

Serial Number 1942/313



**THE PAYMENTS WITHOUT PROBATE EMERGENCY
REGULATIONS 1942**

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

ORDER IN COUNCIL.

At the Government House at Wellington, this 4th day of
November, 1942.

Present :

HIS EXCELLENCY THE GOVERNOR-GENERAL 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 Payments without Probate Emergency Regulations 1942.

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

“ Minister ” means the Minister of Finance :

“ Serviceman ” means any person who has at any time during the present war (whether before or after the commencement of these regulations) served as a member of any of His Majesty’s naval, military, or air forces.

3. Where before or after the commencement of these regulations any serviceman has died, or has been officially reported to be missing and believed killed, and there is payable to his estate out of public moneys any amount (not exceeding £200) by way of pay and allowances or otherwise in respect of his services as a member of any of His Majesty’s forces, and probate of his will or letters of administration of his estate is or are not produced within such time as the Minister thinks reasonable, the Minister may in his discretion, without requiring probate or letters of administration, authorize payment of the amount or any part thereof to any of the persons following, that is to say :—

(a) The widow or widower of the serviceman :

(b) The persons entitled to the estate of the serviceman under his will or on his intestacy :

(c) Any person entitled to obtain probate of the will of the serviceman or letters of administration of his estate :

(d) Any person undertaking to maintain the children of the serviceman :

(e) Any person who is a creditor of the serviceman, or who has paid the funeral expenses of the serviceman.

4. In making any payment as aforesaid the Minister shall have regard to the rules of law regulating the distribution of the estates of persons dying intestate, but he may nevertheless, if he considers that injustice or undue hardship would result from the observance of those rules, make any such payment otherwise than in accordance therewith.

5. All payments made pursuant to these regulations shall be valid as against all persons whatsoever, and all persons acting under these regulations shall be absolutely discharged from all liability in respect of any money duly paid or applied by them under these regulations.

6. Before making any payment under these regulations the Minister may require the production of proof to his satisfaction of the claim of the person applying for payment.

7. Notice of every payment under these regulations shall be given to the Commissioner of Stamp Duties in the manner and within the time prescribed by section 61 of the Death Duties Act, 1921.*

8. The foregoing provisions of these regulations shall be in addition to and not in derogation of the provisions of any other enactment providing for payments out of the estates of deceased persons without probate or letters of administration having been obtained.

9. (1) The Minister may from time to time, either generally or particularly, delegate to any person any of the powers conferred on him by these regulations, including the power of delegation conferred by this regulation.

(2) Subject to any general or special directions given by the Minister or other person by whom any powers are delegated as aforesaid, the person to whom any powers are so delegated may exercise those powers in the same manner and with the same effect as if they had been directly conferred on him by these regulations and not by delegation.

(3) Every person purporting to act pursuant to any delegation under this regulation shall be presumed to be acting in accordance with the terms of the delegation unless and until the contrary is proved.

(4) Any delegation under this regulation may be made to a specified person, or to persons of a specified class, or may be made to the holder for the time being of a specified office or appointment, or to the holders of offices or appointments of a specified class, whether or not any such offices or appointments are in the Government service or in any of His Majesty's forces.

(5) The delegation by the Minister or by any other person of any powers conferred on him by or by virtue of these regulations shall not prevent the personal exercise of those powers by the Minister or by that other person.

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

* See Reprint of Statutes, Vol. VII, page 385.