

Serial Number 1942/123



**THE DEFENCE EMERGENCY REGULATIONS 1941,  
AMENDMENT NO. 3**

C. L. N. NEWALL, Governor-General.

ORDER IN COUNCIL.

At the Government Buildings at Wellington, this 29th day of  
April, 1942.

Present :

THE RIGHT HON. P. FRASER PRESIDING IN COUNCIL.

PURSUANT to the Emergency Regulations Act, 1939, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, doth hereby make the following regulations.

REGULATIONS.

1. These regulations may be cited as the Defence Emergency Regulations 1941, Amendment No. 3, and shall be read together with and deemed part of the Defence Emergency Regulations 1941\* (hereinafter referred to as the principal regulations).

2. Regulation 2 of the principal regulations is hereby amended by inserting, before the definition of the term "occupier", the following definition :—

" ' Minister ' means the Minister of Defence ; and includes any person for the time being authorized to exercise any of the Minister's powers or functions under these regulations : "

3. The principal regulations are hereby amended by inserting, after Regulation 5, the following headings and regulations :—

*" Delegation of Powers by Minister and Authorized Officers.*

" 5A. (1) The Minister or any authorized officer may from time to time, either generally or in respect of any particular area or in respect of any particular class of activity, delegate to any person any of his powers and functions under these regulations, including the power of delegation conferred by this regulation.

\* Statutory Regulations 1941, Serial number 1941/130, page 419.  
Amendment No. 1 : Statutory Regulations 1941, Serial number 1941/152, page 492.  
Amendment No. 2 : Statutory Regulations 1941, Serial number 1941/215, page 652.

“(2) Subject to the next succeeding clause, every person to whom any such powers or functions are delegated by the Minister or by any authorized officer may, without confirmation by the Minister or authorized officer, exercise or perform them in the same manner and with the same effect as the Minister or authorized officer could himself have exercised or performed them.

“(3) Every such person shall be subject in all things to the control of the Minister and also of the authorized officer (if any) by whom the delegation is made, and shall act in accordance with all directions, general or special, given to him by the Minister or by the authorized officer.

“(4) Any delegation under this regulation may be made to a specified person or class of persons or to the holder or holders for the time being of a specified office or appointment or class of offices or appointments, whether in the Defence Forces or otherwise.

“ *Authentication of Documents.*

“ 5B. (1) Any written notice, order, direction, permit, requirement, or other instrument given, granted, or made by the Minister or any person authorized in that behalf under these regulations shall be sufficiently authenticated if it is signed by the Minister or authorized person or by any person on behalf of and by direction of the Minister or authorized person, as the case may be.

“(2) Every instrument purporting to be signed by or on behalf of the Minister or any person authorized in that behalf shall, in the absence of proof to the contrary, be deemed to have been duly signed by or on behalf of and by direction of the Minister or authorized person, as the case may be.

“ *Notices.*

“ 5C. (1) The Minister or any person authorized in that behalf may give public notice of the exercise of any of his powers under these regulations or of any order, direction, requirement, or condition given or imposed by him under these regulations, and all persons shall be bound thereby.

“(2) For the purposes of these regulations, except where otherwise specially provided, the term ‘ public notice ’ means a notice published in the *Gazette* or in a newspaper circulating in the locality in which the matter of the notice arises or to which it relates.

“(3) The Minister or any person authorized in that behalf may, without public notice, give notice to any person of any such order, direction, requirement, or condition, and every person to whom the notice is given shall be bound thereby.

“(4) Except where otherwise specially provided, any notice required to be given to any person for the purposes of these regulations may be given in writing or orally or by telephone, telegraph, or any other means of communication, and if in writing may be given by causing it to be delivered to that person, or to be left at his usual or last known place of abode or business or at the address specified by him in any application or other document received from him by the Minister or authorized person, or to be posted in a letter addressed to him at that place of abode or business or at that address.

“(5) If any such notice is sent to any person by registered letter, it shall be deemed to have been delivered to him when it would have been delivered in the ordinary course of post, and in proving the delivery it shall be sufficient to prove that the letter was properly addressed and posted.

“(6) Except where otherwise specially provided, any notice required to be given to any person for the purposes of these regulations shall be sufficient—

“(a) If it purports to be given by or on behalf of the Minister or any person authorized in that behalf, and is authenticated by the signature or name of the Minister or of any person purporting to be authorized to give it:

“(b) If it is addressed to the person to be bound thereby by his description, notwithstanding that he is not named in the notice.

“(7) Every public notice or notice under these regulations shall take effect when it is published or given, or at such later time as may be specified in that behalf in the notice.

“(8) Any notice given under these regulations may be at any time varied or revoked by a subsequent notice.”

4. Regulations 29 and 30 of the principal regulations\* are hereby consequentially revoked.

5. The principal regulations are hereby amended by inserting, after Regulation 6A, the following regulation:—

“6B. (1) The New Zealand Temporary Staff shall be deemed to be part of the Defence Forces within the meaning of the Defence Act, 1909, and of these regulations.

“(2) All regulations made under the Defence Act, 1909, shall, so far as they are applicable, and with the necessary modifications, apply with respect to the New Zealand Temporary Staff as if it were part of the Permanent Force:

“Provided that the application of any such regulations to the New Zealand Temporary Staff may be excluded or modified by Army Orders.”

6. Regulation 8 of the principal regulations is hereby amended by adding the following as clauses (2), (3), (4), (5), and (6) thereof:—

“(2) For the purposes of these regulations,—

“(a) Section 46 (2) (b) of the Army Act and paragraph 587 (a) (ii) of the King's Regulations shall be read and construed as if they applied not only to the case of the offence of drunkenness, but to the case of any offence committed under any of the following sections of the Army Act—that is to say: Sections 6 (except on active service), 8 (2) (threatening or insubordinate language only) (except on active service), 9 (2) (except on active service), 10 (except paragraph (1)), 11, 15, 18 (1) and (3), 19, 20 (except when the act is wilful), 21, 22, 24, 27 (4), 33, and 40:

“(b) Paragraphs 585 and 586 of the King's Regulations shall be read and construed as if paragraph 585 (a) referred not only to the award of any deduction from the ordinary pay of a N.C.O. allowed to be made under section 138 (4).

\* Statutory Regulations 1941, Serial number 1941/152, Regulation 7, page 492.

of the Army Act, but also to the award of a fine not exceeding £2 under section 46 (2) (b) of the Army Act as extended by paragraph (a) of this clause :

“(c) Paragraph 573 of the King’s Regulations shall be read and construed as if the second sentence thereof applied only to the offences mentioned in paragraph (a) of this clause :

“(d) Paragraph 587 (a) (iii) of the King’s Regulations shall be read and construed as if the reference therein to the G.O.C. were a reference to the Adjutant-General or an O.C. District :

“(e) The commander of a squadron, battery, or company shall, in addition to all other powers, have power to impose a fine up to 10s. on a private soldier for any of the following offences, the soldier having no right to claim trial by Court-martial—that is to say: Appearing on parade improperly dressed, or with clothing, arms, and accoutrements incomplete or dirty; inattention and minor irregularities on parade; minor cases of non-compliance with orders or neglect of duty; drunkenness :

“Provided that if such commander considers that in the interests of discipline a fine up to 10s. is unsuitable to the case he shall refer the case to the Commanding Officer :

“(f) Section 163 of the Army Act shall be read and construed as if the following paragraph were inserted in subsection (1) thereof after paragraph (j) :—

“(jj) Where the proceedings are proceedings against an officer or soldier on a charge of being a deserter or absentee without leave, and the officer or soldier has been arrested and taken into the custody of a provost marshal, assistant provost marshal, or other officer, a certificate purporting to have been signed by such provost marshal, assistant provost marshal, or other officer, and stating the fact, date, and place of arrest, shall be evidence of the matters so stated :’

“(g) Section 163 of the Army Act shall be read and construed as if the following paragraph were added to subsection (1) thereof :—

““(mm) Any certificate given under paragraphs (j), (jj), (k), or (m) of this subsection may include a statement as to whether, at the time of such surrender, arrest, or delivery into military custody, as the case may be, the officer or soldier referred to in such certificate was wearing military uniform or civilian clothes, and such certificate shall be evidence of the matter so stated.’

“(3) Every person subject to military law as aforesaid commits an offence against section 40 of the Army Act who—

“(a) Unlawfully and without colour of right but not so as to be guilty of theft, as defined in section 240 of the Crimes Act, 1908,\* takes or converts to his use or to the use of

\* See Reprint of Statutes, Vol. II, page 251.

any other person any of the following things (being property belonging to a person subject to military law or being public property), namely:—

“(i) Any motor-vehicle or other vehicle or carriage of any description; or

“(ii) Any launch, yacht, boat, or other vessel; or

“(iii) Any aircraft within the meaning of the Air Navigation Act, 1931\*; or

“(iv) Any part of any vehicle, carriage, vessel, or aircraft as aforesaid; or

“(v) Any horse:

“(b) Recklessly or negligently drives a motor-vehicle (being property belonging to a person subject to military law or being public property), or who drives any such motor-vehicle at a speed or in a manner which, having regard to all the circumstances of the case, is or might be dangerous to the public or to any person, or who, while in a state of intoxication, is in charge of any such motor-vehicle:

“(c) Drives any such motor-vehicle without due care and attention, or without reasonable consideration for other persons:

“(d) While driving or in charge of any such motor-vehicle commits an offence against any provision of the Motor-vehicles Act, 1924†, or of any regulations made thereunder.

“(4) For the purposes of clause (3) of this regulation,—

“‘Motor-vehicle’ includes a motor-cycle:

“‘Public property’ includes any property of which possession has been taken for public purposes, whether under the Motor-vehicles Impressment Emergency Regulations 1941‡ or otherwise.

“(5) (a) The operation of paragraph 477 of the Regulations for the New Zealand Military Forces 1927§ shall be deemed to be suspended.

“(b) The control and administration of detention barracks as defined by paragraph 476 of the said regulations shall be in accordance with Army Orders, and in default of such orders, or so far as they do not extend, then in accordance with the discretion of the officer in command of the barracks.”

7. Regulation 10 of the principal regulations is hereby amended by inserting, after clause (1), the following new clause:—

“(1A) Warrant officers, non-commissioned officers, and men of the Home Guard may be transferred to any branch of the Emergency Reserve Corps by the Adjutant-General of the Defence Forces or by any officer or officers of the Defence Forces to whom the Adjutant-General may have delegated his powers in that behalf.”

8. Paragraph (d) of Regulation 17 of the principal regulations is hereby amended by omitting “and 461”, and substituting “461, and 464 to 467 (both inclusive)”.

W. O. HARVEY,  
Acting Clerk of the Executive Council.

\* See Reprint of Statutes, Vol. I, page 424.

† See Reprint of Statutes, Vol. VIII, page 800.

‡ Statutory Regulations 1941, Serial number 1941/145, page 451.

§ Gazette, 25th May, 1927, Vol. II, page 1555.