RULES OF ENGAGEMENT (NZDDP-06.1) (SECOND EDITION)

New Zealand Defence Doctrine Publication Rules of Engagement (NZDDP-06.1) (2nd Edition) is issued for use by the New Zealand Defence Force and is effective forthwith for guidance in defence doctrine.

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PREFACE

Scope

Rules of Engagement (ROE) are orders issued by the Chief of Defence Force (CDF) and approved by the New Zealand Government. They direct New Zealand Defence Force (NZDF) personnel as to when they may or may not use force against persons or property, and detail the authorised level of any such force. As such, ROE shape and control the application of military force to achieve national objectives.

Purpose

The aim of this publication is to describe the principles and procedures that form the basis for the formulation of ROE for any operation conducted by the NZDF. This publication will provide the reader with a comprehensive understanding of the policies, responsibilities, operational aspects, legal issues, and development processes surrounding ROE.

Application

As an application-level publication, NZDDP–06.1 Rules of Engagement (2nd Edition) is of use to commanders, planning staff, legal advisors, and training organisations that are responsible for the formulation, implementation, and amendment of ROE. NZDDP–06.1 (2nd Edition) will also be of relevance to all NZDF personnel who are required to order or use force during operations.

Structure

This publication is divided into three chapters:

- Chapter 1: Policies and Responsibilities describes the policies that shape ROE, what ROE are, the relationship with the Law of Armed Conflict (LOAC) and its applicability.
- Chapter 2: Use of Force describes how the use of force is regulated by ROE.
- Chapter 3: New Zealand Defence Force Rules of Engagement System describes the planning and promulgation of ROE in the NZDF.
ACKNOWLEDGEMENTS

The New Zealand Defence Force acknowledges its intellectual debt in preparing this publication to a number of military doctrinal publications, listed below.

- AAP-6 – *NATO Glossary of Terms and Definitions*, 2013, NATO Standardization Agency, Brussels, Belgium.
- *NATO Legal Deskbook*, NATO Standardization Agency, Brussels, Belgium.

REFERENCES

Other legislation and charters referenced in NZDDP–06.1 (2nd Edition) include:

- Defence Act 1990.
- Armed Forces Discipline Act 1971.
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EXECUTIVE SUMMARY

Chapter One: Policies and Responsibilities

Rules of Engagement (ROE) are formulated to reflect political, operational, and legal requirements. ROE are issued at the highest level of military command and are approved at the highest level of government, therefore changes to the ROE must also be made and approved at the highest level. A commander of a New Zealand force element at the operational or tactical level will not have authority to change the ROE or to issue orders which conflict with these rules.

When the New Zealand Defence Force (NZDF) contributes to a coalition/combined force, it is usually the ROE of the lead nation in the force that are proposed for use. International organisations such as the United Nations (UN) may also issue ROE. In every case, however, it is the political and operational acceptability and lawfulness of the use of force to New Zealand that is the deciding factor in the authorisation of ROE. If NZDF ROE conflict with those issued by a coalition/combined force or by an international organisation, NZDF ROE are to prevail.

Commanders have an obligation to seek clarification if the authorised ROE are considered to be unclear, contrary to the national policy or inadequate to cover the military situation.

Chapter Two: Use of Force

The UN Security Council may authorise the use of force under Chapter VII of the UN Charter in response to threats to the peace, breaches of the peace and aggression. Resolutions passed by the Security Council bind all member states including New Zealand.

New Zealand, like all other states, has an inherent right of self-defence recognised in Article 51 of the UN Charter. That right entitles New Zealand to defend itself, and to participate in collective defence with other states, against an armed attack or an imminent threat of an armed attack.

National self-defence is a strategic concept. It is the right of New Zealand to use armed force to protect its sovereign territory, political independence, persons or property against an armed attack. Anticipatory self-defence is also a strategic concept and it permits New Zealand to use force in national self-defence. Article 51 of the UN Charter recognises the right of states to assist another nation to defend itself against an armed attack. Collective self-defence cannot be exercised unilaterally by the assisting state, but must be at the specific request of the nation under attack or threat of attack.

Authority for a New Zealand force element to use force to defend itself against a hostile act or a demonstration of hostile intent (force element self-defence) will be specified in NZDF ROE. Authority for members of the Armed Forces to use force in individual self-defence will be specified in NZDF ROE or in NZDF Standard Self-Defence ROE (SSDROE).

Self-defence is a concept which will be specifically dealt with in NZDF ROE. ROE from non-NZDF sources may not reflect the New Zealand position on this subject.

ROE may provide for the protection of certain designated persons and property that the force has a duty to protect.

ROE cards may be issued to individual members of the Armed Forces.

Chapter Three: New Zealand Defence Force
Rules of Engagement System

ROE will normally be developed and staffed by Headquarters Joint Forces New Zealand (HQ JFNZ), or depending on the nature of the operation and government requirements, at Headquarters New Zealand Defence Force (HQNZDF).

If the ROE are staffed at the operational level, Commander Joint Forces New Zealand (COMJFNZ) will formulate an initial ROE request for submission with the proposed concept of operations.

The draft ROE will be staffed through HQNZDF for endorsement by the Minister of Defence, approval by the Prime Minister, and then issued as an order by the Chief of Defence Force (CDF).
CHAPTER 1:
POLICIES AND RESPONSIBILITIES
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National Policy

1.01 The New Zealand Government is responsible for the defence and security of New Zealand. Among the purposes for which the Armed Forces are raised and maintained are:

- the defence of New Zealand, and of any area the defence of which New Zealand is responsible for under any act, namely the Cook Islands, Tokelau, and Niue
- the protection of the interests of New Zealand, whether in New Zealand or elsewhere
- the contribution of forces under collective security treaties, agreements, or arrangements

- the contribution of forces to, or for any of the purposes of, the United Nations (UN), or in association with other organisations or states and in accordance with the principles of the Charter of the UN.¹

1.02 New Zealand Defence Force (NZDF) operations are conducted in furtherance of New Zealand’s national policy, and are governed by the political aims to be achieved. When military action is to be taken, government direction will be given to the Chief of Defence Force (CDF) on the national objectives to be achieved by that action and the national strategic end-state. Within the framework of the national objectives.

¹ Section 5 of the Defence Act 1990.

Figure 1-1: Rules of engagement are orders approved by the government.
the government provides direction to the CDF\(^2\) as to the objectives to be achieved. The use of force to achieve the objectives must be in accordance with New Zealand’s domestic and international laws. It also needs to be controlled and confined to that which is necessary for the achievement of the mission.

1.03 The principle means by which such control can be achieved is by the application of Rules of Engagement (ROE). ROE are designed to allow the graduated application of military force, so that when combined with measures taken by other instruments of government (e.g. diplomatic measures), a carefully measured but flexible national response is available for any contingency. The use of force for national self-defence and other government-endorsed military operations will be clearly defined in the ROE issued. Any use of force must be consistent with the specific ROE issued for the operation.

1.04 The priority accorded to military, political, and diplomatic activities will be determined by the government and will be reflected in the national policy. For national policy reasons, ROE may put tight constraints on the conduct of military operations.

### Rules of Engagement

**Definition**

1.05 ROE are defined as orders issued by the highest level of military command that specify the circumstances and manner under which force will be used in execution of the mission.

**Status of New Zealand Defence Force Rules of Engagement**

1.06 NZDF ROE are orders issued by the CDF and approved by the New Zealand Government. ROE are orders for the purpose of the Armed Forces Discipline Act 1971.

1.07 As ROE are issued at the highest level of military command and approved at the highest level of government, changes to ROE must also be made and approved at the highest level. A commander of a New Zealand force element at the operational or tactical level will not have authority to change ROE or to issue orders which conflict with ROE.

### Interpretation of Rules of Engagement

1.08 ROE prescribe what a commander can or cannot do in carrying out an operation. Except where necessary for immediate force element or individual self-defence, if a proposed course of action is not addressed in ROE, commanders of New Zealand force elements must assume they have no authority to carry out that action. Commanders have an obligation to seek clarification if ROE are considered to be unclear, contrary to national policy or inadequate to cover the military situation.

### Factors Affecting the Formulation of Rules of Engagement

1.09 ROE shape and control the use of force to achieve national objectives in the context of:

- operations during peacetime
- the transition from peace through tension to conflict
- combat operations
- the return to peacetime conditions.

1.10 While ROE may restrict the means and the extent to which military force can be applied, they do not:

- provide a substitute for strategy or tactics
- describe specific doctrine, tactics, and procedures
- address safety-related restrictions.

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\(^2\) The Minister of Defence has the power of control of the NZDF, which is exercised through the Chief of Defence Force. See Section 7 of the Defence Act 1990.
Three main factors in combination influence the formulation of ROE. The relative influence of these factors will vary according to the circumstances. These factors are:

- law, including the Law of Armed Conflict (LOAC), other international law, applicable UN Security Council resolutions and New Zealand domestic law
- national policy, including political and diplomatic factors
- operational considerations.

Operational objectives remain subordinate to national objectives at all times. This is particularly important in national crisis management during times of tension, when the requirements of the government may preclude the adoption of some military options. There may be a need to maintain tight control of the use of military force to prevent accidental escalation.

Careful formulation of ROE will reduce the likelihood of NZDF actions inadvertently causing an adversary or potential enemy to take impulsive action. However, in times of armed conflict, operational and national objectives are more closely aligned and the government may decide to authorise the use of lawful force up to the full range of military capability.

Operation-specific Rules of Engagement

ROE will generally be issued in circumstances where it is envisaged that members of the New Zealand Armed Forces may need to use force, whether the circumstances amount to armed conflict or not. Operation-specific ROE will govern the activities of those elements of the NZDF assigned to a particular operation and will apply within the designated Area of Operations (AO). Not all operations require ROE. In some unarmed operations, for example in support to the civil power, Rules of Conduct will be more appropriate. Rules of Conduct are generally issued to provide guidance in respect of the use of force in self-defence pursuant to Section 49 of the Crimes Act 1961.

Amplification of New Zealand Defence Force Rules of Engagement

CDF may authorise an officer subordinate in the chain of command to issue amplification of particular ROE, however, such amplifications must be consistent with the issued ROE and cannot purport to increase or restrict principal rules relating to the use of force.

Relationship of Rules of Engagement to the Law

Any use of force needs to be consistent with international law and the law of New Zealand. Although ROE are orders and reflect the law, they are not a separate source of law in themselves. ROE do not relieve members of the Armed Forces or commanders of their personal legal responsibilities. ROE may not authorise a use of force which is in contravention of the LOAC or New Zealand law. ROE may restrict the use of force to a level which is lower than that which it
would otherwise be lawful to use under the LOAC or New Zealand law.

1.16 It is imperative that the planning, drafting, and evaluation of ROE includes consideration of the LOAC and New Zealand law. ROE may also be used to reiterate the LOAC or other legal principles in a form that provides concrete direction to commanders and NZDF force elements on the application of those principles in the context of the particular operation.

Relationship between Rules of Engagement and Other Orders


1.18 Nothing in ROE requires or entitles a member of the Armed Forces to comply with a manifestly unlawful order, i.e. one which is clearly in breach of the LOAC or New Zealand law.

1.19 Because they have been issued by the CDF, ROE prevail over any order issued by an officer subordinate in the command chain to CDF. However, ROE cannot anticipate every eventuality nor do ROE address issues such as tactics, safety, or fire discipline. Therefore ROE do not entitle members of the Armed Forces to disobey an otherwise lawful command issued by their superior officer.

1.20 Where an order that is not manifestly unlawful appears to conflict with ROE, the member of the

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**Key Term**

**Law of Armed Conflict**

The international law regulating the conduct of states and individuals engaged in armed conflict.

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Figure 1-2: Influences on the formulation of rules of engagement.
Armed Forces is to follow the procedure set out in DM 69 (2nd Edition) Manual of Armed Forces Law, Volume 1 Commander’s Handbook on Military Law, Chapter 4, Section 8, paragraph 4.8.7. He or she is to represent the conflict orally or in writing (if there is no urgency) to the superior officer who issued the latter order. If the member is then directed to obey the order of that superior officer, he or she is to do so.

Dormant Rules of Engagement

1.21 The CDF may issue dormant ROE to address contingencies that are anticipated and planned for in respect of an operation. Dormant ROE may be implemented either on receipt of a particular code word or in the event of a specified occurrence. Dormant ROE may also be issued to forewarn of ROE that are likely to be authorised for a subsequent phase of an operation. They allow for forward planning and provide the commander with the flexibility to counter actions by an adversary or enemy when circumstances are changing too rapidly to accommodate the normal ROE approval process. When dormant ROE are activated, Commander Joint Forces New Zealand (COMJFNZ) is to be informed immediately. Once activated, dormant ROE form part of the ROE for that operation and must be included in subsequent ROE messages.

Key Term

Dormant Rules of Engagement

Pre-approved ROE issued to a commander for implementation by that commander either on receipt of a particular code word or in the event of a specific set of circumstances as defined by higher headquarters.

Figure 1-3: Rules of engagement may authorise the full range of military force.
Applicability of Rules of Engagement

Joint and Single Service Operations and Training

1.22 The formulation and promulgation procedures referred to in this publication will be used in almost all joint and single Service campaigns, operations, exercises, and training in which ROE are required.

Coalition/Combined and International Operations and Training

1.23 ROE for use in coalition/combined operations, exercises, and training need be agreed upon in the planning process. It is usually ROE drafted by the major contributor that are proposed for use by the force as a whole. Where the NZDF contributes to a force raised by an international organisation such as the UN, the ROE will usually be proposed by that organisation.

1.24 There are many command and control advantages in having all participants in a coalition/combined force or international force using substantially the same ROE. Often this is not achievable because different nations may have quite different views of the national policy and legal and operational factors that shape ROE for them. Interoperability issues may also arise when operating or training with non-military forces such as police. Therefore, where the NZDF contributes to a coalition/combined force or international force, the acceptability of the proposed ROE to New Zealand will be evaluated during the planning stage against New Zealand national policy and legal and operational factors. As a result of this evaluation such ROE will be:

- accepted in their entirety
- accepted with necessary amendments, caveats, amplifications, additions, or deletions
- rejected in favour of New Zealand ROE.

Figure 1-4: The relationship between rules of engagement and the law.
Figure 1.5: Different New Zealand Defence Force elements may require different rules of engagement.
1.25 When NZDF ROE differ from those of the coalition/combined lead nation or the international force, the commander of that force needs to be advised of the difference at the earliest opportunity.

1.26 In the event that an inconsistency arises between NZDF ROE and those issued by a coalition, combined force or international organisation, NZDF ROE prevail.

1.27 ROE are a matter of National Command or Full Command, therefore authority to change ROE cannot be delegated by the CDF to non-NZDF commanders. In the course of coalition/combined operations, or international force operations, changes to the force’s ROE may be proposed or promulgated in-theatre. Regardless of whether or not the NZDF has adopted the force’s ROE as NZDF ROE, any proposed changes to ROE can only be approved by the CDF. The New Zealand Senior National Officer (SNO) must therefore notify the CDF through the COMJFNZ of any proposal to change coalition/combined force or international force ROE in-theatre, whether or not such changes are acceptable to the forces of other contributing nations.

Geographic and Mission-specific Variations

1.28 NZDF operations may be conducted over large geographic areas, with the military situation varying considerably from area to area, particularly in respect of the land, sea, and air environments. ROE may authorise different actions in different AOs. Furthermore, to achieve a specific mission or task within an AO, NZDF elements may require different ROE. Provision may be made in the ROE to specify the geographic areas or the particular tasking for which particular ROE apply. The AO for the application of ROE may vary from the AO which is established for other purposes.4 If an operation requires a New Zealand force element to move into, or out of, an AO during the course of operations, care must be taken to ensure that the members of the Armed Forces in that element are aware of what ROE apply, or what changes occur as a result of that geographic change.

Rules of Engagement and the Electromagnetic Spectrum Domain

1.29 ROE can also include guidance on effects adopted by the NZDF within the electromagnetic spectrum domain, an example being some types of cyberspace activity. Some nations consider effects taken within the electromagnetic spectrum or cyberspace domains as an ‘act of war’. ROE that govern this type of activity in the electronic spectrum are considered sensitive and are usually classified.

Contravention of Rules of Engagement

1.30 ROE staff procedures and training are designed to minimise the likelihood of contravention of ROE by NZDF force elements. Nevertheless, contravention of ROE has the potential to arise in any force through error, accident or ill discipline. The adverse consequences of such contraventions must be minimised, particularly the threat of unintentional escalation through hostile retaliation. Addressing such a contravention may require diplomatic activity and needs to be initiated in a timely manner. In the event of an NZDF ROE contravention:

• the contravention is to be reported up the chain of command by the quickest means possible

• lateral and subordinate commands are to be informed promptly where the consequences are likely to affect them

• remedial measures are to be taken to avoid a recurrence

• one of the forms of inquiry prescribed by DM 69 (2nd Edition) Volume 1, Chapter 11, Section 1 is to be conducted

• disciplinary and/or administrative action may be taken if warranted by the findings of the inquiry

• public information aspects need to be considered.

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4 For example, allowances and medallic recognition.
CHAPTER 2:
USE OF FORCE
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Use of Force Authorised by the United Nations

2.01 The United Nations (UN) Security Council may authorise the use of force under Chapter VII of the UN Charter in response to threats to the peace, breaches of the peace, and aggression.\(^5\) Resolutions passed by the Security Council bind all member states including New Zealand.\(^6\) Member states may be called upon to contribute armed forces to give effect to such resolutions, either as part of a UN force or as part of a coalition/combined force. The Rules of Engagement (ROE) procedures set out in this publication apply to all such uses of force.

2.02 Force used in accordance with a UN Security Council mandate may include the conduct of armed combat operations against a designated enemy. In such circumstances, neither force elements nor individual members of the Armed Forces are acting in self-defence, but rather use force to accomplish the mission that has been assigned to them.

2.03 UN operations authorised under Chapter VI or Chapter VIII of the UN Charter will not authorise the use of force. ROE in these circumstances will be predicated upon force element self-defence and individual self-defence.

Self-defence

Introduction

2.04 New Zealand, like all other states, has an inherent right of self-defence recognised in Article 51 of the UN Charter.\(^7\) That right entitles New Zealand to defend itself, and to participate in collective defence with other states, against an armed attack or an imminent threat of an armed attack. Action must be strictly limited to the needs of self-defence and may not be converted into retaliatory or punitive measures. Measures taken in national or collective self-defence must be immediately reported to the UN Security Council.

2.05 The term ‘self-defence’ is also used in New Zealand criminal law to describe a justification available in respect of the use of force by an individual defending himself or herself, or another person.\(^8\)

National Self-defence

2.06 National self-defence is a strategic concept. It is the right of New Zealand to use armed force to protect its sovereign territory, political independence, persons or property against an armed attack. The right extends to those areas that New Zealand has a statutory responsibility to defend (i.e. the Cook Islands, Tokelau, and Niue).

2.07 Decisions to use force for national self-defence can only be taken by the New Zealand Government. The government may choose from a wide variety of responses, including the use of New Zealand Defence Force (NZDF) elements.

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\(^5\) Articles 39 and 42 of the UN Charter. The UN General Assembly has also, rarely, authorised measures for the maintenance of international peace and security under its ‘Uniting for Peace’ resolution.

\(^6\) Article 25 of the UN Charter.

\(^7\) Article 51 provides: ‘Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.’ The right of national self-defence is inherent in that it has long been recognised under customary international law.

\(^8\) Section 48 of the Crimes Act 1961. A legal justification means the person is not guilty of a criminal offence and is not liable to civil proceedings. See Section 2 of the Crimes Act 1961.
Anticipatory Self-defence

2.08 Anticipatory self-defence is also a strategic concept. It permits New Zealand to use force in national self-defence, notwithstanding that an armed attack has not yet actually been launched by an aggressor, but when it is considered to be sufficiently imminent as to leave no choice of means and no time for other measures to protect the nation’s sovereign interests.

2.09 Force used in national self-defence may include the conduct of armed combat operations against a designated enemy. In such circumstances neither force elements nor individual members of the Armed Forces are acting in self-defence but rather use force to accomplish the mission that has been assigned to them.

Collective Self-defence

2.10 Article 51 of the UN Charter recognises the right of states to assist another nation to defend itself against an armed attack. Collective self-defence cannot be exercised unilaterally by the assisting state, but must be at the specific request of the nation under attack or threat of attack.

2.11 Defence of other states may be undertaken by the NZDF only when authorised by the New Zealand Government.

2.12 Any collective self-defence operation involving New Zealand will in all likelihood result in NZDF force elements cooperating with foreign forces as part of a coalition or combined force. The use of force by NZDF
force elements to protect other non-NZDF military forces is only authorised when approved by the New Zealand Government and promulgated in the ROE for the operation.

2.13 Force used in collective self defence may include the conduct of armed combat operations against a designated enemy. In such circumstances, neither force elements nor individual members of the Armed Forces are acting in self-defence but rather use force to accomplish the mission that has been assigned to them.

Force Element Self-defence

2.14 Authority for a New Zealand force element to use force to defend itself against a hostile act or a demonstration of hostile intent (force element self-defence) will be specified in NZDF ROE. Within the scope of their ROE and other orders, commanders at all levels are expected to protect their command and the members of the NZDF for whom they are responsible. If subject to hostile acts or in response to a demonstration of hostile intent, commanders may use such force as is authorised by ROE.9

2.10 If no ROE exist or apply and a NZDF force element is subject to a hostile act or demonstration of hostile intent, the commander must immediately seek ROE through the chain of command wherever practicable. If seeking ROE is not practicable in the circumstances (e.g. the force element is under actual or

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9 The hostile act or intent may trigger dormant ROE.

Figure 2-2: Authority to use force in force element self-defence will be specified in rules of engagement.
Use of Force

imminent attack) the commander must take such action to defend their force element which is:

• necessary and proportionate to defeat any hostile act
• necessary and proportionate to deter any demonstration of hostile intent.

Key Terms

Hostile Act
The use of force by any person, group or force against one or more members of a New Zealand force, an allied force, designated persons or property where death, serious injury or serious property damage is likely to result.

Hostile Intent
The imminent intent to commit a hostile act. The existence of hostile intent may be judged by:

• the threatening individual or force element’s capability and preparedness to inflict imminent or immediate damage; and
• information, including intelligence, which indicates an intention to conduct an imminent or immediate attack.

Individual Self-defence
2.16 Authority for members of the Armed Forces to use force in individual self-defence will be specified in NZDF ROE or in NZDF Standard Self-Defence ROE (SSDROE). In accordance with their ROE and other orders, members of the Armed Forces may use such force as it is reasonable to use, in the circumstances as they believe them to be, to defend themselves or any person whom it is their duty to defend. However, the use of such force may be subject to constraint by lawful orders. A member of the Armed Forces may, for example, be ordered to hold fire or cease fire for tactical or safety reasons, even in circumstances where the use of deadly force in self-defence or defence of another would be justified in law.

2.17 Some states and international organisations consider that the inherent right of self-defence recognised in Article 51 of the UN Charter extends to military force elements and to individuals, and that therefore the issue of self-defence, and the relationship between that right and other orders, need not be addressed in ROE. The NZDF does not consider that the inherent right of national self-defence at international law automatically extends to military force elements or to individuals.

2.18 In the event that ROE that do not address the issue of force element or individual self-defence are proposed for use by a coalition/combined force to which New Zealand is to contribute, they usually require national caveats or amplifications before they can be usable by the NZDF, or alternatively SSDROE will apply.

Key Term

Deadly Force
Force that is intended or likely to cause death or serious injury.

Designated Persons and Property
2.19 ROE may specify particular persons to be ‘designated persons’. These are persons whom it is the duty of the force to protect. Designated persons are in addition to persons that the force would have the duty to protect because, for example, they are members of the armed forces of a coalition partner. They may include civilians who are vulnerable to attack, evacuees, or persons of particular status or importance. ROE may specify the level of force that may be used for the defence of such persons.

2.20 Where the Chief of Defence Force (CDF) determines that the destruction or loss of specific property represents a high risk to the physical security of the force or persons it is the force’s duty to protect, or may threaten the success of the mission, ROE may specify the property to be ‘designated property’. ROE may specify the level of force that may be used for the
defence of designated property. Designated property is specifically, not generically, defined.

2.21 Commanders may request that particular persons or property be designated by ROE request (ROEREQ). In coalition/combined operations or international force operations, the designation of persons or property may require the agreement of the commander of the force and must therefore be considered in the planning phase.

Force for Mission Accomplishment

2.22 The fact that the New Zealand Government has approved an operation does not of itself authorise NZDF elements to use all available military force to achieve a particular mission. The application of military force for mission accomplishment will be authorised and governed by mission-specific ROE.

2.23 Even in operations other than armed conflict, ROE may authorise NZDF elements to use force, including deadly force, to achieve the mission. This will generally only arise in respect of specific tasks of fundamental importance, for example ensuring the delivery of humanitarian aid that may be subject to interdiction or attack, or enforcing freedom of movement on roads.

Limitations on the Use of Force – Operations other than Armed Conflict

2.24 When using authorised force in operations other than armed conflict, members of the Armed Forces and NZDF force elements must only use the minimum force necessary, for so long as is necessary, to respond to a hostile act or the demonstration of hostile intent, to protect designated persons or designated property or, when authorised, to achieve the mission. This means that the force used must be limited in its intensity and duration to that which is reasonably necessary to achieve the objective. Where the circumstances permit, the use of force is to be graduated. This does not prevent the immediate use of deadly force in self-defence if the commander or other member of the Armed Forces believes the threat to life or of serious bodily injury is imminent and there is no reasonable alternative to the immediate use of deadly force to remove the threat. The possibility of there being incidental injury to persons or collateral damage to property does not preclude the use of the minimum force (including deadly force) necessary when acting in self-defence, but any such incidental injury or collateral damage must not be disproportionate to the concrete and direct military advantage anticipated from the use of force. All actions in individual or force element self-defence must cease as soon as the attacker or potential attacker ceases to be a threat.

2.25 When using force in force element or individual self-defence in operations other than armed conflict, only those adversary elements or persons who are either singularly or collectively conducting a hostile act or are demonstrating hostile intent (or forces integral to the attack, e.g. targeting force elements) may be attacked. NZDF force elements may only subsequently pursue and engage a force or person who has committed a hostile act or demonstrated hostile intent if authorised by mission-specific ROE.

Operations during Armed Conflict

Use of Force against Enemy Combatants and Military Objectives

2.26 Where New Zealand is a party to an armed conflict, the government will designate the identity of the enemy. For the purposes of the Defence Act 1990 the expression ‘enemy’ includes ‘any country, or any armed force, or any authority or government controlling any such force, with which New Zealand, or any force acting in cooperation with any part of the Armed Forces of New Zealand, is at war or is engaged in armed combat operations, and includes:

• any member of any such armed force or any member of that authority or government, as the case may be
• any person materially assisting that country, force, authority, or government in its war effort or armed combat operations
• any ally of that country, force, authority, or government.10

2.27 The use of force by force elements or individual members of the Armed Forces against the enemy in armed combat operations is not predicated on force element, individual self-defence or the need to protect particular designated persons or property. ROE in these circumstances will authorise the use of force on the basis that combatant members of the opposing force and military objectives are legitimate objects of attack per se. ROE may nevertheless constrain the circumstances and places in which they may be attacked and the level of force to be used.

2.28 Subject to Law of Armed Conflict (LOAC), applicable ROE, and any orders or operational plan that the commander has received, an enemy force or combatant may be attacked in accordance with the military judgement of the commander of the New Zealand force.

10 Also included in the definition are all pirates, all armed persons who are engaged in any mutiny, rebellion, or riot against New Zealand or against any Service authority of the Armed Forces of New Zealand or against any ally of New Zealand. Such persons would not, however, be regarded as enemy combatants who are liable to be automatically attacked at any time.
Use of Force against Persons who are not the Enemy

2.29 In the course of operations, including armed combat operations, it may become necessary to use force against persons who are not the enemy. Such persons may include:

- persons undertaking criminal activity
- rioters, mobs, and groups of people rushing New Zealand forces to obtain food or asylum
- foreign forces acting contrary to New Zealand sovereign interests but with whom no state of armed conflict exists
- protestors or other persons seeking to obstruct operations (this may include any civilians who are being used by an opposing force to shield their operations)
- persons demonstrating hostile intent or undertaking hostile acts.

2.30 In any circumstances where force is used against persons who are not the enemy, minimum force only is to be used.

Tactical Employment of Weapon Systems

2.31 Commander Joint Forces New Zealand (COMJFNZ) and force element commanders may issue orders on the tactical level employment of weapons for particular operations. This may include less-lethal weapons. Such orders always remain subordinate to any specific ROE issued for that operation.

Rules of Engagement Cards

2.32 It is usually inappropriate and unnecessary for strategic ROE issued to a command, formation or force element to be given to individual members of the force. In these circumstances, simplified ROE will be issued to individual personnel. In the NZDF these are referred to as ROE cards. They are sometimes also referred to as Orders for Opening Fire. There is no standard practice amongst New Zealand’s allies or international organisations regarding the colour of the ROE cards in this regard.

2.33 When issued by a coalition/combined force or international organisation, such cards are almost always subject to the same clearance procedures as all other ROE.

2.34 ROE cards are developed to provide simplified and unambiguous directions for NZDF personnel involved in operations. They are extracted, in simplified form, from ROE and generally incorporate only those rules or principles applicable to the use of small arms or other personal or crew-served weapons. ROE cards need to be consistent with the ROE from which they are derived and wherever possible the same language is to be used. Specific ROE cards must be issued for each operation to ensure they are consistent with the ROE for that particular operation.

Weapon Control Orders and Weapon States

2.35 Weapon control orders and weapon states, such as those used for crew-served weapons or air defence missile systems, are quite separate from ROE. They are used to control the arming and loading of weapons systems and are the prerogative of tactical level commanders. They are employed to reduce reaction times, minimise the chance of accidental weapon firings, or in circumstances when friendly troops, ships or aircraft may otherwise be at risk. Their use depends on a number of factors, including the presence or otherwise of civilians and neutrals within the Area of Operations (AO), the nature of the weapon system, the threat, the likely speed of engagement, and response time.

Targeting Directives

2.36 CDF may issue a specific targeting directive, which provides additional direction and procedures on targeting-specific issues. Any such targeting directive would complement the ROE. Whether a separate targeting directive is required, or whether the necessary
matters can be addressed in the ROE or other operational orders and instructions, will depend upon the size and complexity of the operation.

2.37 A targeting directive might include the following topics as well as, where required, coalition issues:

- command and control arrangements
- specific operations law issues that affect targeting
- the approval processes for planned and immediate (opportunity) targeting
- the collateral damage estimation methodology or methodologies to be adopted
- weapon effects requirements
- approved, no-strike, and restricted targets
- the various reporting and other roles of different agencies.
CHAPTER 3:
NEW ZEALAND DEFENCE FORCE RULES OF ENGAGEMENT SYSTEM
GLOSSARY

Terms and Definitions

Aircraft (Defence Act 1990)
Any machine that can derive support in the atmosphere from the reactions of the air; and includes any aeroplane, balloon, kite balloon, airship or glider.

Armed Conflict (NZDDP–D 2012; UK JDP 0–01.1)
Armed conflict implies a level of deliberate, concerted and sustained violence between the armed forces of one or more states, or the use of such violence by the armed forces of a state or states against the civilian population of another state, or against armed groups within a state, or such violence among armed groups within a state.

Armed Forces (Defence Act 1990)
Means the Navy, Army and Air Force collectively; and includes any branch, corps, command, formation, force element, or other part of the Armed Forces; but does not include any part of the cadet forces.

Collateral Damage (NZDDP–D 3rd Edition; ADFP 04.1.1)
Means the unintended damage or destruction of civilian objects which is incidental to an attack against a military objective. Also referred to as ‘incidental damage to civilian objects’.

Combatant (ADFP 04.1.1)
Means all organised armed forces, groups, and units (except medical service and religious personnel) in an international armed conflict who are under the command of a party to a conflict and are subject to an internal disciplinary system.

Combined Force (ADFP 04.1.1)
A military force composed of elements of two or more allied nations.

Combined Operation (NZDDP–D 3rd Edition; ADFP 04.1.1)
An operation conducted by forces of two or more allied nations acting together for the accomplishment of a single mission.

Deadly Force (AAP–6)
Force that is intended or likely to cause death or serious injury.

Dormant Rules of Engagement (ADDP–06.1)
Pre-approved ROE issued to a commander for implementation by that commander either on receipt of a particular code word or in the event of a specific set of circumstances as defined by higher headquarters.

End-state (NZDDP–D 3rd Edition; ADFP 04.1.1)
The set of desired conditions that will achieve the strategic objectives.

Enemy (Defence Act 1990)
Enemy includes ‘any country, or any armed force, or any authority or government controlling any such force, with which New Zealand, or any force acting in cooperation with any part of the Armed Forces of New Zealand, is at war or is engaged in armed combat operations, and includes:

• Any member of any such armed force or any member of that authority or government, as the case may be;
• Any person materially assisting that country, force, authority, or government in its war effort or armed combat operations, and
• Any ally of that country, force, authority, or government.’

Exclusion Zone (ADFP 04.1.1)
A zone declared by a military force or nation, the entering of which zone by forces of a potential enemy would be regarded as hostile intent or a hostile act. The zone may be moving or stationary and may include airspace above it.
Hostile Act (ADDP–06.1)

The use of force by any person, group or force against one or more members of a New Zealand force, an allied force, designated persons or property where death, serious injury or serious property damage is likely to result.

Hostile Intent (ADDP–06.1)

The imminent intent to commit a hostile act. The existence of hostile intent may be judged by:

• The threatening individual or force element’s capability and preparedness to inflict imminent or immediate damage; and
• Information, including intelligence, which indicates an intention to conduct an imminent or immediate attack.

Incidental Casualties (DM 112)

The unintended death or injury of civilians which is incidental to an attack on a military objective.

Law of Armed Conflict (modified from ADDP–06.4)

The international law regulating the conduct of states and individuals engaged in armed conflict.

Less-lethal Systems (NZDF 2007)

Less lethal systems are the weapons, devices and munitions that are explicitly designed and primarily employed to incapacitate targeted personnel or materiel immediately while minimising fatalities, permanent injury to personnel and undesired damage to property in the target area or environment. Less-lethal systems are intended to have reversible effects on personnel and materiel.

Military Objectives (Geneva Protocol I 1977)

Legitimate objects of attack and comprise:

• All enemy combatants except those rendered hors de combat by wounds, sickness or shipwreck, or those who have expressed an intention to surrender;
• Establishments, buildings and locations at which the armed forces or their materials are located except for those protected under LOAC, such as hospitals and medical units; and
• Other objects which, by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralisation, in the circumstances ruling at the time, offers a definite military advantage. The presence of civilians in or around a military objective does not change its nature as a military objective, however if an attack may be expected to cause disproportionate incidental civilian casualties and property damage the objective ceases to be a legitimate object of attack.

National Airspace and Waters (ADFP 04.1.1)

These are those areas subject to the territorial sovereignty of individual nations. National waters comprise all those waters landwards of the outer limit of a nation’s territorial sea. All airspace above national waters, including internal waters, territorial sea and archipelagic waters and territory is national airspace.

National Interests (ADFP 04.1.1)

The general and continuing ends for which a state acts.

National Policy (ADFP 04.1.1)

A broad course of action or statements of guidance adopted by the government at the national level in pursuit of national objectives.

National Security (ADFP 04.1.1)

The ability to preserve the nation’s physical integrity and territory; to maintain the economic relations with the rest of the world on reasonable terms; to protect its nature, institutions, and governance from disruption from outside; and to control its borders.

National Self-defence (adapted from CFJP–5.1)

The defence of New Zealand, New Zealand citizens, territory and property from hostile acts or hostile intent.
Rules of Engagement (modified from ADFP 04.1.1)

Orders issued by a competent military authority which specify the circumstances and limitations under which forces will initiate and/or continue combat engagement with other forces encountered.

Security (NZDDP–D 3rd Edition; ADFP 04.1.1)

Measures taken by a command to protect itself from espionage, sabotage, subversion, observation, annoyance or surprise.

A condition that results from the establishment and maintenance of protective measures to ensure a state of inviolability from hostile acts or influences.

With respect to classified matter, it is the condition which deters unauthorised persons from attempting to gain access to official matter affecting national security.

Ship (Defence Act 1990, Section 2)

Means every description of vessel, boat, barge, or watercraft, however propelled; and includes a hovercraft as defined in section 2 of the Hovercraft Act 1972.

Surveillance (NZDDP–D 3rd Edition; ADFP 04.1.1)

The systematic observation of aerospace, surface or subsurface areas, places, persons or things, by visual, aural, electronic, photographic or other means.

Terrorism (NZDDP–D 3rd Edition; AAP 6)

The unlawful use or threatened use of force or violence against individuals or property in an attempt to coerce or intimidate governments or societies to achieve political, religious or ideological objectives.
<table>
<thead>
<tr>
<th>Acronym</th>
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<tbody>
<tr>
<td>ADDP</td>
<td>Australian Defence Doctrine Publication</td>
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<tr>
<td>AO</td>
<td>Area of Operations</td>
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<td>CDF</td>
<td>Chief of Defence Force</td>
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<tr>
<td>COMJFNZ</td>
<td>Commander Joint Forces New Zealand</td>
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<tr>
<td>DM</td>
<td>Defence Manual</td>
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<tr>
<td>HQ JFNZ</td>
<td>Headquarters Joint Forces New Zealand</td>
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<tr>
<td>HQNZDF</td>
<td>Headquarters New Zealand Defence Force</td>
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<tr>
<td>JDP</td>
<td>Joint Doctrine Publication</td>
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<tr>
<td>J3</td>
<td>Joint Operations</td>
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<td>J5</td>
<td>Joint Plans</td>
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<td>J9</td>
<td>Joint Finance</td>
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<tr>
<td>LOAC</td>
<td>Law of Armed Conflict</td>
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<tr>
<td>NATO</td>
<td>North Atlantic Treaty Organization</td>
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<tr>
<td>NZDDP</td>
<td>New Zealand Defence Doctrine Publication</td>
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<td>NZDF</td>
<td>New Zealand Defence Force</td>
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<tr>
<td>ROE</td>
<td>Rules of Engagement</td>
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<td>ROEAUTH</td>
<td>Rules of Engagement Authorisation</td>
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<tr>
<td>ROEREQ</td>
<td>Rules of Engagement Request</td>
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<tr>
<td>SIC</td>
<td>Subject Indicator Code</td>
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<tr>
<td>SNO</td>
<td>Senior National Officer</td>
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<tr>
<td>SSDROE</td>
<td>Standard Self-defence Rules of Engagement</td>
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<td>UN</td>
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