



THE EMERGENCY SHELTER REGULATIONS 1942

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

ORDER IN COUNCIL.

At the Government House at Wellington, this 2nd day of
January, 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.

PART I.—PRELIMINARY.

1. These regulations may be cited as the Emergency Shelter Regulations 1942.

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

“ Business premises ” means a building in which more than thirty persons work or reside or a group of buildings having the same occupier in which more than thirty persons work or reside :

“ Designated premises ” means any land, building, or other premises or any part of any land, building, or other premises in respect of which a notice under Regulation 6 (1) hereof has been posted or given and has not ceased to have effect or been withdrawn ; and references to the designation of premises shall be construed accordingly :

“ Emergency precautions service ” means an emergency precautions service established under the Emergency Reserve Corps Regulations* ; and includes any person for the time being authorized to exercise or perform any of the powers or functions of an emergency precautions service under these regulations :

“ Emergency Reserve Corps Regulations ” means the Emergency Reserve Corps Regulations 1941* ; and includes any regulations made in amendment thereof or in substitution thereof and for the time being in force :

* Statutory Regulations 1941, Serial number 1941/194 page 585.

“Emergency shelter” means any premises, structure, or excavation used or intended to be used as a shelter for affording protection to persons from war operations :

“Local authority” means the Council of a borough or county or the Board of a town district or road district ; and includes any person for the time being authorized to exercise or perform any of the powers or functions of a local authority under these regulations :

“Minister” means the Minister of National Service ; and includes any person for the time being authorized to exercise or perform any of the Minister’s powers or functions under these regulations :

“Occupier”, in relation to any premises, means the person by whom or on whose behalf the premises are for the time being actually occupied or who would but for the fact that possession thereof has been taken under these regulations be entitled to so occupy the premises :

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

(2) For the purposes of these regulations the number of persons who work or reside in any building or group of buildings shall be taken to be the greatest number of persons who are present in the premises at any one time in a normal day, being persons who carry on business or reside in the premises, or are employed by persons carrying on business or residing in the premises :

Provided that regard shall not be had to any temporary increase occasioned by a change of shifts.

PART II.—ADMINISTRATION.

3. (1) In the exercise of any powers or functions under or for the purposes of these regulations, every local authority, emergency precautions service, and person shall act in accordance with all directions, general or special, given by the Minister.

(2) The Minister may from time to time require any local authority or emergency precautions service to exercise any of the powers or functions conferred or imposed upon it under these regulations.

(3) Any local authority may expend moneys for the purposes of these regulations, whether in relation to powers exercised or works done by itself or by any other local authority or person (either within or outside the district of the first-mentioned local authority), or otherwise.

(4) Any local authority, notwithstanding any limitation placed on the amount of rates which it may levy, may increase the amount of its general rate by such amount as may be necessary to provide for its expenditure under these regulations, or may make and levy a separate rate of such amount as may be necessary for the purpose.

(5) Any local authority may for the purposes of these regulations borrow moneys from its bankers by way of overdraft, or from any person or persons, and moneys so borrowed shall not at any time before the last day of the financial year following that in which the borrowing has taken place be taken into account in computing for

the purposes of section 3 of the Local Bodies' Finance Act, 1921-22, the maximum amount that may lawfully be borrowed by the local authority, or the amount that the local authority may owe at the end of any year on its general account or on any separate account.

(6) For the purposes of these regulations any local authority may from time to time borrow moneys by way of special loan under the Local Bodies' Loans Act, 1926, by special order, and without taking the steps prescribed by sections 9 to 13 of that Act.

4. (1) The Minister and any local authority and any emergency precautions service 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 their powers or functions, including the power of delegation conferred by this regulation and, in the case of the Minister, the power to hear and determine any appeals :

Provided that nothing herein shall authorize any local authority to delegate any power to make and levy rates.

(2) Subject to subclause (3) of this regulation, every person to whom any powers or functions are delegated under this regulation may, without confirmation by the Minister or the local authority or the emergency precautions service, as the case may be, exercise or perform them in the same manner and with the same effect as the Minister or the local authority or the emergency precautions service could have exercised or performed them.

(3) Every such person shall be subject in all things to the control of the Minister and also of the local authority or emergency precautions service (if any) by which he is appointed, and shall act in accordance with all directions, general or special, given to him by the Minister or by the local authority or by the emergency precautions service.

(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 service or otherwise.

(5) Notwithstanding anything to the contrary in these regulations, it is hereby declared that in any case where pursuant to these regulations any powers or functions are conferred or imposed on any local authority, the Mayor or Chairman of the local authority may in the name and on behalf of the local authority exercise or perform those powers or functions in any case where he is of opinion that circumstances require that action should be taken without delay.

5. (1) In any case where pursuant to these regulations any powers, remedies, or functions are conferred or imposed on any emergency precautions service, all notices may be given, contracts entered into, and other powers, remedies, and functions exercised and performed in the name and on behalf of the emergency precautions service by the Chairman of the central committee thereof, and all moneys payable in respect thereof and in respect of any claims for compensation shall be provided and paid by the local authority which is the responsible authority, within the meaning of the Emergency Reserve Corps Regulations,* in relation to the scheme under which that emergency precautions service is established.

* Statutory Regulations 1941, Serial number 1941/194, page 585.

(2) Any claims for compensation and other proceedings in respect of anything done by any emergency precautions service under these regulations shall be made and taken against such responsible authority.

(3) In any case where the scheme under which the emergency precautions service is established is a combined scheme any moneys provided and paid by the responsible authority shall be deemed to be moneys paid in respect of the scheme, and contributions in respect thereof shall accordingly be made by the local authorities in conjunction with which the scheme has been prepared and is being operated.

(4) In any other case where any local authority considers that any other local authority should contribute towards any expenditure incurred by the first-mentioned local authority for the purposes of these regulations (whether in relation to any emergency precautions service or otherwise), that other local authority shall make such contributions in respect thereof as may be mutually agreed upon or, in default of agreement, as may be determined under subclause (5) of this regulation.

(5) If any dispute arises as to the amount of the contribution (if any) to be made by any local authority as provided in subclause (3) or subclause (4) of this regulation, or otherwise in relation to any such contribution, it shall be determined by the Minister of Finance, and his decision shall be final.

PART III.—PUBLIC SHELTERS.

6. (1) Where it appears to any local authority or emergency precautions service authorized by the Minister to exercise the powers conferred by this Part of these regulations that the whole or any part of any premises is or can be made suitable—

- (a) For use as a public emergency shelter; or
- (b) For use as a public access-way or right-of-way; or
- (c) For use by any branch of the Emergency Reserve Corps,—

the local authority or emergency precautions service may post in the premises or part, or may serve on the occupier thereof, a notice declaring that the whole of the premises, or the part, is required, or may be required, for use for that purpose.

(2) The local authority or emergency precautions service shall give to the Minister particulars of the notice and shall take such steps as appear reasonably practicable to bring the contents of the notice to the knowledge of persons having any estate or interest in the premises or part of the premises, as the case may be.

(3) A local authority or emergency precautions service may, and shall if required by the Minister so to do, at any time withdraw or amend any notice under subclause (1) of this regulation by posting in the premises or part of the premises, or by serving on the occupier thereof, a notice withdrawing or amending the prior notice.

(4) Where any person holds any designated premises as a lessee or tenant he shall, immediately he becomes aware of the designation of the premises, notify the lessor or landlord that the premises have been so designated.

7. (1) Within three days from the designation of any premises, any person having any estate or interest therein may appeal to the Minister against the designation thereof on the ground—

- (a) That the whole or any part of the premises is required for use for purposes of public importance and that accordingly it is inexpedient that they should be designated as aforesaid; or
- (b) That the designated premises are not as suitable or convenient for the purpose for which they may be required as other premises specified by the appellant; or
- (c) That, having regard to other premises available and the hardship that would be imposed on the occupier of the designated premises, the premises should not be designated.

(2) If on any such appeal the Minister is satisfied that the grounds of the appeal have been established, he may, if he thinks fit, order that the designation of the premises shall cease to have effect, or that it shall cease to have effect as respects a specified part of the premises originally designated, or that it shall be amended in such manner as he directs.

8. (1) Where it appears to the local authority or emergency precautions service to be expedient for the purpose of making designated premises suitable or more suitable for any of the purposes mentioned in Regulation 6 (1) hereof, or of keeping them suitable for any of those purposes, that any works (including the demolition, removal, alteration, or erection of any building or erection of any part thereof) should be executed in those premises, or in any building of which they form part, or in any adjacent building or land, the local authority or emergency precautions service may, if it is unable to secure the execution of the works by agreement, itself execute those works:

Provided that—

- (a) The local authority or emergency precautions service shall not, except with the consent of all persons concerned, begin any such works as aforesaid until the period has expired for appealing to the Minister against the designation of the premises or, if an appeal is brought within that period, until the determination or abandonment of the appeal:

- (b) Before entering (otherwise than with the consent of the occupier) on any premises, building, or land for the purpose of executing any works the local authority or emergency precautions service shall give to the occupier at least three days' notice in writing of its intention so to do, but any such notice may be given at any time after the designation of the premises.

(2) No person shall, without the consent of the local authority or emergency precautions service, as the case may be,—

- (a) Make any structural alteration in any designated premises; or
- (b) Remove or alter any works executed by, or by arrangement with, the local authority or emergency precautions service in or on any designated premises, any building of which designated premises form part, or any building or land adjacent to any designated premises:

Provided that if the local authority or emergency precautions service refuses its consent or does not give its consent within six weeks from the date on which application is made therefor, the applicant may appeal to the Minister, who may authorize any alteration or removal desired by the applicant upon or subject to such terms or conditions as the Minister thinks fit.

(3) Any person who contravenes the provisions of subclause (2) of this regulation shall be liable on summary conviction to a fine not exceeding £50 :

Provided that no person shall be convicted of an offence under this regulation in relation to any designated premises if he proves that he did not know, and had no reasonable grounds for suspecting, that the premises were designated premises.

(4) Any person convicted of an offence under this regulation shall also be liable to pay to the local authority or to the emergency precautions service the cost of rendering the designated premises as suitable for the purpose for which they may be required as they would have been if the offence had not been committed, and the amount thereof shall be recoverable as a debt due to the local authority or to the emergency precautions service.

9. (1) A local authority or emergency precautions service may take possession of any premises designated by it as aforesaid at any time after the period has expired for appealing to the Minister against the designation of the premises, or, if an appeal is brought within that period, after the determination or abandonment of the appeal.

(2) The local authority or emergency precautions service may remove, or require the occupier to remove, any property which is in any premises of which possession is intended to be taken under this regulation, and may take such other steps as may be necessary for putting the premises in a condition which will enable them to be used for the purpose intended.

10. (1) Any local authority or emergency precautions service authorized by the Minister to exercise the powers conferred by this Part of these regulations may enter on any land, after giving not less than three days' notice in writing to the occupier and, where it is reasonably practicable so to do, to the owner of the land, and may construct thereon or thereunder an emergency shelter or an access-way, or any other premises required for use by any branch of the Emergency Reserve Corps, and any entrances to, and shafts and other necessary works for ventilating, draining, lighting, and heating, the shelter or premises.

(2) Any such local authority or emergency precautions service as aforesaid may, on or under any road, street, private street, domain, reserve, or other land vested in or under the control of any local authority or public body, construct any emergency shelter, or other premises and works as aforesaid, after giving not less than three days' notice in writing to that local authority or public body.

(3) Any such local authority or emergency precautions service as aforesaid may, in exercise of the powers conferred by this regulation, affix appliances to any building or wall adjoining the land whereon any such shelter or premises are constructed.

(4) Any shelter or premises constructed by a local authority or emergency precautions service under this regulation, together with the entrances thereto and any shafts or other works executed in connection therewith, shall remain the property of the local authority or emergency precautions service, which shall be entitled to do anything reasonably necessary for the maintenance of any such shelter, premises, shafts, or works and shall have such powers of entry as are necessary for that purpose.

(5) The powers conferred on local authorities or emergency precautions services under this regulation shall be exercisable, and any local authority or public body may consent to the exercise thereof, notwithstanding anything in any Act, deed of trust, or other document.

11. (1) Any equipment, appliances, or material used in the execution of works executed by a local authority or emergency precautions service under this Part of these regulations shall, notwithstanding the affixing thereof to any premises, remain the property of the local authority or emergency precautions service, and any person authorized to act on behalf of the local authority or emergency precautions service may at any time enter the premises and remove the equipment, appliances, or material.

(2) Any person who, being in possession of any such equipment, appliances, or material as aforesaid, fails to use reasonable care for the preservation thereof shall, without prejudice to any other liability, be liable on summary conviction to a fine not exceeding £5.

(3) If any equipment, appliances, or material which has been affixed to any premises is removed therefrom by or on behalf of the local authority or emergency precautions service, any damage caused to the premises by the removal shall be made good by the local authority or emergency precautions service.

12. (1) In any case where pursuant to this Part of these regulations any local authority or emergency precautions service has done any works on or in respect of any land or designated premises, then, subject to any agreement with the owner to the contrary, it shall be the duty of the local authority or emergency precautions service at the end of the present war or when the premises cease to be designated premises, whichever is the earlier, to restore, so far as it thinks practicable, the land or premises to the condition in which they would be but for the execution of the works.

(2) If, after the restoration is completed, the land or premises are less in value than they would have been if the works had not been executed, every person who has any estate or interest in the land or premises shall be entitled to receive such compensation, if any, in respect of the difference in value as may be reasonable.

13. (1) Where any owner or occupier of any premises suffers any loss or damage by the exercise by any local authority or emergency precautions service, in respect of those premises or in respect of anything in or on those premises, of any of the powers conferred by this Part of these regulations, he shall be entitled to receive such compensation (whether by way of rent or otherwise) as may be reasonable.

(2) Where compensation by way of rent is payable in respect of any premises of which possession is taken under these regulations—

(a) The compensation shall be deemed to accrue from day to day during the period for which possession of the premises is retained, and shall be paid to the person who for the time being would be entitled to occupy the premises but for the fact that possession thereof is retained under these regulations; but this paragraph shall not operate so as to require the making of payments at intervals of less than one month:

(b) In computing such compensation no account shall be taken of any appreciation of values due to the present war or to conditions directly or indirectly created thereby.

PART IV.—SHELTERS FOR BUSINESS PREMISES.

14. (1) A local authority may serve on the owner of any business premises a notice in writing requiring him to provide emergency shelter for all or any of the persons working or living in the premises.

(2) The notice shall specify, with such particularity as the local authority thinks reasonably necessary, the nature and situation of the shelter (including the details and standard of construction) and shall specify the number of persons that the shelter is to be constructed to accommodate.

(3) The notice shall also state that the shelter is to be provided within such time as may be specified in the notice or such longer time as the Minister may allow, and that the time will begin to run from the expiration of seven days after the service of the notice or, if an appeal is brought against the notice, from the date of the determination or abandonment of the appeal.

(4) Where a notice is served under this regulation on the owner of business premises who is not the occupier of the whole of the premises, he shall, within three days from the date of the service of the notice on him, serve a copy thereof—

(a) On every lessee of the whole or any part of the premises whose lease is immediately derived from the estate or interest of the owner; and

(b) On the occupier of the premises or, where different parts of the premises have different occupiers, on each of those occupiers.

15. (1) Where a notice is served under Regulation 14 (1) hereof on the owner of any business premises, the owner and also any person who is, under the provisions hereinafter contained, liable to an increase of rent in respect of the expenses of the owner in providing the shelter, may, within seven days from the service of the notice, appeal to the Minister on the ground that—

(a) The proposals or requirements of the notice are not appropriate, or are not those most appropriate to the circumstances of the case; or

(b) It is not reasonable to require the provision of any emergency shelter.

(2) The Minister may dismiss the appeal, or he may allow the appeal and either vary the terms of the notice in such manner as he thinks fit, or cancel the notice.

16. (1) Where works are, by virtue of this Part of these regulations, executed by the owner of any business premises in any part thereof of which he is not the occupier, the occupier of that part of the premises shall be entitled to recover from the owner such compensation (whether by way of reduction of rent or otherwise) as may be agreed by the occupier and the owner or, in default of agreement, as may be fixed as hereinafter provided.

(2) Where a notice has been served under the foregoing provisions of this Part of these regulations on the owner of any business premises who is not the occupier of the whole of the premises and the owner has incurred expenses in providing shelter in pursuance of the notice, then, unless the notice has been cancelled on appeal, the rent payable under any lease derived from his estate or interest (being a lease in

existence at the date of the completion of the works) shall, unless it is otherwise agreed in connection with, or after, the provision of the shelter, be increased to the extent and for the period hereinafter specified :

Provided that no increase shall be payable by any person unless the owner has within the time limited by the foregoing provisions of this Part of the regulations, served a copy of the notice on all persons on whom he is required by those provisions to serve it.

(3) The increase of rent referred to in subclause (2) of this regulation shall be of such amount as will produce in one year a sum equal to one-tenth of the expenses of the owner :

Provided that in the case of a lease of part of the business premises the increase shall be a proportionate part of that amount, having regard to the proportion that the rent for that part bears to the rent that would be payable for the whole premises if they had been leased at the same time under a lease containing substantially the same covenants, including the covenants as to repair and payment of rates (if any).

(4) The said increase shall operate in relation to a lease, notwithstanding that the rent payable thereunder is decreased under the provisions of subclause (1) of this regulation, and any such increase and any such decrease shall be set off against each other.

(5) The rent on which any such increase or decrease as aforesaid operates is all rent payable under the lease in question in respect of any period after the date of the completion of the works :

Provided that no increase or decrease shall operate in respect of more than ten years.

(6) In this regulation the expression " expenses " in relation to a notice means the expenses reasonably incurred by the owner in providing the shelter referred to in the notice together with—

(a) The amount of any compensation properly paid by the owner under subclause (1) of this regulation, including a sum representing the value of any reduction of rent allowed under that subclause ; and

(b) Where the owner is the occupier of any part of the premises in which works were executed for the purpose of providing the shelter, the amount of the compensation which he would have been entitled to recover under that subclause from the owner of the premises if he himself had not been the owner thereof, including a sum representing the value of any reduction of rent to which he would have been entitled under that subclause.

(7) A surety for the payment of any rent which is increased under this regulation shall not be discharged by reason of the increase, but shall not be liable in respect of the increase.

17. (1) Any local authority may agree with the owner of any business premises to provide, on such terms as to payments by the owner to the local authority as may be specified in the agreement, a public emergency shelter which will be available for use, in whole or in part, by all or any of the persons working or living in the premises.

(2) The provisions of subclauses (2) to (7) of Regulation 16 hereof shall apply in relation to any sums for which the owner of business premises becomes liable under an agreement made pursuant to this regulation as if—

- (a) The owner had provided shelter in pursuance of a notice duly served on him under this Part of these regulations (not being a notice cancelled on appeal) and the said sums were expenses under that notice ; and
- (b) The date of the conclusion of the agreement were the date of the completion of the works.

PART V.—GENERAL PROVISIONS.

18. (1) Claims for compensation claimed to be payable under these regulations, and claims for increases or decreases of rent under these regulations, shall be commenced and proceeded with as if they were claims for damages for breach of contract, and the proceedings shall be taken and heard and determined in the Supreme Court where the claim is for a sum in excess of £500, or for a payment by way of rent in excess of £25 a month, or for an increase or decrease of rent by more than £25 a month, and in all other cases the proceedings may be taken and heard and determined either in the Supreme Court or in a Magistrate's Court, which shall have jurisdiction in respect of such proceedings.

(2) The Court may hear and determine at the one time, if it so thinks fit, all or any of the proceedings relating to the same premises.

19. (1) The owner or the occupier of any dwellinghouse may execute any works for the purpose of providing an emergency shelter in the dwellinghouse or on any land belonging to or occupied with the dwellinghouse, notwithstanding any limitation of his interest in the dwellinghouse or the land or any agreement or restrictive covenant to the contrary.

(2) Nothing in these regulations shall be construed as preventing the owner of any premises from doing anything with a view to providing an emergency shelter which he would have been entitled to do if these regulations had not been made, unless the doing thereof is inconsistent with the requirements of any notice duly served on him under these regulations :

Provided that no person shall provide or do anything with a view to providing emergency shelter in any business premises except in accordance with the requirements or with the consent of a local authority or an emergency precautions service.

(3) Nothing in any covenant or agreement requiring any person to keep specified premises in, or to restore specified premises to, a particular condition shall authorize or compel any person to interfere with any works executed on those premises under these regulations, or subject him to any liability if he does not do so.

20. (1) Any local authority may remit or refund any fees chargeable or paid in respect of any application to the local authority for a permit to do any work for the purpose of providing an emergency shelter.

(2) In the construction of any emergency shelter it shall not be necessary to comply with the provisions of any Act, regulations, or by-laws enacting requirements as to the construction of buildings if the local authority of the district in which the shelter is erected consents thereto :

Provided that if the shelter does not comply with all such requirements, the person who erected the shelter, or the occupier of the premises whereon the shelter is erected, shall at any time after the termination of the present war remove the shelter on being required by the local authority so to do.

21. Any person authorized by the Minister or by any local authority or emergency precautions service may, on producing any document showing his authority, from time to time enter upon and inspect any premises and do all such other things as he considers necessary or expedient for the purpose of—

- (a) Ascertaining whether there is or has been, on or in connection with the premises, any contravention of or failure to comply with the provisions of these regulations or of any notice given thereunder :
- (b) Ascertaining whether circumstances exist which would authorize or require any action to be taken under these regulations :
- (c) Otherwise facilitating the performance by the Minister or the local authority or the emergency precautions service of his or its functions under these regulations.

22. (1) Any notice required or authorized under these regulations to be given to any person 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 to be posted in a letter addressed to him at that address, or, if the notice relates to any premises, it may be delivered by being delivered to the occupier thereof or to some person on the premises or, if there is no person on the premises to whom it can be delivered, by affixing it or a copy of it to some conspicuous part of the premises.

(2) If any 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 delivery it shall be sufficient to prove that the letter was properly addressed and posted.

(3) Except where otherwise specially provided, any notice required or authorized under these regulations to be given to any person shall be sufficient—

- (a) If it purports to be given by or on behalf of the Minister or any local authority or emergency precautions service or any person authorized in that behalf, and is authenticated by the signature or seal or name of the Minister or of the local authority or of the emergency precautions service or of any person purporting to be authorized to give it :
- (b) If it is addressed to any person to be bound thereby by his description, notwithstanding that he is not named in the notice.

(4) In computing any time (not being more than five days) in relation to any notice, Saturday and Sunday shall not be taken into account.

23. (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 direction or requirement given or imposed under these regulations :
- (b) With intent to deceive, makes any false or misleading statement or any material omission in any communication with or application to the Minister or any other person (whether in writing or otherwise) for the purposes of 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 in respect of which no other penalty is prescribed 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 body corporate, 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.

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

Issued under the authority of the Regulations Act, 1936.
Date of notification in *Gazette* : 6th day of January, 1942.
These regulations are administered in the National Service Department.