

1959/115

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**THE ENEMY PROPERTY REGULATIONS 1954,
AMENDMENT NO. 1**

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COBHAM, Governor-General
ORDER IN COUNCIL

At the Government House at Wellington this 15th day of July 1959

Present:
HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Enemy Property Act 1951, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

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REGULATIONS

1. These regulations may be cited as the Enemy Property Regulations 1954, Amendment No. 1, and shall be read together with and deemed part of the Enemy Property Regulations 1954 (hereinafter referred to as the principal regulations).

2. In these regulations and in the principal regulations, unless the context otherwise requires,—

“The Act” means the Enemy Property Act 1951:

“War Damage Grants Fund” means the fund of that name constituted as provided in regulation 3 hereof:

Expressions used in these regulations shall have the same meaning as they have in the Act.

3. For the purpose of these regulations there shall be a fund, to be known as the War Damage Grants Fund, which shall consist of:

- (a) Such amounts, being money which is for the time being held by the Custodian of Enemy Property to the credit of the separate common accounts or funds in respect of Germany and Japan pursuant to regulation 14 of the principal regulations, as are appropriated by Parliament for the purpose:
- (b) Any amounts paid to the credit of the War Damage Grants Fund from any other source.

4. (1) The Custodian may in his discretion make grants out of the War Damage Grants Fund in respect of claims lodged with him, whether before or after the making of these regulations, for the loss of or damage to property arising out of the Second World War.

(2) No such grant shall be made, unless—

- (a) At the time when the property was lost or damaged it was situated in Germany or in territory which was occupied at any time in the course of the Second World War by the armed forces of Germany or of Japan; and
- (b) The person suffering loss as a result of the property being lost or damaged was, in accordance with regulation 5 hereof, a New Zealand citizen for the purposes of these regulations at the time of the loss or damage; and
- (c) At the date of the making of the claim the claimant was or is, in accordance with regulation 6 hereof, a New Zealand citizen for the purpose of these regulations; and
- (d) The claim has been lodged with the Public Trustee before the making of these regulations or is lodged with him within such period thereafter as he shall allow.

5. For the purpose of these regulations the person suffering loss as a result of the property being lost or damaged shall be deemed to have been a New Zealand citizen at the time of the loss of the property or the damage thereto, if—

- (a) He would have been a New Zealand citizen at that time if the British Nationality and New Zealand Citizenship Act 1948 had come into force on the day before the date of the loss of the property or the damage thereto; or
- (b) The person who so suffered loss, being a corporation or a society (whether incorporated or not) or other body of persons, had been constituted in or under the laws of New Zealand; or
- (c) The Attorney-General directs that the person who so suffered loss (being either an individual, or a corporation, society, or body of persons) shall be treated as having been a New Zealand citizen for this purpose.

6. For the purpose of these regulations a claimant shall be deemed to have been a New Zealand citizen at the date of the making of the claim, if—

- (a) He was then a New Zealand citizen by virtue of the British Nationality and New Zealand Citizenship Act 1948; or
- (b) The claim was made by the claimant as administrator of the estate of a New Zealand citizen or of a person who would but for his death have become a New Zealand citizen on the date of the commencement of the British Nationality and New Zealand Citizenship Act 1948; or
- (c) The claimant, being a corporation or society (whether incorporated or not) or other body of persons, has been constituted or incorporated in or under the laws of New Zealand; or
- (d) The Attorney-General directs that the claimant (being either an individual, or a corporation, society, or body of persons) shall be treated as having been a New Zealand citizen for this purpose.

7. (1) The amount of any grant shall not exceed the amount, as estimated by the Custodian, of the loss to which it relates on the basis of the value of the property when it was lost or the cost of making good the damage to it when this happened and on the basis of the rates of exchange existing at the time of the loss or damage.

(2) In determining what amount (if any) shall be granted in respect of any claim the Custodian may in his discretion do all or any of the following things:

- (a) Have regard to the amount of the War Damage Grants Fund and the amounts of other claims:
- (b) Have regard to any right the claimant may have or may once have had to claim the restitution of his property or total or partial compensation for the loss or damage either by legal proceedings or in accordance with any scheme instituted in any country for providing some compensation for war damage:
- (c) Give preference to any class or classes of claimants or determine that smaller claims may be paid in full and larger claims only in part:
- (d) Determine that no grant is to be made to certain claimants or any class or classes of claimants or in respect of certain kinds of claims:
- (e) Accept the written statement of the claimant as sufficient proof of the claim and of the claimant's eligibility for a grant or act on other credible information (though less than legal evidence) as to matters of fact related to any such claim:
- (f) Have regard to such other matters as he considers relevant.

8. Where a person is a claimant under these regulations or is eligible to be a claimant or would have been so eligible if the loss suffered by him had not been made good already, and where a payment by way of full or partial compensation for that person's loss has been made to him by his employer or by any corporation, society (whether incorporated or not), or other body of persons by whom or which he was employed or supported or with the work of whom or which he was associated, then, the Custodian may in his discretion make a grant out of the War Damage Grants Fund by way of reimbursement to the employer, corporation, society, or other body of persons of the whole or part of the payment made as aforesaid, notwithstanding that the employer, corporation, society, or other body of persons would otherwise not be eligible for a grant under these regulations.

9. Where any grant is made in pursuance of these regulations it shall be conditional upon its acceptance by the claimant in full settlement of any claim the claimant might have against the New Zealand Government or any Department thereof in respect of the loss or damage to which the grant relates.

10. (1) In the exercise of the powers and discretions conferred on him by these regulations the Custodian shall have regard to all directions from time to time given to him by the Attorney-General.

(2) So long as the Custodian acts in good faith in exercise of the powers and discretions and in carrying out the duties conferred or imposed upon him by or in pursuance of these regulations, he shall be under no liability whatever for any error, act, or default.

(3) No act, determination, or decision done or made by the Custodian for the purposes of these regulations shall be appealed against, challenged, reviewed, quashed, or called in question in any Court.

11. All costs, charges, and expenses incurred by the Custodian (whether before or after the making of these regulations) in respect of claims to which these regulations apply or might have been applicable and the making of grants and generally for the purposes of these regulations shall be payable to him out of the War Damage Grants Fund.

12. (1) Reasonable remuneration for work done by the Custodian (whether before or after the making of these regulations) in respect of claims to which these regulations apply or might have been applicable and the making of grants and generally for the purposes of these regulations shall be payable to him out of the War Damage Grants Fund.

(2) The amount of such remuneration shall be determined by the Custodian with the approval of the Minister of Finance.

13. If any balance remains in the War Damage Grants Fund after the making of all payments which in the opinion of the Custodian should properly be made therefrom that balance shall be paid to the Public Account for the credit of the Consolidated Fund.

14. These regulations shall not apply to Western Samoa or the Cook Islands.

T. J. SHERRARD,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations provide for the making of grants to New Zealand citizens in respect of loss or damage to property arising out of the Second World War.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 16 July 1959.

These regulations are administered in the Public Trust Office.