

Serial Number 1951/24

THE WATERFRONT STRIKE EMERGENCY REGULATIONS 1951

B. C. FREYBERG, Governor-General

ORDER IN COUNCIL

At the Government Buildings at Wellington, this 22nd day of
February, 1951

Present :

THE RIGHT HON. S. G. HOLLAND PRESIDING IN COUNCIL

PURSUANT to the Public Safety Conservation Act, 1932, there being a Proclamation of Emergency now in force under that Act, 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. (1) These regulations may be cited as the Waterfront Strike Emergency Regulations 1951.

(2) These regulations shall apply throughout New Zealand.

(3) These regulations are in addition to and not in derogation of any other enactment relating to strikes.

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

“ Act ” includes acts of omission as well as acts of commission :

“ Declared strike ” means a strike declared by a notice under these regulations to be a strike to which these regulations apply :

“ Funds ” means money ; and includes bank notes and other currency, postal notes, money orders, promissory notes, and bills of exchange, and any other negotiable instruments payable in currency ; and also includes any amount deposited in a bank, and any amount for which cheques can be drawn on a bank pursuant to an arrangement for the time being subsisting :

“ Minister ” means the Minister of Labour :

“ Officer ”, in relation to any union, includes every member of the committee of management of the union or of any branch thereof, every member of the national council of the union, and every officer, trustee, or position holder of the union or of any branch thereof :

“ Service Board ” means the Naval Board of New Zealand, the Army Board, or the Air Board :

“Strike” means—

(a) The act of any number of workers who are or have been in the employment of the same employer or of different employers—

(i) In discontinuing that employment, whether wholly or partially, and whether by refusing or failing to work overtime or otherwise; or

(ii) In breaking their contracts of service; or

(iii) In refusing or failing after any such discontinuance to resume or return to their employment; or

(iv) In refusing or failing to accept engagement for any work in which they are usually employed:

(b) Any reduction in the normal output of workers in their employment:

(c) Any other transaction in the nature of a strike or combination, agreement, common understanding, or concerted action on the part of any workers,—

the said act, reduction, or other transaction being intended or having a tendency to interfere with the manufacture, production, output, supply, delivery, or carriage of goods or articles or the carriage of persons in or in connection with any industry or undertaking or otherwise to interfere with the effective conduct of any industry or undertaking:

“Union” means an industrial union of workers registered under the Industrial Conciliation and Arbitration Act, 1925; and includes any other society or body of workers, whether incorporated or not:

“Wharf” includes any wharf, quay, pier, jetty, or other place used or capable of being used for the loading or unloading of ships or for the storage of cargo immediately before loading on a ship or after unloading and before delivery from the wharf; and also includes any place belonging to or in the possession of or under the control of a Harbour Board; and also includes any railway or public highway so far as it intersects or is contiguous to or runs on any such wharf, quay, pier, jetty, or other place as aforesaid.

(2) Every union shall be deemed to be a body corporate for the purposes of these regulations.

MINISTER MAY DECLARE STRIKES TO WHICH THESE REGULATIONS APPLY

3. If in respect of any strike the Minister is satisfied that it has caused or is likely to cause serious loss or inconvenience and that it has been brought about (whether before or after

the commencement of these regulations) wholly or partly by any union or by any member or members of a union, the Minister, by notice in the *Gazette*, may require the union to end the strike within a time specified in that behalf in the notice, and may declare that if the strike is not ended within that time it shall be a strike to which these regulations apply.

OFFENCES

4. Every person commits an offence against these regulations who—

- (a) Is a party to a declared strike; or
- (b) Encourages or procures a declared strike or the continuance of a declared strike; or
- (c) Incites any person or any class of persons or persons in general to be or to continue to be a party or parties to a declared strike; or
- (d) Prints or publishes any statement, advertisement, or other matter that constitutes an offence against these regulations, or that is intended or likely to encourage, procure, incite, aid, or abet a declared strike or the continuance of a declared strike, or that is a report of any such statement made by any other person.

5. If any member of any union or of any branch of a union is a party to a declared strike every officer of the union or of that branch shall be deemed to have encouraged or procured the continuance of the strike unless he proves that he counselled the members of the union or branch to discontinue the strike and that he did not encourage or procure the continuance of the strike or incite any person or any class of persons or persons in general to be or to continue to be a party or parties to the strike.

6. (1) Every union commits an offence against these regulations—

- (a) If at any time not less than 20 per cent of the members of the union or not less than 20 per cent of the members of any branch of the union are parties to a declared strike:
- (b) If any officer of the union commits an offence against these regulations.

(2) Where any union commits an offence against these regulations every officer of the union shall be deemed also to have committed the offence unless he proves that the offence occurred without his knowledge or that he did everything in his power to prevent the commission of the offence.

APPOINTMENT OF RECEIVER

7. (1) If the Minister is satisfied that any members of any union or of any branch of a union are parties to a declared strike, the Minister may appoint a Receiver of the funds of the

union or branch, and thereupon all the funds of the union or branch and all the rights, powers, and remedies of the union or branch or of any member, officer, or trustee thereof in respect of those funds shall be deemed to be vested in the Receiver.

(2) When a Receiver has been appointed under this regulation no person shall make any payment out of the funds of the union or branch except to the Receiver or for such purposes as may from time to time be directed or approved by the Minister.

(3) It shall be the duty of a Receiver appointed under this regulation to take possession of all the funds of the union or branch and to hold them subject to the provisions of this regulation, and to prevent any payment out of the funds in contravention of this regulation.

(4) For the purpose of exercising his functions any Receiver appointed under this regulation may from time to time—

(a) Require any person to deliver to the Receiver or as he directs any funds, books, accounts, vouchers, records, or documents of the union or branch in the possession or under the control of that person:

(b) Require any person to produce any books, accounts, vouchers, records, or documents in his possession or under his control, and to allow copies of or extracts from any such books, accounts, vouchers, records, or documents to be made:

(c) Require any person to furnish, in a form to be approved by or acceptable to the Receiver, any information or particulars that may be required by him:

(d) Inspect, examine, and audit any books, accounts, vouchers, records, or documents:

(e) Enter any land, building, or place.

(5) Any such Receiver may from time to time, either generally or particularly, delegate to any person or class of persons any of the powers conferred by this regulation. Any such delegation may be at any time revoked.

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

(a) Acts in contravention of any provision of this regulation:

(b) Fails to comply in any respect with any requirement under this regulation:

(c) Resists, obstructs, deceives, or attempts to deceive any Receiver or other person who is exercising or attempting to exercise any power or function under this regulation:

(d) Makes any false or misleading statement or any material omission in any information or particulars furnished under this regulation.

(7) Any offence under this regulation committed by a servant or agent in the course of his employment shall be deemed to have been also committed by his employer or principal.

CONTRIBUTIONS IN AID OF STRIKE

8. Every person commits an offence against these regulations who—

- (a) Makes any payment or contribution to any union while any of the members of the union or of any branch of the union are parties to a declared strike:
- (b) Makes any payment or contribution to any branch of a union while any of the members of that branch are parties to a declared strike:
- (c) Makes any payment or contribution to or for the benefit of any workers who are parties to a declared strike.

SUSPENSION OF ORDERS AND AWARDS

9. (1) If the Minister is satisfied that any members of any union are parties to a declared strike, the Minister may, by order in writing, suspend in whole or in part all or any of the provisions of any award, industrial agreement, or other agreement, or of any decision or order of a tribunal or other body established under any Act or regulations, or of a disputes committee or other body, in so far as they relate to the terms and conditions of employment of workers in the industry or industries concerned, whether throughout New Zealand or in any specified locality, and may at any time or from time to time revoke or vary any such order.

(2) Every such order shall be published in the *Gazette*; but every such order shall, unless otherwise provided therein, take effect on the day of the making thereof.

ARMED FORCES

10. (1) The appropriate Service Board may from time to time by order authorize the temporary employment of members of the New Zealand Naval Forces, or the New Zealand Army, or the Royal New Zealand Air Force, as the case may be, in any kind of work specified in the order.

(2) At all times while any such order continues in force it shall be the duty of every person belonging to the Naval Forces, the Army, or the Air Force, as the case may be, to obey all commands given by a superior officer in relation to any work of a kind to which the order relates, and every such command shall be deemed to be a lawful command within the meaning of the Naval Discipline Acts, or the Army Act, or the Air Force Act, as the case may be.

(3) Any such order may at any time be revoked wholly or partly by a subsequent order made by the appropriate Service Board.

CONTROL OF ADMISSION TO WHARVES

11. (1) Any constable may direct any person not to enter or remain upon any wharf or loiter in the vicinity of any entrance to a wharf.

(2) Any Superintendent or Inspector of Police may, in respect of any wharf, direct that no person (other than such persons or classes of persons as may be excluded from the

direction) shall enter upon the wharf except pursuant to a permit granted by a member of the Police Force and for the time being in force.

(3) Any constable may give such directions as he thinks fit to any person who enters or remains or is about to enter upon any wharf for regulating his conduct while on the wharf, whether in relation to anything that he has with him or otherwise.

(4) Every person who acts in contravention of or fails to comply in any respect with any direction given under this regulation commits an offence against these regulations, and may be arrested without warrant by any constable.

COUNSELLING STRIKE, ETC.

12. (1) Every person commits an offence against these regulations who—

(a) Compels, counsels, procures, or induces, or attempts to compel, procure, or induce, or does any act or thing that would be likely to compel, procure, or induce any other person to do any act to which this regulation applies:

(b) Attends at or near any premises or place where any other person resides or works or proposes to work for the purpose of compelling, counselling, procuring, or inducing, or for the purpose of attempting to compel, counsel, procure, or induce, or in such a manner as would be likely to compel, procure, or induce that other person to do any act to which this regulation applies:

(c) Is found by a constable attending at or near any premises or place where any other person resides or works or proposes to work, and fails to satisfy that constable that his attendance is not an offence against this regulation.

(2) The acts to which this regulation applies are—

(a) To do any act that would constitute an offence against these regulations; or

(b) To refrain from or to cease working in any employment or doing any work.

(3) Every person who commits an offence under this regulation may be arrested without warrant by any constable.

THREATS

13. (1) Every person commits an offence against these regulations who uses, either orally or in writing, any threatening, intimidatory, offensive, or insulting words to another person or to the wife, child, or parent of another person for the purpose of procuring that other person to do any act to which regulation 12 hereof applies or on account of that other person refusing or failing to do any such act.

(2) Every person who commits an offence under this regulation may be arrested without warrant by any constable.

PICKETING

14. (1) Where the presence of any person on any road or street, land, premises, or place is, in the opinion of a constable, intended or likely to influence any other person—

(a) To do any act that would constitute an offence against these regulations; or

(b) To refrain from or to cease working in any employment or doing any work,—

that constable may give to the first mentioned person such oral directions as the constable considers necessary in the circumstances, including a direction to remove himself forthwith from the road or street, land, premises, or place where he then is or both a direction so to remove himself and a direction to remain at such distance from the road or street, land, premises, or place as may be specified by the constable.

(2) In any prosecution for an offence under this regulation it is immaterial whether or not the evidence establishes that any particular person was intended or likely to be influenced as aforesaid.

(3) A constable may form an opinion as aforesaid from the circumstances of the case, and in any prosecution for failure to comply in any respect with the requirements of a direction given to him by reason of his having formed that opinion it is immaterial whether or not the evidence establishes that any particular person was intended or likely to be influenced as aforesaid.

(4) Where an opinion under subclause (1) of this regulation is formed by a constable in respect of two or more persons present on any road or street, land, premises, or place, any direction authorized by that subclause may be given by that constable to those persons collectively.

(5) The provisions of this regulation shall not empower a constable to direct an occupant of a dwellinghouse to remove himself from that dwellinghouse, but shall apply and extend so as to empower a constable to give an occupant of a dwellinghouse all such directions as that constable considers necessary to ensure that the occupant will not offend against this regulation at any time when he is present in or on that dwellinghouse or the land appurtenant thereto.

(6) Except as limited by subclause (5) of this regulation, the provisions of this regulation shall apply and extend to and in respect of all roads, streets, land, premises, and places and to and in respect of all persons present in or on any roads, streets, land, premises, or places, including in the case of any land, premises, or place the owner or occupier thereof and a person present therein or thereon, whether by invitation or not.

(7) Every person who fails to comply in any respect with the requirements of a direction given to him under this regulation by a constable commits an offence against these regulations, and may be arrested without warrant by any constable.

UNLAWFUL DISPLAY OF POSTERS, ETC.

15. (1) Every person commits an offence against these regulations who—

- (a) Carries or displays, or drives or causes to be driven any vehicle carrying or displaying, or affixes in any place where it is in sight of any other person, any banner, placard, sign, or other thing which contains any words to which this regulation applies; or
- (b) Writes or prints or displays, or causes to be written or printed or displayed, on any vehicle, wall, fence, erection, road, street, or footway, or otherwise within sight of any other person, any words to which this regulation applies.

(2) This regulation applies to—

- (a) Any words counselling, procuring, or inducing any person to do any act to which regulation 12 hereof applies:
- (b) Any threatening, intimidatory, offensive, or insulting words in relation to any person or persons or class or classes of persons in respect of his or their refusal or failure to do any act to which regulation 12 hereof applies.

(3) Every person who commits an offence under this regulation may be arrested without warrant by any constable.

(4) Every vehicle, banner, placard, sign, or other thing, or any written or printed matter in respect of which an offence under this regulation is committed may be seized by any constable.

PROHIBITED PROCESSIONS AND MEETINGS

16. (1) If a member of the Police Force of or above the rank of sergeant is satisfied that the holding or continuance of any procession in a public place within the meaning of section 40 of the Police Offences Act, 1927, or within the view of any public place, or the holding or continuance of any meeting (whether in a public place or elsewhere) is likely to be injurious to the public safety or to the public interest, he may prohibit the holding or continuance of the procession or meeting.

(2) Where the holding or continuance of any procession or meeting is prohibited under this regulation, every person commits an offence against these regulations who advises, encourages, organizes, conducts, leads, or takes part in the procession or meeting, or who, being present at the procession or meeting, continues to be present thereat after being requested by a constable to leave.

(3) Any person found committing an offence under this regulation may be arrested without warrant by any constable.

NAME AND ADDRESS

17. (1) Every person who is found committing or has committed or is suspected of having committed an offence against these regulations shall, if required to do so by any constable, give to that constable his true name and address and verify them to the satisfaction of the constable.

(2) Every person who fails to comply in any respect with any requirement of this regulation commits an offence against these regulations and may be arrested without warrant by any constable.

POWER OF ENTRY

18. Any member of the Police Force who is of or above the rank of sergeant may enter at any time, using force if necessary, and with such assistance as he may deem necessary, into or upon any land, premises, or place—

- (a) In the exercise of or for the purpose of exercising any power conferred upon members of the Police Force by these regulations:
- (b) When in his opinion an offence against these regulations has been, is being, or is about to be committed in or on that land, premises, or place:
- (c) When in his opinion any person who has committed an offence against these regulations may be found in or on that land, premises, or place:
- (d) For the purpose of searching for anything which may afford evidence of an offence against these regulations or in respect of which there are reasonable grounds for believing that it is intended to be used for the purpose of committing any such offence:
- (e) In any other case if in his opinion the entry is necessary to give effect to any of the provisions of these regulations, or to prevent or otherwise deal with any offence against these regulations.

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

Issued under the authority of the Regulations Act, 1936.

Date of notification in *Gazette*: 22nd day of February, 1951.

These regulations are administered in the Department of Labour and Employment.