

Serial Number 1939/234.



**THE DEPENDENCY EMERGENCY REGULATIONS (NO. 2) 1939.**

GALWAY, Governor-General.

ORDER IN COUNCIL.

At the Government Buildings at Wellington, this 1st day of  
November, 1939.

Present :

THE HON. W. NASH PRESIDING IN COUNCIL.

PURSUANT to the Cook Islands Act, 1915, and the Samoa Act, 1921, 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 Dependency Emergency Regulations (No. 2) 1939.

2. These regulations shall come into force in the Cook Islands other than Niue when publicly notified by the Resident Commissioner of Rarotonga in such manner as he thinks proper, in the Island of Niue when publicly notified by the Resident Commissioner of Niue in such manner as he thinks proper, and in the Mandated Territory of Western Samoa on the day of publication hereof in the *Western Samoa Gazette*.

3. The Dependency Emergency Regulations 1939\* shall be revoked on the respective dates of the coming into force of these regulations :

Provided that section 20 of the Acts Interpretation Act, 1924, shall apply to the revocation hereby effected.

4. The regulations made under the Public Safety Conservation Act, 1932, the short titles of which are set out in the First Schedule hereto, as amended by the regulations made under the Emergency Regulations Act, 1939, the short titles of which are set out in the Second Schedule hereto, shall be in force in the Cook Islands and Western Samoa subject to the modifications hereinafter directed to be made.

\* Statutory Regulations 1939, Serial number 1939/127.

5. In the application to Western Samoa of the Alien Control Emergency Regulations 1939, those regulations shall be read with the addition to Regulation 20 thereof of the following clauses (to which Regulation 8 of these regulations shall not apply):—

“(4) Any person detained in Western Samoa under the authority of this regulation may, by warrant under the hand of the Administrator and the Seal of Samoa, be transferred to the custody of the military authorities in New Zealand.

“(5) In pursuance of such warrant, such person shall forthwith be taken in custody from Samoa to New Zealand by any ship belonging to His Majesty or by any British ship and there forthwith delivered to the military authorities at some port of discharge in New Zealand.

“(6) Every person so brought to New Zealand shall be detained in the same manner as a person delivered into the custody of the military authorities under clause (2) of this regulation.

“(7) Any person so brought to New Zealand may, by warrant under the hand of the Minister of External Affairs, be transferred from New Zealand to the custody of the military authorities in Samoa.

“(8) In pursuance of such last-mentioned warrant, such person shall forthwith be taken in custody from New Zealand to Samoa by any ship belonging to His Majesty or by any British ship and there forthwith delivered to the military authorities at the Port of Apia.

“(9) Every such person if discharged in New Zealand shall on his discharge, unless he otherwise elects, be conveyed from New Zealand by the first vessel reasonably available to the Port of Apia.”

6. In the following clauses of these regulations the term “emergency regulations” includes—

(a) The regulations declared to be in force in the Cook Islands and Western Samoa by clause 4 hereof:

(b) Any regulations made or enuring under the Emergency Regulations Act, 1939, which may by Order in Council or Ordinance hereafter be declared to be in force in the Cook Islands or any part thereof or in Western Samoa.

7. The provisions of the Public Safety Conservation Act, 1932, and the Emergency Regulations Act, 1939, shall be in force in the Cook Islands and Western Samoa so far as may be necessary to implement and give full effect to any emergency regulations and to authorize the imposition of penalties for infringement of any emergency regulations.

8. Any references, express or implied, in emergency regulations to New Zealand as a territorial expression shall, in the application thereof to the Cook Islands other than Niue, be deemed to be references to the Cook Islands, and shall in the application thereof to the Island of Niue be deemed to be references to the Island of Niue, and shall in the application thereof to Western Samoa be deemed to be references to Western Samoa.

9. Any references in emergency regulations to the Governor-General or to a Minister of the Crown shall, in the application thereof to the Cook Islands other than Niue, be deemed to be references to the Resident Commissioner of Rarotonga, and shall in the application thereof to the Island of Niue be deemed to be references to the Resident Commissioner of Niue, and shall in the application thereof to Western Samoa be deemed to be references to the Administrator of Western Samoa.

10. (1) Any reference in emergency regulations to a particular Department or officer of the Government shall be deemed to be a reference to the appropriate or equivalent Department or officer of the local Administration, or, if there is no such appropriate or equivalent Department or officer, shall in the application thereof to the Cook Islands other than Niue be deemed to be a reference to the Resident Commissioner of Rarotonga, and shall in the application thereof to the Island of Niue be deemed to be a reference to the Resident Commissioner of Niue, and shall in the application thereof to Western Samoa be deemed to be a reference to the Administrator of Western Samoa.

(2) If any question arises as to what is the appropriate or equivalent Department or officer of a local Administration or whether there is such an appropriate or equivalent Department or officer, the question may be decided respectively for the Cook Islands other than Niue, for Niue, and for Western Samoa by notice given by the Resident Commissioner of Rarotonga, the Resident Commissioner of Niue, and the Administrator of Western Samoa respectively acting in an executive capacity and publicly notified in the manner specified in clause 13 of these regulations.

11. Any reference in emergency regulations to a Court shall be deemed to be a reference to the High Court of the Cook Islands or to the High Court of Western Samoa, as the case may require.

12. Except as otherwise expressly provided in emergency regulations, no action, claim, or demand whatsoever shall lie or be made or allowed by or in favour of any person against the Crown, or any Minister of the Crown, or any officer or person acting in the execution or intended execution of these regulations, or of any emergency regulations for or in respect of any damage, loss, or injury sustained or alleged to have been sustained by reason of anything done or purporting to be done under the authority of these regulations or of any emergency regulations.

13. The promulgation in such manner as the Resident Commissioner at Rarotonga may think fit (in respect of persons in the Cook Islands other than Niue), or in such manner as the Resident Commissioner at Niue may think fit (in respect of persons in the Island of Niue), or the publication in the *Western Samoa Gazette* (in respect of persons in Western Samoa), of these regulations or of any emergency regulations or of any Proclamation, order, rule, notice, warrant, license, or other act of authority under these regulations or under any emergency regulations shall for all purposes be deemed to be notice thereof to all persons concerned, and in any prosecution under these regulations or under any emergency regulations the liability of the accused shall be determined accordingly.

14. (1) Every person who commits, or attempts to commit, or does any act with intent to commit, or counsels, procures, aids, abets, or incites any other person to commit, or conspires with any other person to commit any offence against any emergency regulations shall be liable to such punishment as is prescribed in that behalf by the regulations or, where no punishment is so provided, shall be liable to imprisonment for a term of twelve months, or to a fine of £100, or to both such imprisonment and such fine.

(2) Nothing in these regulations or in any emergency regulations shall be so construed as to take away or restrict the liability of any person for any offence punishable independently of these regulations; but no person shall be punished twice for the same offence.

15. (1) In any prosecution under these regulations the Court shall take judicial notice of the existence or termination of a state of war.

(2) In every such prosecution the Court may admit such evidence as it thinks fit, whether it would be admissible in other proceedings or not.

(3) Unless the Resident Commissioner at Rarotonga, or the Resident Commissioner at Niue, or the Administrator of Western Samoa, as the case may require, in any case directs otherwise, no person convicted in any such prosecution shall be released from custody by reason of and during the pendency of an appeal from the conviction, and warrants may be issued in execution of the conviction in the same manner as if no appeal had been instituted, notwithstanding anything to the contrary in any other regulations.

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## SCHEDULES.

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### FIRST SCHEDULE.

1. The Censorship and Publicity Emergency Regulations 1939 (Serial Number 1939/121).
2. The Price Stabilization Emergency Regulations 1939 (Serial Number 1939/122).
3. The Defence Emergency Regulations 1939 (Serial Number 1939/123).
4. The Shipping Control Emergency Regulations 1939 (Serial Number 1939/126).
5. The Oversea Passengers Emergency Regulations 1939 (Serial Number 1939/128).
6. The Supply Control Emergency Regulations 1939 (Serial Number 1939/131).
- ~~7. The Alien Control Emergency Regulations 1939 (Serial Number 1939/132).~~
8. The Oil Fuel Emergency Regulations 1939 (Serial Number 1939/133).
9. The Passport Emergency Regulations 1939 (Serial Number 1939/135).
10. The Enemy Trading Emergency Regulations 1939 (Serial Number 1939/139).
11. The Wheat and Flour Emergency Regulations 1939 (Serial Number 1939/142).
12. The Export Prohibition Emergency Regulations 1939 (Serial Number 1939/151).
13. The Contraband Emergency Regulations 1939 (Serial Number 1939/152).
14. The Enemy Property Emergency Regulations 1939 (Serial Number 1939/153).

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### SECOND SCHEDULE.

15. The Oil Fuel Emergency Regulations 1939, Amendment No. 1 (Serial Number 1939/170).
16. The Enemy Property Emergency Regulations 1939, Amendment No. 1 (Serial Number 1939/203).

C. A. JEFFERY,  
Clerk of the Executive Council.

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Issued under the authority of the Regulations Act, 1936.

Date of notification in *Gazette*: 2nd day of November, 1939.

These regulations are administered by the Cook Islands Department and the External Affairs Department.