

Serial Number 1952/7



**THE EMERGENCY FORCES PAYMENTS WITHOUT PROBATE
REGULATIONS 1952**

FREYBERG, Governor-General
ORDER IN COUNCIL

At the Government Buildings at Wellington, this 28th day of
January 1952

Present :

THE HON. K. J. HOLYOAKE PRESIDING IN COUNCIL

PURSUANT to Part III of the Emergency Forces Act 1950, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

REGULATIONS

1. These regulations may be cited as the Emergency Forces Payments Without Probate Regulations 1952.

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

“Emergency” means any emergency arising out of the obligations undertaken by New Zealand in the Charter of the United Nations :

“Emergency force” means any naval, military, or air force raised in New Zealand for fulfilling the obligations undertaken by New Zealand in the Charter of the United Nations :

“Minister” means the Minister of Finance :

“Serviceman” means any person who has at any time, whether before or after the commencement of these regulations,—

(a) Served in or outside New Zealand as a member of an emergency force ; or

(b) Served in or outside New Zealand as a member of the naval, military, or air forces of New Zealand (otherwise than as a member of an emergency force) during and in connection with an emergency ; or

(c) While ordinarily resident in New Zealand, served outside New Zealand as a member of the naval, military, or air forces of any other part of the Commonwealth during and in connection with an emergency.

3. Where before or after the commencement of these regulations any serviceman has died, or has been officially reported to be missing and believed killed, and there is payable to his estate out of public moneys any amount (not exceeding £200) by way of pay and allowances or otherwise in respect of his services as a member of any emergency force, and probate of his will or letters of administration of his estate is or are not produced within such time as the Minister thinks reasonable, the Minister may in his discretion, without requiring probate or letters of administration, authorize payment of the amount or any part thereof to any of the persons following, that is to say :—

- (a) The widow or widower of the serviceman :
- (b) The persons entitled to the estate of the serviceman under his will or on his intestacy :
- (c) Any person entitled to obtain probate of the will of the serviceman or letters of administration of his estate :
- (d) Any person undertaking to maintain the children of the serviceman :
- (e) Any person who is a creditor of the serviceman, or who has paid the funeral expenses of the serviceman.

4. In making any payment as aforesaid the Minister shall have regard to the rules of law regulating the distribution of the estates of persons dying intestate, but he may nevertheless, if he considers that injustice or undue hardship would result from the observance of those rules, make any such payment otherwise than in accordance therewith.

5. All payments made pursuant to these regulations shall be valid as against all persons whatsoever, and all persons acting under these regulations shall be absolutely discharged from all liability in respect of any money duly paid or applied by them under these regulations.

6. Before making any payment under these regulations the Minister may require the production of proof to his satisfaction of the claim of the person applying for payment.

7. Notice of every payment under these regulations shall be given to the Commissioner of Stamp Duties in the manner and within the time prescribed by section 61 of the Death Duties Act 1921.*

8. The foregoing provisions of these regulations shall be in addition to and not in derogation of the provisions of any other enactment providing for payments out of the estates of deceased persons without probate or letters of administration having been obtained.

9. (1) The Minister may from time to time, either generally or particularly, delegate to any person any of the powers conferred on him by these regulations, including the power of delegation conferred by this regulation.

(2) Subject to any general or special directions given by the Minister or other person by whom any powers are delegated as aforesaid, the person to whom any powers are so delegated may exercise those powers in the same manner and with the same effect as if they had been directly conferred on him by these regulations and not by delegation.

(3) Every person purporting to act pursuant to any delegation under this regulation shall be presumed to be acting in accordance with the terms of the delegation unless and until the contrary is proved.

* See Reprint of Statutes, Vol. VII, page 385

(4) Any delegation under this regulation may be made to a specified person, or to persons of a specified class, or may be made to the holder for the time being of a specified office or appointment, or to the holders of offices or appointments of a specified class, whether or not any such offices or appointments are in the Government service or in any emergency force.

(5) The delegation by the Minister or by any other person of any powers conferred on him by or by virtue of these regulations shall not prevent the personal exercise of those powers by the Minister or by that other person.

T. J. SHERRARD,
Clerk of the Executive Council.

EXPLANATORY NOTE

[This note is not part of the regulations, but is intended to indicate their general effect.]

These regulations authorize the payment without probate of any amount not exceeding £200 payable out of public moneys to the estate of a deceased member of any New Zealand emergency force. These regulations apply to members of any emergency force substantially the same provisions as are contained in the Payments Without Probate Emergency Regulations 1942 (Serial number 1942/313), which apply only to servicemen of the Second World War.

Issued under the authority of the Regulations Act 1936.
Date of notification in *Gazette*: 31st day of January 1952.
These regulations are administered in the Treasury Department.