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NEW ZEALAND DEFENCE FORCE
TE OPE KAATUA O AOTEAROA



RULES OF ENGAGEMENT

NZDDP-06.1



NEW ZEALAND DEFENCE DOCTRINE PUBLICATION

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Rules of Engagement (NZDDP-06.1)



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Preface

1. NZDDP-06.1 *Rules of Engagement* is an application-level doctrinal publication. It sits in the executive 0-series under the philosophical-level NZDDP-00.1 *Command and Control*.
2. Rules of Engagement are directives issued by the Chief of Defence Force and approved by the New Zealand Government. They direct New Zealand Defence Force 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, Rules of Engagement shape and control the application of military force to achieve national objectives.
3. The aim of this document is to describe the principles and procedures that form the basis for the formulation of Rules of Engagement for any operation conducted by the New Zealand Defence Force.
4. This publication will provide the reader with a comprehensive understanding of the policies, responsibilities, operational aspects, legal issues and development processes surrounding Rules of Engagement.
5. As an application-level publication, NZDDP-06.1 is of use to commanders, planning staff, legal staff officers and training organisations that are responsible for the formulation, implementation and amendment of Rules of Engagement. NZDDP-06.1 will also be of relevance to all New Zealand Defence Force personnel who are required to order or use force during operations.

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Acknowledgements

The New Zealand Defence Force acknowledges its intellectual debt in preparing this publication to a number of overseas doctrinal publications, including:

- a. AAP-6 – *NATO Glossary of Terms and Definitions*;
- b. ADDP-06.1 – *Rules of Engagement*;
- c. ADFP-04.1.1 (101) – *Australian Defence Force Publication – Glossary*;
- d. FDPP-08 – *Part 1 – Volume 9 Rules of Engagement (Draft)*;
- e. *NATO Legal Deskbook*;
- f. UK JDP 0-01.1 – *United Kingdom Glossary of Joint and Multi-national Terms and Definitions (Ed 7)*; and
- g. B-GJ-005-501/FP-000 – *Use of Force in Canadian Forces Operations*.

Other documents that have been relied upon in preparing this publication include:

- a. Armed Forces Discipline Act 1971;
- b. Charter of the United Nations, signed 1945, San Francisco;
- c. Crimes Act 1961;
- d. Defence Act 1990; and
- e. NZDDP-D *Foundations of New Zealand Military Doctrine (2008)*.

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CHAPTER ONE

Policies and Responsibilities

Executive Summary

- Rules of Engagement are formulated to reflect political, operational and legal requirements. Rules of Engagement are issued at the highest level of military command and are approved at the highest level of government. Changes to the Rules of Engagement obviously must also be made and approved at that highest level. A commander of a New Zealand force element at the operational or tactical level will not have authority to change the Rules of Engagement or to issue orders that conflict with these rules.
- When the New Zealand Defence Force contributes to a coalition/combined force it is usually the Rules of Engagement of the lead nation in the force that are proposed for use. International organisations such as the United Nations may also issue Rules of Engagement. 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 Rules of Engagement. If New Zealand Defence Force Rules of Engagement conflict with those issued by a coalition/combined force or by an international organisation, New Zealand Defence Force Rules of Engagement are to prevail.
- Commanders have an obligation to seek clarification if the authorised Rules of Engagement are considered to be unclear, contrary to the national policy or inadequate to cover the military situation.

National Policy

1. The New Zealand Government is responsible for the defence and security of New Zealand. Amongst 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; and
- 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 United Nations.¹

2. 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 Force² on the national objectives to be achieved by that action and the national strategic end-state. The use of force to achieve the objectives must be in accordance with New Zealand's domestic law and international law. It also needs to be controlled and confined to that which is necessary for the achievement of the mission.

3. The principal 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.

4. The relative 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

5. ROE are directives 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.

¹ Section 5 of the Defence Act 1990.

² The Minister of Defence has the power of control of the NZDF, which is exercised through the Chief of Defence Force: Section 7 of the Defence Act 1990.

Status of New Zealand Defence Force Rules of Engagement

6. NZDF ROE are orders of the Chief of Defence Force and are approved by the New Zealand Government. ROE are orders for the purpose of the Armed Forces Discipline Act 1971.

7. As ROE are issued at the highest level of military command and are approved at the highest level of government, changes to the ROE obviously must also be made and approved at that 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 that conflict with ROE.



Figure 1.1: Rules of Engagement are Orders Approved by the Government

Interpretation of Rules of Engagement

8. 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.

Rules of Engagement

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Factors Affecting the Formulation of Rules of Engagement

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

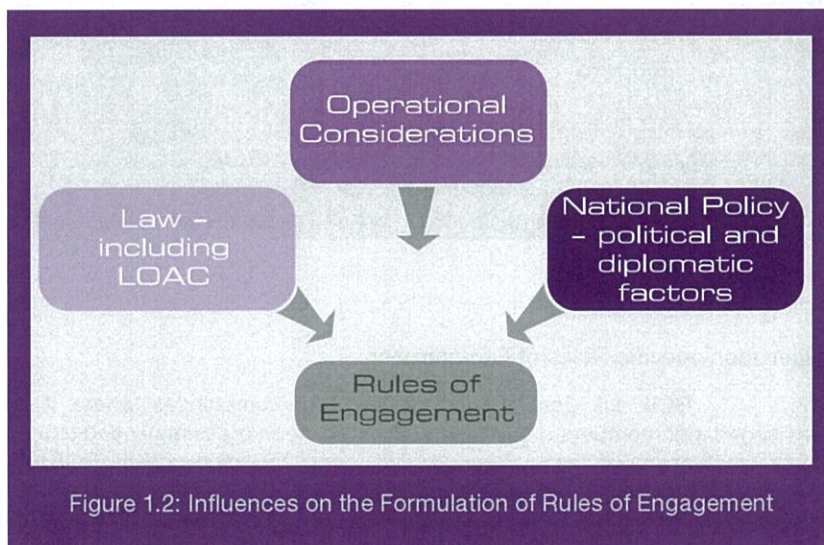
- Operations during peacetime;
- The transition from peace through tension to conflict;
- Combat operations; and
- The return to peacetime conditions.

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; or
- Address safety-related restrictions.

11. 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; and
- Operational considerations.



12. 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 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 precipitate action. However, in times of armed conflict, operational and national objectives are more closely aligned and Government may decide to authorise the use of lawful force up to the full range of military capability.



Figure 1.3: Rules of Engagement May Authorise the Full Range of Military Force

Operation-specific Rules of Engagement

13. 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 amounting 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.

Amplification of New Zealand Defence Force Rules of Engagement

14. The Chief of Defence Force 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

15. Any use of force must 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 that is in contravention of LOAC or New Zealand law. ROE may restrict the use of force to a level that is lower than that which it would otherwise be lawful to use under LOAC or New Zealand law.

16. It is imperative that the planning, drafting and evaluation of ROE includes consideration of LOAC and New Zealand law. ROE may also be used to reiterate 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.

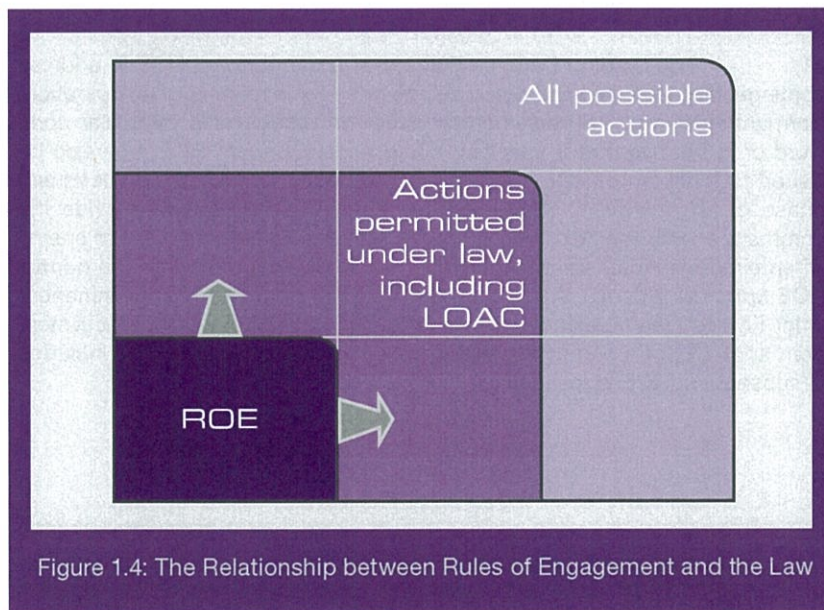


Figure 1.4: The Relationship between Rules of Engagement and the Law

Relationship between Rules of Engagement and Other Orders

17. In the case of any inconsistency between ROE and anything in DM 69 (2 Ed) *Manual of Armed Forces Law* or DM 112 *Manual of Law of Armed Conflict*, those manuals are to prevail.

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

19. Because they have been issued by the Chief of Defence Force, ROE prevail over any order issued by an officer subordinate in the command chain to the Chief of Defence Force. 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.

20. Where an order that is not manifestly unlawful appears to conflict with ROE, the member of the Armed Forces is to follow the procedure set out in DM 69 (2 Ed) Volume 1, 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 later 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

21. The Chief of Defence Force 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, the Commander Joint Forces New Zealand 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.

Applicability of Rules of Engagement

Joint and Single-Service Operations and Training

22. The formulation and promulgation procedures referred to in this publication are applicable in all joint and single-Service operations, exercises and training in which ROE are required.

Coalition/Combined and International Operations and Training

23. ROE for use in coalition/combined operations, exercises and training must 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.

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; or
- Rejected in favour of New Zealand ROE.

25. When NZDF ROE differ from those of the coalition/combined lead nation or the international force, the commander of that force is to be advised of the difference at the earliest opportunity.

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.

27. ROE are a matter of National Command or Full Command. Therefore authority to change ROE cannot be delegated by the Chief of Defence Force 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 Chief of Defence Force. The New Zealand senior national officer must therefore notify the Chief of Defence Force through the Commander Joint Forces New Zealand 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

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, maritime 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 that is established for other purposes.³ 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.

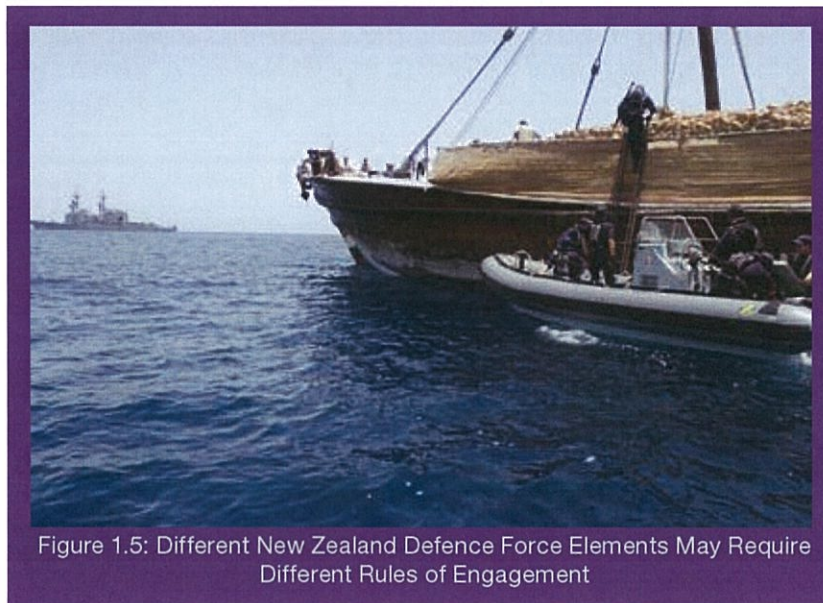


Figure 1.5: Different New Zealand Defence Force Elements May Require Different Rules of Engagement

³ For example, allowances and medallic recognition.

Contravention of Rules of Engagement

29. 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 indiscipline. 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 (2 Ed) 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; and
- Public information aspects need to be considered.

CHAPTER TWO

Use of Force

Executive Summary

- Rules of Engagement may be issued to regulate the use of force that is necessitated by: a United Nations mandate; an action taken by New Zealand in national or collective self-defence; actions taken by force elements in self-defence; and self-defence by individual members of the Armed Forces.
- Self-defence is a concept that will be specifically dealt with in New Zealand Defence Force Rules of Engagement. Rules of Engagement from non-New Zealand Defence Force sources may not reflect the New Zealand position on this subject.
- Rules of Engagement may provide for the protection of certain designated persons and property that the force has a duty to protect.
- Rules of Engagement cards may be issued to individual members of the Armed Forces.

Use of Force Authorised by the United Nations

1. 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.⁴ Resolutions passed by the Security Council bind all member states including New Zealand.⁵ 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 ROE procedures set out in this publication apply to all such uses of force.

2. 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.

⁴ 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.

⁵ Article 25 of the UN Charter.

3. 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

4. New Zealand, like all other states, has an inherent right of self-defence recognised in Article 51 of the UN Charter.⁶ 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.

5. The term 'self-defence' is also used in New Zealand criminal law⁷ to describe a justification available in respect of the use of force by an individual defending himself or herself, or another person.

National Self-defence

6. 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 (the Cook Islands, Tokelau and Niue).

7. 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 NZDF elements.

⁶ 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.

⁷ 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: Section 2 of the Crimes Act 1961.

Anticipatory Self-defence

8. 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.

9. 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

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.

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

12. Any collective self-defence operation involving New Zealand will most likely 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 Government of New Zealand and promulgated in the ROE for the operation.

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.



Figure 2.1: Use of Force May Be Authorised by the United Nations Security Council

Force Element Self-defence

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.⁸

15. If no ROE exist or apply and an 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 imminent attack) the commander must take such action to defend their force element that is:

- Necessary and proportionate to defeat any hostile act; or
- Necessary and proportionate to deter any demonstration of hostile intent.

⁸ 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

Individual Self-defence

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.

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 in international law automatically extends to military force elements or to individuals.

18. In the event that ROE which 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 will require national caveats or amplifications before they will be usable by the NZDF, or alternatively SSDROE will apply.

Designated Persons and Property

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.

20. Where the Chief of Defence Force 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.

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

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.

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 arise only 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

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 a 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.

25. When using force in force element or individual self-defence in operations other than armed conflict, only those elements, force elements or persons who are either singularly or collectively conducting a hostile act or 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

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, and
- Any ally of that country, force, authority, or government.”⁹

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 or 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.

28. Subject to LOAC, applicable ROE and any orders or operational plan that the commander has received, an enemy force may be attacked in accordance with the military judgement of the commander of the New Zealand force. Individual enemy combatants may be attacked under the same conditions as enemy forces.

Use of Force against Persons Who Are Not Enemy

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

- Bandits and other criminals;
- 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; and
- 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.

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

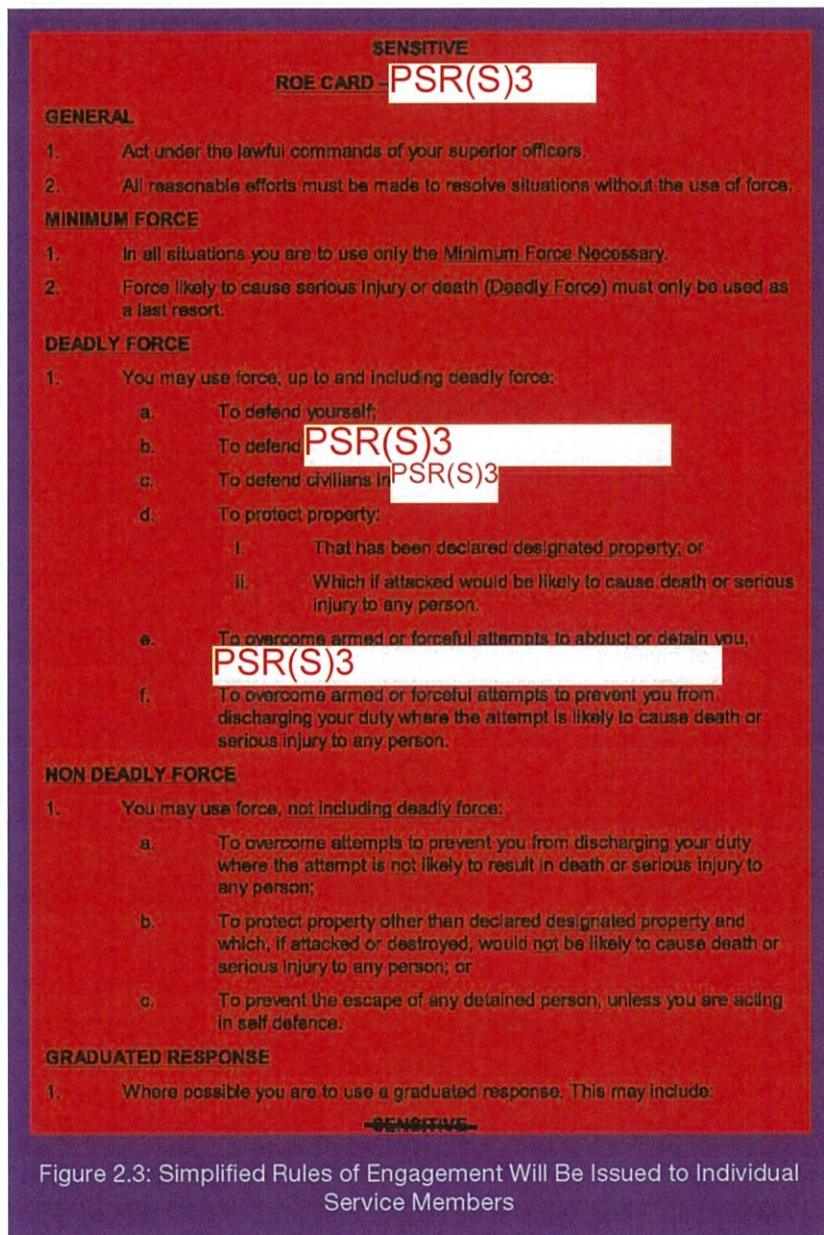
⁹ Also included in the definition are all pirates, all armed persons who are engaged in any mutiny, rebellion, or riot against New Zealand or against any Service authority of the Armed Forces of New Zealand or against any ally of New Zealand. Such persons would not, however, be regarded as enemy combatants who are liable to be automatically attacked at any time.

Tactical Employment of Weapon Systems

31. The Commander Joint Forces New Zealand 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

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 or as a colour-coded card such as a "Red Card" or "Yellow Card". There is no standard practice amongst New Zealand's allies or international organisations in this regard.



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

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 are 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

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 AO; the nature of the weapon system; the threat; the likely speed of engagement, and response time.

Targeting Directives

36. The Chief of Defence Force 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.

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; and
- The various reporting and other roles of different agencies.

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Rules of Engagement

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CHAPTER THREE

New Zealand Defence Force Rules of Engagement System

Executive Summary

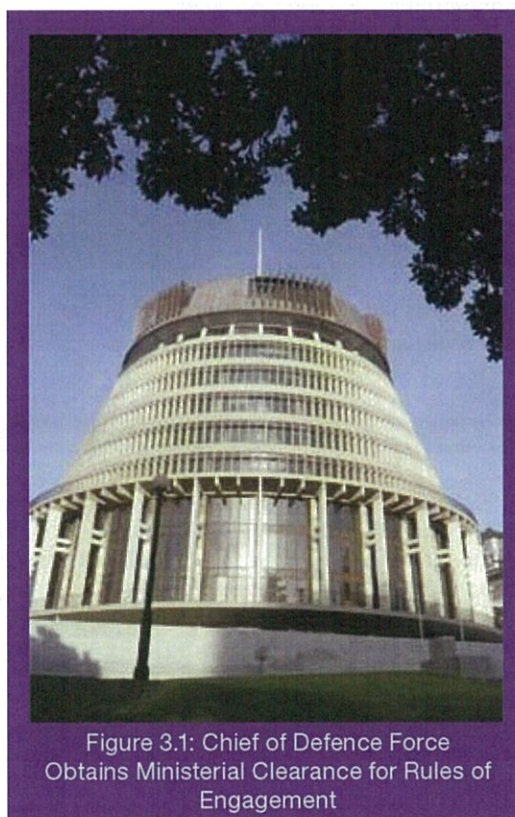
- Rules of Engagement will normally be developed and staffed by Headquarters Joint Forces New Zealand, or depending on the nature of the operation and Government requirements, at Headquarters New Zealand Defence Force.
- If the Rules of Engagement are staffed at the operational level, the Commander Joint Forces New Zealand will formulate an initial Rules of Engagement request for submission with the proposed concept of operations.
- The draft Rules of Engagement will be staffed through Headquarters New Zealand Defence Force for endorsement by the Minister of Defence, approval by the Prime Minister, and then issue as an order by the Chief of Defence Force.

Rules of Engagement Planning

1. ROE will normally be developed and staffed at Headquarters Joint Forces New Zealand (HQJFNZ). On occasions, when the nature of the operation and Government requirements so demand, ROE will be developed at Headquarters New Zealand Defence Force (HQNZDF) level with input from HQJFNZ. If an operation is mounted with such urgency that there is no time to plan, draft and approve mission-specific ROE, SSDROE may be issued instead.

2. The headquarters that is to develop the ROE will, as part of its planning process, assess what ROE it considers necessary to achieve the objective. The assessment of the necessary ROE will be based on the national policy and any planning guidance issued by the Chief of Defence Force. If the ROE are developed at HQJFNZ, an ROEREQ will be forwarded to HQNZDF for consideration.

3. At HQNZDF, all ROEREQs will be:
 - Assessed to ensure that they comply with NZDF overall strategic and operational direction; and
 - Scrutinised by the Directorate of Legal Services, to ensure that they comply with international and domestic law.
4. For all significant military operations, the Chief of Defence Force will obtain ministerial clearance for the ROE. Such ministerial clearance usually involves endorsement by the Minister of Defence and then approval by the Prime Minister. Depending on the nature of the operation, the Chief of Defence Force may either:
 - Obtain clearance in general principle for the issuance of ROE of a particular type; or
 - Obtain specific clearance of the draft ROE to be used.



Rules of Engagement Planning Teams

5. The Commander Joint Forces New Zealand is responsible for the development and staffing of ROE at the operational level. Effective development of ROE requires close cooperation between operations and legal staff. An ROE working group should be established at HQNZDF and HQJFNZ from the commencement of planning to develop, monitor and manage ROE issues.

6. An ROE working group enables ROE issues to be handled with continuity throughout an operation.

7. At HQJFNZ, the working group will contain, as a minimum, the legal staff (J09) and the operations (J3) and plans (J5) advisers on the headquarters staff.

Rules of Engagement Planning Checklist

8. An ROE planning check list is at Annex A.

Key Considerations

9. The following are key considerations in formulating ROE for an operation:

- National policy;
- Domestic and international legal constraints;
- Strategic, operational and tactical requirements; and
- National and military end-states.

Methods of Promulgation of Rules of Engagement

10. ROE may be communicated by a variety of means including the Defence communications system, secure facsimile and command computer systems. At the higher strategic and operational levels, ROE promulgation via the minute format by secure electronic means is the preferred method of transmission. Alternatively, ROE may be promulgated by an authenticated ROE authorisation (ROEAUTH) message.

Preamble

11. All ROERREQ and ROEAUTH will be numbered serially by the originating authority.

Classification

12. ROE may contain sensitive Government policy or indicate NZDF tactics and intentions. All ROE documents are to be issued at the classification and caveats appropriate to the operational and national policy information contained therein. A minimum classification of CONFIDENTIAL is to be used in ROE messages and minutes for operations, exercises and training, except the NZDF SSDROE, which are issued at RESTRICTED level. Where a security classification would prevent the achievement of NZDF objectives, approval may be sought from HQNZDF, through the chain of command, for a lower classification.

Release to Other Military Forces

13. ROE issued for an NZDF operation may contain directions or instructions that will prevent or limit their release to other nations' military forces. The authority to release specific ROE authorised for an operation to other nations' military forces rests ultimately with the New Zealand Government. For coalition/combined operations, the Chief of Defence Force may address the ROEAUTH message directly to specific other nations' military forces. Alternatively, the Chief of Defence Force may include an amplification detailing the releaseability of the ROE to specific national military forces. If any doubt exists, the permission of the Chief of Defence Force is to be sought before releasing the ROE to other nations' military forces.

14. SSDROE may be released to Australia and all member states of North Atlantic Treaty Organisation (NATO) and the Five Powers Defence Arrangements.

Subject Indicator Codes

15. All ROE messages are to be issued under the subject indicator code (SIC) JE, and other operational SICs as appropriate.

Responsibility of the Commander Joint Forces New Zealand and Subordinate Commanders

16. The implementation and amendment of ROE are command responsibilities. The Commander Joint Forces New Zealand will forward ROE in an appropriate form to lower headquarters or force elements, keeping HQNZDF informed. The Commander Joint Forces New Zealand may add additional guidance or amplification, and/or incorporate the ROE into appropriate orders or instructions. However, no commander subordinate to the Chief of Defence Force has authority to change the ROE. Copies of all ROE or applicable orders or instructions to forces under command must be passed to the headquarters of supporting forces.

Rules of Engagement

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Rules

17. Pending the development of a replacement New Zealand Defence Doctrine Publication (NZDDP), the basic set of NZDF rules from which authorised ROE will be constructed for operations is contained in

PSR(S)3

^PSpecific ROE may be drawn up by a selection of appropriate rules from this list. In using this list however:

- Rules that are not appropriate to the particular operation are not to be included simply in order to achieve a complete list of prohibitions; and
- Rules must be modified as required to give effect to the specific nature of the operation.

18. The suggested rules in **PSR(S)3** are an aid to the planning process, not a substitute for it.

Reserved Rule Numbers

19. ROE are routinely tailored to reflect the circumstances of a particular operation, and reserved numbers are available to enable ROE to be written for circumstances not covered by the basic rules. Authorisation for a new ROE is to be requested using ROE request procedures. If approved, the ROE will be allocated a reserved number in the authorisation message. The ROE and its number remain authorised until cancelled by the Chief of Defence Force. The number then returns to reserved status. Once used for issue of a new ROE, a reserved number is not to be used again during the same operation.

Amendments to Rules of Engagement

20. Any military commander operating under an ROEAUTH may request amendments to the extant ROE, for instance in response to perceived deficiencies in ROE or changes in the operational situation. ROEREQ should be addressed to the next higher headquarters. The action addressee must ensure that the commander requesting amendments is kept informed of the status of the request.

Annex:

- A. Rules of Engagement Planning Checklist

Annex A: Rules of Engagement Planning Checklist

Planning Approach

1. ROE development at HQNZDF and HQJFNZ and requests for ROE from subordinate commanders will form an integral part of the operational planning process. ROE planning parameters that may overlap include:
 - a. National policy;
 - b. Domestic and international legal principles;
 - c. Strategic, operational and tactical requirements; and
 - d. National and military end-states.
2. Planning considerations for the development of ROE include the:
 - a. Threat;
 - b. Force mission and tasks; and
 - c. Force elements, particularly:
 - i. Capability;
 - ii. Weapons and sensor fit;
 - iii. The potential for the use of some weapons systems and sensor modes to be perceived as a demonstration of hostile intent;
 - iv. Method of operation; and
 - v. Vulnerabilities.

3. The level of force approved for mission accomplishment is a critical consideration in ROE development.
4. ROE that may be required for subsequent, likely branches or sequels of a campaign or operation may be issued as dormant ROE.

National Policy

5. New Zealand national policy may include some or all of the following:
 - a. Government objectives and national end-state;
 - b. Government constraints;
 - c. Appropriate levels of force or response to force;
 - d. Identification of adversary or enemy;
 - e. Risk and acceptability of escalation and spread of conflict;
 - f. Potential third party involvement, either military or by other forms;
 - g. Acceptability of combat losses and associated costs; and
 - h. Domestic and international legal principles.

Military Considerations

6. The following threat characteristics will be considered in the development of ROE:
 - a. Maritime, land or air characteristics;
 - b. Nature of decisive actions:
 - i. Surface;
 - ii. Air;

- iii. Subsurface; and
- iv. Land.
- c. Potential information operations activities;
- d. Harassment;
- e. Shadowing, marking and countermarking;
- f. Intelligence gathering, reconnaissance and surveillance operations;
- g. Countermeasures;
- h. Use of sensors;
- i. Special operations, including attacks by unconventional means;
- j. Terrorism or subversion;
- k. Decision cycles for application of self-defence principles against (potentially hostile) force elements approaching with unknown (or unfriendly) intent;
- l. Major weapons capabilities and limitations;
- m. Timing; and
- n. Applicable geographic limits:
 - i. Enemy territory;
 - ii. Claims and disputed territory;
 - iii. International waters and airspace; and
 - iv. Third party/neutral territory.

Likely New Zealand Defence Force Countermeasures and Responses

7. Extant New Zealand Defence Force or Coalition/Combined Force Mission Tasks and Rules of Engagement. Select appropriate functional groups and rules consistent with planned tasks and likely requirements.

8. Force Grouping. In accordance with the Chief of Defence Force's mission, analyse force element groups and units. In consultation, determine specific requirements including capability, weapons fit, sensor fit, method of operation and vulnerabilities of:

- a. Maritime, land and air elements;
- b. Functional task groups;
- c. Command elements;
- d. Reconnaissance and surveillance elements;
- e. Special forces or advance forces;
- f. Electronic warfare force elements; and
- g. Other combat and support elements.

9. Strike and offensive support requirements (refer to relevant targeting directive if issued):

- a. Availability;
- b. Method of delivery;
- c. Accuracy;
- d. Risk assessment;
- e. Incidental injury;
- f. Collateral damage to property;
- g. Command and control;

- h. Delegation of authority; and
- i. Target marking and forward control options.

Other Considerations

- 10. Dormant ROE requirements:
 - a. Likely triggers or thresholds;
 - b. Special operations;
 - c. Contingency plan requirements; and
 - d. Escalatory and de-escalatory options.
- 11. Territorial considerations:
 - a. The area of operations;
 - b. Geographic limits applicable:
 - i. Enemy territory;
 - ii. Claims and disputed territory;
 - iii. International waters and airspace; and
 - iv. Third party/neutral territory.
 - c. Approach limits to adversary/enemy territory and adversary/hostile force(s); and
 - d. Exclusion zones and air defence identification zones in force if required.

Glossary

Aircraft [Section 2 of the 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 2008; UK JDP O-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 [Section 2 of the Defence Act 1990]

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 2008; ADFP 04.1.1 [101])

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".

Combined force (ADFP 04.1.1 [101])

A military force composed of elements of two or more allied nations.

Combined operation (NZDDP-D 2008; ADFP 04.1.1 [101])

An operation conducted by forces of two or more allied nations acting together for the accomplishment of a single mission.

Deadly force

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

Dormant Rules of Engagement

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

End-state (NZDDP-D 2008; ADFP 04.1.1 [101])

The set of desired conditions that will achieve the strategic objectives.

Enemy (Section 2 of the 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 [101])

A zone declared by a military force or nation, the entering of which 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 (ADFP 04.1.1 [101])

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.

Incidental casualties

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

Law of armed conflict (LOAC)

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 (1977)]

Legitimate objects of attack, which 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 (101)]

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 (101)]

The general and continuing ends for which a state acts.

National policy [ADFP 04.1.1 (101)]

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 (101)]

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

Rules of engagement [ADFP 04.1.1 (101)]

Directives 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 2008; ADFP 04.1.1 (101)]

- 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 [Section 2, Defence Act 1990]

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 2008; ADFP 04.1.1 (101)]

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

Terrorism [NZDDP-D 2008; 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.

Acronyms and Abbreviations

ADDP	Australian Defence Doctrine Publication
AO	Area of Operations
DM	Defence Manual
HQJFNZ	Headquarters Joint Forces New Zealand
HQNZDF	Headquarters New Zealand Defence Force
LOAC	Law of Armed Conflict
NATO	North Atlantic Treaty Organisation
NZDDP	New Zealand Defence Doctrine Publication
NZDF	New Zealand Defence Force
ROE	Rules of Engagement
ROEAUTH	ROE Authorisation
ROEREQ	ROE Request
SIC	Subject Indicator Code
SSDROE	NZDF Standard Self-defence ROE
UN	United Nations

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