

Serial Number 1945/65



**THE NATIONAL SERVICE EMERGENCY REGULATIONS 1940,
AMENDMENT NO. 17**

C. L. N. NEWALL, Governor-General

ORDER IN COUNCIL

At the Government Buildings at Wellington, this 6th day of
June, 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 National Service Emergency Regulations 1940, Amendment No. 17, and shall be read together with and deemed part of the National Service Emergency Regulations 1940* (hereinafter referred to as the principal regulations).

2. Regulation 1 of the principal regulations is hereby amended by inserting in clause (3), after the definition of the term "reservist", the following definition :—

“ ‘ Revision Authority ’ means a Revision Authority appointed under Regulation 4B hereof : ”

3. The principal regulations are hereby amended by inserting, after Regulation 4A, the following regulation :—

“ REGULATION 4B.—REVISION AUTHORITIES

“ (1) For the purposes of these regulations there shall be established such number of Revision Authorities as may be required, each consisting of one person to be appointed by the Governor-General and to hold office during his pleasure.

“ (2) Nothing in the Public Service Act, 1912†, shall apply to any Revision Authority.

* Statutory Regulations 1940, Serial number 1940/117, page 381.

Reprinted with Amendments Nos. 1 to 15 : Statutory Regulations 1944, Serial number 1944/50, page 145.

Amendment No. 16 : Statutory Regulations 1944, Serial number 1944/188, page 524.

† See Reprint of Statutes, Vol. VII, page 522.

“(3) Every Revision Authority shall within the scope of his jurisdiction be deemed to be a Commission of Inquiry under the Commissions of Inquiry Act, 1908,* and, subject to these regulations, all the provisions of that Act shall apply accordingly.

“(4) Every person commits an offence against these regulations who—

“(a) Without lawful excuse acts in contravention of or fails to comply in any respect with any order, direction, or summons made, given, or issued by any Revision Authority under the Commissions of Inquiry Act, 1908 :

“(b) Commits an offence against section 9 of the Commissions of Inquiry Act, 1908, in its application to any Revision Authority :

“(c) Resists, obstructs, or deceives, or attempts to resist, obstruct, or deceive, any Revision Authority or any other person who is exercising or attempting to exercise any power or function under these regulations in relation to the jurisdiction of any Revision Authority :

“Provided that no person shall be punished twice for the same offence.

“(5) The procedure of every Revision Authority shall, subject to these regulations, be such as he thinks fit. Any party who appears before a Revision Authority may be represented by a barrister or solicitor or, with the leave of the Revision Authority, by any other person. A Revision Authority may admit and accept, for such value as he thinks fit, any evidence, whether admissible in a Court of law or not.

“(6) Any person appointed by the Minister in that behalf may appear on behalf of the Crown in any matter before any Revision Authority.

“(7) Except as hereinbefore provided, no person shall be present at any proceedings before any Revision Authority unless he is permitted by the Revision Authority to be present.

“(8) No person shall print or publish any report or description of any proceedings before any Revision Authority, or any matter purporting to be a report or a description thereof, except such report or description thereof as may be authorized by the Revision Authority. If any matter is published in any newspaper or other periodical or in any other document in contravention of this regulation, the proprietor, editor, printer, and publisher of the newspaper or other periodical, or the printer and publisher of the document, as the case may be, shall each be deemed to have committed an offence against these regulations.

“(9) Proceedings before any Revision Authority shall not be held bad for want of form. No appeal shall lie from any order, direction, or decision of any Revision Authority ; and, except upon the ground of lack of jurisdiction, no proceeding, order, direction, or decision as aforesaid shall be liable to be challenged, reviewed, quashed, or called in question in any Court.

“(10) Any summons, order, or direction issued, made, or given by any Revision Authority may be at any time revoked or from time to time varied or added to by that or any other Revision Authority.

* See Reprint of Statutes, Vol. I, page 1036.

“(11) All summonses, orders, and directions issued, made, or given by any Revision Authority shall be in writing signed by him. In all Courts and in all proceedings—

“(a) The production of a document that purports to be a copy of any such summons, order, or direction and to include a copy of the signature thereto of the Revision Authority who issued, made, or gave it shall, in the absence of proof to the contrary, be sufficient evidence of that summons, order, or direction :

“(b) The production of a certificate signed by any Revision Authority to the effect that any person has in the presence of the Revision Authority committed any offence under this regulation shall, in the absence of proof to the contrary, be sufficient evidence of that offence :

“(c) Judicial notice shall be taken of the appointment and signature of every Revision Authority.”

4. The principal regulations are hereby further amended by inserting, after Regulation 44B, the following new regulation :—

“REGULATION 44C.—RELEASE OF DEFAULTERS ON PAROLE

“(1) Any defaulter may from time to time apply to the Director of National Service for release on parole from defaulters’ detention.

“(2) Every application made under this regulation shall be transmitted by the Director to a Revision Authority for consideration :

“Provided that no application by or on behalf of any defaulter shall be transmitted to or considered by a Revision Authority at any time while the defaulter is serving any sentence of imprisonment, or is absent by reason of escaping from defaulters’ detention or of failing to return thereto at the time and place appointed after any period of temporary release.

“(3) After considering any application made by any defaulter under this regulation, the Revision Authority may order—

“(a) That the defaulter be released on parole either indefinitely or for a period to be specified in the order ;

“(b) That the defaulter be released on parole as aforesaid subject to special supervision by the Controlling Officer of Detention ;

“(c) That the application be deferred ; or

“(d) That the application be refused.

“(4) The Revision Authority shall not order the release of any defaulter unless the Revision Authority is satisfied that the defaulter holds a conscientious belief that would prevent his participation in war. In considering any application made by any defaulter under this regulation, the Revision Authority may take into consideration the behaviour of the defaulter during the period of his detention.

“(5) The release on parole of any defaulter shall be subject to his giving an undertaking in writing to comply with the following conditions (in addition to any other conditions that the Revision Authority may specify in the order for release), namely, conditions requiring the defaulter—

“(a) To comply with all his obligations under the Industrial Manpower Emergency Regulations 1944* ;

* Statutory Regulations 1944, Serial number 1944/8, page 14.
Amendment No. 1: Statutory Regulations 1944, Serial number 1944/141, page 397.

- “(b) To comply with all orders and directions made in respect of the defaulter by any member of the Special Tribunal ;
- “(c) To notify his address and any changes of address to the Director ; and
- “(d) Not to participate in any activity deemed by the Director to be prejudicial to the war effort or to the public interest in wartime.

“(6) Upon receiving an order of the Revision Authority for the release on parole of any defaulter, the Director shall direct the Controlling Officer to release the defaulter upon his signing an undertaking as aforesaid. The release shall be made within fourteen days after the date of the order of the Revision Authority or, if the undertaking is not signed within that period of fourteen days, shall be made within three days after the day on which the undertaking is signed.

“(7) The Revision Authority shall not make any order for the deferring or refusal of an application for release without hearing the defaulter or giving him a reasonable opportunity of being heard.

“(8) Where any Revision Authority has reason to believe that any defaulter who has been released on parole has committed any breach of the conditions of his release (whether on a report by the Director or on receiving such other written or oral evidence as he deems sufficient), the Revision Authority may order that the defaulter be returned to defaulters' detention. In any such case the Director shall direct the defaulter to return to defaulters' detention at a time and place to be appointed in the direction. Every defaulter who fails to comply with any such direction shall be deemed for the purposes of these regulations to have failed to return to defaulters' detention after a period of temporary release.”

5. Regulation 44A of the principal regulations is hereby amended by adding to clause (7) the words “or released on parole under Regulation 44c hereof”.

6. Regulation 55 of the principal regulations, as amended by Regulation 10 of the National Service Emergency Regulations 1940, Amendment No. 5, is hereby further amended by inserting, after the words “Special Tribunal”, the words “or Revision Authority”.

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

Issued under the authority of the Regulations Act, 1936.

Date of notification in *Gazette* : 7th day of June, 1945.

These regulations are administered in the National Service Department.