



**THE DEFENCE EMERGENCY REGULATIONS 1941,  
AMENDMENT NO. 5**

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

**ORDER IN COUNCIL.**

At the Government House at Wellington, this 31st day of  
March, 1943.

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. 5, and shall be read together with and deemed part of the Defence Emergency Regulations 1941\* (hereinafter referred to as the principal regulations).

**PRELIMINARY.**

2. Regulation 2 of the principal regulations is hereby amended by inserting, before the definition of the term "Minister", the following definition :—

“ ‘ Military area ’ means an area constituted under section 3 of the Defence Act, 1909 : ”.

3. The principal regulations are hereby amended by inserting, after Regulation 2, the following regulation :—

“ 2A. The Minister may from time to time appoint to be an authorized officer or authorized officers for the purposes of these regulations any specified officer of any of His Majesty's Forces or a specified class of such officers or the holder or holders for the time being of a specified office or appointment or class of offices or appointments in any of His Majesty's Forces.”

4. The principal regulations are hereby amended by inserting, after Regulation 5A, the following regulation :—

“ 5AA. (1) Without limiting the powers of delegation conferred by these regulations, it is hereby declared that the Minister may from time to time, by order, declare that such of the powers conferred on the Minister or on any authorized officer by these regulations as are specified in the order may be exercised by members of any of His Majesty's Forces acting in the course of their duty as such.

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

Amendment No. 1 : Statutory Regulations 1941, Serial number 1941/152, page 492.

Amendment No. 2 : Statutory Regulations 1941, Serial number 1941/215, page 652.

Amendment No. 3 : Statutory Regulations 1942, Serial number 1942/123, page 277.

Amendment No. 4 : Statutory Regulations 1942, Serial number 1942/295, page 709.

“(2) While any order under this regulation continues in force with respect to any power, any member of any of His Majesty’s Forces acting in the course of his duty as such may from time to time exercise that power.

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

5. Regulation 5B of the principal regulations\* is hereby amended by adding the following clause :—

“(3) The production of a document that purports to be a copy of an order under these regulations shall, in the absence of proof to the contrary, be sufficient evidence of that order in all Courts and in all proceedings.”

6. The principal regulations are hereby amended by inserting, after Regulation 5c, the following regulation :—

“5D. In any prosecution for an offence against the Defence Act, 1909, or against any regulations made thereunder or against these regulations, a certificate purporting to be signed by an officer of the Defence Forces stating that the accused or any other person is or was a member of the part, formation, corps, or unit of the Defence Forces specified in the certificate or stating that the accused or any other person is or was a member of the class of members of the Defence Forces specified in the certificate, and stating the date upon which he became a member of that part, formation, corps, unit, or class, shall be received in all Courts (without proof of the signature or of the official position of the person signing the certificate) as sufficient evidence of the facts so certified, in the absence of proof to the contrary.”

#### AREA POOLS.

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

“6Q. (1) There is hereby constituted for each military area a part of the Defence Forces within the meaning of the Defence Act, 1909, and of these regulations to be known as the Area [*Number of area*] Pool.

“(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 each area pool as if it were part of the Territorial Force :

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

“(3) Upon the commencement of this regulation all persons who are then in the body in any military area heretofore known as the area pool shall be deemed to become members of the area pool constituted for that area by this regulation.

“(4) Every person who at any time after the commencement of this regulation is deemed by virtue of the National Service Emergency Regulations 1940† to be transferred from the General Reserve to the Army shall thereupon be deemed to become a member of the appropriate area pool.

“(5) Every other person who at any time after the commencement of this regulation becomes a member of the Defence Forces (whether by reason of appointment or transfer thereto or enlistment therein,

\* Statutory Regulations 1942, Serial number 1942/123, Regulation 3, page 277.

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

or by reason of the provisions of any Act or regulations) and does not thereupon become a member of any part of the Defence Forces other than an area pool shall thereupon be deemed to become a member of the appropriate area pool.

“(6) Where any person to whom clause (4) of this regulation applies is, at the time when he is deemed to become a member of the appropriate area pool, a member of any other part of the Defence Forces (not being an area pool), he shall not cease to be a member of that other part of the Defence Forces by reason of his having been deemed to become a member of the appropriate area pool.

“(7) For the purposes of this regulation the appropriate area pool in respect of any person called up for service with the armed forces by a notice in the *Gazette* shall be the area pool of the area indicated in that behalf in that notice, and the appropriate area pool in respect of any other person shall be the area pool to which he is posted by military orders.”

#### MILITARY LAW.

8. Regulation 8 of the principal regulations is hereby amended by inserting, after clause (1), the following clause :—

“(1A) For the purpose of the application as aforesaid of the provisions of the Army Act, all members of the Defence Forces shall be deemed to be persons subject to military law within the meaning of that Act, and if officers shall be deemed to be so subject as officers, and otherwise shall be deemed to be so subject as soldiers.”

9. Clause (2) of Regulation 8 of the principal regulations\* is hereby amended by revoking paragraph (d), and substituting the following paragraph :—

“(d) Paragraph 587 (a) (iii) of the King's Regulations shall be read and construed as if the reference therein to the G.O.C. were a reference to the Adjutant-General or a District Commandant or a Divisional Commander, and as if the reference therein to £4 were a reference to £10 :”

10. Regulation 8 of the principal regulations is hereby further amended by adding the following clauses :—

“(6) (a) The operation of paragraph 297 of the Regulations for the New Zealand Military Forces 1927† shall be deemed to be suspended.

“(b) The Adjutant-General, a District Commandant, or a Divisional Commander may, for inefficiency or unsuitability, reduce to a lower rank or grade, or to the ranks, any warrant officer or non-commissioned officer of the Territorial Force, the Home Guard, or the Women's Army Auxiliary Corps.

“(7) While these regulations continue in force, section 13 of the Defence Amendment Act, 1912‡, shall be read and construed as if it had been amended as follows :—

“(a) By omitting from paragraph (c) of subsection (1) the words ‘of the Permanent Force or Permanent Staff’ :

“(b) By omitting from subsection (2) (as amended by section 7 of the Army Board Act, 1937) the words ‘acting with the authority of the Governor-General’, and substituting therefor the words ‘not below the rank of a field officer’ :

\* Statutory Regulations 1942, Serial number 1942/123, Regulation 6, page 279.

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

‡ See Reprint of Statutes, Vol. II, page 621.

“(c) By adding the following subsection:—

“(3) Warrants under this section may be addressed to officers by name or by designation of their offices, or partly in one way and partly in the other, and any warrant may or may not, according to the terms of such warrant and the mode in which the same is addressed, be limited to an officer named, or be extended to a person for the time being performing the duties of the office named, or be extended to the successors in command of an officer.’”

11. The principal regulations are hereby amended by inserting, after Regulation 8, the following regulation:—

“8A. (1) The Governor-General may from time to time, by Proclamation, declare that the members of such parts, formations, corps, or units of the Defence Forces as may be specified in the Proclamation, or that such classes of members of the Defence Forces as may be specified in the Proclamation, shall be on active service at all times or at such time or times as may be specified in the Proclamation.

“(2) While any Proclamation under this regulation continues in force, every member for the time being of any part, formation, corps, unit, or class specified therein shall be deemed at all times or, as the case may be, at such time or times as may be specified in the Proclamation to be on active service within the meaning and for the purposes of the Army Act in its application to that member.

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

“(4) The provisions of this regulation shall be in addition to and not in restriction of Regulation 13 of the Expeditionary Force Emergency Regulations 1940.\*”

12. (1) Regulation 10 of the principal regulations is hereby amended by revoking clause (1), as amended by Regulation 4 of the Defence Emergency Regulations 1941, Amendment No. 1, and substituting the following clause:—

“(1) Subject to the provisions of Regulation 6H (1) of these regulations† and of Regulation 5 of the National Service Emergency Regulations 1940, Amendment No. 12‡, a member of any part of the Defence Forces may be transferred to any other part of the Defence Forces, or may be discharged, by the Adjutant-General of the Defence Forces or by any other officer of the Defence Forces to whom the Adjutant-General may have delegated his powers in that behalf.”

(2) Regulation 4 of the Defence Emergency Regulations 1941, Amendment No. 1, is hereby consequentially revoked.

#### NOTICES DECLARING PROHIBITED PLACES.

13. Regulation 19 of the principal regulations is hereby amended by omitting from clause (1) the words “published in the *Gazette*”.

C. A. JEFFERY,

Clerk of the Executive Council.

\* Statutory Regulations 1940, Serial number 1940/1, page 3.

† Statutory Regulations 1942, Serial number 1942/295, Regulation 3, page 709.

‡ Statutory Regulations 1942, Serial number 1942/188, page 453.

Issued under the authority of the Regulations Act, 1936.

Date of notification in *Gazette*: 1st day of April, 1943.

These regulations are administered in the Army Department.