

**Version  
as at 28 October 2021**



## **Armed Forces Canteens Act 1948**

Public Act      1948 No 51  
Date of assent      26 November 1948  
Commencement      see section 1

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**Note**

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

**This Act is administered by the Ministry of Defence.**

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**An Act to constitute the Armed Forces Canteen Council, to provide for the establishment of canteens and other amenities for the benefit of the Armed Forces, and for matters incidental thereto**

**1 Short Title and commencement**

This Act may be cited as the Armed Forces Canteens Act 1948 and shall come into force on 1 December 1948.

**2 Interpretation**

In this Act, unless the context otherwise requires,—

**amenities** means canteens, cinematograph theatres and other theatres and places of social entertainment, hairdressing saloons, cafeterias, shops, and other facilities calculated to meet the current requirements of members of His Majesty's Armed Forces and of other persons employed or residing on service establishments; but does not include any service mess

**Council** means the Armed Forces Canteen Council constituted under this Act

**financial statements** has the same meaning as in section 6 of the Financial Reporting Act 2013

**financial year** means a year ending on 31 March

**Fund** means the Armed Forces Canteen Fund established under this Act

**generally accepted accounting practice** has the same meaning as in section 8 of the Financial Reporting Act 2013

**Minister** means the Minister of Defence

**service establishment** means any place where members of His Majesty's Armed Forces are from time to time stationed or assembled under naval, military, or air force control.

Section 2 **amenities**: editorial change made by the PCO, on 31 October 2024, under sections 86(1) and 87(d) of the Legislation Act 2019 (2019 No 58).

Section 2 **financial statements**: inserted, on 1 April 2014, by section 125 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 2 **generally accepted accounting practice**: inserted, on 1 April 2014, by section 125 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 2 **service establishment**: editorial change made by the PCO, on 31 October 2024, under sections 86(1) and 87(d) of the Legislation Act 2019 (2019 No 58).

### *The Armed Forces Canteen Council*

#### **3 Incorporation of Armed Forces Canteen Council**

- (1) There is hereby constituted for the purposes of this Act a body corporate under the name of the Armed Forces Canteen Council, having perpetual succession and a common seal, and being capable of holding real and personal property and of doing and suffering all that bodies corporate may do and suffer.
- (2) The Council hereby constituted shall be deemed to be the same body corporate as the Canteen Board established under the Defence Canteen Emergency Regulations 1939.

#### **4 Membership of the Council**

- (1) The Council shall consist of—
  - (a) the Minister, who shall be the Chairman of the Council;
  - (b) an officer of the Royal New Zealand Navy, an officer of the New Zealand Army, and an officer of the Royal New Zealand Air Force, to be appointed by the Minister and to hold office during the pleasure of the Minister;
  - (c) such other persons as the Minister from time to time appoints to be members of the Council either by name or as the holder for the time being of any office, to hold office during the pleasure of the Minister.
- (2) The procedure of the Council shall be such as may be prescribed by regulations made under this Act, or as may be determined by the Council if there are no such regulations or in cases where the regulations do not apply.

#### **5 Contracts of the Council**

- (1) Any contract which, if made between private persons, must be by deed shall, if made by the Council, be in writing under the common seal of the Council.
- (2) Any contract which, if made between private persons, must be in writing signed by the parties to be charged therewith shall, if made by the Council, be in writing either under the common seal of the Council or signed on behalf of

the Council by some member or officer of the Council duly authorised in that behalf.

- (3) Any contract which, if made between private persons, may be made orally without writing may, if made by the Council, be made orally without writing by any person acting on behalf of and under the express authority of the Council, but no oral contract shall be made for any sum exceeding \$100.
- (4) The common seal of the Council shall not be affixed to any document except pursuant to a resolution of the Council, and the execution of any document so sealed shall be attested by 2 members of the Council and by the General Manager or the Secretary or by some officer of the Council authorised by the Council in that behalf.
- (5) Notwithstanding anything in the foregoing provisions of this section, no contract made by or on behalf of the Council shall be invalid by reason only that it was not made in the manner provided by this section, if it was made pursuant to a resolution of the Council or to give effect to a resolution of the Council.

Section 5: replaced, on 25 October 1956, by section 2 of the Armed Forces Canteens Amendment Act 1956 (1956 No 45).

## 6 Officers of the Council

The Council may from time to time appoint—

- (a) a General Manager of the Council; and
- (b) a Secretary of the Council; and
- (c) such other employees as may be deemed necessary to assist in the efficient carrying out of the administrative functions of the Council under this Act.

Section 6: replaced, on 1 April 1988, by section 87 of the State Sector Act 1988 (1988 No 20).

### *Functions and powers of the Council*

## 7 Functions of the Council

The functions of the Council shall be to provide amenities on service establishments for the benefit of members of the Armed Forces and of other persons employed or residing on those establishments.

## 8 Powers of the Council

- (1) The Council shall have power to set up and conduct amenities in such service establishments as the Minister from time to time determines, and to do all things as are in the opinion of the Council necessary or incidental to the setting up and conducting of any such amenities.
- (2) Without limiting the general power conferred by the last preceding subsection, it is hereby declared that the Council shall have the following powers:

- (a) to buy, sell, and deal in goods of all kinds, and to acquire by purchase or on bailment or otherwise all such furniture, fittings, machinery, accessories, and implements as may be necessary or desirable for the more effectual conduct of any such amenity as aforesaid:
- (aa) to buy goods of all kinds that are necessary or desirable for the conduct of service messes and sell the same to duly authorised service messes:
- (b) from time to time to contract for the services of and engage, employ, and dismiss such persons (other than the General Manager, the Secretary, and other employees of the Council appointed under section 6) as may be required to assist in conducting any amenity which the Council is authorised to conduct under this Act:
- (c) to dispose of any property of the Council at such price and on such conditions as the Council thinks fit:
- (d) to expend moneys out of the Fund for any of the purposes specified in the last preceding section in such manner as the Council thinks fit:
- (e) to appoint committees of such persons (whether members of the Council or not) as it thinks fit, and to delegate to them such functions as it may determine:
- (f) to expend any moneys out of the Fund and generally take any action for any purpose that in its opinion is ancillary to the principal functions of the Council as defined in the last preceding section.

Section 8(2)(aa): inserted, on 25 October 1956, by section 4(1) of the Armed Forces Canteens Amendment Act 1956 (1956 No 45).

Section 8(2)(b): amended, on 25 October 1956, by section 3(2) of the Armed Forces Canteens Amendment Act 1956 (1956 No 45).

#### **8A Armed Forces Canteen Council may acquire land and buildings for Council purposes**

The Council may from time to time, with the consent of the Minister, for the more effectual administration of this Act and in order to make suitable provision for the carrying out of its functions under this Act,—

- (a) purchase or take on lease or otherwise acquire any land with or without buildings:
- (b) improve any land so acquired:
- (c) erect, alter, subdivide, repair, improve, rebuild, or add to buildings on land so acquired:
- (d) grant leases or tenancies of any land so acquired and of buildings (not being dwellinghouses) on land so acquired, or any part thereof, at such rent and upon such terms and conditions as it thinks fit:
- (e) let any dwellinghouse on land so acquired, or any part thereof, to any employee of the Council for such term and at such rent and otherwise upon such terms and conditions as it thinks fit:

- (f) let any dwellinghouse that is not for the time being required to provide residential accommodation for employees of the Council to such person, for such term, at such rent, and otherwise upon such terms and conditions as it thinks fit;
- (g) sell any land or buildings so acquired or any part thereof which are not required for carrying on the functions of the Council.

Section 8A: inserted, on 1 October 1954, by section 38 of the Finance Act 1954 (1954 No 90).

## 8B Borrowing powers

The Council may from time to time, with the consent of both the Minister of Defence and the Minister of Finance, and on and subject to such terms and conditions as the Minister of Finance thinks fit, borrow money by way of overdraft or otherwise and issue debentures or mortgage or charge any of its real or personal property.

Section 8B: inserted, on 20 October 1972, by section 2 of the Armed Forces Canteens Amendment Act 1972 (1972 No 48).

## 9 Unauthorised expenditure

The Council may, in any financial year, expend out of the Fund for purposes not authorised by this or any other Act any sum or sums not amounting in the whole to more than \$100.

## 10 Minister may authorise setting up and conduct of amenities on service establishments

The Minister may from time to time—

- (a) authorise the Council to set up and conduct amenities in such service establishments as he determines;
- (b) authorise other persons to provide amenities in any such service establishments.

## 11 The Licensing Act 1908 not to apply to amenities

*[Repealed]*

Section 11: repealed, on 1 April 1990, by section 230(1) of the Sale of Liquor Act 1989 (1989 No 63).

### *Financial provisions*

## 12 Armed Forces Canteen Fund established

- (1) There is hereby established a fund, to be called the Armed Forces Canteen Fund, which shall consist of—
  - (a) all moneys which immediately before the commencement of this Act formed part of the Canteen Fund established under the Defence Canteen Emergency Regulations 1939;

(b) all moneys received by the Council from the sale or other disposal of any property of the Council:

(c) all accumulations of moneys belonging to the Fund.

(2) All moneys which, if this section had not been passed, would have been payable into the Canteen Fund shall be paid into the Armed Forces Canteen Fund.

(3) All moneys belonging to the Fund shall be paid into an account at the Reserve Bank of New Zealand or at some other bank in New Zealand, to be called the Armed Forces Canteen Account.

(4) No moneys shall be paid out of the said account in distribution of the profits of the Council except pursuant to a resolution of the Council:  
provided that no bank or payee or other person shall be concerned to inquire whether any cheque drawn on the said account has been authorised by a resolution of the Council.

(5) Moneys belonging to the Fund may be paid out of the said account into any 1 or more subsidiary accounts established from time to time at the discretion of the Council at the Reserve Bank of New Zealand or at such other bank or banks in New Zealand as the Council from time to time appoints or its agents under such appropriate names as the Council may approve or determine.

(6) All cheques drawn on the Armed Forces Canteen Account shall be signed, and all negotiable and other instruments requiring endorsement shall be endorsed, by any 2 of such members of the Council as are nominated for the purpose or by 1 such member and the General Manager or the Secretary of the Council or other officer of the Council nominated for the purpose:  
provided that cheques for payment into the said account may be endorsed by any one of such members of the Council as aforesaid or by the General Manager or the Secretary or other officer of the Council nominated for the purpose.

(7) Every subsidiary account may be operated on by such officer or officers of the Council as the Council may from time to time appoint in that behalf, and the Council may from time to time by resolution authorise in general terms the purposes for which that subsidiary account may be used:  
provided that no bank or payee or other person shall be concerned to inquire whether any cheque drawn upon a subsidiary account is within the authority of a resolution of the Council authorising operations upon that account.

(8) The administrative expenses of the Council shall be payable out of the Fund.

Section 12(3): amended, on 15 December 1988, by section 2(1) of the Armed Forces Canteens Amendment Act 1988 (1988 No 175).

Section 12(5): amended, on 15 December 1988, by section 2(2) of the Armed Forces Canteens Amendment Act 1988 (1988 No 175).

Section 12(6): amended, on 25 October 1956, by section 3(3) of the Armed Forces Canteens Amendment Act 1956 (1956 No 45).

Section 12(6) proviso: amended, on 25 October 1956, by section 3(3) of the Armed Forces Canteens Amendment Act 1956 (1956 No 45).

### **13 Accounting records must be kept**

- (1) The Council must ensure that there are kept at all times accounting records that—
  - (a) correctly record the transactions of the Council; and
  - (b) will enable the Council to ensure that the financial statements of the Council comply with this Act; and
  - (c) will enable the financial statements of the Council to be readily and properly audited.
- (2) The Council must establish and maintain a satisfactory system of control of its accounting records.
- (3) The accounting records must be kept—
  - (a) in written form in English; or
  - (b) in a form or manner in which they are easily accessible and convertible into written form in English.

Section 13: replaced, on 1 April 2014, by section 125 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

### **13A Financial statements and annual report**

- (1) The Council must ensure that, within 5 months after the end of the financial year, financial statements that comply with generally accepted accounting practice are—
  - (a) completed in relation to the Council and that financial year; and
  - (b) dated and signed on behalf of the Council by 2 members of the Council.
- (2) The Council must, within 5 months after the end of the financial year, provide to the Minister a report of its proceedings and operations for that year, together with a copy of its financial statements for that year and a copy of the audit report on the financial statements.
- (3) The Minister must present a copy of the report, of the financial statements, and of the audit report to the House of Representatives—
  - (a) not later than 10 working days after the Minister receives those documents; or
  - (b) if Parliament is not in session, as soon as possible after the commencement of the next session of Parliament.

Section 13A: inserted, on 1 April 2014, by section 125 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

### **13B Financial statements must be audited**

- (1) The Council must ensure that the financial statements of the Council are audited.
- (2) The Council is a public entity as defined in section 4 of the Public Audit Act 2001 and, in accordance with that Act, the Auditor-General is its auditor.

Section 13B: inserted, on 1 April 2014, by section 125 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

### **14 Distribution of profits**

- (1) After such provision has been made as the Council thinks proper for liabilities, whether accrued or contingent, for reserves, and for future activities of the Council, the profits arising from the activities of the Council shall from time to time be disposed of in such manner as the Council, with the approval of the Minister, thinks fit for the benefit of—
  - (a) members of any of His Majesty's forces or their dependants or the dependants of deceased members; or
  - (b) any other persons from whom revenue has been derived by the Council;—

or may, with the approval of the Minister, be paid to the Chief of Defence Force for disposal for any other purposes that the Chief of Defence Force considers to be of advantage to the New Zealand Naval Forces, the New Zealand Army, or the Royal New Zealand Air Force, as the case may be, or the members thereof.

- (1A) The Council may pay any profits to which subsection (1) applies to the Chief of Defence Force, or any persons administering any fund, for distribution in accordance with the provisions of that subsection, and on any such payment being made the Council shall not be liable to see to the application of the money so paid.
- (2) At any time during any financial year, if the Council is of opinion that there will for that year be a surplus of profits available for disposal after making the provision referred to in subsection (1), the Council may, with the approval of the Minister, make in anticipation of that surplus any such disposal of funds as is authorised by that subsection.

Section 14(1): replaced, on 6 December 1962, by section 2(1) of the Armed Forces Canteens Amendment Act 1962 (1962 No 58).

Section 14(1): amended, on 1 April 1990, pursuant to section 102(2) of the Defence Act 1990 (1990 No 28).

Section 14(1): amended, on 1 April 1990, pursuant to section 102(3) of the Defence Act 1990 (1990 No 28).

Section 14(1): amended, on 1 April 1990, pursuant to section 102(4) of the Defence Act 1990 (1990 No 28).

Section 14(1)(a): editorial change made by the PCO, on 31 October 2024, under sections 86(1) and 87(d) of the Legislation Act 2019 (2019 No 58).

Section 14(1A): inserted, on 6 December 1962, by section 2(1) of the Armed Forces Canteens Amendment Act 1962 (1962 No 58).

Section 14(1A): amended, on 1 April 1990, pursuant to section 102(2) of the Defence Act 1990 (1990 No 28).

Section 14(1A): amended, on 1 April 1990, pursuant to section 102(3) of the Defence Act 1990 (1990 No 28).

Section 14(1A): amended, on 1 April 1990, pursuant to section 102(4) of the Defence Act 1990 (1990 No 28).

Section 14(2): amended, on 6 December 1962, by section 2(2) of the Armed Forces Canteens Amendment Act 1962 (1962 No 58).

### *Miscellaneous*

## **15 Council may make rules**

- (1) The Council may from time to time after consulting the Chief of Defence Force make rules—
  - (a) regulating the conduct of any amenity conducted by the Council under this Act;
  - (b) prescribing the hours during which and the days upon which any such amenity will be provided;
  - (c) prescribing the duties and obligations of servants of the Council employed in connection with any such amenity.
- (2) Rules may be made under this section with respect to amenities generally or to amenities of a specified class or classes or to a specified amenity.

Section 15(1): amended, on 1 April 1990, pursuant to section 102(2) of the Defence Act 1990 (1990 No 28).

Section 15(1): amended, on 1 April 1990, pursuant to section 102(3) of the Defence Act 1990 (1990 No 28).

Section 15(1): amended, on 1 April 1990, pursuant to section 102(4) of the Defence Act 1990 (1990 No 28).

## **15A Superannuation for staff**

- (1) For the purpose of providing superannuation or retiring allowances for its employees (other than persons appointed under section 6), the Council may, out of the Fund, make payments to or subsidise any retirement scheme (within the meaning of section 6(1) of the Financial Markets Conduct Act 2013).
- (2) All payments made by the Council before the commencement of this section which would have been valid if this section had been in force when the payments were made are hereby validated and declared to have been lawfully made.

Section 15A: inserted, on 23 November 1967, by section 2 of the Armed Forces Canteens Amendment Act 1967 (1967 No 59).

Section 15A(1): replaced, on 1 April 1991, by section 80 of the National Provident Fund Restructuring Act 1990 (1990 No 126).

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Section 15A(1): amended, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

## **16 Exemption from taxes**

- (1) The Council is hereby declared to be exempt from the payment of income tax.
- (2) *Amendment(s) incorporated in the Act(s).*

Section 16 heading: amended, on 24 October 1957, pursuant to section 5(3) of the Income Tax Assessment Act 1957 (1957 No 93).

Section 16(1): amended, on 31 July 1989 (applying with respect to the land tax for the year of assessment commencing on 1 April 1990 and for every subsequent year), by section 10 of the Land Tax Amendment Act 1989 (1989 No 50).

Section 16(1): amended, on 24 October 1957, by section 5(3) of the Income Tax Assessment Act 1957 (1957 No 93).

## **17 Regulations**

- (1) The Governor-General may from time to time, by Order in Council, make regulations in respect of any matter for which regulations are contemplated by this Act or which in his opinion are necessary or expedient for giving full effect to the provisions of this Act and for the due administration thereof.
- (2) Regulations under this section are secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements).

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**Legislation Act 2019 requirements for secondary legislation made under this section**

**Publication** PCO must publish it on the legislation website and notify it in the *Gazette* LA19 s 69(1)(c)

**Presentation** The Minister must present it to the House of Representatives LA19 s 114, Sch 1 cl 32(1)(a)

**Disallowance** It may be disallowed by the House of Representatives LA19 ss 115, 116

*This note is not part of the Act.*

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Section 17(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

## **18 Revocations**

The Defence Canteen Emergency Regulations 1939 and the Defence Canteen Emergency Regulations 1939, Amendment No 1, are hereby revoked.

**Notes****1 General**

This is a consolidation of the Armed Forces Canteens Act 1948 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

**2 Legal status**

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

**3 Editorial and format changes**

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

**4 Amendments incorporated in this consolidation**

Secondary Legislation Act 2021 (2021 No 7): section 3

Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102): section 125

Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70): section 150

National Provident Fund Restructuring Act 1990 (1990 No 126): section 80

Defence Act 1990 (1990 No 28): section 102(2)–(4)

Sale of Liquor Act 1989 (1989 No 63): section 230(1)

Land Tax Amendment Act 1989 (1989 No 50): section 10

Armed Forces Canteens Amendment Act 1988 (1988 No 175)

State Sector Act 1988 (1988 No 20): section 87

Armed Forces Canteens Amendment Act 1972 (1972 No 48)

Armed Forces Canteens Amendment Act 1967 (1967 No 59)

Armed Forces Canteens Amendment Act 1962 (1962 No 58)

Income Tax Assessment Act 1957 (1957 No 93): section 5(3)

Armed Forces Canteens Amendment Act 1956 (1956 No 45)

Finance Act 1954 (1954 No 90): section 38