

NEW ZEALAND

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RULES/GENERAL LAWS	
General	<p>www.legislation.govt.nz</p> <p>Key pieces of applicable legislation include:</p> <ol style="list-style-type: none"> 1. Armed Forces Discipline Act 1971 2. Crimes Act 1961 3. International Crimes and Criminal Court Act 2000 4. Geneva Conventions Act 1958 5. Court Martial Act 2007 6. Court Martial Appeals Act 1953 <p>Pursuant to Section 74 of the Armed Forces Discipline Act 1971, all the laws of New Zealand have extra-territorial effect for members of the Armed Forces.</p>
	<p>The Armed Forces Discipline Act 1971 and all other aspects of New Zealand law will apply to military personnel whether on leave or not (See sections 4 and 6 of the Armed Forces Discipline Act 1971).</p>
	<p>The United Nations rules on Sexual Exploitation and Abuse are incorporated either through the issuance of written orders or lawful commands and would be brought under the umbrella of sections 38 or 39 of the Armed Forces Discipline Act 1971 which creates an offence of disobeying a lawful command/written orders respectively.</p>
SEA: military offence?	<p>The Armed Forces Discipline Act 1971 is applicable to all service personnel and incorporates all civilian law offences such as those in the Crimes Act 1961. See Section 74 of the Armed Forces Discipline Act 1971. Offences against the criminal law of New Zealand would incorporate offences considered sexual exploitation and sexual abuse (See Part 7 of the Crimes Act 1961).</p>
Powers of the Commanding Officer (CO)	<p>A Commanding Officer can promulgate rules, see the obligations for members of the Armed Forces to comply with lawful commands and written orders in accordance with sections 38 and 39 of the Armed Forces Discipline Act 1971.</p>
	<p>A Commanding Officer has administrative, disciplinary, and investigative powers. In terms of Section 102 Armed Forces Discipline Act 1971 it is a mandatory requirement for Commanding Officers to investigate well founded allegations. See sections 95-98 for search powers which are also invested in the Commanding Officer. See Part 11 of the Armed Forces Discipline Act 1971 for the authority of commanders to assemble an administrative court of inquiry.</p>
INVESTIGATION	
Who can investigate?	<p>Investigators may be made up of Military Police, or another member of the New Zealand Defence Force. The statutory power to investigate allegations is sourced from the commanding officer, See Section 102 of the Armed Forces Discipline Act 1971. New Zealand does not have an inquisitorial system so Judges do not investigate. New Zealand civilian Police may also have jurisdiction to investigate matters within New Zealand or where they may have extra-territorial jurisdiction in accordance with the Crimes Act 1961.</p>
National Investigation Officer (NIOs)	<p>New Zealand does not have formal National Investigation Officers appointment, however, the military police would be called upon to investigate Sexual Exploitation and Abuse matters if they arise in respect of New Zealand Force personnel.</p>
PROSECUTION	
Referral	<p>Discipline is a function of command, therefore any investigation would be referred through the chain of command, likely to the Commanding Officer in the first instance, See Section 102 of the Armed Forces Discipline Act 1971.</p>
Who can charge?	<p>Commanding Officers/Disciplinary Officers have the appropriate power to investigate allegations of offences irrespective of their location (See Section 102 of the Armed Forces Discipline Act 1971). Matters may also be referred to the Court Martial of New Zealand, and it is the Director of Military Prosecutions who determined whether an accused is to be committed for trial in the Court Martial and on what charges (See Section 101F of the Armed Forces Discipline Act 1971). In some instances, where there may be extra-territorial jurisdiction or where the alleged offence occurred in New Zealand, the civilian Police may also have jurisdiction to prefer charges.</p>
JUSTICE	
Military justice	<p>New Zealand has a military justice system which is underpinned by the Armed Forces Discipline Act 1971. The Armed Forces Discipline Act 1971 is applicable to all service personnel and transportable around the world on deployment. The Court Martial of New Zealand is deployable as is the summary trial system.</p>
Deployable Court Martial?	<p>The Armed Forces Discipline Act 1971 is applicable to all service personnel and transportable around the world on deployment. The Court Martial and Summary trial systems of New Zealand are deployable.</p>
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