

Serial Number 1944/29



**THE EARTHQUAKE DAMAGE EMERGENCY REGULATIONS
1944**

C. L. N. NEWALL, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington, this 2nd day of
March, 1944

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. (1) These regulations may be cited as the Earthquake Damage Emergency Regulations 1944.

(2) These regulations shall be deemed to have come into force on the 1st day of March, 1944.

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

“ The Act ” means the War Damage Act, 1941 :

“ Earthquake damage ” means—

(a) Damage occurring as the direct result of earthquake or of earthquake fire :

(b) Damage occurring (whether accidentally or not) as the direct result of measures taken under proper authority to avoid the spreading of, or otherwise to mitigate, the consequences of any such damage as aforesaid :

Provided that this definition does not include any damage for which compensation is payable under any enactment other than these regulations :

“ Earthquake fire ” means fire occasioned by or through or in consequence of earthquake :

Expressions defined in the Act or in the War Damage Regulations 1941* have the meanings so defined.

* Statutory Regulations 1941, Serial number 1941/246, page 802.

Amendment No. 1 : Statutory Regulations 1942, Serial number 1942/84, page 185.

Amendment No. 2 : (*Revoked*).

Amendment No. 3 : Statutory Regulations 1943, Serial number 1943/207, page 468.

INSURANCE AGAINST EARTHQUAKE DAMAGE OF PROPERTY INSURED
AGAINST WAR DAMAGE BY VIRTUE OF FIRE INSURANCE

3. (1) Subject to the provisions of these regulations, where in respect of any period after the commencement of these regulations any property is insured to any amount against war damage by virtue of section 14 of the Act the property shall at all times during that period be insured under the Act and these regulations to the same amount against earthquake damage.

(2) Where the period for which any property is insured against war damage by virtue of section 14 of the Act commenced before the commencement of these regulations, the property shall be insured by virtue of this regulation from the commencement of these regulations to the end of that period.

(3) The insurance of any property against earthquake damage by virtue of this regulation shall be subject to the provisions of these regulations and to the conditions and stipulations set out in the Schedule to the War Damage Regulations 1941* (except clause 2 of that Schedule). For the purposes of this subclause all references to war damage in the said Schedule shall be deemed to be references to earthquake damage.

(4) In addition, the insurance of any property against earthquake damage for any period by virtue of this regulation shall be subject to the following conditions and stipulations :—

- (a) In respect of any loss or damage to the property occurring during any period of forty-eight consecutive hours as the direct result of earthquake (not including earthquake fire), the Commission shall be liable to pay or contribute its proportion only of the amount by which that loss or damage exceeds £5. For the purposes of this paragraph any one building or group of buildings with the contents thereof in the same ownership and located in one situation shall be deemed to be one property :
- (b) If on the occurrence of any loss or damage to the property by earthquake damage the property is insured against that loss or damage otherwise than by virtue of this regulation, the insurance of the property by virtue of this regulation shall be deemed to be in respect of so much of that loss or damage as exceeds the amount to which the property is otherwise insured as aforesaid :
- (c) The Commission shall not be liable in respect of any earthquake damage to the property if any insurance office has at any time before the commencement of these regulations refused to insure the property against any form of earthquake damage or earthquake fire damage on a proposal made by the insured person or has cancelled any such insurance held by the insured person, except where the refusal or cancellation was exclusively due to defects of construction which have subsequently been satisfactorily remedied or to earthquake damage which has subsequently been satisfactorily made good :
- (d) The Commission shall not be liable in respect of any earthquake damage to the property if any local authority or other person empowered in that behalf has at any time before the occurrence of the damage required any earthquake damage to the property to be made good and that requirement has not been satisfactorily complied with :

* Statutory Regulations 1941, Serial number 1941/246, page 802.

- (e) The insurance of the property against earthquake damage may be cancelled or the amount of the insurance may be reduced by the Commission at any time if in the opinion of the Commission any such cancellation or reduction is necessary by reason of the insurance of the property to an excessive amount against earthquake damage or by reason of defects in the physical condition of the property. Upon any such cancellation or reduction the Commission may, in its discretion, refund to or for the benefit of the insured person such portion of the war damage premium paid in respect of the property as the Commission thinks fit.

VOLUNTARY INSURANCE AGAINST EARTHQUAKE DAMAGE

4. (1) On application made by any person having an insurable interest in any property the Commission may agree to insure that property under the Act and these regulations against earthquake damage for such period and to such amount as the Commission thinks fit.

(2) A contract may be made under this regulation—

- (a) For the insurance of any property that is not insured against earthquake damage by virtue of Regulation 3 hereof; or
(b) For the insurance to an additional amount of any property that is insured to any amount by virtue of that regulation; or
(c) For the insurance of any property in substitution for the insurance thereof by virtue of that regulation.

(3) Upon the making of any contract under this regulation a premium at such rate as the Commission thinks fit shall be payable to the Commission by the applicant.

(4) The insurance of any property against earthquake damage under a contract made under this regulation shall be subject to the provisions of these regulations and to such conditions and stipulations as may be provided for by the contract.

COMMISSION TO MAKE GOOD EARTHQUAKE DAMAGE TO INSURED PROPERTY

5. (1) Subject to the provisions of these regulations and of the contract of earthquake insurance (if any), if, during the period for which any property is insured under or by virtue of these regulations against earthquake damage, the property or any part thereof is destroyed or damaged by earthquake damage the Commission shall be liable to make good (by payment or reinstatement or repair, at the option of the Commission) all such loss or damage to an amount not exceeding in respect of the property or any part thereof the amount to which the property or that part thereof is respectively so insured.

(2) Subject to the provisions of these regulations, any payments or expenditure for which the Commission may be liable under this regulation shall be made at such time or times as the Commission in any case thinks fit, being not later than one year after the amount of the loss or damage has been duly determined.

6. The Commission shall have power at its discretion to pay or allow at any time the amount of any claim or claims duly formulated by or on behalf of the insured person to the satisfaction of the Commission.

REINSURANCE

7. The Commission may from time to time, in respect of any liability of the Commission under or by virtue of these regulations, effect reinsurances with any person carrying on business in or out of New Zealand.

POWER OF COMMISSION TO INSPECT PROPERTY AND OBTAIN INFORMATION

8. (1) For the purpose of obtaining any information that may be required by the Commission for the purposes of these regulations the Commission, or any person authorized in writing in that behalf by the Commission, may from time to time—

- (a) Inspect and examine any property and any books, accounts, vouchers, records, or documents :
- (b) Require any person to produce any books, accounts, vouchers, records, or documents in his possession or under his control, and to allow copies of or extracts from any such books, accounts, vouchers, records, or documents to be made :
- (c) Require any person to furnish, in a form to be approved by or acceptable to the Commission, any information or particulars that may be required by the Commission :
- (d) Enter any land, building, or place.

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

- (a) Resists, obstructs, deceives, or attempts to deceive any person who is exercising or attempting to exercise any power or function under this regulation :
- (b) Makes any false or misleading statement or any material omission in any information or particulars furnished under this regulation :
- (c) Fails to comply in any respect with any requirement under this regulation.

(3) Every person who aids, abets, counsels, or procures or is in any way knowingly concerned with the commission of an offence against this regulation shall be deemed to have committed an offence against this regulation.

(4) Any offence against this regulation committed by a servant or agent in the course of his employment shall be deemed to have been also committed by his employer or principal.

(5) Every person who commits an offence against this regulation 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 £50 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 company or other corporation, to a fine not exceeding £200 and (if the offence is a continuing one) to a further fine not exceeding £20 for every day during which the offence continues.

C. A. JEFFERY,

Clerk of the Executive Council.

Issued under the authority of the Regulations Act, 1936.

Date of notification in *Gazette* : 3rd day of March, 1944.

These regulations are administered in the office of the War Damage Commission.