



**THE DEFENCE EMERGENCY REGULATIONS 1941,
AMENDMENT NO. 8**

C. L. N. NEWALL, Governor-General

ORDER IN COUNCIL

At the Government Buildings at Wellington, this 2nd day of
May, 1945

Present :

THE HON. W. NASH 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. 8, 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 (as amended by Regulation 2 of the Defence Emergency Regulations 1941, Amendment No. 1) is hereby further amended by inserting, after the definition of the term "Home Guard", the following definition :—

“ ‘ King’s Regulations ’ means the King’s Regulations for the Army, and includes all regulations made in amendment thereof or in substitution therefor and for the time being in force : ”.

Home Guard Reserve

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

“ 6R. (1) There is hereby constituted a part of the Defence Forces within the meaning of the Defence Act, 1909, and of these regulations to be known as the Home Guard Reserve.

* 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.

Amendment No. 3 : Statutory Regulations 1942, Serial number 1942/123, page 277.

Amendment No. 4 : Statutory Regulations 1942, Serial number 1942/295, page 709.

Amendment No. 5 : Statutory Regulations 1943, Serial number 1943/51, page 98.

Amendment No. 6 : (*Revoked*).

Amendment No. 7 : Statutory Regulations 1943, Serial number 1943/205, page 464.

Amended : Statutory Regulations 1945, Serial number 1945/4, Regulation 3, page 5.

“(2) Subject to the provisions of these regulations, all regulations made under the Defence Act, 1909, shall, as far as they are applicable and with the necessary modifications, apply with respect to the Home Guard Reserve as if it were part of the Territorial Force :

“Provided that, subject as aforesaid, the application of any such regulations to the Home Guard Reserve may be excluded or modified by Army Orders.”

4. Regulation 11 of the principal regulations (as amended by Regulation 5 of the Defence Emergency Regulations 1941, Amendment No. 1) is hereby further amended by inserting the words “or of the Home Guard Reserve” after the words “Home Guard”.

5. Regulation 14 of the principal regulations (as amended by Regulation 6 of the Defence Emergency Regulations 1941, Amendment No. 1) is hereby further amended by inserting the words “or of the Home Guard Reserve” after the words “Home Guard”.

Attaching of Members of Defence Forces to the Air Force, and vice versa

6. Part II of the principal regulations is hereby amended by adding, after Regulation 17, the following regulations :—

“17A. (1) For the purposes of these regulations the operation of subsection (1) and paragraph (c) of subsection (2) of section 179A of the Army Act shall be deemed to be suspended.

“(2) The Army Board may direct from time to time that any member of the Defence Forces shall, under such conditions as may be prescribed by orders made by the Army Board and the Air Board, be temporarily attached to the Royal New Zealand Air Force. Any such orders may provide that a member of the Defence Forces so attached shall, with such modifications (if any) as may be prescribed, be subject to command and discipline in the same manner in all respects as if he were for the time being a member of the Air Force.

“(3) Where any member of the Defence Forces is attached to the Royal New Zealand Air Force pursuant to this regulation the finding and sentence of any general court-martial for the trial of that member may be confirmed by the Governor-General or by an officer authorized to confirm the findings and sentences of general courts-martial in respect of the Defence Forces, and not otherwise, except that when the member is serving out of New Zealand the finding and sentence may be confirmed by an officer authorized to confirm findings and sentences of general courts-martial under the Air Force Act (Imperial) in respect of the Royal New Zealand Air Force if, in the opinion of the last-mentioned officer (such opinion to be stated in the confirmation and to be conclusive), there is not present any officer authorized to confirm the findings and sentences of general courts-martial in respect of the Defence Forces.

“(4) Where any member of the Defence Forces is convicted of and sentenced for any offence while attached to the Royal New Zealand Air Force he shall suffer any deductions from his pay that may be specified in the sentence and also any deductions from his pay that would be consequent upon conviction for the same offence or upon suffering the same sentence while a member of the Defence Forces not so attached.

“17B. (1) Where any member of the Royal New Zealand Air Force is attached to the Defence Forces by direction of the Air Board pursuant to section 179A of the Air Force Act (Imperial) or any other

power so enabling, the finding and sentence of any general court-martial for the trial of that member may be confirmed by the Governor-General or by an officer authorized to confirm the findings and sentences of general courts-martial under the Air Force Act (Imperial) in respect of the Royal New Zealand Air Force, and not otherwise, except that when the member is serving out of New Zealand the finding and sentence may be confirmed by an officer authorized to confirm findings and sentences of general courts-martial in respect of the Defence Forces if, in the opinion of the last-mentioned officer (such opinion to be stated in the confirmation and to be conclusive), there is not present any officer authorized to confirm findings and sentences of general courts-martial in respect of the Royal New Zealand Air Force.

“(2) Where an officer, warrant officer, or non-commissioned officer of the Royal New Zealand Air Force is attached to the Defence Forces, then for the purposes of command and discipline within the unit to which he is attached and for the purpose of exercising any powers of punishment that may be vested in him by the Commanding Officer of the unit, he shall be treated and have such powers over members of the Defence Forces or of the Royal New Zealand Air Force serving with the unit as if he were a military officer, warrant officer, or non-commissioned officer of equivalent rank. Nothing in this regulation shall give a claim to any officer of the Royal New Zealand Air Force to assume command of any unit of the Defence Forces except where the unit has been specially placed under his command.”

Military Law

7. Regulation 8 of the principal regulations is hereby amended by adding the following clauses:—

“(9) An officer sentenced by court-martial to reduction to a lower commissioned rank shall take rank and precedence in that lower commissioned rank as if his appointment to that rank bore such date as may be specified in the sentence, or, if no such date is specified in the sentence, as if his appointment to that lower rank bore the date of the sentence.

“(10) For the purposes of these regulations—

“(a) Section 44 of the Army Act shall be read and construed as if paragraph (m) were omitted and the following paragraph substituted therefor:—

“(m) In the case of a non-commissioned officer (including an acting or a lance non-commissioned officer), reduction to the ranks or to a lower grade (including lance grade), or reversion to permanent rank, or both, or forfeiture in the prescribed manner of seniority of rank;’—

and as if in paragraph (mm) and in proviso (3) the words ‘(including an acting or a lance non-commissioned officer)’ were inserted after the words ‘non-commissioned officer’:

“(b) Section 182 (2) (a) of the Army Act shall be read and construed as if the words ‘(including lance grade)’ were inserted after the words ‘lower grade’:

“(c) Section 183 of the Army Act shall be read and construed as if subsection (3) were omitted and the following subsection substituted therefor:—

“ ‘(3) A non-commissioned officer (including an acting or a lance non-commissioned officer) may, by the sentence of a court-martial, be ordered to be reduced to the ranks or to any lower grade (including lance grade), or to be reverted to his permanent rank, or both, or to forfeit seniority of rank, either in addition to or without any other punishment:’—

and as if in subsection (4) the words ‘(including an acting or a lance non-commissioned officer)’ were inserted after the words ‘non-commissioned officer’, and the words ‘or reverted’ were inserted after the word ‘reduced’.

“(11) For the purposes of these regulations section 55 of the Defence Act, 1909,* shall be read and construed as if subsection (1) were omitted and the following subsections substituted therefor:—

“ ‘(1) Any person who has been issued with anything as a member of the Defence Forces shall deliver it up upon demand in writing signed by an officer and delivered to the member personally or by being posted by registered post addressed to him at his last known place of abode.

“ ‘(1A) If any person designedly makes away with, sells or pawns, or wrongfully destroys or damages, or negligently loses, or wrongfully refuses or neglects to deliver up on demand as aforesaid, anything issued to him as a member of the Defence Forces he shall be liable on summary conviction to a fine not exceeding £50.

“ ‘(1B) The provisions of section 243 of the Justices of the Peace Act, 1927† (which relate to the restitution of stolen property or payment of its value), shall, with the necessary modifications, apply with respect to any offence under subsection (1A) hereof as if the offence were stealing or dishonestly obtaining the thing in respect of which the offence is committed.’ ”

C. A. JEFFERY,
Clerk of the Executive Council.

* See Reprint of Statutes, Vol. II, page 593.

† See Reprint of Statutes, Vol. II, page 427.

Issued under the authority of the Regulations Act, 1936.
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These regulations are administered in the Army Department.