

## Serial Number 1941/130.



**THE DEFENCE EMERGENCY REGULATIONS 1941.**

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

ORDER IN COUNCIL.

At the Government House at Wellington, this 30th day of July, 1941.

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.

PART I.—PRELIMINARY.

1. These regulations may be cited as the Defence Emergency Regulations 1941.

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

“Authorized officer” means an officer of any of His Majesty’s Naval, Military, or Air Forces appointed by the Minister to be an authorized officer for the purposes of these regulations :

“Guard” means a guard stationed under these regulations :

“Guarded place” means a place at which a guard or patrol is for the time being stationed :

“Occupier,” in relation to any place, means the person by whom or on whose behalf the place is actually occupied, and includes the owner of the place ; and also includes any person acting or apparently acting in the general management or control of the place :

“Patrol” means a patrol stationed under these regulations :

“Place” means any area of land or water, or any building or other premises, and includes any kind of vessel used in navigation, and any aircraft :

“Prohibited place” means a place in respect of which an order under Regulation 19 hereof is for the time being in force :

“Territorial Force” means the Territorial Force constituted under the Defence Act, 1909,\* as extended by regulation 7 hereof :

Expressions defined in the Defence Act, 1909, have the meanings so defined.

\* See Reprint of Statutes, Vol. II, page 575.

3. The Defence Emergency Regulations 1939\* and the Defence Emergency Regulations 1939, Amendment No. 1,† are hereby revoked.

4. All Proclamations, offers, obligations, claims, notices, directions, orders, restrictions, requirements, conditions, appointments, guards, patrols, and generally all acts of authority that originated under any provisions of the regulations hereby revoked and are subsisting or in force on the commencement of these regulations, shall enure for the purposes of these regulations as if they had originated under the corresponding provisions of these regulations, and accordingly shall, where necessary, be deemed to have so originated.

5. All matters and proceedings commenced under the regulations hereby revoked and pending or in progress on the commencement of these regulations may be continued, completed, and enforced under these regulations.

#### PART II.—MILITARY SERVICE AND TRAINING.

6. (1) The National Military Reserve shall continue to be part of the Defence Forces within the meaning of the Defence Act, 1909, and of these regulations.

(2) All regulations made under the Defence Act, 1909, shall, so far as they are applicable, and with the necessary modifications, apply with respect to the National Military Reserve as if it were part of the Territorial Force.

7. Notwithstanding anything to the contrary in the Defence Act, 1909, and whether or not the establishment provided for by section 19 of that Act is exceeded, the Territorial Force shall, for the purposes of that Act and of any regulations made thereunder and of these regulations, be deemed to include all persons who (whether before or after the commencement of these regulations) have become or purported to become members of that Force (whether by reason of the provisions of the Defence Act, 1909, or of the National Service Emergency Regulations 1940,‡ or by reason of appointment to that Force or enlistment therein, or by reason of transfer to that Force from any other part of the Defence Forces), and who have not been lawfully transferred or discharged from that Force and have not otherwise ceased to be members thereof.

8. Every member of the Defence Forces shall be at all times subject to military law as established by the provisions of the Army Act, the King's Regulations, the Defence Act, 1909, and any regulations made thereunder, and these regulations :

Provided that the provisions of the Army Act and the King's Regulations shall not apply in so far as such provisions are inconsistent with the Defence Act, 1909, or with any regulations made thereunder or with these regulations :

Provided also that where any offence punishable under military law is one of those specified in the Defence Act, 1909, or in any regulations made thereunder or in these regulations the punishment that may be awarded therefor under military law shall not exceed that specified for that offence in the Defence Act, 1909, or in any regulations made thereunder, or in these regulations.

\* Statutory Regulations 1939, Serial number 1939/123, page 577.

† Statutory Regulations 1940, Serial number 1940/285, page 995.

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

Amendment No. 1: Statutory Regulations 1940, Serial number 1940/186, page 599.

Amendment No. 2: Statutory Regulations 1940, Serial number 1940/223, page 731.

Amendment No. 3: Statutory Regulations 1941, Serial number 1941/3, page 7.

9. Except where otherwise expressly provided, nothing in these regulations shall be so construed or shall so operate as to take away or restrict the liability of any person for any offence, whether under military law or otherwise, but no person shall be punished twice for the same offence.

10. (1) Warrant officers, non-commissioned officers, and men of the Territorial Force or of the National Military Reserve may be transferred from one of those Forces to the other or to any other part of the Defence Forces except the Second New Zealand Expeditionary Force, or may be discharged, by the Adjutant-General of the Defence Forces or by any officer or officers of the Defence Forces to whom the Adjutant-General may have delegated his powers in that behalf.

(2) This regulation shall not be deemed to authorize the discharge upon the ground of medical unfitness of any such member to whom Regulation 40 of the National Service Emergency Regulations 1940 applies.

11. No officer of the Territorial Force or of the National Military Reserve shall be competent to resign his commission or appointment without the consent of the Governor-General.

12. (1) The Governor-General may from time to time, by Proclamation, call out any part or parts of the Defence Forces for military service for purposes of defence in New Zealand.

(2) At all times while any Proclamation so calling out any part of the Defence Forces continues in force, that part of those Forces shall be liable to be employed on military service accordingly.

(3) Any Proclamation under this regulation may be at any time revoked wholly or partly by a subsequent Proclamation.

13. It shall be lawful for the Governor-General at any time to accept the offer of any members of the Defence Forces to be called out for military service for purposes of defence at such places in New Zealand as may be specified in their agreement, whether or not a Proclamation is issued calling out any part of the Defence Forces, and upon any such offer being accepted they shall be liable whenever required during the period to which the offer extends to be called out and employed on military service accordingly.

14. Whenever any members of the Territorial Force or of the National Military Reserve are not employed on military service under Regulation 12 or Regulation 13 hereof, whether or not they are for the time being liable to be so employed, they shall be liable to undergo such training as may from time to time be prescribed by Army Orders.

15. (1) Every person who without lawful excuse fails to render the military service or training required of him under this Part of these regulations shall be deemed to have committed an offence against this regulation.

(2) Every person shall be deemed to have failed to render the military service or training required of him under this Part of these regulations if and as often as he fails to be present at any camp, course of instruction, parade, or drill, or on any other lawful occasion of military service or training, with his prescribed arms, uniform, and equipment, at the place prescribed, and at and during the time prescribed, and there and then to perform and undergo with due diligence and subordination all military service and training lawfully required of him.

(3) Every person who commits an offence against this regulation shall be liable on summary conviction to imprisonment for a term not exceeding three months, or to a fine not exceeding £25 and (if the offence is a continuing one) to a further fine not exceeding £5 for every day during which the offence continues.

(4) Sections 2 to 11 of the Defence Amendment Act, 1912, shall apply with respect to every person who is convicted of an offence against this regulation.

(5) While these regulations continue in force, section 3 of the Defence Amendment Act, 1912, shall have effect as if the reference therein to the Commandant of the Defence Forces were a reference to the Adjutant-General of the Defence Forces.

16. The production of a document that purports to be a copy of an Army Order and to include a copy of the signature of the Army Secretary thereto shall, in the absence of proof to the contrary, be sufficient evidence of that Order in all Courts and in all proceedings.

17. While these regulations continue in force the operation of the following enactments shall be deemed to be suspended, namely:—

- (a) Sections 25, 41, 42, and 45 of the Defence Act, 1909:
- (b) Sections 3 and 5 of the Defence Amendment Act, 1915\*:
- (c) Section 2 of the Defence Amendment Act, 1931†:
- (d) Paragraphs 309 to 314B (both inclusive) and 461 of the Regulations for the New Zealand Military Forces 1927‡:
- (e) Any other provision of the Defence Act, 1909, or of any regulations made thereunder, in so far as it is inconsistent with these regulations.

#### PART III.—POWERS IN RELATION TO LAND.

18. (1) The Minister or any person authorized by him in that behalf may, notwithstanding anything to the contrary in any Act, do any act on or in connection with any land that he considers necessary or expedient for defence purposes, and in particular, without limiting the general power hereby conferred, may do all or any of the following things:—

- (a) Enter on, pass over, and encamp on the land:
- (b) Construct military works and other works on the land:
- (c) Pull down or erect or alter any building, fence, barricade, obstruction, or erection on the land:
- (d) Divert or stop any watercourse:
- (e) Close any road or street on the land either wholly or partly, or prohibit, restrict, or prevent traffic or any class of traffic on any such road or street.

(2) As soon as it is in his opinion practicable the Minister shall, so far as possible, restore the land to its former condition.

(3) Except as hereinafter provided compensation shall be paid out of moneys to be appropriated by Parliament for the purpose to every person having any estate or interest in any land in respect of any loss or injury suffered by that person by reason of the use of the land for defence purposes. The provisions of subsections (2) to (7) of section 4 of the Military Manœuvres Act, 1915,§ shall, with the necessary modifications, apply with respect to claims for compensation under this clause.

\* See Reprint of Statutes, Vol. II, page 635.

† See Reprint of Statutes, Vol. II, page 636.

‡ *Gazette*, 25th May, 1927, Vol. II, page 1555.

§ Amendments No. 29: *Gazette*, 19th November, 1931, Vol. III, page 3369.

§ See Reprint of Statutes, Vol. II, page 637.

(4) No compensation shall be payable under the last preceding clause to any person in respect of the closing of any road or street or the prohibition, restriction, or prevention of traffic on a road or street if reasonable and sufficient alternative access is available or is provided.

(5) Every person commits an offence against this regulation who—

(a) Wilfully and without lawful authority obstructs or interferes with the exercise of any power under this regulation :

(b) Erects or displays any notice or mark on or relating to any land dealt with under this regulation representing or implying that the use of the land is not available for defence purposes :

(c) Contrary to any notice, direction, or order given for the purposes of this regulation, uses or attempts to use any road or street for purposes of traffic :

(d) Without lawful authority removes or otherwise interferes with any notice, sign, or mark erected or posted for the purposes of this regulation :

(e) In any other way unlawfully interferes with the authorized use of any land under this regulation.

(6) Every person who commits an offence against this regulation shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding £50, and (if the offence is a continuing one) to a further fine not exceeding £5 for every day during which the offence continues.

(7) Every person who, without lawful authority, obstructs or interferes with the exercise of any power under this regulation, or who uses or attempts to use any road or street for the purposes of traffic contrary to any notice, direction, or order given for the purposes of this regulation, may be arrested, without any warrant or other authority, by any officer or non-commissioned officer of the Defence Forces or by any constable and taken, as soon as conveniently may be, before a Magistrate, to be dealt with according to law.

(8) Any land in respect of which any power under this regulation is being exercised shall be deemed to be land reserved for or forming part of defences for the purposes of section 61 of the Defence Act, 1909.

#### PART IV.—PROHIBITED AND GUARDED PLACES.

19. (1) If in respect of any place it appears to the Minister to be necessary or expedient for securing the public safety, the defence of New Zealand, or the efficient prosecution of any war in which His Majesty may be engaged, or for maintaining supplies and services essential to the life of the community, that special precautions should be taken to prevent the entry of unauthorized persons, he may, by order published in the *Gazette*, declare that place to be a prohibited place for the purposes of these regulations.

(2) Any order made under this regulation may be at any time in like manner amended or revoked.

(3) No person shall be in any prohibited place without the permission of an authorized officer or of a person authorized in that behalf by an authorized officer.

(4) In any proceedings for an offence against this regulation the burden of proving that any person had permission to be in any prohibited place shall be on the defendant.

**20.** Any constable or authorized officer, and any other person authorized in that behalf by an authorized officer,—

- (a) May direct any person not to enter or remain in any prohibited place or loiter in the vicinity of any prohibited place :
- (b) May give such directions as he thinks fit to any person who enters or remains in or is about to enter any prohibited place for regulating his conduct while in the prohibited place, whether in relation to anything that he has with him or otherwise :
- (c) May search any person approaching, entering, remaining in, or leaving, or attempting to approach, enter, or leave, any prohibited place, and may detain any such person for the purpose of searching him :
- (d) May arrest without warrant any person who commits, or is reasonably suspected of having committed or of being about to commit an offence against this Part of these regulations.

**21.** (1) Any authorized officer may, if it appears to him to be necessary or expedient for securing the public safety, the defence of New Zealand, or the efficient prosecution of any war in which His Majesty may be engaged, or for maintaining supplies and services essential to the life of the community, station and maintain a guard or patrol at any place, whether or not it is a prohibited place.

(2) Every guard or patrol stationed at any place and consisting of members of any of His Majesty's Forces shall, in the absence of proof to the contrary, be deemed to be a guard or patrol there stationed under these regulations.

**22.** Subject to the instructions of any authorized officer, any guard or patrol—

- (a) May be armed, and may fire upon or otherwise attack any person who, by day or night, in disregard of a warning received from the guard or patrol, approaches, enters, or leaves, or attempts to approach, enter, or leave, the guarded place :
- (b) May direct any person not to enter or remain in the guarded place or loiter in the vicinity of any entrance to the guarded place :
- (c) May give such directions as the guard or patrol thinks fit to any person who is permitted to approach, enter, or leave the guarded place for regulating his conduct while acting under such permission, whether in relation to anything that he has with him or otherwise :
- (d) May search any person approaching, entering, or leaving, or attempting to approach, enter, or leave, the guarded place, and may detain any such person for the purpose of searching him :
- (e) May arrest without warrant any person who commits or is reasonably suspected of having committed or of being about to commit an offence against this Part of these regulations.

**23.** (1) Any authorized officer, if it appears to him to be necessary or expedient for securing the public safety, the defence of New Zealand, or the efficient prosecution of any war in which His Majesty may be engaged, or for maintaining supplies and services essential to the life

of the community, may, by notice in writing, require the occupier of any prohibited place or guarded place to provide in respect of that place such lighting, fencing, and other aids to security as may be specified in the notice.

(2) Any notice under this regulation shall contain such instructions as the authorized officer thinks fit as to the exhibition on the prohibited place or guarded place by the occupier of notices restricting, regulating, or prohibiting entry to that place by any persons or classes of persons.

(3) Any notice given under this regulation may be at any time amended, added to, or revoked by any authorized officer by a subsequent notice in writing.

(4) Any notice given under this regulation to any occupier of any place shall be binding on every other occupier of that place and on every person who subsequently becomes an occupier thereof.

**24.** Every person commits an offence against this Part of these regulations who—

- (a) By any act or default, whether wilful or negligent, endangers the safety of any prohibited place or guarded place or of anything in a prohibited place or guarded place :
- (b) In disregard of any challenge, warning, or order received from the guard or patrol, approaches, enters, or leaves any guarded place :
- (c) Resists, obstructs, or deceives any person who is exercising or attempting to exercise any power or function under this Part of these regulations :
- (d) Without lawful excuse acts in contravention of or fails to comply in any respect with any provision of this Part of these regulations or any direction, restriction, requirement, notice, or condition given, exhibited, or imposed under this Part of these regulations.

**25.** Every person who commits an offence against this Part of these regulations shall be liable on summary conviction—

- (a) In the case of an individual, to imprisonment for a term not exceeding three months or to a fine not exceeding £25, and (if the offence is a continuing one) to a further fine not exceeding £5 for every day during which the offence continues :
- (b) In the case of a body corporate, to a fine not exceeding £100 and (if the offence is a continuing one) to a further fine not exceeding £10 for every day during which the offence continues.

**26.** This Part of these regulations shall bind the Crown.

T. R. AICKIN,  
Acting Clerk of the Executive Council.

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Issued under the authority of the Regulations Act, 1936.

Date of notification in *Gazette* : 31st day of July, 1941.

These regulations are administered in the Army Department.