

Serial Number 1941/245.



THE FISHING-BOATS EMERGENCY REGULATIONS 1941.

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

ORDER IN COUNCIL.

At the Government House at Wellington, this 17th day of
December, 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.

Preliminary.

1. These regulations may be cited as the Fishing-boats Emergency Regulations 1941.

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

“ Authorized officer ” means a fishery officer appointed under the Fisheries Act, 1908* ; and includes any person nominated by the Minister as an authorized officer for the purposes of these regulations :

“ Fishing-boat ” means any vessel not propelled by oars which is used in fishing for purposes of sale :

“ Master ”, in relation to any boat, means any person having command or charge of the boat :

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

Official Logs.

3. (1) An official log shall be kept in every fishing-boat in a form approved by the Minister.

(2) All entries shall be made in the official log-book that are indicated in the form or are otherwise required by these regulations.

(3) An entry required by these regulations in the official log-book shall be made as soon as possible after the occurrence to which it relates.

(4) Every entry in the official log-book shall be signed by the master and also by such other person (if any) as may be indicated in that behalf in the form.

* See Reprint of Statutes, Vol. III, page 344.

(5) Every entry made in an official log-book in the manner provided by these regulations shall be admissible in evidence.

(6) This regulation does not apply to any fishing-boat except when it goes to sea for more than twenty-four hours.

Movements of Fishing-boats.

4. (1) The master of any fishing-boat shall not cause or permit it to be at any time more than ten miles off the coast of the mainland of New Zealand, except in accordance with a permit in writing previously granted by an authorized officer.

(2) For the purposes of this regulation the mainland of New Zealand shall be deemed to include the North Island, the South Island, Stewart Island, Great Barrier Island, and all islands the nearest part of which is within five miles of any of those islands, but not to include any other islands.

5. (1) The Minister may, if it appears to him to be necessary or expedient so to do for securing the public safety, the defence of New Zealand, or the efficient prosecution of any war in which His Majesty may be engaged, do such things and give such orders and directions as he thinks fit for the purpose of preventing or prohibiting fishing-boats from leaving any port or other place or from going to or being in any place.

(2) Any order or direction given by the Minister under this regulation may be general, or may be limited to specified fishing-boats, ports, or places or to specified classes thereof. Different orders or directions may be given in respect of different boats or classes of boats or in respect of the same boats or classes of boats in different ports or places, at different times, or in different circumstances.

6. Whenever any fishing-boat goes to sea the master shall report to such authorized officer or other person as the Minister may appoint in that behalf before the boat leaves port and also when it returns to port.

Powers of Entry and Inspection.

7. (1) Any officer of His Majesty's Naval Forces, any authorized officer, any constable, any other person to whom any report is made under Regulation 6 hereof, and any other person authorized in that behalf by the Minister may at any time—

- (a) Enter any fishing-boat, or any boat that he suspects to be a fishing-boat, whether it is in port or at sea; and
- (b) Examine the boat and the license and official log-book of the boat, and anything else in the boat; and
- (c) Require the master and any other person on board the boat to give any explanation and information concerning the boat and her crew, and any other person on board the boat, and anything in or upon the boat, including the license and official log-book of the boat; and
- (d) Require the master and any other person on board the boat to give him such assistance as may be necessary to enable him to exercise any of his powers or functions under these regulations; and
- (e) Do all such other acts and things as he is required or authorized to do under these regulations.

(2) Every person exercising any power under this regulation, unless he is a naval officer or constable in uniform, shall, if required by any person affected by the exercise of the power, produce for the inspection of that person evidence of his appointment or authority.

Delegation of Powers by Minister.

8. (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, including the power of delegation conferred by this regulation.

(2) Subject to the next succeeding subclause, 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 otherwise.

Exemptions and Permits.

9. The Minister may from time to time grant complete or partial exemptions from compliance with the provisions of these regulations or with any order, direction, restriction, requirement, or condition given or imposed under these regulations.

10. (1) Every person who applies to the Minister or to an authorized officer for any permit or exemption under these regulations shall furnish such information and particulars as the Minister or officer may from time to time require.

(2) The Minister or the authorized officer, in his discretion, may refuse any such application, or may grant the application wholly or partly, and either unconditionally or upon or subject to such conditions as he thinks fit.

(3) Any such permit or exemption may be at any time revoked by the Minister or by any authorized officer, and any such conditions may from time to time be varied, revoked, or added to by the Minister or by any authorized officer as he thinks fit.

Authentication of Documents.

11. (1) Any written notice, order, direction, permit, or other instrument given, granted, or made by the Minister or an authorized officer shall be sufficiently authenticated if it is signed by the Minister or authorized officer or by any person on behalf of and by direction of the Minister or authorized officer.

(2) Every instrument purporting to be signed by or on behalf of the Minister or an authorized officer 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 or authorized officer, as the case may be.

Notices.

12. (1) The Minister or any person authorized in that behalf 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 authenticated by the signature or name of the Minister or of any person purporting to be authorized to give the notice, and 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 or any person authorized in that behalf 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 shall be sufficient—

- (a) If it purports to be given by or on behalf of the Minister or any person authorized in that behalf, and is authenticated by the signature or name of the Minister or of any person purporting to be authorized to give it :
- (b) If it is given in writing or orally or by telephone, telegraph, or any other means of communication :
- (c) If it is addressed to the person to be bound thereby by his description (as master, owner, or as the case requires) and the name or number of the fishing-boat to be affected, notwithstanding that that person is not named in the notice.

(5) Any notice to the master or owner of a fishing-boat shall be binding on every person subsequently acting as master or owner of that boat respectively to whom the notice is known or according to the regular routine of command or management ought to be known.

(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.

Offences.

13. 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 of any order, direction, restriction, requirement, or condition 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) Wilfully destroys or mutilates or renders illegible any entry in any official log-book under these regulations, or wilfully makes a false or fraudulent entry in or omission from an official log-book :

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

14. Every person who commits an offence against these regulations 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.

15. Where any provision of these regulations or of any order, direction, restriction, requirement, or condition given or imposed under these regulations is contravened or not complied with in the case of any fishing-boat, then (without prejudice to any proceedings that may be taken against any other person) the master and the owner of the fishing-boat shall each be deemed to have committed an offence against these regulations :

Provided that in any proceedings that by virtue of this regulation are taken against any person in respect of a contravention of or non-compliance with any such provision on the part of another person, it shall be a defence for the defendant to prove that the contravention occurred without his knowledge and that he exercised all due diligence to secure compliance with the provision.

T. R. AICKIN,
Acting Clerk of the Executive Council.

Issued under the authority of the Regulations Act, 1936.

Date of notification in *Gazette* : 18th day of December, 1941.

These regulations are administered in the Marine Department.