



**THE ARMED FORCES DISCIPLINE (EXEMPTIONS AND
MODIFICATIONS) ORDER 1983**

DAVID BEATTIE, Governor-General

ORDER IN COUNCIL

At the Government Buildings at Wellington this 7th day
of November 1983

Present:

THE RIGHT HON. D. MACINTYRE PRESIDING IN COUNCIL

PURSUANT to section 7 of the Armed Forces Discipline Act 1971, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following order.

ORDER

1. Title and commencement—(1) This order may be cited as the Armed Forces Discipline (Exemptions and Modifications) Order 1983.

(2) This order shall come into force on the 1st day of December 1983.

2. Interpretation—In this order “the Act” means the Armed Forces Discipline Act 1971.

3. Application—This order shall apply in respect of every chaplain, every servicewoman, and every serviceman under the age of 18 years, whether he or she is within New Zealand or overseas.

Chaplains

4. Restrictions on punishment—(1) A chaplain who is convicted by a court-martial of an offence against the Act may be punished only by the imposition of a sentence of death, imprisonment, dismissal from Her Majesty’s Service, a fine, a severe reprimand, or a reprimand.

(2) Notwithstanding subclause (1) of this clause, a chaplain may be ordered to pay compensation or make restitution under the provisions of the Act.

5. Courts of inquiry and courts-martial—(1) A chaplain may not assemble a court of inquiry.

(2) A chaplain may not be appointed as a member of a court of inquiry unless the subject-matter of the inquiry concerns the service conduct of a chaplain, and the Principal Defence Chaplain or the Principal Chaplain of the service concerned requests the appointment.

(3) A chaplain may not be appointed as a member of a court-martial unless the accused is a chaplain, and the Principal Defence Chaplain or the Principal Chaplain of the service concerned requests the appointment.

6. Exemptions and modifications—(1) A chaplain shall not hold any of the following appointments under the Act, nor be authorised to act in any of the following capacities under the Act:

- (a) Commanding officer:
- (b) Competent service authority:
- (c) Detachment commander:
- (d) Officer exercising summary powers:
- (e) Provost officer:
- (f) Reviewing authority or reconsidering authority:
- (g) Superior commander.

(2) A chaplain is not a “superior officer” for the purposes of section 38 of the Act.

(3) A chaplain shall not exercise the powers of arrest conferred by section 88 or section 90 of the Act, or issue or execute a warrant for arrest pursuant to section 89 of the Act; nor shall a chaplain be ordered under any of those sections to arrest a person subject to the Act.

(4) A chaplain may not be authorised or ordered by a commanding officer to exercise any of the powers conferred on a commanding officer by section 95 (1) of the Act; nor shall he be ordered to carry out a search under section 96 of the Act or directed to search any arrested person under section 98 of the Act.

Servicewomen

7. Detention—No servicewoman shall be sentenced to detention by an officer exercising summary powers, or by a court-martial, under the Act.

Servicemen Under 18 Years of Age

8. Detention—(1) No serviceman who is under the age of 17 years shall be sentenced to detention by an officer exercising summary powers, or by a court-martial, under the Act.

(2) A serviceman who has attained the age of 17 years but is under the age of 18 years shall not be sentenced to detention by an officer exercising summary powers under the Act except with the prior approval of a superior commander.

EXPLANATORY NOTE

This note is not part of the order, but is intended to indicate its general effect.

This order is made pursuant to section 7 of the Armed Forces Discipline Act 1971. It excludes some provisions of that Act, and modifies others, in respect of serving chaplains, servicewomen, and servicemen under 18 years of age.

In relation to chaplains, this order reflects the special status conferred on them by the Geneva Conventions.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 10 November 1983.

This order is administered in the Ministry of Defence.