

Serial Number 1942/245



**THE EARTHQUAKE DAMAGE EMERGENCY  
REGULATIONS 1942**

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

**ORDER IN COUNCIL.**

At the Government House at Wellington, this 10th day of  
August, 1942.

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 Earthquake Damage Emergency Regulations 1942.

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

“Local authority” means the Council of a borough, the Board of a town district not forming part of a county, the Council of a county, or the Board of a road district in a county in which the Counties Act, 1920, is suspended or is not in force :

“Owner”, in relation to any premises, means the person for the time being entitled to receive the rack-rent of the premises, or who would be so entitled if the premises were let at a rack-rent.

3. (1) In any case where any premises have been damaged by any earthquake, whether before or after the commencement of these regulations, the local authority may by notice in writing require the owner of the premises within such time as may be therein specified to repair the damage or to do such work in connection with the repair of the damage as may be specified in the notice.

(2) The local authority may by notice in writing require the owner of any premises within such time as may be therein specified to pull down, remove, or alter any part of the premises, if in the opinion of the local authority that part of the premises is a source of public danger, or may become a source of public danger in the event of earthquake.

(3) Any notice under this regulation may be at any time varied or revoked by a subsequent notice.

(4) Any owner on whom a notice is served under this regulation and who without lawful excuse fails or refuses to do anything required of him under that notice before such date as may be fixed by the local authority or in such manner as may be directed by the local authority commits an offence and is liable on summary conviction to a fine of £50.

4. (1) Within three days after any notice under Regulation 3 hereof is served on the owner of any premises, the owner or any other person having an estate or interest therein may give to the local authority notice of appeal.

(2) Pending the determination of the appeal the notice shall be suspended.

(3) Every such appeal shall be heard and determined in a Magistrate's Court before a Magistrate alone, and the Court, for the purposes of hearing and determining the appeal, shall have all the powers vested in it in its ordinary civil jurisdiction.

(4) Subject to these regulations, the procedure for the institution, hearing, and determination of the appeal in the Magistrate's Court shall be in accordance with the ordinary procedure of the Court.

(5) On any such appeal the Magistrate's Court may award such costs as it deems just either against the local authority or against the appellant.

(6) On any such appeal the Magistrate's Court may cancel the notice, or may confirm it either wholly or partly and either unconditionally or upon or subject to such conditions and modifications as the Court deems just, and the decision of the Court shall be final.

5. (1) If any owner on whom a notice is served under Regulation 3 hereof fails or refuses to do anything required of him under that notice before such date as may be fixed by the local authority or in such manner as may be directed by the local authority, the local authority may itself do that thing.

(2) The local authority at the request of the owner of any premises may repair any damage caused to the premises by earthquake, or may do any work in connection with the repair of any such damage.

(3) For the purpose of doing any work or thing in relation to any premises under this regulation, any person authorized in writing in that behalf by the local authority may, with such workmen as are necessary, enter upon the premises.

(4) All moneys expended by the local authority under this regulation together with interest thereon, if demanded by the local authority, calculated from the date of demand up to the date of payment at the rate of 5 per cent. per annum shall be recoverable in any Court of competent jurisdiction as a debt due to the local authority by the owner. Damages payable by the local authority under Regulation 7 hereof shall be deemed to be moneys expended under this regulation.

6. (1) In any case where moneys are recoverable by any local authority from the owner of any premises pursuant to Regulation 5 hereof the local authority may deposit with the District Land Registrar or the Registrar of Deeds, as the case may require, in the land registration district in which is situated the land whereon the premises are erected a certificate under the hand of the Clerk or other responsible officer of the local authority describing the land and specifying the amount recoverable as aforesaid, and the Registrar shall thereupon register the certificate in respect of that land.

(2) The moneys specified in a certificate registered under this regulation in respect of any land, and interest thereon as aforesaid, shall, until the payment thereof, be a charge on the land. The charge shall be deemed to have been created at the expiration of one month from the completion of the work in connection with which the moneys are recoverable or at the time of the registration of the certificate, whichever is the earlier.

(3) Registration of the certificate under this regulation shall be deemed to be registration of the charge for the purposes of the Statutory Land Charges Registration Act, 1928.\*

(4) Subject to the provisions of the Statutory Land Charges Registration Act, 1928, every charge created by this regulation shall, except as hereinafter provided, have priority over all existing or subsequent mortgages, charges, or encumbrances howsoever created. Notwithstanding anything to the contrary in any other enactment, if any land subject to a charge created by this regulation is also subject to a charge created by that other enactment, the charges shall rank equally with each other unless by virtue of that other enactment the charge created thereby would be deferred to the charge created by this regulation.

7. (1) In any case where in the opinion of the local authority it is necessary or desirable for the purpose of repairing damage caused to any premises by an earthquake, or for the purpose of safeguarding premises against damage by earthquake, to enter upon any other land or premises, the local authority, or the owner of the first-mentioned premises acting with the approval of the local authority, may enter upon the other land or premises for the purpose aforesaid.

(2) If the owner or occupier of any land or premises suffers any loss or damage by the entry thereon by the local authority or any other person pursuant to this regulation, the owner or occupier shall be entitled to receive from the local authority or that other person, as the case may be, such compensation as may be reasonable.

(3) The compensation may be recovered in any Court of competent jurisdiction as if it were damages for tort.

8. (1) Any notice required to be served on any person for the purposes of these regulations may be served by delivering it to that person or by posting it by registered letter addressed to that person at his last known place of abode or business in New Zealand. A notice so posted shall be deemed to have been served at the time when the registered letter would in the ordinary course of post be delivered.

(2) If any notice is required to be served on the owner of any premises it shall be sufficient if it is addressed to him as owner, notwithstanding that he is not named in the notice.

9. Every person commits an offence and is liable on summary conviction to a fine of £50 who obstructs, hinders, impedes, resists, or opposes any person who is exercising or attempting to exercise any powers conferred on him by or pursuant to these regulations.

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

\* See Reprint of Statutes, Vol. VII, page 1280.