



**THE VALIDATION OF WARTIME LEASES EMERGENCY
REGULATIONS 1945**

C. L. N. NEWALL, Governor-General
ORDER IN COUNCIL

At the Government Buildings at Wellington, this 19th day of December, 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 Validation of Wartime Leases Emergency Regulations 1945.

2. (1) Subject to the provisions of this regulation, any agreement, whether entered into before or after the commencement of these regulations, which purports to grant or provide for the grant of a tenancy for the duration of the war shall have effect as if it granted or provided for the grant of a tenancy for a term of ten years, subject to a right exercisable either by the landlord or by the tenant to determine the tenancy, if the war ends before the expiration of the term, by at least one month's notice in writing given after the end of the war :

Provided that—

- (a) If the agreement provides for the termination of the tenancy by notice before the end of the war, that provision shall apply to the tenancy as it takes effect under this subclause ;
- (b) If the agreement provides for the termination of the tenancy by notice after the end of the war, that provision shall be substituted for the provision of this subclause relating to the termination of the tenancy after the end of the war.

(2) In this regulation the expression "the duration of the war", in relation to any agreement, means a period which, on the proper construction of the words used in the agreement whatever they may be, ends with, or within a specified time after, one of the following events :—

- (a) The end of the war or of hostilities in respect of all the States with which His Majesty has been at war at any time since the 3rd day of September, 1939, and all theatres of war :

- (b) The end of the war or of hostilities in respect of any particular State or States or any particular theatre or theatres of war :
- (c) The end of the emergency mentioned in the Proclamation of Emergency issued under the Public Safety Conservation Act, 1932, on the 1st day of September, 1939,* or of the period for which the Emergency Regulations Act, 1939, or any emergency regulation, order, or power thereunder is in force, or of the emergency mentioned in any Act passed since the 1st day of September, 1939 :
- (d) The end of the emergency (not defined by reference to any Act) occasioned by the war or hostilities, whether in respect of all the said States and all theatres of war or in respect of any particular State or States or any particular theatre or theatres of war :
- (e) Any event likely to occur on or in connection with any of the events aforesaid,—

and any reference in this regulation (other than this subclause) to the end of the war shall, in relation to any agreement, be construed as referring to the end of such one of the aforesaid periods as is appropriate to that agreement.

(3) Any reference in this regulation to an agreement purporting to grant or provide for the grant of a tenancy for the duration of the war shall be construed as including a reference to—

- (a) An agreement purporting to grant or provide for the grant of a tenancy for a specified term or for the duration of the war, whichever is the shorter :
- (b) An agreement purporting to grant or provide for the grant of a tenancy for a specified term or for the duration of the war, whichever is the longer :
- (c) An agreement purporting to grant or provide for the grant of a tenancy which is to continue until determined by notice, subject to a condition that the notice is not to be given, or is not to be given by one of the parties, before the end of the war :
- (d) An agreement between the vendor and purchaser of land that the vendor is to be entitled to retain possession of the land for the duration of the war,—

but shall not be construed as including an agreement granting or providing for the grant of a tenancy for a specified term subject to a right on the part of the landlord or the tenant to determine the tenancy, if the war ends before the expiration of that term, by notice after the end of the war.

(4) Subclause (1) of this regulation shall have effect, in the case referred to in paragraph (a) of the last preceding subclause, as if for the reference to ten years there were substituted a reference to the specified term referred to in that paragraph ; and, in the case referred to in paragraph (b) thereof, the agreement shall, if the war ends before the specified term referred to in that paragraph, have effect as if it granted or provided for the grant of a tenancy for that term and not such a tenancy as is referred to in the said subclause (1).

(5) Where at the date of any such agreement as is referred to in subclause (1) of this regulation the landlord is himself a tenant whose term has less than ten years to run, the said subclause (1) shall have effect as if for the reference to ten years there were substituted a reference to a period equal to the remainder of the said term less one day.

* *Gazette*, 1st September, 1939, Vol. III, page 2271.
Statutory Regulations 1939, Serial number 1939/120, page 561.

(6) In this regulation the expression "agreement" includes an agreement in the form of a lease.

3. (1) Where any tenancy agreement uses, for the purpose of defining the term or purported term of the tenancy or for any other purpose, the expression "the war" or "hostilities" or "the emergency" or any similar expression which does not indicate whether it refers—

(a) To the war or hostilities in respect of all the States with which His Majesty has been at war at any time since the 3rd day of September, 1939, and all theatres of war, or, as the case may be, to the emergency occasioned thereby; or

(b) To the war or hostilities in respect of any particular State or States or any particular theatre or theatres of war, or as the case may be, to the emergency occasioned thereby,—

the expression shall be construed as referring to the war or hostilities in respect of those States with which His Majesty was at war at the date when the agreement was made, or, as the case may be, to the emergency occasioned thereby, unless it is shown that the parties intended that the expression should be otherwise construed.

(2) The Court by which any such agreement is construed may admit any evidence which in the opinion of the Court may throw light on the intention of the parties as to the meaning of the said expression.

(3) The Governor-General may by Order in Council declare what date is to be treated for the purposes of any tenancy agreement as—

(a) The date of the end of the war and of hostilities in respect of all the said States and all theatres of war and of the emergency (not being defined by reference to any Act) occasioned thereby;

(b) The date of the end of the war and of hostilities in respect of any particular State or States or any particular theatre or theatres of war and of the emergency (not being defined as aforesaid) occasioned thereby;

(c) The date of any event which occurs, or which the parties considered likely to occur, on or in connection with the end of any such war, hostilities, or emergency as aforesaid, and which appears to the Governor-General to require definition for the purposes of tenancy agreements,—

and every such agreement shall be construed accordingly, unless the context requires, or it is shown by admissible evidence, that it should be otherwise construed.

(4) In this regulation the expression "tenancy agreement" means any lease or other agreement, whether entered into before or after the commencement of these regulations, granting or providing for the grant of a tenancy or varying any of the terms or conditions of a tenancy, and includes any such agreement as is referred to in subclause (1) of Regulation 2 hereof.

4. (1) These regulations shall, subject to the provisions of this regulation, be deemed to have had effect, in relation to any agreement, as from the date on which the agreement was entered into.

(2) Regulation 2 hereof shall not apply in any case where—

(a) The relationship of landlord and tenant has terminated before the commencement of these regulations otherwise than by a notice given by the landlord or the tenant on or after the 1st day of December, 1945; or

(b) The landlord or the tenant has given before the said day a notice in writing which would, but for the said Regulation 2, determine the said relationship; or

(c) The parties have agreed, before the commencement of these regulations, to determine the said relationship or to substitute for their existing agreement a valid tenancy.

(3) For the purposes of subclause (2) of this regulation, where a tenant retains possession of premises by virtue only of the Fair Rents Act, 1936, or any other enactment, the relationship of landlord and tenant shall be deemed to have terminated.

(4) Any notice given, proceedings taken, or thing done before the commencement of these regulations in relation to any agreement to which Regulation 2 hereof applies shall, if it could have been given, taken, or done in relation to that agreement as it takes effect under that regulation, continue to apply in relation to that agreement.

(5) Nothing in the said Regulation 2 shall affect any provision of an agreement to which that regulation applies, being a provision which does not relate to the duration of the tenancy, and any such provision shall continue to apply in relation to the tenancy as it takes effect under that regulation.

(6) Nothing in the said Regulation 2 shall be taken as requiring any agreement to be executed in writing or under seal.

5. These regulations shall apply to agreements to which the Crown is a party.

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

Issued under the authority of the Regulations Act, 1936.
Date of notification in *Gazette*: 20th day of December, 1945.