

**Serial Number 1941/73.**



**THE NATIONAL SERVICE EMERGENCY REGULATIONS 1940,  
AMENDMENT NO. 4.**

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

**ORDER IN COUNCIL.**

At the Government Buildings at Wellington, this 14th day of  
May, 1941.

Present :

THE HON. W. NASH PRESIDING 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 National Service Emergency Regulations 1940, Amendment No. 4.

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

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

“ ‘ Placement Officer ’ means an officer of the Public Service appointed to be a Placement Officer ; and includes any person for the time being authorized to exercise or perform any of the powers or functions of a Placement Officer : ”.

4. Regulation 8 of the principal regulations is hereby amended by adding the following clauses :—

“ (4) The Minister of National Service may from time to time direct any person to undergo any training provided or approved by the Minister for the purpose of fitting that person for performing any services under this regulation.

“ (5) For the purpose of enabling effect to be given to any direction given to any person under the foregoing provisions of this regulation the Minister may give such orders and directions as he thinks fit to any other person or class of persons.”

\* 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.

5. Regulation 8A of the principal regulations is hereby amended by inserting, after the words "leave of absence", the words "or any class or classes of such persons".

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

**"REGULATION 9A.—MINISTER MAY REQUIRE LABOUR TO BE ENGAGED THROUGH STATE PLACEMENT SERVICE.**

"(1) The Minister may from time to time direct that all or any of the employers employing labour in any specified industry, trade, or occupation, or any class or classes of such employers, shall not engage or attempt to engage any worker or any class of workers for work in that industry, trade, or occupation except through the agency of a Placement Officer or of such Placement Officer as may be directed by the Minister.

"(2) The Minister may from time to time direct that all workers or any specified workers or any class or classes of workers shall not obtain or attempt to obtain employment in any specified industry, trade, or occupation except through the agency of a Placement Officer or of such Placement Officer as may be directed by the Minister.

"(3) The Minister may from time to time direct that all employers or any specified employers or any class or classes of employers shall not, without first obtaining the consent of the Minister, engage or attempt to engage any worker who is normally engaged in any specified industry, trade, or occupation for work in any other industry, trade, or occupation."

**"REGULATION 9B.—MINISTER MAY REQUIRE REGISTRATION OF EMPLOYERS AND WORKERS IN SPECIFIED INDUSTRIES.**

"(1) The Minister may from time to time direct employers employing labour in any specified industry, trade, or occupation, or any class or classes of such employers to register in such manner and to furnish such information and particulars in relation thereto as the Minister thinks fit.

"(2) The Minister may from time to time direct workers who are or have been engaged or normally engaged in any specified industry, trade, or occupation, or any class or classes of such workers to register in such manner and to furnish such information in relation thereto as the Minister thinks fit."

7. (1) Regulation 10 of the principal regulations, as amended by Regulation 8 of the National Service Emergency Regulations 1940, Amendment No. 2, is hereby further amended by omitting from clause (1) the words "the last three preceding", and substituting the word "these".

(2) Regulation 8 of the National Service Emergency Regulations 1940, Amendment No. 2, is hereby consequentially revoked.

8. Regulation 12 of the principal regulations is hereby amended by omitting from paragraph (a) of clause (1) the words "allowed or".

9. (1) Regulation 17 of the principal regulations is hereby amended by adding to clause (2), as amended by Regulation 13 of the National Service Emergency Regulations 1940, Amendment No. 2, the words "unless he is called up for service outside New Zealand".

(2) Regulation 17 of the principal regulations is hereby further amended by adding the following clauses:—

“(4) Every man who after being called up for service under these regulations becomes a member of the Second New Zealand Expeditionary Force shall have such rank in that force as he may from time to time be appointed to or granted therein, whether or not he holds any rank (commissioned or otherwise) in any other armed force.

“(5) Every man who after being called up for service under these regulations becomes a member of the Territorial Force shall have such rank in that force as he may from time to time be appointed to or granted therein, whether or not he holds any rank (commissioned or otherwise) in any other armed force.”

10. Clause (1) of Regulation 19 of the principal regulations is hereby amended as follows:—

(a) By inserting, after the words “he may”, the words “in addition to his liability under these regulations”:

(b) By inserting, after the words “be tried and punished”, the words “under the Army Act”:

(c) By inserting, after the words “as the case may be”, the words “but he shall not be punished twice for the same offence”.

11. Regulation 20 of the principal regulations is hereby amended by inserting in clause (1), after the words “duly lodged”, the words “within the time limited under Regulation 26 hereof”.

12. Regulation 21 of the principal regulations is hereby amended by revoking clause (1B) (which is replaced by clause (1c) inserted in Regulation 28 of the principal regulations by Regulation 15 hereof), and substituting the following clause:—

“(1B) Where an appeal is made on two or more grounds it shall be heard and determined as if a separate appeal had been instituted on each of those grounds.”

13. Regulation 26A of the principal regulations is hereby amended by adding the following clause:—

“(3) Any Appeal Board may at any time remit any appeal to the Director for transmission by him to another Appeal Board.”

14. Regulation 27 of the principal regulations is hereby amended by omitting from clause (9) the words “or by any other Appeal Board”.

15. Regulation 28 of the principal regulations is hereby amended by inserting, after clause (1), the following clauses:—

“(1A) The Appeal Board may either determine an appeal on its merits or, as the case may require, dismiss it for want of jurisdiction or for want of prosecution, strike it out, or permit it to be withdrawn. Where the appellant has been declared by a Medical Board to be permanently medically unfit for service with the armed forces the appeal shall be struck out.

“(1B) Subject to clause (1c) of this regulation and to Regulation 28A hereof, the Appeal Board may in determining an appeal on its merits either allow or dismiss the appeal.

“(1c) No appeal shall be allowed on any of the grounds specified in paragraph (c) or paragraph (d) of clause (1) of Regulation 21 hereof or in Regulation 31 hereof. Every appeal which but for this clause would have been allowed on any of those grounds shall be dealt with

by adjournment under clause (7) of Regulation 27 hereof. Any such adjournment may in the discretion of the Appeal Board be granted either unconditionally or upon or subject to such conditions as the Board thinks fit, whether as to service by the appellant in the Emergency Reserve Corps or otherwise."

16. (1) The principal regulations are hereby amended by inserting, after Regulation 28, the following regulation :—

"REGULATION 28A.—APPEALS BY CONSCIENTIOUS OBJECTORS.

"(1) The following provisions shall apply with respect to the determination on its merits of any appeal on the ground specified in paragraph (e) of clause (1) of Regulation 21 hereof, namely :—

"(a) If the Appeal Board is satisfied that the appellant holds a genuine belief that it is wrong to engage in warfare in any circumstances, it shall allow the appeal :

"(b) If, in any case to which the last preceding paragraph does not apply, the Appeal Board is satisfied that the appellant holds a genuine belief that it is wrong to perform combatant duties in the armed forces, it shall dismiss the appeal subject to the condition that the appellant shall be employed only in non-combatant duties in the armed forces :

"(c) In any other case the Appeal Board shall dismiss the appeal unconditionally.

"(2) In determining any such appeal, the Appeal Board shall (in addition to all other relevant considerations) have regard to the extent to which the evidence of the appellant is corroborated, and to the period during which the appellant has held his belief and to the circumstances in which he formed it and has continued to hold it, but, whatever the period and circumstances aforesaid may be, the Board may accept the evidence adduced by the appellant, whether it is corroborated or not.

"(3) Where any such appeal has been allowed (whether before or after the commencement of this regulation) the Minister may direct that the appellant be employed on work of a civil nature and under civil control of such nature and upon such terms as to remuneration and conditions of service as the Minister thinks fit, or may direct that the appellant be allowed to continue in his existing employment or occupation upon or subject to such terms and conditions as the Minister thinks fit. For the purpose of giving effect to any direction given in relation to any appellant under the foregoing provisions of this clause the Minister may give such orders and directions as he thinks fit to the appellant or to any other person or class of persons.

"(4) For the purpose of giving effect to a condition imposed by any Appeal Board that an appellant shall be employed only in non-combatant duties in the armed forces, it shall be the duty of the Naval Board, the Army Board, and the Air Board to ensure that the appellant shall, while serving with the armed forces, be required to serve only in non-combatant duties of such nature as the Minister of Defence from time to time directs. Where on the dismissal of any appeal before the commencement of this regulation the Appeal Board has recommended that the appellant be employed, if practicable, in non-combatant duties, the foregoing provisions of this clause shall apply with respect to that recommendation as if it were a condition imposed by the Board.

“(5) Where an appeal has been dismissed subject to the condition that the appellant shall be employed only in non-combatant duties in the armed forces, and no such duties are available, the Minister may exercise in respect of the appellant the powers conferred on the Minister by clause (3) of this regulation.

“(6) Where any such appeal has been allowed the appellant may at any time elect in writing to be transferred to the armed forces either unconditionally or subject to the condition that he shall be employed only in non-combatant duties, and he shall if practicable be transferred accordingly.

“(7) Where any such appeal has been dismissed subject to the condition that the appellant shall be employed only in non-combatant duties in the armed forces, the appellant may at any time elect in writing to be employed in combatant duties in the armed forces, and he shall if practicable be employed accordingly.

“(8) Where any such appeal has been heard by an Appeal Board before the commencement of this regulation and has not been allowed, the appellant may, by notice posted or delivered to the Chairman of that Appeal Board, apply for a rehearing, and upon receiving any such application that Appeal Board or any other Appeal Board to which the appeal may be transmitted under Regulation 26A hereof shall rehear the appeal accordingly :

“Provided that, unless the Board in any case otherwise directs, no such rehearing shall be granted unless the application therefor is posted or delivered within fourteen days after the commencement of this regulation.”

(2) Clause (2) of Regulation 21 of the principal regulations is hereby consequentially revoked.

17. The heading to Regulation 31 of the principal regulations is hereby amended by omitting the words “PERSONS SUFFERING UNDUÉ HARDSHIP”, and substituting the words “OTHER PERSONS”.

18. Regulation 31 of the principal regulations is hereby amended by inserting, after clause (2), the following clause :—

“(2A) Where an appeal has been instituted under this regulation in respect of any appellant by his employer, and the appellant ceases to be employed by that employer, the appellant, or any person by whom the appellant is for the time being employed, may at any time before the appeal is finally determined notify the Appeal Board that he adopts the appeal, and thereupon the provisions of these regulations shall apply as if the appeal had been instituted by the appellant or that other person, as the case may be.”

19. Regulation 32 of the principal regulations is hereby amended by omitting from clause (1) the words “on the ground that by reason of his occupation the calling up of the appellant is contrary to the public interest”, and substituting the words “on any of the grounds specified in clause (1) of Regulation 21 hereof”.

20. Regulation 39 of the principal regulations is hereby amended by omitting from clause (2) the words “an authorized officer”, and substituting the words “any officer, warrant officer, or non-commissioned officer”.

21. Regulation 41 of the principal regulations is hereby amended by inserting, after clause (1), the following clause:—

“(1A) Every member of any armed force who in New Zealand refuses to allow himself to be vaccinated or inoculated as mentioned in paragraph (a) of clause (1) of this regulation, or refuses to submit himself to treatment as mentioned in paragraph (b) of that clause, shall, in addition to his liability under the appropriate article or section referred to in that clause, be deemed to have committed an offence against these regulations, but he shall not be punished twice for the same offence.”

22. The principal regulations are hereby amended by inserting, after Regulation 45, the following regulation:—

“REGULATION 45A.—CALLING UP VOLUNTARY RECRUITS.

“(1) The Minister may from time to time publish in the *Gazette*, and in such other manner (if any) as he thinks fit, a notice setting forth the names (together with the residential addresses and occupations so far as known) of any men who have voluntarily enlisted for service in the armed forces, or in any armed force, and declaring that those men, having voluntarily enlisted therein, are called up for service with the armed forces or with that armed force, as the case may be, and thereupon all the provisions of these regulations shall, so far as applicable, apply to those men in the same manner as if they had been duly called up for service under Regulation 16 hereof.

“(2) Where at the commencement of this clause the calling up of any man who has voluntarily enlisted for service overseas with the armed forces is deferred by the Director or by a Man-power Committee on the application of that man or of any other person, or where any such application has been adjourned by a Man-power Committee, the application shall be deemed to be an appeal duly instituted under these regulations.

“(3) Clause (2) of this regulation shall come into force on a date to be fixed in that behalf by the Minister.”

23. Regulation 46 of the principal regulations is hereby amended by inserting, before the word “dismiss”, the words “or by reason of the fact that an appeal under these regulations has been instituted in respect of any such person”.

24. Regulation 49 of the principal regulations is hereby amended by revoking clause (2).

25. The principal regulations are hereby amended by inserting, after Regulation 49, the following regulation:—

“REGULATION 49A.—MEN CALLED UP TO NOTIFY CHANGES OF ADDRESS.

“(1) Every man called up for service with the armed forces before the date of the commencement of this regulation whose residential address at that date was different from his residential address as set forth in the gazetted notice calling him up shall within seven days after that date give notice of that fact and of his existing residential address by registered letter addressed to the Area Officer of the military area in which he is for the time being residing.

“(2) Every man called up for service with the armed forces after the commencement of this regulation whose residential address at the date of the gazetting of the notice calling him up is different from his residential address as set forth in that notice shall within seven days after that date give notice of that fact and of his existing residential address by registered letter addressed to the Area Officer of the military area in which he is for the time being residing.

“(3) Every man who after being called up for service with the armed forces changes his residential address shall within seven days thereafter give notice of that fact and of his new residential address by registered letter addressed to the Area Officer of the military area in which he is for the time being residing.”

**26.** Regulation 56 of the principal regulations is hereby amended by adding the following as clause (2) thereof :—

“(2) 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.”

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

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Issued under the authority of the Regulations Act, 1936.

Date of notification in *Gazette* : 14th day of May, 1941.

These regulations are administered in the National Service Department.