunteers Employment Protection Act 1973 where, under section 50 of the Defence Act 1990, they volunteer for special service, either in New Zealand or elsewhere, and the member's or person's offer of service is accepted during the period specified in the order:
  - (d) to require the Minister to appoint a Territorial Forces Employer Support Council.

#### **4 New section 42 substituted**

- (1) The principal Act is amended by repealing section 42, and substituting the following section:

#### **“42 Protection of employment when Proclamation made**

“Part 2 of the Volunteers Employment Protection Act 1973 applies to—

“(a) every employee—

“(i) who is a member of the territorial forces or the reserve forces; and

- “(ii) who, in time of war or other like emergency or during any state of emergency declared under the Civil Defence Emergency Management Act 2002, is, as a consequence of a Proclamation made under section 39(2) or section 40(2) of this Act, called out for continuous service, either in New Zealand or elsewhere; and
  - “(iii) who was, at the time of the making of the Proclamation, employed by an employer:
- “(b) every employee—
- “(i) who is a member of the territorial forces or the reserve forces; and
  - “(ii) who, in the event of an actual or imminent emergency involving the deployment of members of the Armed Forces outside New Zealand, is, as a consequence of a Proclamation made under section 39(3) or section 40(3) of this Act, called out for continuous service, either in New Zealand or elsewhere; and
  - “(iii) who was, at the time of the making of the Proclamation, employed by an employer.”
- (2) Section 6 of the Defence Amendment Act 1997 is consequentially repealed.

## 5 Special service

Section 50 of the principal Act is amended by adding the following subsections:

- “(3) The Governor-General may, from time to time, by writing under the Governor-General’s hand, delegate to the Chief of Defence Force the power that the Governor-General has, under subsection (1), to accept an offer of the kind described in that subsection.
- “(4) Section 30(4) to (9), with any necessary modifications, applies to a delegation made under subsection (3).”

## 6 New sections 50A and 50B inserted

The principal Act is amended by inserting, after section 50, the following sections:

**“50A Power to declare situation of national interest in relation to special service**

The Governor-General may from time to time, by Order in Council published in the *Gazette*, declare that the need for members of the territorial forces or reserve forces or other persons to offer themselves, under section 50, for special service is such that it is in the national interest that, for such period as is specified in the order, protection under the Volunteers Employment Protection Act 1973 be given to any such member or other person—

- “(a) who undertakes special service under section 50; and
- “(b) whose obligation to undertake that service under section 50 arises from the acceptance, during the period specified in the order, of an offer that was made by the member or other person under section 50; and
- “(c) who was, at the time of the making of the order, employed by an employer.

**“50B Protection of employment when situation of national interest declared**

Part 3 of the Volunteers Employment Protection Act 1973 applies to—

- “(a) every employee—
  - “(i) who is a member of the territorial forces or the reserve forces or other person; and
  - “(ii) who undertakes special service under section 50 of this Act; and
  - “(iii) whose obligation to undertake that service under section 50 of this Act arises from the acceptance, during a period specified in an order made under section 50A of this Act, of an offer that was made by the member or other person under section 50 of this Act; and
- “(b) who was, at the beginning of the period specified in the order made under section 50A of this Act, employed by an employer.”

**7 New section 91A inserted**

The principal Act is amended by inserting, after section 91, the following section:

**“91A Territorial Forces Employer Support Council**

- “(1) The Minister must appoint a council to be called the Territorial Forces Employer Support Council.
- “(2) The Council has—
- “(a) the role of promoting service in the territorial forces; and
  - “(b) the duty of advising the Minister on such matters in relation to the territorial forces as are referred to the Council by the Minister; and
  - “(c) such other functions as are from time to time determined by the Minister.
- “(3) The Council is a statutory Board for the purposes of the Fees and Travelling Allowances Act 1951.
- “(4) There may be paid out of public money to the members of the Council remuneration by way of fees, salaries, or allowances and travelling allowances and travelling expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act apply accordingly.
- “(5) Subject to the provisions of this Act and of any regulations made under this Act, the Council may regulate its own procedure.”

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**Legislative history**

24 March 2004	Divided from the Volunteers Employment Protection Amendment Bill (Bill 58–2), third reading
30 March 2004	Royal assent

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This Act is administered in the New Zealand Defence Force.

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