

Serial Number 1941/152.



**THE DEFENCE EMERGENCY REGULATIONS 1941,  
AMENDMENT NO. 1.**

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

**ORDER IN COUNCIL.**

At the Government House at Wellington, this 10th day of  
September, 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.**

1. These regulations may be cited as the Defence Emergency Regulations 1941, Amendment No. 1, and shall be read together with and deemed part of the Defence Emergency Regulations 1941\* (hereinafter referred to as the principal regulations).

2. Regulation 2 of the principal regulations is hereby amended by inserting, after the definition of the expression "guarded place", the following definition:—

"'Home Guard' means the Home Guard constituted under these regulations:—"

3. The principal regulations are hereby amended by inserting, after Regulation 6, the following regulation:—

"6A. (1) There is hereby constituted a part of the Defence Forces of New Zealand within the meaning of the Defence Act, 1909, and of the principal regulations to be known as the Home Guard.

"(2) Subject to the provisions of these regulations, 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 Home Guard as if it were part of the Territorial Force:

\* Statutory Regulations 1941, Serial number 1941/130, page 419.

“ Provided that, subject as aforesaid, the application of any such regulations to the Home Guard may be excluded or modified by Army Orders.

“(3) Upon the commencement of this regulation the Home Guard constituted under the Emergency Reserve Corps Regulations 1940,\* shall cease to exist, and the members thereof shall be deemed to become members of the Home Guard constituted under this regulation.

“(4) Every person who is over the age of sixteen years and is a natural-born or naturalized British subject and who is desirous of becoming a member of the Home Guard shall make application for such membership by completing the particulars concerning himself set out in a form of enrolment to be provided by the Army Board for the purpose, and shall be attested by making the declaration and swearing the oath of allegiance set out in the form of enrolment before a commissioned officer of the Defence Forces or a Justice of the Peace.

“(5) The application of any person for enrolment may, at any time before he is attested as aforesaid, be rejected on the ground of physical unfitness, or on any other ground, or without any ground being specified.

“(6) Upon being attested the applicant shall become a member of the Home Guard.

“(7) Nothing in this regulation shall absolve any person from any liability for service with any other of His Majesty's Forces.

“(8) The Home Guard shall be divided into such subdivisions as may from time to time be determined by the Army Board.

“(9) Without limiting the powers conferred by section 5 of the Defence Act, 1909, it is hereby declared that the Governor-General may pursuant to that section from time to time appoint to the Home Guard such officers to hold such appointments as seem to him necessary.

“(10) Every person who is deemed to become or who becomes a member of the Home Guard shall have such rank in that force as he may from time to time be appointed to or granted therein, whether or not he holds any rank (commissioned or otherwise) in any other armed force.

“(11) Unless otherwise authorized by the officer commanding a military district, an officer of the Home Guard shall not exercise military command outside the Home Guard except over such officers, warrant officers, non-commissioned officers, or men as may be posted to the Home Guard for duty.”

4. Regulation 10 of the principal regulations is hereby amended as follows:—

(a) By inserting in clause (1), after the words “National Military Reserve”, the words “or of the Home Guard”:

\* Statutory Regulations 1940, Serial number 1940/188, page 605.

Amendment No. 1: Statutory Regulations 1941, Serial number 1941/33, page 73.

(b) By omitting from clause (1) the words "the other", and substituting the words "any other of them".

5. Regulation 11 of the principal regulations is hereby amended by inserting the words "or of the Home Guard" after the words "National Military Reserve".

6. Regulation 14 of the principal regulations is hereby amended by inserting the words "or of the Home Guard" after the words "National Military Reserve".

7. The principal regulations are hereby amended by adding the following Part:—

"PART V.—IMPRESSMENT OF FIREARMS FOR HOME GUARD.

"27. (1) In this regulation, unless the context otherwise requires,—

"'Firearm' includes any part of a firearm, and, in relation to any particular firearm, includes all accessories, fittings, and equipment (including spare parts, tools, and covers) belonging to the firearm:

"'Owner', in relation to any firearm, includes any person having the firearm in his possession or control.

"(2) The Minister may from time to time require owners of firearms to deliver the firearms to such persons at such places and times and generally in such manner as the Minister thinks fit. Any such requirement may be general or may be limited to any class or classes of owners or to any class or classes of firearms.

"(3) With respect to every firearm delivered pursuant to a requirement under this regulation or delivered to the Minister voluntarily for the purposes of the Home Guard, the Minister may take the firearm on loan on behalf of the Crown for the purposes of the Home Guard for any period or for an unspecified period, and subject to such terms and conditions as he thinks fit.

"(4) If any firearm so delivered is not taken on loan or is no longer required the Minister shall return it to the owner.

"(5) Upon the return of any firearm that is taken on loan the owner shall be entitled to receive as compensation the amount by which the value of the firearm has been reduced during the period between its delivery and its return by reason of depreciation or of any change in its condition, less the amount by which its value has been increased during that period by reason of any change in its condition.

"(6) If any firearm that is taken on loan is not returned the owner shall be entitled to receive as compensation the value of the firearm at the time of its delivery to the Minister:

"Provided that no compensation shall be payable if the Minister delivers to the owner, instead of his own firearm, a firearm of the same or substantially the same type and of the same or greater value.

“(7) For the purposes of the last preceding clause the value of any firearm at the time of its delivery to the Minister shall be deemed not to exceed the price paid for it by the owner, less a reasonable sum for depreciation, or to exceed the sum that would be paid for it by a willing buyer to a willing seller under normal conditions.

“(8) Notwithstanding anything to the contrary in the foregoing provisions of this regulation, where any licensed dealer under the Arms Act, 1920,\* delivers pursuant to a requirement under this regulation any firearm forming part of his stock in trade the firearm shall become the property of His Majesty the King free and discharged from all right, title, or interest possessed in respect thereof by the dealer or by any other person, and all such persons shall be respectively entitled to receive compensation therefor.

“(9) If any question arises in relation to a claim for compensation by any person under this regulation and that person and the Minister are unable to agree thereon, the question shall be referred to one arbitrator if the parties can agree upon one, and otherwise to one arbitrator to be appointed by a Stipendiary Magistrate, under the provisions of the Arbitration Act, 1908, and the obtaining of an award shall be a condition precedent to the commencement of legal proceedings in any Court for the recovery of the amount claimed.

“(10) All requirements, notices, offers, deliveries, loans, agreements, and generally all acts of authority that originated under Regulation 7b of the Emergency Reserve Corps Regulations 1940, and are subsisting or in force on the commencement of this regulation, shall enure for the purposes of this regulation as if they had originated under this regulation, and accordingly shall, where necessary, be deemed to have so originated.

“28. (1) If any Superintendent or Inspector of Police has reason to suspect that there is in any place any firearm the delivery of which has been required under the last preceding regulation but which has not been delivered in accordance with the requirement, the Superintendent or Inspector, or any constable authorized by him in that behalf, may at any time of the day or night enter upon that place and upon every part thereof, and may seize any such firearm found therein, using such force as may be necessary.

“(2) If any Superintendent or Inspector of Police has reason to suspect that any person has in his possession or control or in or on any vehicle any firearm the delivery of which has been required under the last preceding regulation but which has not been delivered in accordance with the requirement, the Superintendent or Inspector, or any constable authorized by him in that behalf, may search and detain for the purpose of search that person and that vehicle (if any) and may seize any such firearm found upon such search.

\* See Reprint of Statutes, Vol. III, page 163.

“(3) Any firearm seized under this regulation shall be deemed to have been delivered pursuant to a requirement under the last preceding regulation.

“29. (1) Any notice, order, direction, requirement, or other instrument given or made by the Minister or an authorized officer under this Part of these regulations shall be sufficiently authenticated if it is signed by the Minister or authorized officer or by any person on behalf of and by direction of the Minister or authorized officer.

“(2) Every instrument purporting to be signed by or on behalf of the Minister or an authorized officer shall, in the absence of proof to the contrary, be deemed to have been duly signed by or on behalf of and by direction of the Minister or authorized officer, as the case may be.

“30. (1) The Minister or an authorized officer may give public notice of the exercise of any of his powers under this Part of these regulations or of any order, direction, requirement, term, or condition given or imposed by him under this Part of these regulations, and all persons shall be bound thereby.

“(2) For the purposes of this Part of these regulations, except where otherwise specially provided, the term “public notice” means a notice published in the *Gazette* or in a newspaper circulating in the locality in which the matter of the notice arises or to which it relates.

“(3) The Minister or an authorized officer may, without public notice, give notice to any person of any such order, direction, requirement, term, or condition, and every person to whom the notice is given shall be bound thereby.

“(4) Except where otherwise specially provided, any notice required to be given to any person for the purposes of this Part of these regulations may be given by causing it to be delivered to that person, or to be left at his usual or last known place of abode or business, or at the address specified by him in any application or other document received from him by the Minister or by an authorized officer, or to be posted in a letter addressed to him at that place of abode or business or at that address.

“(5) If any such notice is sent to any person by registered letter, it shall be deemed to have been delivered to him when it would have been delivered in the ordinary course of post, and in proving the delivery it shall be sufficient to prove that the letter was properly addressed and posted.

“(6) Every public notice or notice given under this Part of these regulations shall take effect when it is published or given, or at such later time as may be specified in that behalf in the notice.

“(7) Any notice given under this Part of these regulations may be at any time varied or revoked by a subsequent notice.

“ 31. (1) Every person commits an offence against this Part of these regulations who—

“ (a) 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 order, direction, requirement, or condition given or imposed under these regulations:

“ (b) Resists, obstructs, or deceives any person who is exercising or attempting to exercise any power or function under this Part of these regulations.

“(2) Every person who commits an offence against this Part of these regulations 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.”

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* : 11th day of September, 1941.  
These regulations are administered in the Army Department.