

Serial Number 1939/126.



THE SHIPPING CONTROL EMERGENCY REGULATIONS 1939.

GALWAY, Governor-General.

ORDER IN COUNCIL.

At the Government House at Wellington, this 1st 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 section 25 of the Naval Defence Act, 1913, 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 : 1. These regulations may be cited as the Shipping Control Emergency Regulations 1939.

1 : 2. In these regulations, unless inconsistent with the context,—

“Admiralty” means the Commissioners for the time being for executing the office of Lord High Admiral of the United Kingdom :

“Naval Board” means the Naval Board of New Zealand established by the Naval Defence Amendment Act, 1936 :

“Ship” includes every description of vessel used in navigation not propelled by oars.

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

1 : 4. These regulations shall apply to all British ships whether registered in a port of registry in New Zealand or elsewhere ; and the term “ship” is restricted to British ships accordingly.

1 : 5. These regulations and all notifications given hereunder shall have effect notwithstanding the provisions of any regulations for preventing collisions at sea and rules as to signals of distress made under the Merchant Shipping Act, 1894 (Imperial), and every person complying with these regulations and with any notification hereunder shall be deemed to be taking measures to meet special circumstances necessitating a departure from the Collision Regulations made on the 13th day of October, 1910, under the Merchant Shipping Act, 1894 (Imperial), within the meaning of Article 27 of the said regulations.

1 : 6. These regulations and all notifications given hereunder shall have effect notwithstanding the provisions of the Shipping and Seamen Act Wireless Regulations 1925, and it shall be a defence to any person charged with a failure to establish communication as required by those regulations that to have done so would be a breach of a notification under these regulations binding on such person.

REGULATION 2.—NAVIGATION ORDERS.

2 : 1. A notification under these regulations may be given by the Naval Board to—

- (a) The master of any ship approaching New Zealand either before calling at, or whilst lying at, or after having called at, any oversea port ; or
- (b) The master of any ship lying at any port in New Zealand or navigating from one New Zealand port to another, whether or not navigating in New Zealand territorial waters ; or
- (c) The master of any ship that has left New Zealand and has not thereafter put in at any oversea port in British territory, whether or not navigating in New Zealand territorial waters.

2 : 2. Any such notification may require the master—

- (a) To take his ship to any port in New Zealand or elsewhere specified therein ; or
- (b) To take such route as may therein be specified ; or
- (c) To remain in any port or other place or to reduce or increase speed ; or
- (d) To keep his ship unlit during hours of darkness or unlit except for navigating lights, or to screen or dim navigating or other lights, or to display any specified lights or other signals for navigation by day or by night ; or
- (e) To give or refrain from giving signals or communications of any kind : or
- (f) To join any convoy or proposed convoy or sail in convoy ; or
- (g) To comply with any other directions relating to the navigation of his ship.

2 : 3. It shall be the duty of every master to whom such notification has been given to comply therewith with all reasonable speed, perils of the sea and restraint of princes alone excepted.

REGULATION 3.—EQUIPMENT ORDERS.

3 : 1. A notification under these regulations may require the master of a ship at any port in New Zealand where the ship is lying or to which the master may by notification be directed to take his ship—

- (a) To install to the satisfaction of the Naval Board any defensive armament supplied by the Naval Board ; or
- (b) To procure and install to the satisfaction of the Naval Board any convoy equipment specified by the Naval Board ; or
- (c) To make any modification in or addition to the painted colour superstructure or equipment of the ship ; or
- (d) To receive and adequately accommodate any naval officers or ratings for purposes of defence, observation, communication, or navigation.

3 : 2. The master, owner, and agent of any ship shall be jointly and severally liable to comply with any notification requiring the installation of defensive armament or convoy equipment or the doing of any other thing except so far as such cost is met out of public moneys, and the owner and the agent shall supply the master with all moneys necessary to enable such notification to be complied with, and the master and the agent shall be entitled to recover from the owner all costs incurred by them respectively in the premises.

3 : 3. A naval officer for the time being received on any ship pursuant to these regulations, or, as the case may be, the senior for the time being of such naval officers, shall from time to time when he so elects be entitled to exercise over the management of the ship all duties and powers that a pilot may exercise, and the master of the ship shall conduct himself accordingly as towards a pilot.

3 : 4. The master of the ship in which any equipment is installed shall cause the crew to be properly instructed in the use thereof.

REGULATION 4.—ISSUE OF NOTIFICATIONS.

4 : 1. Any notification under these regulations which is of general application as applying to ships in general or to masters, owners, or agents of ships in general, or to any class of ship or the masters, owners, or agents of any class of ship, shall be sufficient if it purports to be given by the Naval Board and is authenticated by the signature or name of any person purporting to act by authority of the Naval Board and published in the *New Zealand Gazette*, and if so issued shall be binding on the masters, owners, and agents of all ships.

4 : 2. Any notification under these regulations not published in the *Gazette* shall be sufficient—

- (a) If it purports to be given by the Naval Board and is authenticated by the signature or name of any person whether in New Zealand or elsewhere purporting to act by authority of the Naval Board :
- (b) If given in writing or by telegraphy, radio-telegraphy, or any other means of communication :
- (c) If addressed to the person to be bound thereby by his description (as master, owner, or agent, or as the case requires) and the name of the ship to be affected, notwithstanding that such person be not named in the notification.

4 : 3. Any notification to the master, owner, or agent of a ship shall be binding on every person subsequently acting as master, owner, or agent of that ship respectively to whom such notification is known or according to the regular routine of command, management, or agency ought to be known.

REGULATION 5.—OWNERS AND AGENTS.

5 : 1. In any case where the owner or agent of a ship is a body corporate, every duty imposed under these regulations upon such owner or agent shall also be imposed on every managing director, general manager, and marine superintendent from time to time for the time being of such owner or agent, and on every person discharging as officer or servant of such owner or agent from time to time for the time being the duties generally attaching to the office of managing director, general manager, or marine superintendent.

5 : 2. A notification intended for the master of any ship may be transmitted to the owner or agent of that ship, and it shall be the duty of such owner or agent immediately to use all possible lawful means of communicating the notification to the master of the ship, and thereupon to furnish the Naval Board with evidence that the notification has been so communicated or with an explanation of the circumstances by reason of which it has not been so communicated.

5 : 3. It shall be the duty of the owner and agent of every ship to furnish to the master thereof all plant and equipment necessary for compliance with any notification given under these regulations and to provide for the installation thereof, and the agent shall be entitled to recover from the owner all costs incurred by him in furnishing and installing such plant or equipment.

REGULATION 6.—CONVOY.

6 : 1. If the master of any ship under convoy wilfully disobeys any lawful signal, instruction, or command of the commander of the convoy, or without leave deserts the convoy, then, without prejudice to his liability under any other enactment, he commits an offence against these regulations.

6 : 2. The master of any vessel not sailing in convoy shall keep his vessel clear of any convoy that he may meet or overtake.

REGULATION 7.—CLEARANCES.

7 : 1. Nothing in these regulations shall be deemed to authorize the master of a ship to depart with his ship from any port without receiving from the Collector of Customs a certificate of clearance in the prescribed form.

7 : 2. On receiving any notification requiring him to depart with his ship from any port, the master thereof shall forthwith make application for any clearance that may be necessary to enable him to comply with the notification.

7 : 3. It shall be a defence to any person charged with failing to comply with any direction given under the authority of these regulations and requiring the departure of a ship from any port in so far only as the offence alleged amounts to failure so to depart if he proves that for such departure a clearance was necessary and that he made application for a clearance with all due promptitude and that he was unable to obtain the necessary clearance.

REGULATION 8.—OFFENCES.

8 : 1. Any person who fails to carry out any duty imposed on him by these regulations or fails to comply with any notification under these regulations given to him or binding upon him commits an offence against these regulations.

8 : 2. It shall be a defence to any person charged with an offence against these regulations if he proves that in complying therewith he would have committed a breach of any direction or order given by the Admiralty and binding upon him in the particular circumstances.

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