

Serial Number 1941/33.



**THE EMERGENCY RESERVE CORPS REGULATIONS 1940,
AMENDMENT NO. 1.**

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

ORDER IN COUNCIL.

At the Government House at Wellington, this 28th day of
February, 1941.

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 Emergency Reserve Corps Regulations 1940, Amendment No. 1.

2. These regulations shall be read together with and deemed part of the Emergency Reserve Corps Regulations 1940* (hereinafter referred to as the principal regulations).

3. (1) Regulation 2 of the principal regulations is hereby amended by inserting, after the definition of the term "Corps", the following definition :—

" 'Emergency Fire Service' means the Emergency Fire Service established by these regulations :"

(2) Regulation 2 of the principal regulations is hereby further amended by adding to the definition of the term "Minister" the words "and includes any person for the time being authorized to exercise or perform any of the Minister's powers or functions".

4. Regulation 3 of the principal regulations is hereby amended by inserting in clause (2), after paragraph (b), the following paragraph :—

" (bb) The Emergency Fire Service :"

* Statutory Regulations 1940, Serial number 1940/188, page 605.

5. Regulation 5 of the principal regulations is hereby amended by omitting from clause (5) the words "from among the members of the Home Guard".

6. Regulation 6 of the principal regulations is hereby amended by revoking paragraph (b) of clause (2), and also by adding the following clause :—

"(6) The validity of the establishment of any committee, or of the appointment of any member of a committee or any Commander, officer, or member of the Home Guard, or of any act done by a committee, shall not be questioned upon the ground of any informality or failure to comply with these regulations, or upon the ground that any local authority may not have been a party to the division of any area into localities or to the establishment of any committee."

7. Regulation 7 of the principal regulations is hereby amended by omitting from clause (1) the words "upon being selected", and also by adding to clause (1) the following paragraphs :—

"(g) A member or responsible officer of a local authority :

"(h) A responsible officer of the Public Service :

"(i) Any other person authorized in that behalf by the Minister."

8. Regulation 7 of the principal regulations is hereby further amended by inserting, after clause (3), the following clause :—

"(3A) Every person who is directed by the Minister under Regulation 8A of the National Service Emergency Regulations 1940* to serve as a member of the Home Guard shall thereupon become a member of the Home Guard in the same manner to all intents and purposes as if he had voluntarily enrolled therein and been attested."

9. The principal regulations are hereby amended by inserting after Regulation 7 the following regulations :—

"REGULATION 7A.—CONDITIONS OF SERVICE IN HOME GUARD.

"(1) The Minister may from time to time, by order, prescribe conditions of service for the Home Guard.

"(2) Without limiting the generality of the foregoing provision it is hereby declared that any such conditions of service may make such provision as the Minister thinks fit for the maintenance of discipline and the insuring of good conduct on the part of the members of the Home Guard, and for the imposition by Commanders not below the rank of Area Commander of fines not exceeding £2 for the breach of any condition of service or of any lawful order or instruction.

"(3) The imposition of any such fine shall be subject to review by the Dominion Commander.

"REGULATION 7B.—IMPRESSMENT OF FIREARMS FOR HOME GUARD.

"(1) The Minister may from time to time require owners of firearms to deliver the firearms to such persons at such places and times and generally in such manner as the Minister thinks fit. Any such requirement may be general or may be limited to any class or classes of owners

* Statutory Regulations 1940, Serial number 1940/117, page 381.
Amendment No. 1 : Statutory Regulations 1940, Serial number 1940/186, page 599.
Amendment No. 2 : Statutory Regulations 1940, Serial number 1940/223, page 731.
Amendment No. 3 : Statutory Regulations 1941, Serial number 1941/3.

or to any class or classes of firearms. For the purposes of this clause the term "owner", in relation to any firearm, includes any person having the firearm in his possession or control.

"(2) With respect to every firearm delivered pursuant to a requirement under this regulation or delivered to the Minister voluntarily for the purposes of the Home Guard, the Minister may take the firearm on loan on behalf of the Crown for the purposes of the Home Guard for any period or for an unspecified period, and subject to such terms and conditions as he thinks fit.

"(3) If any firearm so delivered is not taken on loan or is no longer required the Minister shall return it to the owner.

"(4) Upon the return of any firearm that is taken on loan the owner shall be entitled to receive as compensation the amount by which the value of the firearm has been reduced during the period between its delivery and its return by reason of depreciation or of any change in its condition, less the amount by which its value has been increased during that period by reason of any change in its condition.

"(5) If any firearm that is taken on loan is not returned the owner shall be entitled to receive as compensation the value of the firearm at the time of its delivery to the Minister :

"Provided that no compensation shall be payable if the Minister delivers to the owner, instead of his own firearm, a firearm of the same or substantially the same type and of the same or greater value.

"(6) For the purposes of this regulation the value of any firearm at the time of its delivery to the Minister shall be deemed not to exceed the price paid for it by the owner, less a reasonable sum for depreciation, or to exceed the sum that would be paid for it by a willing buyer to a willing seller under normal conditions.

"(7) If any question arises in relation to a claim for compensation by any person under this regulation and that person and the Minister are unable to agree thereon, the question shall be referred to one arbitrator if the parties can agree upon one, and otherwise to one arbitrator to be appointed by a Stipendiary Magistrate, under the provisions of the Arbitration Act, 1908, and the obtaining of an award shall be a condition precedent to the commencement of legal proceedings in any Court for the recovery of the amount claimed."

10. The principal regulations are hereby further amended by adding the following regulations :—

"REGULATION 9.—DOMINION FIRE CONTROLLER.

"(1) The Minister may from time to time appoint any specified person or the holder for the time being of any specified office to be the Dominion Fire Controller.

"(2) The Dominion Fire Controller shall hold office during the pleasure of the Minister.

"(3) The Dominion Fire Controller shall be subject in all things to the control of the Minister and shall act in accordance with all directions, general or special, given to him by the Minister.

"(4) The Minister may from time to time exercise or perform any of the powers or functions of the Dominion Fire Controller either in his own name or in the name of the Controller.

“REGULATION 10.—DISTRICT FIRE CONTROLLERS.

“The Minister may from time to time appoint for any district determined under clause (3) of Regulation 12 hereof a District Fire Controller who, under the control of the Minister and of the Dominion Fire Controller, shall be responsible in respect of that district for the organization and training of the Emergency Fire Service, and for the allocation of the emergency fire service personnel, the plant and equipment provided by the Government, and any personnel, plant, and equipment made available for that purpose by any emergency precautions organization.

“REGULATION 11.—FUNCTIONS OF DOMINION FIRE CONTROLLER.

“(1) Subject to these regulations, the Dominion Fire Controller shall have the command of the Emergency Fire Service. He shall also be charged with the following functions:—

“(a) To co-ordinate the organization and training of the Emergency Fire Service with the organization and training of existing fire brigades:

“(b) To inspect and investigate the provision made in any locality for fire protection under the Emergency Precautions Regulations 1940* and to report to the Minister thereon.

“(2) The Dominion Fire Controller shall have all such powers as may be reasonably necessary for the efficient exercise of his functions.

“(3) It shall be the duty of every local authority and of every Fire Board and of all officers and servants of every local authority and Fire Board at all times to afford to the Dominion Fire Controller and to every District Fire Controller such assistance, facilities, and information as they may reasonably require in the execution of their powers and functions.

“REGULATION 12.—EMERGENCY FIRE SERVICE.

“(1) There is hereby established a branch of the Corps to be known as the Emergency Fire Service.

“(2) The functions of the Service shall be to act as an auxiliary unit in assistance of existing fire brigades for the purpose of dealing with fires arising from war or any other emergency.

“(3) The Service shall be divided into such subdivisions, based on such districts and areas, as may from time to time be determined by the Minister.

“(4) There shall from time to time be appointed such District Commanders, Divisional Officers, and other officers of the Service as may be determined by the Minister.

“(5) Every Commander and Divisional Officer shall be appointed by the Minister and shall hold office during the pleasure of the Minister.

“(6) All other officers of the Service shall be appointed by such persons and in such manner as may be authorized by the orders of the Dominion Fire Controller.

* Statutory Regulations 1940, Serial number 1940/187, page 601.

“REGULATION 13.—ENROLMENT AND DISCHARGE OF EMERGENCY
FIRE SERVICE.

“ (1) Every person who is desirous of becoming a member of the Emergency Fire Service shall complete the particulars concerning himself set out in a Form of Enrolment to be provided for the purpose by the Minister, and shall be attested by making the declaration and swearing the oath of allegiance set out in the Form of Enrolment before—

“ (a) A District Commander, Divisional Officer, or Assistant Divisional Officer of the Emergency Fire Service :

“ (b) A member of the General Assembly :

“ (c) A Justice of the Peace :

“ (d) A Solicitor of the Supreme Court :

“ (e) A member or responsible officer of a local authority :

“ (f) A responsible officer of the Public Service.

“ (g) Any other person authorized in that behalf by the Minister.

“ (2) The application of any person for enrolment in the Service may be rejected on the ground of physical unfitness or on any other ground, or without any ground being specified.

“ (3) Upon being attested, the applicant shall become a member of the Service. Every member of the Service shall at all times obey the orders and instructions of all officers set over him.

“ (4) Every person who is directed by the Minister under Regulation 8A of the National Service Emergency Regulations 1940* to serve as a member of the Emergency Fire Service shall thereupon become a member of the Service in the same manner to all intents and purposes as if he had voluntarily enrolled therein and been attested.

“ (5) Nothing in these regulations shall absolve any person from any liability for service with any of His Majesty's Forces. If any member of the Emergency Fire Service becomes actively attached to any of His Majesty's Forces he shall be forthwith discharged from the Service.

“ (6) Every member of the Service shall remain a member thereof until he is discharged. Discharges may be granted by such persons and in such manner as may be authorized by the orders of the Dominion Fire Controller.

“ (7) Upon being discharged a member of the Service shall return to the Commander of his subdivision, or to his representative, or otherwise account for all property issued to him as a member of the Service.

“REGULATION 14.—CONDITIONS OF SERVICE IN EMERGENCY FIRE
SERVICE.

“ (1) The Minister may from time to time, by order, prescribe conditions of service for the Emergency Fire Service.

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

Amendment No. 1 : Statutory Regulations 1940, Serial number 1940/186, page 599.

Amendment No. 2 : Statutory Regulations 1940, Serial number 1940/223, page 731.

Amendment No. 3 : Statutory Regulations 1941, Serial number 1941/3.

“(2) Without limiting the generality of the foregoing provision it is hereby declared that any such conditions of service may make such provision as the Minister thinks fit for all or any of the following matters:—

“(a) The maintenance of discipline and the insuring of good conduct on the part of the members of the Fire Service:

“(b) The remuneration of members of the Fire Service:

“(c) The imposition by officers not below the rank of Divisional Officer of fines not exceeding £2 for the breach of any condition of service or of any lawful order or instruction.

“(3) The imposition of any such fine shall be subject to review by the Dominion Fire Controller.

“REGULATION 15.—DELEGATION OF POWERS BY MINISTER.

“(1) The Minister may from time to time, either generally or in respect of any particular area or in respect of any particular class of activity, delegate to any person any of his powers and functions under these regulations, including the power of delegation conferred by this regulation.

“(2) Subject to clause (3) of this regulation, every person to whom any such powers or functions are delegated by the Minister may, without confirmation by the Minister, exercise or perform them in the same manner and with the same effect as the Minister could himself have exercised or performed them.

“(3) Every such person shall be subject in all things to the control of the Minister, and shall act in accordance with all directions, general or special, given to him by the Minister.

“(4) Any delegation under this regulation may be made to a specified person or class of persons or to the holder or holders for the time being of a specified office or class of offices, whether in the Government service or in any emergency precautions organization or otherwise.

“REGULATION 16.—AUTHENTICATION OF DOCUMENTS.

“(1) Any notice, order, direction, permit, or other instrument given, granted, or made by the Minister under these regulations shall be sufficiently authenticated if it is signed by the Minister or by any person on behalf of and by direction of the Minister.

“(2) Every instrument purporting to be signed by or on behalf of the Minister shall, in the absence of proof to the contrary, be deemed to have been duly signed by or on behalf of and by direction of the Minister, as the case may be.

“REGULATION 17.—NOTICES.

“(1) The Minister may give public notice of the exercise of any of his powers under these regulations or of any order, direction, restriction, requirement, or condition given or imposed by him under these regulations, and all persons shall be bound thereby.

“(2) For the purposes of these regulations, except where otherwise specially provided, the term “public notice” means a notice published in the *Gazette* or in a newspaper circulating in the locality in which the matter of the notice arises or to which it relates.

“(3) The Minister may, without public notice, give notice to any person of any such order, direction, restriction, requirement, or condition, and every person to whom the notice is given shall be bound thereby.

“(4) Except where otherwise specially provided, any notice required to be given to any person for the purposes of these regulations may be given by causing it to be delivered to that person, or to be left at his usual or last known place of abode or business or at the address specified by him in any application or other document received from him by the Minister, or to be posted in a letter addressed to him at that place of abode or business or at that address.

“(5) If any such notice is sent to any person by registered letter, it shall be deemed to have been delivered to him when it would have been delivered in the ordinary course of post, and in proving the delivery it shall be sufficient to prove that the letter was properly addressed and posted.

“(6) Every public notice or notice under these regulations shall take effect when it is published or given, or at such later time as may be specified in that behalf in the notice.

“(7) Any notice given under these regulations may be at any time varied or revoked by a subsequent notice.

“REGULATION 18.—OFFENCES.

“(1) Every person commits an offence against these regulations who—

“(a) Without lawful excuse, acts in contravention of or fails to comply in any respect with any provision of these regulations or any order, instruction, direction, condition of service, restriction, or requirement given, prescribed, or imposed under these regulations :

“(b) Makes default for not less than fourteen days in paying any fine imposed by any officer under these regulations :

“(c) Resists, obstructs, or deceives any person who is exercising or attempting to exercise any power or function under these regulations.

“(2) Every person who commits an offence against these regulations shall be liable on summary conviction 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 £10 for every day during which the offence continues. This clause is in addition to and not in derogation of any condition of service authorizing the imposition of a fine :

“Provided that no person shall be punished twice for the same offence.”

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