

Serial Number 1939/139.



**THE ENEMY TRADING EMERGENCY REGULATIONS 1939.**

GALWAY, Governor-General.

**ORDER IN COUNCIL.**

At the Government Buildings at Wellington, this 4th day of September, 1939.

Present :

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

PURSUANT to the Public Safety Conservation Act, 1932, and to a Proclamation of Emergency now in force under that Act, and pursuant to the Customs Act, 1913, and in particular to sections 46 and 47 thereof, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, doth hereby make the following regulations.

**REGULATIONS.**

**REGULATION 1.—PRELIMINARY.**

(1) These regulations may be cited as the Enemy Trading Emergency Regulations 1939.

(2) In these regulations, unless inconsistent with the context,—

“ Alien enemy ” means every person wherever resident who is or who has at any time been a subject of any State with which His Majesty is now at war, notwithstanding the fact that such person may be also by birth, naturalization, or otherwise a British subject or have in any manner ceased to be a subject of any such State, and includes the wife of an alien enemy :

“ Enemy country ” means the territories of Germany, and includes also any territory for the time being in the occupation of the military forces of Germany :

“ Enemy trader ” means any person or body of persons of whatever nationality (and if incorporated, wherever incorporated) resident or carrying on business in an enemy country, but does not include persons of enemy nationality who are neither resident nor carrying on business in an enemy country, and includes any person, firm, or company declared to be an enemy trader under the provisions herein-after contained :

“ Outbreak of war ” means 9.30 p.m., New Zealand standard time, on the 3rd day of September, 1939 :

“ Minister ” means, unless the context otherwise requires, the Minister of Industries and Commerce.

(3) For the purposes of general interpretation hereof these regulations shall be deemed to be made under the Public Safety Conservation Act, 1932.

(4) Nothing in these regulations shall be deemed to prohibit any person from importing and taking delivery of any goods if it be proved that prior to the coming into force of these regulations such goods had been shipped from an enemy country or from any other country and were in course of direct transit to New Zealand, but this exemption shall not be deemed to authorize any payment of money in breach of these regulations or any dealing contrary to these regulations or contrary to any other regulations relating to enemy property with goods that remain the property of an enemy trader.

(5) Nothing in these regulations shall be taken to prohibit payments by or on account of enemies to persons resident, carrying on business, or being in New Zealand or its dependencies or mandated territory if such payments arise out of transactions entered into before the outbreak of war or otherwise permitted.

#### REGULATION 2.—TRADING WITH THE ENEMY PROHIBITED.

(1) No person shall at any time do or attempt to do any of the following things :—

- (a) To pay any sum of money to or for the benefit of an enemy trader :
- (b) To compromise or give security for the payment of any debt or other sum of money with or for the benefit of an enemy trader :
- (c) To act on behalf of an enemy trader in drawing, accepting, paying, presenting for acceptance or payment, negotiating, or otherwise dealing with any negotiable instrument :
- (d) To accept, pay, or otherwise deal with any negotiable instrument which is held by or on behalf of any enemy trader :

Provided that this prohibition shall not be deemed to be infringed by any person who has no reasonable ground for believing that the instrument is held by or on behalf of an enemy trader :

- (e) To enter into any new transaction, or complete any transaction already entered into, with an enemy trader in any stocks, shares, or other securities :
- (f) To make or enter into any new marine, life, fire, or other policy or contract of insurance (including reinsurance) with or for the benefit of an enemy trader ; or to accept, or give effect to any insurance of, any risk arising under any policy or contract of insurance (including reinsurance) made or entered into with or for the benefit of an enemy trader before the outbreak of war ; and in particular as regards treaties or contracts of reinsurance current at the outbreak of war to which an enemy trader is a party or in which an enemy trader is interested, to cede to an enemy trader or to accept from an enemy trader under any such treaty or contract any risk arising under any policy or contract of insurance (including reinsurance) made or entered into after the outbreak of war, or any share in any such risk :

- (g) Directly or indirectly to supply to or for the use or benefit of, or obtain from, an enemy country or an enemy trader any goods, wares, or merchandise, or directly or indirectly to supply to or for the use or benefit of, or obtain from any person any goods, wares, or merchandise for or by way of transmission to or from an enemy country or any enemy trader, or directly or indirectly to trade in or carry any goods, wares, or merchandise destined for or coming from an enemy country or an enemy trader :
- (h) To permit any British ship to leave for, enter, or communicate with any port or place in an enemy country :
- (i) To enter into any commercial, financial, or other contract or obligation with or for the benefit of an enemy trader.
- (2) Any person who does or attempts to do, or directly or indirectly offers or proposes or agrees to do, anything prohibited by the last preceding clause hereof commits an offence against these regulations.
- (3) If any person without lawful authority in anywise aids or abets any other person, whether or not such other person is in New Zealand, to do or attempt to do anything which if done in New Zealand by such other person would be an offence against these regulations, he commits an offence against these regulations.
- (4) If any person without lawful authority deals or attempts, or directly or indirectly offers or proposes or agrees, to deal with any money or security for money or other property which is in his hands or over which he has any claim or control for the purpose of enabling an enemy trader to obtain money on credit thereon or thereby, he commits an offence against these regulations.
- (5) No prosecution for an offence against any of the preceding clauses of this regulation shall be instituted except with the written consent of the Attorney-General.
- (6) Judicial notice shall be taken of the signature to any consent given under the last preceding clause hereof.

#### REGULATION 3.—DECLARATION OF ENEMIES.

- (1) If the Minister is satisfied that any person, firm, or company carrying on business in any place, whether in or out of New Zealand, is carrying on such business exclusively or to a substantial extent for the benefit or under the control of an alien enemy resident out of New Zealand or of an enemy trader, or is engaged in any business communications or undertaking injurious to the interests of His Majesty in respect of the present war, he may, by notice in the *Gazette*, declare such first-mentioned person, firm, or company to be an enemy trader for the purposes of these regulations.
- (2) If the Minister is satisfied that any person, firm, or company resident out of New Zealand is an alien enemy and is carrying on business in New Zealand, or is carrying on business with persons, firms, or companies in New Zealand, he may, by notice in the *Gazette*, declare such first-mentioned person, firm, or company to be an enemy trader for the purposes of these regulations.

(3) If the Minister is satisfied with respect to any company incorporated in New Zealand that any enemy trader, or any alien company, or any alien enemy possesses or exercises any substantial interest or control in or over that company, the Minister may, by notice in the *Gazette*, declare such first-mentioned company to be an enemy trader for the purposes of these regulations.

(4) Any such declaration as aforesaid may at any time in like manner be revoked by the Minister.

(5) So long as any such declaration remains unrevoked no person shall trade with the person, firm, or company so declared to be an enemy trader :

Provided that, for the purposes of this clause, to "trade with a person, firm, or company" means to do any act which would be an offence against Regulation 2 hereof if that person, firm, or company was resident or carrying on business in an enemy country.

(6) So long as any such declaration remains unrevoked no person shall act as an agent or servant or otherwise on behalf of any person, firm, or company so declared to be an enemy trader, or be or act as a partner of any such person or in any such firm.

#### REGULATION 4.—PROHIBITION OF EXPORTS.

(1) In this regulation "Collector of Customs," "Officer of Customs," and "goods" have the same meaning as those terms in the Customs Act, 1913.

(2) If the Minister of Customs has reason to suspect that the consignee of any goods shipped or about to be shipped for exportation to any place not being within His Majesty's Dominions or mandated territories, or that any person for whom such goods are destined, whether immediately or ultimately, is an enemy trader or a person engaged in any business undertaking or communications injurious to the interests of His Majesty in respect of the war, he may prohibit the exportation of those goods.

(3) No Collector of Customs or Officer of Customs shall permit to be laden on board any exporting ship any goods the exportation of which is prohibited under this regulation.

(4) A Collector of Customs may decline to grant a certificate of clearance for any ship until he is satisfied that no goods are laden therein in breach of these regulations.

(5) Clauses (3) and (4) of this regulation shall not apply to goods which the Collector of Customs is satisfied were laden prior to the coming into force of these regulations upon the exporting ship for export from New Zealand.

(6) The master of a ship shall not permit to be laden in that ship any goods the exportation of which is prohibited under these regulations.

(7) This regulation shall not be deemed in any way to affect any prohibition or restriction on the exportation or the importation of goods which may at present or hereafter be in force under any other provision of law.

## REGULATION 5.—LICENSES.

(1) It shall be lawful for the Minister, by writing under his hand, to grant a license to any person, firm, or company to engage in any transaction or series or class of transactions which, but for such license, would or might amount to a breach of these regulations, and any such license may, by like writing delivered to the licensee or to any member of a licensed firm, be at any time withdrawn.

(2) It shall be lawful for the Minister, by a notice published in the *Gazette*, generally to permit any transaction or series or class of transactions to be engaged in which but for such notice would or might amount to a breach of these regulations, and any such notice may, by further notice published in the *Gazette*, be at any time withdrawn.

(3) Any license or notice issued under the two last preceding clauses hereof may be made subject to such limitations as to time and otherwise and such conditions and restrictions as the Minister thinks fit to include, and may at any time be modified or withdrawn.

(4) Any person who for the purpose of obtaining any license under these regulations makes any statement or supplies any information or produces any document which is false or misleading in any material particular, or which has not been given by the person by whom it purports to have been given, or which has been in any way altered or tampered with, commits an offence against these regulations unless he proves that he took all reasonable steps to ascertain the truth of such statement or information or document or to satisfy himself of the genuineness of such document.

## REGULATION 6.—INVESTIGATIONS OF TRADING TRANSACTIONS.

(1) If a Justice of the Peace is satisfied on information on oath laid on behalf of the Minister that there is reasonable ground for suspecting that an offence under these regulations has been or is about to be committed by any person, firm, or company, he may issue a warrant authorizing any person appointed by the Minister and named in the warrant to inspect all books and documents belonging to or under the control of that person, firm, or company, and to require any person able to give any information with respect to the business or trade of that person, firm, or company to give that information and, if accompanied by a constable, to enter and search any premises used in connection with the business or trade, and to seize any such books or documents as aforesaid.

(2) Any person who obstructs or attempts to obstruct any person inspecting or demanding to inspect any books or documents, or, if accompanied by a constable, entering or demanding to enter or searching or demanding to search any premises in the execution of a warrant issued to such person under the last preceding clause hereof, commits an offence against these regulations.

(3) Any person having the custody of any book or document who refuses or wilfully neglects to produce it for inspection to any person to whom a warrant under this regulation has been issued, or who refuses or wilfully neglects to give any information with respect to

the business or trade of the person, firm, or company referred to in the warrant which such person is able to give, commits an offence against these regulations.

(4) Where it appears to the Minister—

- (a) In the case of an individual, that such individual, or in the case of a firm, that any one of the partners in the firm was immediately before or has been at any time since the outbreak of war an alien enemy or a subject of or resident or carrying on business in an enemy country ; or
- (b) In the case of a company, that immediately before or at any time since the outbreak of war one-third or more of the issued share capital or of the directorate of the company was or has been held by or on behalf of or consisted or has consisted of persons being alien enemies or subjects of or resident or carrying on business in an enemy country, or that immediately before or at any time since the outbreak of war the substantial control of any company was or has been exercised by persons being alien enemies or subjects of or resident or carrying on business in an enemy country ; or
- (c) In the case of a person, firm, or company, that such person, firm, or company immediately before or at any time since the outbreak of war was or has been acting as agent for any person, firm, or company being alien enemies or subjects of or resident or carrying on business in an enemy country ; or
- (d) That the business or any part thereof carried on by any person, firm, or company is, by reason of the enemy nationality or enemy association of that person, firm, or company, or of any member of that firm or company or otherwise, carried on wholly or mainly for the benefit of or under the control of alien enemies, enemy traders, or enemy subjects ; or
- (e) That contracts have immediately before or at any time since the outbreak of war been entered into between any person, firm, or company and an alien enemy or an enemy subject or enemy trader,—

then, and in any such case, and so that the Minister may satisfy himself that the person, firm, or company is not trading with an enemy trader, or for the purpose of ascertaining whether the business is carried on for the benefit or under the control of alien enemies, enemy traders, or enemy subjects, or for the purpose of ascertaining the relations existing immediately before or at any time since the outbreak of war between such person, firm, or company, or any member of that firm or company and an alien enemy or an enemy subject or an enemy trader, or for the purpose of obtaining information on which to decide whether any person, firm, or company ought to be declared to be an enemy trader under Regulation 3 hereof, the Minister may, if he thinks it expedient so to do, by written order under his hand give to any officer of the Department of Industries and Commerce, Tourist and Publicity named in the order authority from time to time to inspect all books and documents belonging to or under the control of the person, firm, or company, and to require any person able to give information with respect to the business or trade of that person, firm, or company to give that information.

(5) Any person having the custody of any books or documents who refuses or wilfully neglects to produce them for inspection to any officer holding an order from the Minister under the last preceding clause hereof, or who refuses or wilfully neglects to give such officer any information with respect to the business or trade of the person, firm, or company referred to in the order which such person is able to give, commits an offence against these regulations.

(6) Where any officer holding an order from the Minister given under clause (4) of this regulation finds any book or document to have been destroyed, mutilated, or falsified, any person having or having had control of such book or document shall be guilty of an offence against these regulations unless he proves that the destruction, mutilation, or falsification was not intended for the purpose of concealing any transaction which in the opinion of the Court would be likely to constitute an offence under Regulation 2 hereof.

(7) Where a person has given any information to a person to whom a warrant under this regulation has been issued or to an officer holding an order from the Minister given under clause (4) of this regulation, the information so given may be used in evidence against that person in any proceedings under these regulations, notwithstanding that he only gave the information on being required so to do pursuant to these regulations.

(8) For the purpose of the effective administration of this regulation any person expressly appointed in that behalf by the Minister shall have the powers of holding judicial inquiries and ancillary powers conferred on the Minister of Industries and Commerce pursuant to section 13 of the Board of Trade Act, 1919, as amended by the Board of Trade Amendment Act, 1923, and for that purpose the provisions of sections 14 to 25 of the Board of Trade Act, 1919, and all other relevant provisions of that Act shall apply *mutatis mutandis*.

#### REGULATION 7.—RESTRICTIONS ON BUSINESS.

(1) When the Minister is satisfied with respect to any business carried on in New Zealand that it is being carried on wholly or partially by or on behalf of or under the control or management of an enemy trader or an alien enemy, the Minister may, by notice to any person by whom such business is being carried on or managed in New Zealand or to the agent attorney or representative in New Zealand of any such person, impose such restrictions as he thinks fit upon the scope or nature of that business or upon the mode of carrying it on.

(2) Any such restriction may be in like manner removed or varied by the Minister.

(3) Where any person is or has at any time been, whether before or after the making of these regulations, a servant or agent of an alien enemy or of an enemy trader within the meaning of these regulations, or a servant or member of a firm or company being an enemy trader within the meaning of these regulations, the Minister may from time to time, by notice given to that person, impose such restrictions as he thinks fit upon the scope or nature of any business carried on or to be carried on by him or upon the mode of carrying on any such business.

(4) No restrictions on the business of any person shall be imposed under the authority of the last preceding clause hereof or shall remain in force at any time later than six months after the person has ceased to be a servant or agent of an alien enemy or of an enemy trader or a servant or member of a firm or company being an enemy trader as aforesaid.

(5) No person shall carry on, or be in any manner concerned in carrying on, a business in breach of any restriction imposed under this regulation and for the time being in force.

(6) At any time when a restriction imposed under this regulation is in force in respect of any business the Minister may, by written order under his hand, give to any officer of the Department of Industries and Commerce, Tourist and Publicity named in the order authority from time to time to inspect all books and documents belonging to or used in connection with the business, including the books and documents of any bank at which is kept a bank account in connection with the business, and to require any person able to give information with respect to the business to give that information, and the provisions of clauses (5), (6), and (7) of Regulation 6 hereof shall, *mutatis mutandis*, apply as if such order had been given under the powers conferred by clause (4) of Regulation 6 hereof.

#### REGULATION 8.—RETURNS OF FOREIGN CORRESPONDENTS.

(1) The Minister may, by notice in writing to any person, firm, or company carrying on business in New Zealand in respect of the purchase, sale, exportation, or importation of goods, and having any foreign correspondents or having had since the outbreak of war any foreign correspondents in respect of that business or any part thereof, require such person, firm, or company to make and deliver to him within the period stated in such notice a return in writing of the name and place of business of every such foreign correspondent.

(2) "Correspondent" means any person, firm, or company between whom and the person, firm, or company making the return there exists, or has existed, the relation of principal and agent, vendor and purchaser, or consignor and consignee in respect to the purchase, sale, exportation, or importation of goods.

(3) "Foreign correspondent" means any correspondent having a head office or chief place of business elsewhere than in His Majesty's Dominions or mandated territories or territory in the military occupation of His Majesty.

(4) Every such return shall specify the nature of the business of the foreign correspondent and every place in which, to the knowledge or belief of the person, firm, or company making the return, the foreign correspondent has any office, factory, warehouse, branch, or other place of business.

(5) Failure to make any such return within the time stated in any such notice, or making any return which is knowingly incomplete or misleading, shall be an offence against these regulations on the part of every person concerned in the management of the business in respect of which the return is or ought to have been made.



(6) Except for the purpose of legal proceedings in any Court of Justice, no person shall divulge any of the particulars or information contained in any return of foreign correspondents.

REGULATION 9.—ADVERTISING BY DECLARED ENEMIES.

(1) The Minister may serve notice on any person, firm, or company declared to be an enemy trader for the purpose of these regulations forbidding the publication of any advertisement of the business of such person, firm, or company, or any advertisement of the goods or merchandise manufactured, produced, or sold by such person, firm, or company.

(2) The Minister may serve on the owner, printer, or publisher of any newspaper, periodical, or other publication, or publish in the *Gazette*, a like notice relating to any declared enemy.

(3) Any such notice may at any time be modified or withdrawn.

(4) No person shall knowingly publish or attempt to publish any advertisement contrary to the terms of a notice in force under this regulation.

(5) Nothing in this regulation shall apply to the Public Trustee in his capacity of controller of any business under any regulations at any time in force relating to the control by the Public Trustee of enemy property or to advertisements relating to a business over which the Public Trustee exercises control by virtue of such regulations.

REGULATION 10.—LEGAL PROCEEDINGS.

(1) It shall be a defence to any person charged with a breach of these regulations if he proves that the acts with which he is charged are authorized by any license or notice issued under Regulation 5 hereof and for the time being in force.

(2) In any proceedings for a breach of these regulations an allegation in an information that any person, firm, or company is an enemy trader or an alien enemy shall, until the contrary is proved, be sufficient evidence that such person, firm, or company is an enemy trader or (as the case may be) an alien enemy within the meaning of these regulations.

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

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Issued under the authority of the Regulations Act, 1936.

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These regulations are administered by the Department of Industries and Commerce, Tourist and Publicity.