

MINISTER OF DEFENCE

Regulations to Support the Armed Forces Discipline Legislation Amendment Bill

October 2026

This paper seeks agreement to make minor and technical amendments to regulations to support the Armed Forces Discipline Legislation Amendment Bill.

The pack comprises the following documents:

- June 2026 Cabinet Foreign Policy and National Security Committee Minute of Decision: *Regulations to Support the Armed Forces Discipline Legislation Amendment Bill* [FPS-26-MIN-0014]; and
- The associated Cabinet Paper: *Regulations to Support the Armed Forces Discipline Legislation Amendment Bill*.

This pack has been released on the New Zealand Defence Force website, available at: www.nzdf.mil.nz/nzdf/search-our-libraries/documents/?document-type=Official+information&sort=relevance.

Information has been withheld in accordance with:

- Section 9(2)(f)(iv) of the OIA: *to maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials*; and
- Section 9(2)(g)(i) of the OIA: *to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employees of any public service agency or organisation in the course of their duty*.



Cabinet Foreign Policy and National Security Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Regulations to Support the Armed Forces Discipline Legislation Amendment Bill

Portfolio **Defence**

On 30 June 2026, the Cabinet Foreign Policy and National Security Committee:

- 1 **noted** that the Armed Forces Discipline Legislation Amendment Bill (the Bill) holds a category 5 priority on the 2026 Legislation Programme (to proceed to select committee before the 2026 General Election);
- 2 **noted** that the objective of the Bill is to modernise the military justice system and make it easier to navigate and administer, to better enable command to focus on operational outputs;
- 3 **noted** that a number of minor and technical amendments to secondary legislation are required to give effect to the Bill;
- 4 **noted** that additional minor and technical amendments are required to address practical and procedural issues arising from secondary legislation as currently drafted;
- 5 **agreed** to make the minor or technical changes to secondary legislation that are consequential on amendments in the Bill as set out in Appendix 1, attached to the submission under FPS-26-SUB-0014;
- 6 **agreed** to make the other minor or technical changes to secondary legislation as set out in Appendix 2, attached to the submission under FPS-26-SUB-0014;
- 7 **invited** the Minister of Defence to issue drafting instructions to the Parliamentary Counsel Office to give effect to the decisions under FPS-26-MIN-0014;
- 8 **authorised** the Minister of Defence to make final decisions on minor and technical policy changes consistent with the policy intent in the paper under FPS-26-SUB-0014;
- 9 **noted** that the changes outlined in the paper under FPS-26-SUB-0014 will be communicated to New Zealand Defence Force Armed Forces (NZDF) personnel by the Chief of Defence Force as part of a dedicated communications and training package that will be rolled out across the NZDF before the Bill comes into force.

Jenny Vickers
Committee Secretary

Hard-copy distribution: (see over)

Present:

Rt Hon Christopher Luxon
Hon David Seymour
Rt Hon Winston Peters (Chair)
Hon Nicola Willis
Hon Mark Mitchell
Hon Todd McClay
Hon Chris Penk
Hon Casey Costello

Officials present from:

Office of the Prime Minister
Office of the Chair of FPS
Office of the Minister of Defence
Officials Committee for FPS

Proactively Released by the Minister of Defence

Regulations to Support the Armed Forces Discipline Legislation Amendment Bill

Proposal

- 1 This paper seeks policy decisions for minor or technical amendments to regulations to support the Armed Forces Discipline Legislation Amendment Bill.

Relation to government priorities

- 2 Strong military discipline is essential to ensure the operational effectiveness of the New Zealand Defence Force. The proposals will contribute to making the military justice system easier to navigate and administer.

Executive Summary

- 3 The Armed Forces Discipline Legislation Amendment Bill (the Bill) modernises the military justice system to make it easier to navigate and administer, to better enable command to focus on operational outputs.
- 4 To give effect to the Bill, certain minor and technical amendments to secondary legislation are required. In addition, other minor and technical amendments are proposed to address practical and procedural issues arising from the current regulations.
- 5 These proposals will only impact personnel in the military justice system. They will assist to make the military justice system fairer, more efficient, and more transparent for all participants.

Background

- 6 The military justice system is a separate, parallel system designed to maintain discipline, efficiency, and morale within the Defence Force.
- 7 The Bill modernises the military justice system to make it easier to navigate and administer, to better enable command to focus on operational outputs. The Bill was introduced to the House on 16 December 2025 and is currently being considered by the Foreign Affairs, Defence and Trade Select Committee. s.9(2)(f)(iv), s.9(2)(g)(i)

- 8 The following key changes in the Bill are relevant to the current proposals:

- 8.1 Transferring responsibility to investigate and prosecute serious, complex or sensitive offending, including sexual offending, out of the chain of command to the DMP.
 - 8.2 Amending rights of appeal to the Summary Appeal Court and empowering the Court to increase an offender's punishment if the punishment imposed at summary trial was manifestly inadequate.
 - 8.3 Extending the right to elect trial by Court Martial to all but a subset of low-level disciplinary offences.
 - 8.4 Aligning bail provisions more closely with the Bail Act 2000.
 - 8.5 Updating powers to address contempt of court and disruptive behaviour for closer alignment with the Contempt of Court Act 2019.
 - 8.6 Applying the special procedures in Part 2 of the Security Information in Proceedings Act 2022 (SIPA) to the use of national security information in proceedings before the Court Martial and Court Martial Appeal Court.
- 9 The Bill also makes a number of minor or technical changes which largely clarify and update existing provisions. Among other minor changes, the Bill clarifies the legislative status of orders issued by the Chief of Defence Force under the Armed Forces Discipline Act 1971 and the Defence Act 1990 by introducing a new category of orders called "Defence Rules" which will have the status of secondary legislation subject to presentation and disallowance.
- 10 The Bill proposes a commencement date of one year after Royal Assent, to allow for amendments to secondary legislation and to prepare Defence Force Orders to give effect to the changes introduced by the Bill.

Proposed amendments consequential on the Armed Forces Discipline Legislation Amendment Bill

- 11 A number of minor or technical changes to secondary legislation are required as a consequence of the amendments made by the Bill. The detail of these changes is set out in **Appendix 1**.
- 12 The proposed changes that are consequential on the Bill include:
- 12.1 Amending the Armed Forces Discipline Rules of Procedure 2008 (AFDRP) to enable the DMP to prepare charges, and to set out the steps that must be taken to refer an allegation of serious, complex, or sensitive offending to the DMP.
 - 12.2 Amending the AFDRP to provide for new appeals to the Summary Appeal Court.
 - 12.3 Amending the AFDRP to refer to the new right to elect trial by Court Martial for all but a subset of minor disciplinary offences.

- 12.4 Amending Bail Act 2000 references and updating references to new bail provisions in the Court Martial Act 2007 in the AFDRP.
- 12.5 Amending the AFDRP and the Court Martial Appeal Court Rules 2008 (CMACR) to give effect to updated powers to address contempt of court and disruptive behaviour.
- 12.6 Amending the AFDRP and the CMACR to apply the special procedures in Part 2 of SIPA to the use of national security information in proceedings before the Court Martial and Court Martial Appeal Court.
- 12.7 Amending the Defence Regulations 1990 and the AFDRP to refer to Defence Rules.

Additional proposed amendments of a minor or technical nature

- 13 In addition, a number of other minor or technical changes to the Regulations are required to address practical and procedural issues arising from the current regulations. These are set out in **Appendix 2**. They include:
 - 13.1 Amending the AFDRP to allow for representative charges to be laid.
 - 13.2 Amending the AFDRP to streamline the procedure for dealing with pleas on alternative charges to avoid unnecessary trials in the Court Martial.
 - 13.3 Amending the AFDRP to limit when the record of proceedings of a court of inquiry must be disclosed to a person facing a charge under AFDA where the subject-matter of that charge has been investigated by the court of inquiry.

Cost-of-living Implications

- 14 The proposals do not have significant impacts on cost-of-living implications.

Financial Implications

- 15 The financial implications of the proposals can be managed within the NZDF's existing baselines.

Legislative Implications

- 16 The proposals in this paper will be implemented by amendments to the Armed Forces Discipline Rules of Procedure 2008, the Armed Forces Discipline Regulations 2008, the Court Martial Appeal Court Rules 2008, the Court Martial Appeals (Fees and Allowances) Regulations 2008, and the Defence Regulations 1990.

Impact Analysis

Regulatory Impact Statement

- 17 The Ministry for Regulation has determined that these proposals are exempt from the requirement to provide a Regulatory Impact Statement on the grounds that the economic, social or environmental impacts are limited and easy to assess in light of previous Cabinet decisions relating to the framework in primary legislation and supporting analysis completed. The amendments will not impose significant compliance costs; impair private property rights, market competition, or the incentives on businesses to innovate and invest; or override fundamental common law principles.

Climate Implications of Policy Assessment

- 18 These proposals do not have significant impacts on greenhouse gas emissions and a Climate Implications of Policy Assessment is not required.

Population Implications

- 19 There are no population implications associated with the proposals in this paper.

Human Rights

- 20 The proposed amendments are consistent with the Bill of Rights Act 1990 and the Human Rights Act 1993.

Use of External Resources

- 21 Three barristers have assisted with technical aspects of the regulations for the past 18 months. This is because the proposed regulations, and the Bill which they support, are large and highly complex.

Consultation

- 22 The Ministry of Defence, the Ministry of Justice, the Ministry for Regulation and the Parliamentary Counsel Office have been consulted on this paper.

Communications

- 23 The proposals outlined in this paper will be communicated to NZDF Armed Forces personnel by the Chief of Defence Force as part of a dedicated communications and training package that will be rolled out across the NZDF before the Bill comes into force.

Proactive Release

- 24 I intend to proactively release this paper within 30 business days of decisions being confirmed by Cabinet, subject to redactions as appropriate under the Official Information Act 1982.

Recommendations

The Minister of Defence recommends that Cabinet Foreign Policy and National Security Committee:

- 1 s.9(2)(f)(iv), s.9(2)(g)(i)
- 2 **note** that the objective of the Bill is to modernise the military justice system and make it easier to navigate and administer, to better enable command to focus on operational outputs;
- 3 **note** that a number of minor and technical amendments to secondary legislation are required to give effect to the Bill;
- 4 **note** that additional minor and technical amendments are required to address practical and procedural issues arising from secondary legislation as currently drafted;
- 5 **agree** to making the minor or technical changes to secondary legislation that are consequential on amendments in the Bill as set out in **Appendix 1**;
- 6 **agree** to making other minor or technical changes to secondary legislation as set out in **Appendix 2**;
- 7 **invite** the Minister of Defence to issue drafting instructions to Parliamentary Counsel Office in relation to the proposals in this paper;
- 8 **authorise** the Minister of Defence to make final decisions on minor and technical policy changes consistent with the policy intent outlined in this paper; and
- 9 **note** that the changes outlined in this paper will be communicated to NZDF Armed Forces personnel by the Chief of Defence Force as part of a dedicated communications and training package that will be rolled out across the NZDF before the Bill comes into force.

Authorised for lodgement

Hon Chris Penk

Minister of Defence

**AMENDMENTS CONSEQUENTIAL ON AMENDMENTS IN THE ARMED FORCES
DISCIPLINE LEGISLATION AMENDMENT BILL**

1 Director of Military Prosecutions (DMP):

- 1.1 Amend rule 7 of the Armed Forces Discipline Rules of Procedure 2008 (AFDRP) to refer to the DMP.
- 1.2 Replace the reference in rule 7 of the AFDRP to AFDA s 102 with references to new ss 102B(4)(b) and 102D.
- 1.3 Insert new rule 20A to the AFDRP to record the steps a Commanding Officer must take if he or she refers an allegation to the DMP to be dealt with under new s 102B(4)(c).
- 1.4 Remove “by a disciplinary officer” from AFDRP rule 129(3).

2 Appeal to the Summary Appeal Court:

- 2.1 Amend rules 24-26, 36, 38, and 46 of the AFDRP to provide for appeals to the Summary Appeal Court in accordance with new ss 124A-124C of AFDA.
- 2.2 Insert new form in the schedule to AFDRP to make provision for appeals under new ss 124A-124C of AFDA.
- 2.3 Insert new rule 30A in the AFDRP to provide for filing a reply memorandum and to specify the period for filing in accordance with new s 126A of AFDA.
- 2.4 Insert new form in the schedule to AFDRP for reply memorandum as required by new s 126A(3) of AFDA.
- 2.5 Rename rule 31 to include reference to notice of application for leave to appeal and replace the reference to AFDA s 126(1) with reference to s 126(1)(a).
- 2.6 Insert new rule 32A of the AFDRP to mirror rule 18 of the Court Martial Appeal Court Rules 2008 (CMACR) (documents required for other appeals).
- 2.7 Update references to the DMP in the AFDRP to reflect the DMP’s role as appellant:
 - 2.7.1 Replace references to the DMP in rules 35-39 with references to the respondent.
 - 2.7.2 Amend rule 35(3)(c) to refer to the appellant or the respondent, as the case may be.

- 2.7.3 Amend rule 43(2) and (3) to clarify that the requirements in that rule only apply when the appellant is not the DMP.

3 National security information:

- 3.1 Amend rule 10 of the AFDRP to provide that evidence does not have to be disclosed to the accused if it is national security information as defined in the Security Information in Proceedings Act 2022 (SIPA).
- 3.2 Insert new rule in the AFDRP to provide for SIPA special procedures in the event national security information is not disclosed under rule 10 of the AFDRP.
- 3.3 Amend rule 54 of the AFDRP and rule 40 of the CMACR to restrict third party access to any national security information (as defined by SIPA) held by the Court.
- 3.4 Insert new rule in the CMACR to provide for SIPA special procedures on appeal.

4 Right to elect trial by Court Martial: amend rules 15 and 16 of the AFDRP to include a reference to the right of election under new s 116A of AFDA.

5 Bail:

- 5.1 Amend forms 8 and 10 of the AFDRP to refer to new ss 49A-49C of the Court Martial Act 2007.
- 5.2 Amend form 9 of the AFDRP to remove reference to s 14(3) of the Bail Act 2000.
- 5.3 Amend form 15 of the AFDRP to include a reference to new s 150DA of AFDA.

6 Contempt of court, disruptive behaviour, and witness summons:

- 6.1 Amend form 13 to the AFDRP or insert new form 13A to incorporate new provision of summons / order to attend to a person not subject to AFDA.
- 6.2 Amend rule 6 of the CMACR to:
- 6.2.1 provide for a member of the media to appeal a ruling under new s 7(2A)(a) of the Court Martial Appeals Act 1953; and
- 6.2.2 provide for an appeal under new s 9EC(2) and (3) of the Court Martial Appeals Act 1953.
- 6.3 Insert new forms to the CMACR:
- 6.3.1 to facilitate an appeal by a member of the media under s 7(2A)(a) of the Court Martial Appeals Act 1953; and

- 6.3.2 to facilitate an appeal under new s 9EC of the Court Martial Appeals Act 1953.
- 6.4 Amend rule 25 of the CMACR to reflect that an appeal may be brought by a member of the media and add new subrule to provide that where an appeal is made under new s 7(2A)(a) of the Court Martial Appeals Act 1953, notice of the time and place fixed for the hearing must be given by the Registrar to the appellant and the other parties to the appeal proceedings.
- 6.5 Amend rule 43 of the CMACR to refer to new s 9EC of the Court Martial Appeals Act 1953.
- 7 **Role of defender:**
- 7.1 Remove references to “defender” from rules 3, 64 and 65 of the AFDRP for consistency with the amendment of s 68 of the Court Martial Act 2007.
- 7.2 Repeal rule 3(2) of the AFDRP.
- 8 **Other offences may be taken into account in passing sentence:** repeal rule 117 of the AFDRP for consistency with the repeal of s 64 of the Court Martial Act 2007.
- 9 **Legislative status of orders issued by CDF under the Armed Forces Discipline Act and Defence Act:**
- 9.1 Define “Defence Rules” in reg 2 of the Defence Regulations 1990.
- 9.2 Amend reg 13(1) and (2) of the Defence Regulations to add “or Defence Rules” after “Orders” in each sub-provision.
- 9.3 Amend reg 22(1) of the Defence Regulations to add “or Defence Rules” after “Orders”.
- 9.4 Amend the Agreement with respect to invention in Schedule 2 of the Defence Regulations to state “I (We) will act in accordance with the Defence Regulations 1990, Defence Rules, and Defence Force Orders”.
- 9.5 Amend rules 148(2) and 150(2) of the AFDRP to add “in Defence Rules” after “prescribed by the Chief of Defence Force”.

OTHER MINOR AND TECHNICAL AMENDMENTS

- 1 Amend rule 10(1)(b) of the AFDRP to provide that evidence does not need to be disclosed to the accused if it has already been provided to them under the Official Information Act 1982 or the Privacy Act 2020.
- 2 Replace outdated references to the Crown Solicitors Regulations 1994 in rule 16 of the AFDRP and rule 5 of the Court Martial Appeals (Fees and Allowances) Regulations 2008.
- 3 Amend rule 110 of the AFDRP to clarify that:
 - 3.1 A Judge must give advice under s 30(2)(h) of the Court Martial Act 2007 in open court.
 - 3.2 The advice must be recorded verbatim in the record of proceedings.
 - 3.3 A copy of the advice must be provided to the military members in writing before they retire to consider their finding under rule 110(4).
- 4 Amend rule 60 of the AFDRP to authorise representative charges to be laid.
- 5 Amend rules 64, 66, 89 and 90 and form 6 of the AFDRP to replace references to “remand” with “commit”.
- 6 Remove provision for multiple charge sheets:
 - 6.1 Amend reference to “all charge sheets” in rule 66(1)(b) of the AFDRP.
 - 6.2 Repeal rules 76(3), 80, and 120 of the AFDRP.
 - 6.3 Remove reference to “in the same charge sheet” in rules 88(1)(a) and 121(1)(b) of the AFDRP.
- 7 Repeal rule 70 of the AFDRP.
- 8 Administration of oaths:
 - 8.1 Amend rules 72 and 73 of the AFDRP to:
 - 8.1.1 provide that the Judge shall require the clerk of the Court to administer the oath.
 - 8.1.2 allow for oaths to be taken by audiovisual link (see Oaths and Declarations Act 1957, s 2A).
 - 8.2 Amend rule 157 of the AFDRP to align with s 3 of the Oaths and Declarations Act 1957.
- 9 Amend rule 87 of the AFDRP (by restoring rule 90 of the Armed Forces Discipline Rules of Procedure 1983) to streamline the procedure for dealing

with pleas on alternative charges, to avoid unnecessary trials in the Court Martial.

- 10 Amend rules 111 and 112 of the AFDRP to align the rules surrounding the preparation and use of summary of facts more closely with the civilian criminal justice system by:
 - 10.1 Requiring the DMP to provide the accused with a summary of facts prior to the accused's arraignment under rule 76 of the AFDRP.
 - 10.2 Align rules 111(1) and (2) with rules 5A.1(1)-(3) of the Criminal Procedure Rules 2012.
 - 10.3 Amend rule 111(3) of the AFDRP to refer to rule 112.
 - 10.4 Amend rule 112(2) of the AFDRP to refer to the facts "asserted by one party and disputed by another" (see Sentencing Act 2002, s 24(2)).
- 11 Delete anachronistic reference to "special" leave in rule 116(3) of the AFDRP.
- 12 Remove "and recommendation of mercy" from the title of rule 118 of the AFDRP and repeal rule 118(4) of the AFDRP to remove anachronistic reference to recommendations of mercy.
- 13 Amend rule 132 of the AFDRP:
 - 13.1 To require that the record of proceedings remains in the custody of the Judge at all times.
 - 13.2 To provide that when military members are sitting in closed court to deliberate or reconsider their findings, they:
 - 13.2.1 Must be given a copy of the transcript of evidence (if available).
 - 13.2.2 May, with the leave of the Judge, have any tape or record of proceedings played back or read in open court.
 - 13.2.3 May, with the leave of the Judge, inspect any exhibits.
- 14 Amend rules 136-137 of the AFDRP and rules 46-47 of the CMACR to allow for filing and service by email.
- 15 Amend rule 144 of the AFDRP to provide that:
 - 15.1 The rule only applies if the record of proceedings may be given in evidence under s 200S(3) of AFDA.
 - 15.2 Only those parts of the record of proceeding that fall within rule 9(1) of the AFDRP may be disclosed.

- 16 Amend the definition of “Orders” in reg 2 of the Defence Regulations to correct the cross-referenced provisions by replacing s 28 with s 27 and replacing s 100(6) with s 102(6).

Proactively Released by the Minister of Defence